

Framework for Women's Economic Rights in ASEAN





FRAMEWORK FOR WOMEN'S ECONOMIC RIGHTS IN ASEAN

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Part I: Introduction

A. What is the purpose of the Framework for Women's Economic Rights?

The WEL Project is a three-year partnership¹ between International Women's Rights Action Watch Asia Pacific (IWRAP Asia Pacific), Oxfam and the Australian Department of Foreign Affairs and Trade. The idea for the Framework was first discussed during the inception meeting² launching the Women's Economic Leadership and Empowerment in ASEAN Project (WEL Project). The WEL Project has three main objectives and related outcomes: (1) building capacity, knowledge and understanding on women's economic and leadership rights (collectively, women's economic rights), which can be used to enhance the existing work of women's rights organisations (WROs) and to engage with ASEAN on women's human rights; (2) building relationships between WROs and other organisations in the region and state actors; and (3) engaging with ASEAN, through advocacy at the regional and country level.³ To facilitate these goals, IWRAP Asia Pacific and its partners are developing conceptual and strategic guidance for work on women's economic rights in ASEAN. The Framework, which is part of this guidance, is designed to assist WROs in building their capacity to effectively advocate for women's economic rights in ASEAN.

B. Who are the intended users and what must they know to use the Framework?

While WROs working at the national, regional and international level on women's economic rights will find the Framework useful in their work, it was primarily prepared for use by WROs in Cambodia, Laos, Myanmar and Vietnam (CLMV) and other countries in Southeast Asia to build their capacity for evidence-based advocacy to and in ASEAN, on women's economic rights.

The user of the Framework must have a background in human rights, specifically CEDAW⁴, ICESCR⁵ and the United Nations Guiding Principles on Business and Human Rights⁶. In addition to a background on human rights, a user should have

an understanding of ASEAN,⁷ specifically, the three pillars of ASEAN (*i.e.*, the ASEAN Economic Community,⁸ ASEAN Socio-Cultural Community⁹ and ASEAN Political Security Community¹⁰). The user should also have a solid understanding of the current status of women and the political, economic and social context of her country. The user should also be familiar with what her national government has said about the status of women and what the international human rights bodies (*e.g.*, the Committee on the Elimination of Discrimination Against Women¹¹, the United Nations Committee on Economic, Social and Cultural Rights¹²) have said about the government's fulfilment of its obligations to respect, protect and fulfil women's human rights.¹³ A user without the understanding and background described above may find it challenging to use the Framework without additional guidance and/or training.

C. What does advocacy to and in ASEAN mean?

1. Focus on national level advocacy

For purposes of the Framework, advocacy to and in ASEAN primarily means a user's advocacy at the national level about the potential impact of ASEAN economic integration on women in her country. The targets of such advocacy will be national and local governments, ASEAN representatives based in the user's country and other relevant stakeholders (*e.g.*, businesses, state-owned enterprises, unions, institutions related to the private sector *e.g.* business councils, entrepreneurial associations). The Framework was designed with this type of advocacy in mind. In addition to national level advocacy, advocacy at the ASEAN level,¹⁴ to the extent it is possible, will also be important.

The fact that the Framework focuses on national level advocacy to influence national and regional level developments does not mean that regional level advocacy is not important; it is simply a result of a decision by the partners of the WEL Project to first and primarily focus on influencing the ASEAN processes by highlighting the situation of CLMV women at the national level. This focus is also a logical outgrowth of the fact that ASEAN economic integration will take the form of a series of actions by national governments and other key actors operating at the national level. Influencing these steps has the greatest likelihood of producing short and medium term results for women.

2. The challenges to and successes of regional level advocacy

Participants at the Expert Group Meeting on Women's Economic Rights and Leadership, which was held from March 28-30 2015, in Kuala Lumpur, Malaysia (EGM) outlined the successes and challenges they faced in attempting to influence ASEAN on women's human rights issues. They noted that ASEAN members exert little direct influence over each other as a result of the principles of non-interference and sovereignty, which discourage members from getting involved in the affairs of other members. ASEAN has also been slow to open its meetings and other processes to public scrutiny. This is especially so in the area of economic policy, but ASEAN has also been reluctant to include Civil Society Organisations (CSOs) in the development of human rights standards and the institutions devoted to enforcing those standards. In addition, to date, CSOs have had little if any involvement in influencing developments on the ASEAN Economic Community (AEC) Blueprint and

other plans related to ASEAN economic integration. Furthermore, ASEAN lacks a formal, transparent process for including CSOs in the development and direction of the organisation.¹⁵

Despite these challenges, participants at the EGM discussed the role they had played in educating the members of ASEAN mechanisms and in influencing the development and direction of ASEAN's human rights policies. These successes have followed both formal (e.g., attending formal meetings) and informal processes (e.g., engaging influential ASEAN members in country, sending position statements and letters outside formal processes).

Many of the ASEAN blueprints, declarations, plans and other documents (including those related to APSC and ASCC) contain human rights language that is not defined and for which no single definitive meaning prevails. In their advocacy on ASEAN economic integration, WROs have the opportunity to shape the meaning of key concepts, towards the goal of ensuring that women will enjoy their economic rights as integration proceeds.

Through their advocacy on ASEAN's development of human rights standards, national WROs have developed expertise, established important relationships and made inroads into a traditionally secretive and exclusive organisation. As a result of their efforts, these WROs are well-positioned to consolidate and build on the gains they have already achieved by influencing how ASEAN thinks about women's economic rights in CLMV and about human rights more generally, within ASEAN's process of economic integration. Part of this process will require advocacy about the meaning of ASEAN as an integrated organization, including the relationship between its three pillars. The ultimate goal of such advocacy is assisting ASEAN in understanding that its economic direction must be tempered by its members' obligations under international human rights treaties. The "cross-pollination" of the ASEAN pillars will ensure that all of the organisation's actions are informed by the member states' commitments to human rights.

D. What kind of information must the user have to use the Framework?

The user must have a detailed factual understanding of the issue she wishes to analyse. Useful information may include both secondary research (e.g., papers examining the status of women in the country or examining the specific issue) and primary sources (e.g., interviews with or surveys of women, statistics collected by government agencies), if available. Although the Framework does not address the key step of gathering facts on the issue, a solid information base for analysis is crucial.¹⁶

E. How does the Framework help the user?

The Framework helps the user prepare a document that she can use to argue for greater human rights protections for the women impacted by ASEAN economic integration by: (1) examining a set of facts related to ASEAN economic integration; (2) based on the facts, analysing the potential or actual human rights implications women face and determine, based on international human rights standards and

relevant ASEAN instruments, what the key actors should do to address the issue; and (3) developing recommendations by drawing on (i) state obligations under CEDAW and ICESCR and where relevant, the UN Guiding Principles and (ii) state objectives, interests and obligations reflected in national level policies, laws and programmes and reflected in ASEAN-authored, endorsed or commissioned documents.

The Framework focuses on an action, which may be a law, policy, programme, plan or other action of a government or other non-state actor (referred to as “key actors”). Nevertheless, the negative impacts of ASEAN economic integration on women may be the result of a trend or gradual shift over a period time, such as country’s transition from subsistence-based agriculture to commercial farming. Although the Framework is most useful for analysing a specific action that negatively impacts women, it may also assist in developing recommendations to address impacts that result from a change that occurs slowly over a number of years.

F. What does the Framework not do?

1. The user of the Framework must have a level of pre-existing knowledge and information

As described above, the Framework assumes that the user has undertaken research on the issue to be analysed and understands human rights, ASEAN and the national context. This information and knowledge must be obtained through other means and is not included in this document. The Framework also does not account for the contemporary political, legal and social setting and factors that are unique to the specific-country context, such as an absence of supportive laws, the government’s failure to enforce existing laws, corruption, absence of space for civil society to influence government laws and policies, the influence of trading partners outside of ASEAN (e.g., China) and similar factors, which make it more challenging to advocate for women’s economic rights. Nevertheless, an understanding of these factors is key in developing realistic recommendations.

2. The Framework is not training or advocacy guide and the product of the Framework must be modified to suit the user’s purpose

The Framework is not a training or advocacy guide. The purpose of the Framework is to assist the user in analysing information and writing a document that clearly sets out the problem in human-rights language, and includes recommendations to key actors, including governments and their representatives in ASEAN. The user must modify the information she develops to make it suitable for the intended advocacy (e.g., discussing the issue with the relevant government official or ASEAN representative or educating the public about the potential impact of ASEAN economic integration).

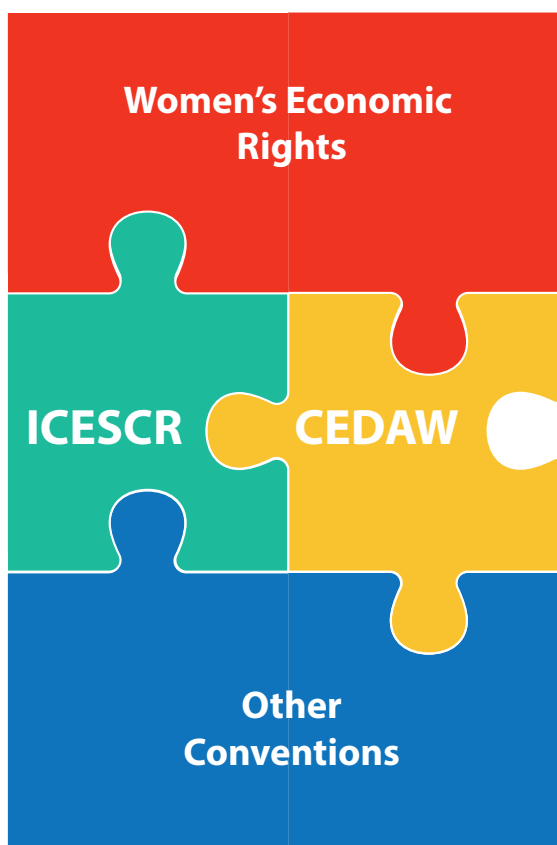
Part II: Women's Economic Rights

A. What are women's economic rights?

1. Overview of economic and related social rights

Women's economic rights have been defined in a variety of ways. For purposes of the Framework, the focus is on the economic and related social rights reflected in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), which include the rights to non-discrimination, equality, work, social security (including social insurance), housing, water, sanitation, education, highest attainable standard of physical and mental health and economic rights within marriage and family.¹⁷ While some of these rights are generally categorised as social, they are often so intertwined with the ability of a woman to pursue her livelihood that a failure to enjoy social rights prevent her from accessing economic rights. For example, the social right to access primary education has a direct impact on a woman's ability to obtain the skills she needs to perform even the most basic work tasks.

Substantive equality, non-discrimination and state obligation are the cornerstones of advocacy on women's economic and social rights. The right to substantive equality means that women and men must be treated equally, both in law (de jure) and in fact (de facto). This means that the state



must not only repeal discriminatory laws and enact laws that protect the rights of women on a basis of equality with men, the state must bring about actual equality. Substantive equality means that women have equal access and opportunities, which bring about equality in actual fact. Non-discrimination requires the state to repeal explicitly discriminatory laws, but also ensure that other laws do not result in indirect discrimination. In this way, the state must remove obstacles to equality by providing enabling conditions. Enabling conditions include temporary measures to address historical discrimination in the form of affirmative action policies and programmes. The state must also address social and cultural norms, including stereotypes and patriarchal values that prevent women from enjoying their rights. State obligation means that the state is the primary actor responsible for ensuring respect, protection and fulfilment of the rights reflected in CEDAW. This responsibility extends to both the public and private sphere. State obligation is further explained in the United Nations Committee on the Elimination of Discrimination against Women General Recommendation 28.¹⁸

2. Other key concepts related to economic and social rights

In making claims for women's economic and social rights, it is important to understand and where appropriate, draw on the following key concepts that underlie their enjoyment and/or inform how the state approaches its obligations to protect, respect and fulfil human rights.

a. Non-regression

The principle of non-regression means that the state cannot erode or reduce existing rights. For example, if a state establishes a programme to ensure that female children can attend primary school (by, for example, providing stipends to poor families that send their girls to school), it cannot later repeal the programme on the basis that it lacks funding.¹⁹



b. Non-derogation

Non-derogation means that there are certain rights the state may never limit or restrict. The right to non-discrimination is an example of a non-derogable right.²⁰ For example, a state must immediately repeal a law that prohibits women from working in factories on the basis that it is dangerous for their reproductive health.



c. Progressive realisation

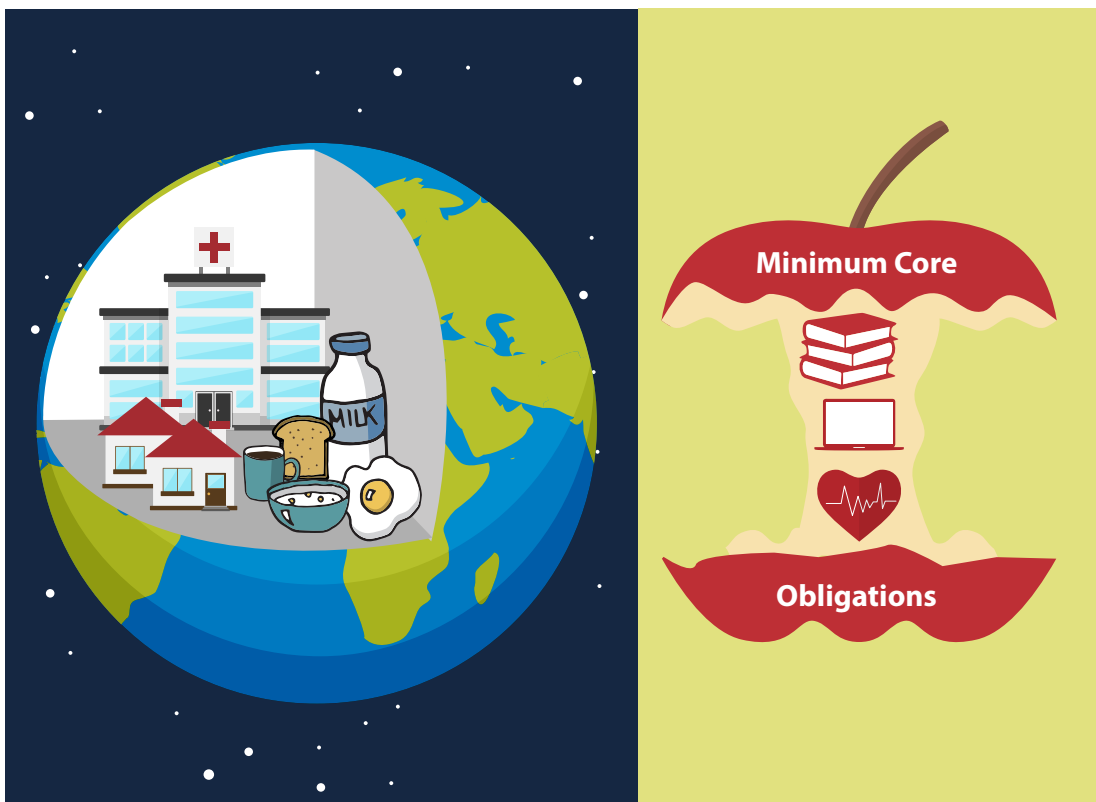
The principle of progressive realisation of human rights recognises that a state may be unable to secure all rights immediately, but requires the state to demonstrate it is making progress towards the fulfilment of rights. For example, even in a country



where women are unable to enjoy their right to housing, a state meets its obligation of progressive realisation if it is able to demonstrate that it is acting in good faith to mobilise resources and setting clear targets and timeframes to ensure that women have access to secure and affordable housing. A related concept is maximum available resources, which requires that, even where a state's "resources are demonstrably inadequate . . . [it] must ensure the widest possible enjoyment of ESC rights under the circumstances."²¹

d. Minimum core obligations

Although the state is expected to progressively move towards the fulfilment of all women's human rights, at the same time, the state has minimum core obligations in relation to human rights, which it must meet immediately - such as the obligation to protect the right to essential foodstuffs, essential primary health care, basic shelter and housing and basic education.²²



e. Extraterritorial obligations (Maastricht Principles)

The Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights explain the scope of the state's duties under existing international human rights law when the state causes or is involved with situations occurring outside the state's territory and the state's actions (or failure to act) affect economic, social and cultural rights. For example, in the case of an infrastructure project that negatively impacts people on the other side of the state's border, the state has an obligation to take action to address these impacts, even though they occur outside its territory.



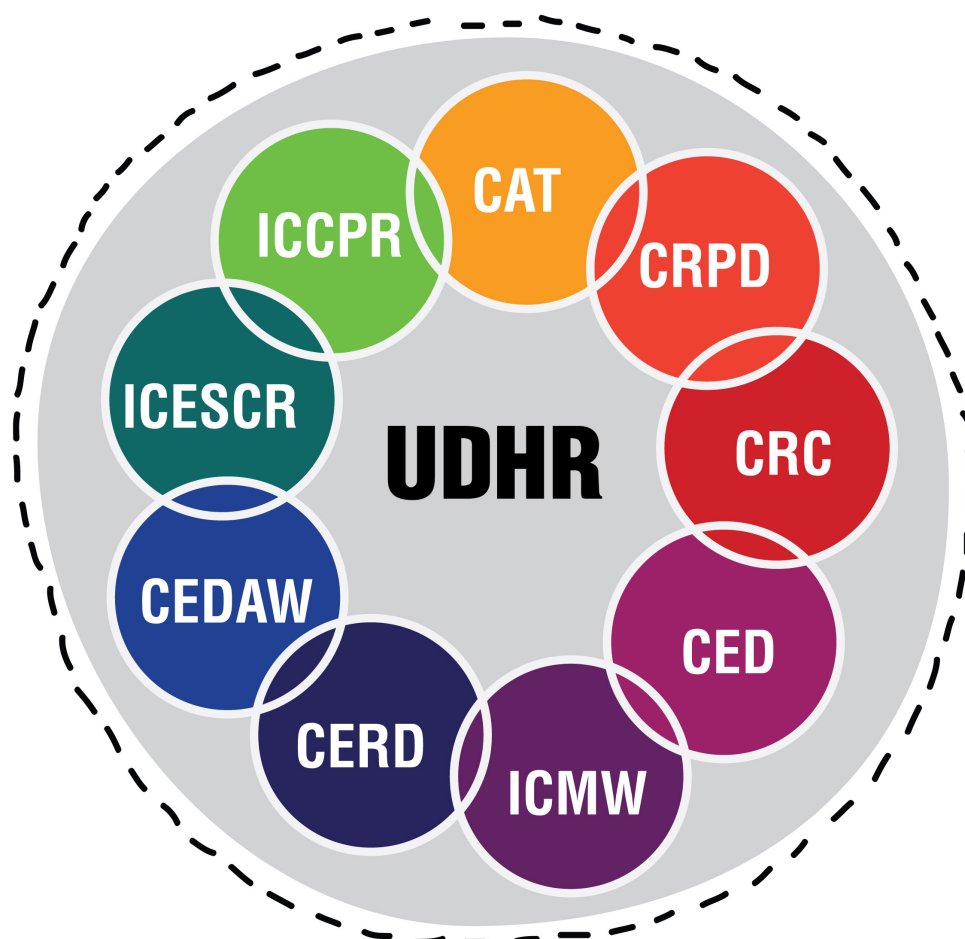
f. Due diligence

Article 2 of CEDAW imposes an obligation on state parties to prevent discrimination by non-state actors. This obligation includes responsibility to investigate, prosecute and punish violations of human rights caused by non-state actors. If, for example, a private employer's hiring practices discriminate against women by preventing them from holding certain kinds of jobs, the state has an obligation to investigate and take appropriate action to ensure the employer does not discriminate.²³



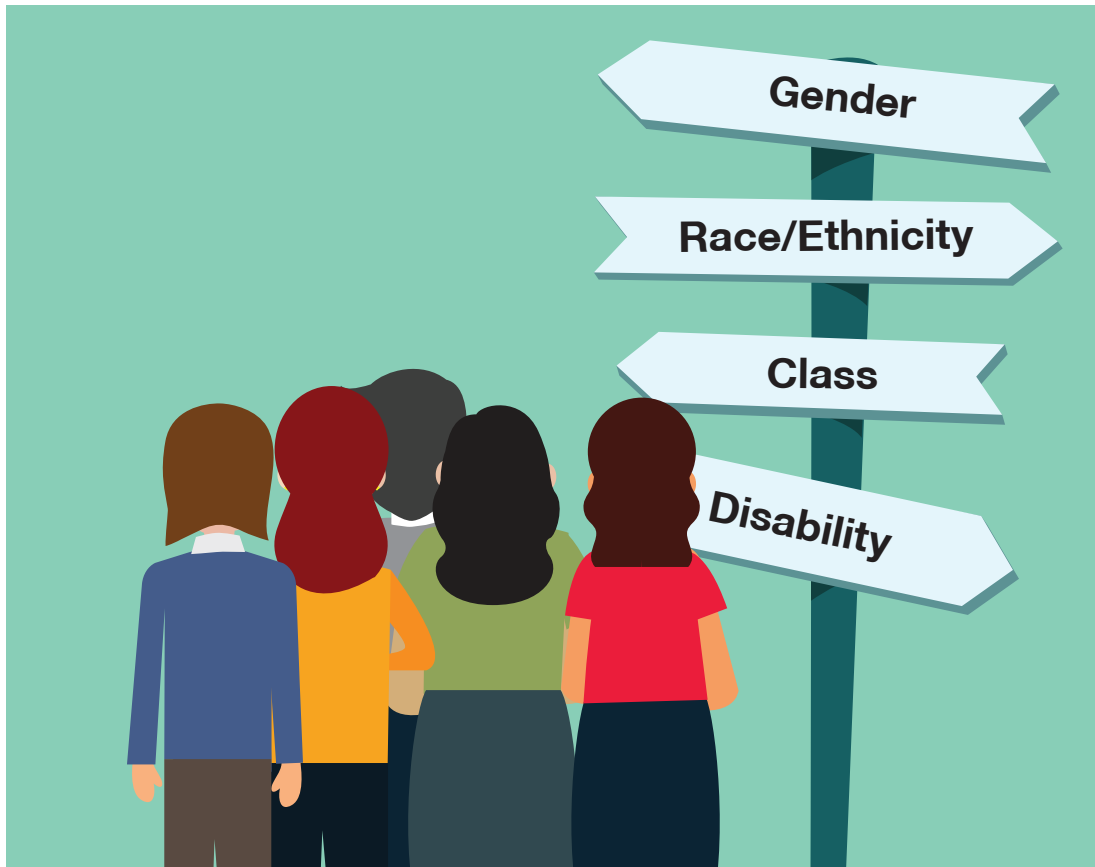
g. Interdependence and interrelatedness

“Human rights are interdependent and interrelated. Each one contributes to the realization of a person’s human dignity through the satisfaction of his or her developmental, physical, psychological and spiritual needs. The fulfilment of one right often depends, wholly or in part, upon the fulfilment of others. For instance, fulfilment of the right to health may depend, in certain circumstances, on fulfilment of the right to development, to education or to information.”²⁴



h. Intersectional discrimination

Women have multiple identities or find themselves in particular situations that expose them to discrimination on the basis of their gender as well as another characteristic (e.g., migrant, indigenous, ethnic minority, trafficked).²⁵ For example, a rural woman may also be a member of a minority who does not speak the official language of the country and as a result, cannot access information in her own language on a fisheries project proposed for her community. Her status as rural, poor and a linguistic minority mean that she is less likely to participate in the fisheries project.



3. Steps for Analysis

The Framework, which is set out below, is a series of steps for preparing recommendations to address negative impacts on women's economic and related social rights caused by or related to ASEAN economic integration.

Step 1: Review the information you have collected and consider how the project, proposal, law, policy, programme or other action (collectively “action”) will affect or has affected women.

- a) What is the action? Who are the key actors? Are there significant money, investments, loans or other financial guarantees involved?
- b) How will the action impact women? Is there evidence of direct, indirect, or historical discrimination against women?
- c) What economic and other rights under CEDAW, ICESCR and other international human rights treaties are impacted by the action?
- d) Are patriarchal values and related stereotypes contributing to or making the discrimination worse?
- e) Are certain women facing additional discrimination (e.g., ethnic or religious minorities, indigenous women, rural women, women with disabilities)?

f) How does the action relate to ASEAN economic integration?

g) Is there a specific policy in the ASEAN Economic Community Blueprint (AEC Blueprint) or other ASEAN plans for economic integration that is causing or related to the action?



Step 2: Identify the local and national, ASEAN and international standards, guidance and obligations relevant or related to the action.

a) Outline the relevant national or local laws, policies, programmes or other plans that would apply to the action.

b) Consider any plans that a non-state actor has adopted to implement the action.

c) Describe the state's obligation under international human rights treaties to address the impact of the action on women, including responsibilities to address the actions of non-state actors.

d) Develop a statement of the requirements reflected in ASEAN-authored or endorsed documents, blueprints or plans, including, but not limited to the AEC Blueprint. Define the human rights-related objectives of ASEAN economic integration, including poverty reduction, equitable economic development, inclusiveness and sustainable

development, based on the meaning of those terms as stated in other ASEAN documents and declarations (e.g., ASEAN Human Rights Declaration (AHRD) and in authoritative interpretations of international human rights treaties).

e) Identify what, if anything, the key actors will do or have done to address the impact of the action on women and assess the effectiveness of their efforts.



Step 3: Develop recommendations to address the negative impacts of the action on women.

a) Recommendations should reference human-rights obligations, but be placed in the context of ASEAN's overall objectives for economic integration, as stated in the AEC Blueprint, especially the goals of strengthening micro-enterprises and small and medium-enterprises, building capacity and skills, poverty reduction, equitable economic development, inclusiveness and sustainable development.

b) Recommendations should be supported by evidence, research and other available information.

c) If possible, place the recommendations in the context of national development plans and other existing national programmes, especially national women's strategies and plans.

d) If possible, consider alternative ways to frame the recommendations, especially in terms of the AEC Blueprint's goals of education, training and capacity building.

e) Help the key actors understand how your recommendations are consistent with the AEC Blueprint goals of economic development and the gender equality approach of international lending institutions such as the World Bank and Asian Development Bank, but note the limits of an instrumentalist approach.

f) At a minimum, the recommendations should require that key actors: (i) adopt and implement policies, programmes or take other actions to address the impact; (ii) allocate or identify funding to address the impact; (iii) collect sex-disaggregated data on the impact of the action on women; (iv) monitor implementation of the policies, programmes or other actions taken to address the impact; (v) periodically assess the effectiveness of the policies, programmes or other actions taken to address the impact; and (vi) based on the assessment, retool, amend, revise and supplement the policies, programmes and funding.

Step 4: Consider potential responses from the key actors and prepare counter-responses.

a) Anticipate typical government excuses for failures of accountability (e.g., lack of resources, politically unpopular issue, non-interference in local government matters, lack of authority over the action, AHRD allows for derogation of rights, certain level of suffering is inevitable during a transition to an industrial or post-industrial economy).



b) Point to commitments reflected in documents prepared or endorsed by key actors that support your position.

c) Consider how to address other barriers (e.g., lack of understanding about human rights (especially the key human rights principles and standards outlined above) or alternatives to the neoliberal model) to receiving a positive response to your recommendations and if relevant, highlight the benefits of risk management to the business's bottom line.

Step 5: Consider the risks to physical and mental health and safety that may be faced by community advocates impacted by the action and by the advocates who communicate their message.



Part III: ASEAN Economic Integration

A. What is ASEAN economic integration?

The ASEAN²⁶ Economic Community (AEC) Blueprint sets out ASEAN's vision for regional integration characterised by “(i) a single market and production base; (ii) a highly competitive economic region; (iii) a region of equitable economic development; and (iv) a region fully integrated into the global economy.”²⁷



1. Single market and production base.

ASEAN envisions a single market and production base, which facilitates the free flow of goods, services, investment and skilled labour and allows for the freer flow of capital within the region.²⁸ In each of these four areas, the AEC Blueprint sets out specific actions to be taken by each ASEAN member. For example, an ASEAN member will work towards the goal of the free flow of goods by eliminating import duties on certain products, eliminating non-tariff barriers and simplifying trade and customs procedures.²⁹

Although the overall goal is total integration, the AEC Blueprint prioritises twelve sectors in the transition to a single market and production base.³⁰ These sectors include: (1) agro-based products; (2) air travel; (3) automotive; (4) e-ASEAN; (5) electronics; (6) fisheries; (7) healthcare; (8) rubber-based products; (9) textiles; (10) tourism; (11) wood-based products; and (12) logistics.³¹ Because ASEAN has prioritised these areas, national governments and other key actors are likely to focus their activities in these sectors in the coming years.

ASEAN has adopted a roadmap for each of the priority sectors, which outlines specific plans for achieving integration.³² For example, the “Roadmap for Integration of Agro-Based Products Sector” and the “ASEAN Sectoral Integration Protocol for Agro-Based Products”³³ guide the integration of the agro-based products sector by setting out the measures that ASEAN members agree to take in order to meet the objective of encouraging the greater flow of agro-based products within the region. These roadmaps and protocols are potentially important sources of information for analysing the impact of economic integration on women in CLMV. For example, the Roadmap for Integration of Fisheries Sector (“Roadmap for Fisheries Sector”) identifies certain ASEAN implementing bodies responsible for special measures



and actions related to CLMV. The Roadmap for Fisheries Sector calls for “special incentives . . . for investments from ASEAN” in CLMV to “[p]romote and facilitate joint/cross border investments in manufacturing activities” and “private sector initiatives” to “assist CLMV in organising promotional activities”.³⁴ In this way, the roadmaps and protocols may describe certain activities that target CLMV and that the user of the Framework may chose to emphasise in developing recommendations to address impacts on women.

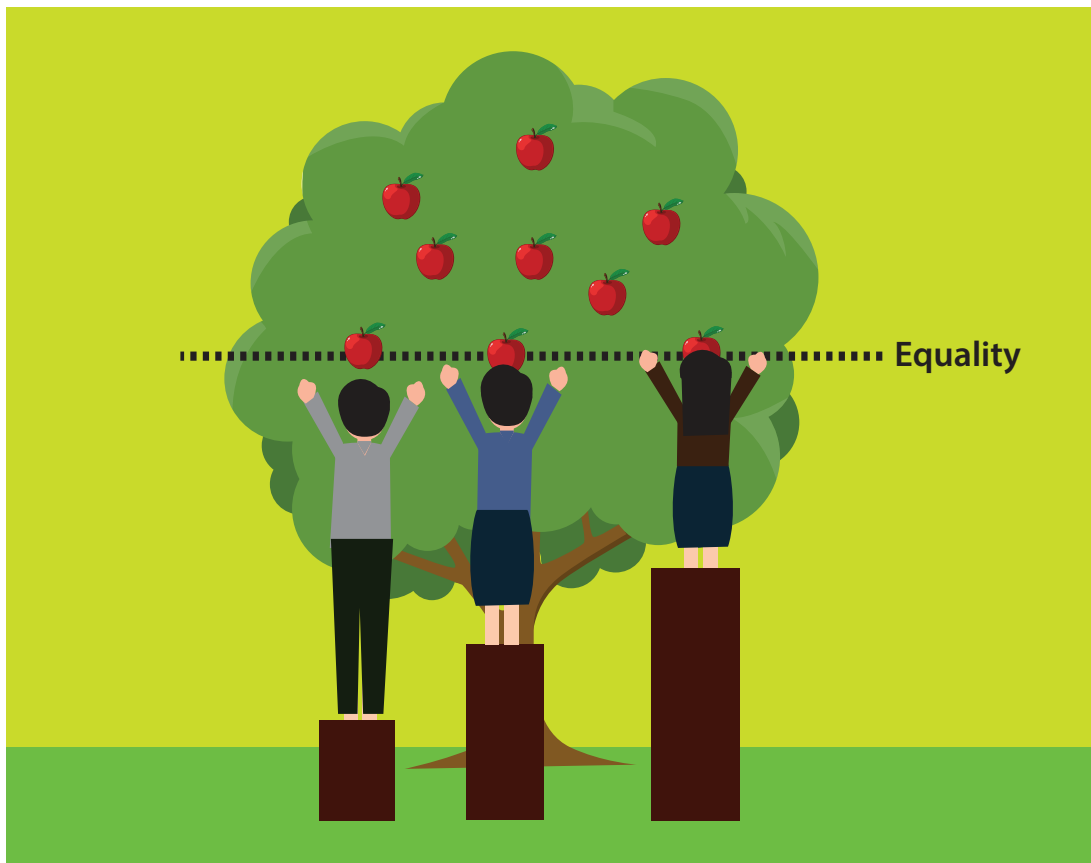
2. Highly competitive economic region.

To create a highly competitive economic region, the AEC Blueprint calls on its members to take action in the areas of competition laws and policies, consumer protection, intellectual property rights, taxation and e-commerce and to undertake infrastructure development to facilitate the transportation, information, energy and mining sectors.³⁵ In the area of infrastructure development, the AEC Blueprint identifies specific infrastructure projects, including the Singapore-Kunming Rail Link, the ASEAN Highway Network projects, the ASEAN Power Grid and the Trans-ASEAN Gas Pipeline.³⁶ The AEC Blueprint also calls for the development of “high-speed interconnections among all national information infrastructures”.³⁷ With respect to cooperation on energy, the AEC Blueprint notes the importance of ensuring sustainable development, the need to stop global climate change and the need to develop the renewable energy sector.³⁸ With respect to mining, the AEC Blueprint calls for the promotion of “environmentally and socially sustainable mineral development”.³⁹



3. Region of equitable economic development.

To ensure that economic integration results in a region where all of its members enjoy the benefits of development on an equitable basis, ASEAN had adopted at least two specific policies. The first focuses on the development of small and medium-sized enterprises (SMEs). The second, called the Initiative for ASEAN Integration (IAI), applies to all three areas of ASEAN integration.⁴⁰



a. Development of small and medium enterprises.

To promote SMEs, ASEAN has adopted two policy blueprints. The first was the ASEAN Policy Blueprint for SME Development (APBSD) 2004-2014 (APBSD Blueprint I). The APBSD Blueprint I was designed to ensure that small and medium enterprises (SMEs), which “constitute the largest source of domestic employment across all economic sectors, in both rural and urban areas” within ASEAN, continue to thrive and grow.⁴¹ SMEs include micro-enterprises. The APBSD Blueprint I specifically noted that “[t]he SME sector also provides opportunities for women and the young to participate in economic development of the country.”⁴²

To meet the objectives of APBSD Blueprint I, ASEAN and its members committed to: (1) human resource development and capacity building activities; (2) “enhancing SME marketing capabilities”; (3) improving access to financing by building the capacity of both SME and the financial sector; (4) improving SME’s access to technology; (5) facilitating SME by improving the policy environment, including methods for simplifying the process of establishing an SME; (6) establishing “one-stop SME



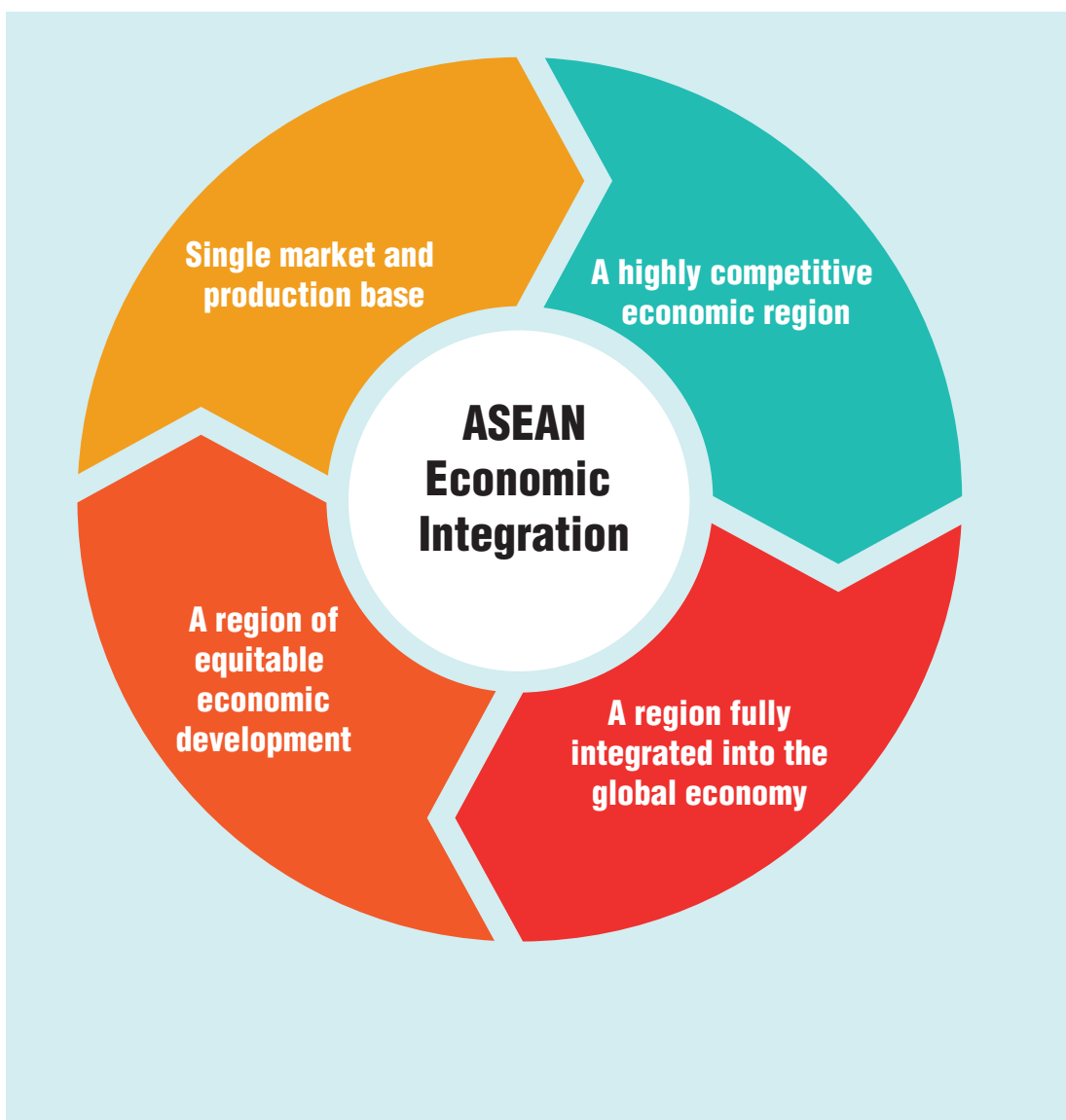
office[s]” within their countries; and (7) promoting “public-private synergies and partnership for SME development and integration”.⁴³ In 2010, ASEAN adopted the ASEAN Strategic Action Plan for SME Development (2010-2015) (APBSD Blueprint II), which contains many of the same objectives described in the APBSD Blueprint I. The APBSD Blueprint II reiterates the importance of SMEs for women.⁴⁴

b. Initiative for ASEAN Integration.

The IAI comprises a number of different activities designed to narrow the development gaps between ASEAN members.⁴⁵ The project, which targets CLMV, has been guided by two work plans: the IAI Work Plan I (2002-2008) and the IAI Work Plan II (2009-2015).⁴⁶ The IAI Work Plan II includes 182 actions “that are directed towards helping CLMV in undertaking commitments towards attaining ASEAN Community by 2015. Out of these 183 Actions . . . 19 are studies, 78 require policy and implementation support, and 85 are training programmes/apprenticeships/other capacity building initiatives.”⁴⁷

The IAI Work Plan II (2009-2015), which covers the socio-cultural, political security and economic pillars of ASEAN, includes eight references to actions related to women, including: (1) training and capacity building programmes for women on information and communication technology (ICT); (2) strengthening the entrepreneurial skills of women; (3) developing capacity building activities for CLMV “on caring societies”; and (4) promoting capacity building for CLMV countries on the implementation of the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).⁴⁸ ASEAN’s decision to combine plans for the three pillars in the IAI Work Plan II supports the argument for integrating the socio-cultural and political security objectives of ASEAN into the organisation’s plans for economic integration.

In addition to the IAI Work Plan I and II, the ASEAN-Australia Development Cooperation Program (AADCP)⁴⁹ produced a series of policy briefs under the title “Narrowing the Development Gap in ASEAN: Drivers and Policy Options” (2013). The policy briefs, which are part of the ASEAN objective of narrowing the development gap between CLMV and the other member states,⁵⁰ contain information that the user of the Framework could draw on in arguing for greater protection for women’s economic rights. For example, one policy brief notes that “[p]otential [infrastructure] projects should be assessed not just according to whether they will spur economic growth in ASEAN countries, but whether growth will be pro-poor” and notes the need to manage the social impacts of economic integration, “including the displacement of communities as well connectivity possibly leading to more crime, illegal immigration and people trafficking.”⁵¹



4. Region fully integrated into the global economy.

The AEC Blueprint states ASEAN's aim to achieve global integration by presenting ASEAN as a regional trading bloc for purposes of economic partnerships, increasing ASEAN participation in global supply networks by adopting "international best practices and standards in production and distribution" and developing "a comprehensive package of technical assistance for the less developed ASEAN Member Countries to upgrade their industrial capacity and productivity".⁵²



5. Other provisions of the AEC Blueprint.

The AEC Blueprint includes a communications policy, which is designed to provide information to the public about ASEAN economic integration and its progress and provide the public with an opportunity to provide feedback and respond to ASEAN economic initiatives.⁵³ The actions to implement this plan include: (1) the development of "a regional platform for open discussion and sharing information in implementing the ASEAN Economic Community"; (2) each ASEAN member establishing a national level mechanism for reporting on "the outcome and issues of the integration process"; and (3) the creation of "an AEC communications website that would provide an additional channel to reach communities at large, where stakeholders can provide feedback and respond to ASEAN economic initiatives."⁵⁴

B.Impacts of ASEAN economic integration

ASEAN economic integration is but one process that is occurring in the region and therefore, a full picture of its impact requires an understanding of other developments in the region. One emerging development that will influence the economies and people in ASEAN countries is the proposed Trans-Pacific Partnership, which, if adopted, would further undermine the rights of poor and marginalised people in Asia and the Pacific. It is important for the user of the Framework to keep in mind that ASEAN economic integration is only a part of the overall landscape in which women in the region will claim their economic rights.

The specific impact of ASEAN economic integration on women is not yet known and no comprehensive analysis has been performed to date. The lack of a comprehensive analysis of speaks to the critical need to raise this issue with key actors in the user's country and in ASEAN. Because the precise nature of the impacts on women will not be known for several years, it is also important for WROs to document the current situation of women in their countries, and when and how economic integration impacts their lives. In addition, the user of the Framework should always include a recommendation for the national government's adoption and implementation of a plan for measuring and addressing the impact of ASEAN economic integration on women.



C. Impacts on labour market

A recent report of the International Labour Organization and the Asian Development Bank suggests that, if not properly managed, the process of integration could exacerbate the existing development gap between CLMV and the other members of ASEAN and could have negative impacts on workers in vulnerable employment, the vast majority of which are women. ⁵⁵

Specifically, ASEAN economic integration may have some of the following effects or require attention in the following areas:

(1) ASEAN economic integration will accelerate structural change in the economies of ASEAN members, which means that certain sectors will change (e.g., the agricultural industry will further shift from subsistence-based to commercial, the industrial sector will expand), with accompanying changes in the level and type of economic activity and during this period of change, jobs will be lost or the kinds of skills required for available jobs will change;



- (2) Changes brought about by ASEAN economic integration will require better positioning of SMEs, including micro-enterprises, if they are to benefit from gains associated with the process⁵⁶;
- (3) One sector that has already been significantly impacted by the ASEAN Free Trade Agreement is agriculture and although the significance of agriculture has declined substantially in many ASEAN member countries⁵⁷, it continues to provide 40% of total employment in the region and in CLMV, the agricultural sector is still the largest employer⁵⁸;
- (4) The role of agriculture in terms of total employment is expected to decline in Cambodia, Lao PDR and Vietnam⁵⁹;
- (5) Although ASEAN economic integration is expected to provide additional employment, because women historically have low rates of labour force participation in the ASEAN region, the ability of women to take advantage of these new jobs will depend on the country's ability to facilitate women's entry and continued presence in the job market⁶⁰;
- (6) In Cambodia, Viet Nam, Lao People's Democratic Republic (Lao PDR), and Thailand and Indonesia, more than half of the additional jobs that are expected to result from ASEAN economic integration will be in vulnerable employment and therefore, efforts must be made to improve working conditions and reduce vulnerability⁶¹;
- (7) Vulnerable employment is characterized by informal arrangements (i.e., no contract or formal employment relationship), lower pay, poor working conditions and a lack of social protections and in the ASEAN region, women are the majority of workers in vulnerable employment⁶²;
- (8) Significant job losses could occur in food processing in Cambodia, Indonesia and Lao PDR⁶³;
- (9) ASEAN economic integration will increase demand for some skills while decreasing the demand for others, pointing to the need for not only higher levels of education, but also basic education and training and throughout ASEAN, especially because women have lower rates of literacy than men as a result of gender disparities in primary education⁶⁴;
- (10) Efforts to improve basic education for vulnerable populations are critical if ASEAN members are to take advantage of the gains from economic integration and whether the economic gains "benefit all women and men will depend heavily on skills development policies"⁶⁵;
- (11) A failure of ASEAN governments to prioritise education and training, especially for the most vulnerable groups, including women and young people, could result in the region "suffering persistent skills shortages and mismatches"⁶⁶;
- (12) Cambodia, Lao PDR and Myanmar have the greatest secondary education deficits in the ASEAN region and vocational education is weak in most ASEAN members, especially for young women⁶⁷;

(13) Increasing the wages of workers improves efficiency and is associated with more developed economies, lower labour productivity is associated with low wages and less-developed economies, and ASEAN economic integration, which is also expected to boost labour productivity, could be enhanced if employers raise wages; rising wages could also boost the overall domestic economy by increasing the purchasing power of domestic consumers⁶⁸;

(14) ASEAN economic integration could result in greater wage inequality, where wages for more highly-skilled workers grow faster than those earning “at the bottom end of the wage ladder”, which is “counter to the ASEAN objective of equitable economic development and inclusive growth”⁶⁹;

(15) Addressing gender disparities are an important part of addressing wage inequality and in Vietnam and Cambodia, gender disparities in wages are 10% and 25%, respectively⁷⁰;

(16) Low wages and an absence of processes for resolving disputes associated with labour issues can lead to labour unrest and violence, which points to the need for workers to bargain collectively on labour issues, a right that is largely ignored in the ASEAN region⁷¹;

(17) ASEAN economic integration seeks to facilitate the mobility of highly-skilled workers, but most migrant workers in ASEAN are low skilled or undocumented⁷²;

(18) Labour migration in ASEAN will not decline in the medium term and probably will continue to increase⁷³;

(19) Most intra-ASEAN labour migration involves low- to medium-skilled workers and significant numbers are in informal employment⁷⁴;



(20) ASEAN has justified its failure to address migration of low-skilled workers in the AEC Blueprint by arguing the theory that “closer economic integration can ultimately lead to more efficient production in all countries and cause wages to converge” which would result in less migration, but this theory “is seldom observed in practice and is unlikely to occur in ASEAN on any significant scale”⁷⁵;

(21) ASEAN economic integration may cause greater regional disparities, which may lead to increased demand for low-skilled workers and “a temporary ‘migration hump’”, trade and migration could rise in certain “ASEAN migration hubs” such as Malaysia, Singapore and Thailand and as a result, these countries could experience greater levels of migration⁷⁶;

(22) Regardless of ASEAN economic integration, the levels of migration of low-skilled workers will continue in the short- and medium-terms and systems to manage and protect these migrants will enhance the economic productivity of the countries where they land⁷⁷;

(23) Agreements between ASEAN countries to facilitate the migration of medium-skilled workers in the construction and garment industry, fisherpersons and plantation workers “may provide a more manageable, transparent and safer channel for migrant workers”, “could help legitimize and regulate much of the migration already taking place” and could “boost the overall calibre of the workers coming through”; at present the AEC Blueprint does not address migration of these workers⁷⁸;

(24) Protecting migrant workers on an equal basis with other workers promotes both “economic equity and makes labour markets more efficient” and ensures that employers do not compete unfairly⁷⁹;

(25) The use of low-wage, low-skilled migrant labour may offer short-term gains, but can also prevent an industry from moving up in the value chain and achieving higher levels of productivity, in part because migrant workers are treated unequally and have limited opportunities to invest in the education and training that would increase their productivity⁸⁰; and

(26) There are examples of programs in other countries (e.g., Korea) that demonstrate that fair treatment of migrants and investment in their education and training can benefit not only the migrant, but also the employer in the form of higher levels of productivity; these programs demonstrate that both source and destination countries can benefit from better management of migration of medium- and low-skilled workers⁸¹.

One important conclusion for the study is that “[r]egional integration holds great promise for shared prosperity, but could also increase “inequality” unless ASEAN members “develop policies and institutions to ensure inclusive and fair outcomes.”⁸² The study is important not only because it predicts some of the impacts of ASEAN economic integration on vulnerable populations, but because it explains why government and employer policies of keeping wages low, preventing collective bargaining and failing to address wage inequality, educational deficits and migration by low and medium-skilled workers will lead to lower levels of economic productivity and work against the AEC’s objective of inclusive and equitable economic growth.⁸³

Part IV: Neoliberalism and Human Rights in ASEAN

A. Why does the Framework use the rights-based approach and what other approaches are there?

The AEC Blueprint calls on ASEAN members to make their countries more attractive for investment, in part, by eliminating or amending laws that get in the way of this purpose. This approach is based on the theory that the economy will thrive most when the government's role in the process is minimised. The imperative to encourage free markets with less government interference and free competition is based on a model called neoliberalism.

In contrast to neoliberalism, IWRAW Asia Pacific takes a rights-based approach to women's human rights standards and encourages and supports its national partners to do the same. This is because women will only achieve equality through recognition and protection for the full range of their civil, political, economic, social and cultural rights. Thus, the Framework supports the user in thinking and writing about ASEAN economic integration from a rights-based approach and in shaping the terms of economic development in ASEAN based on respect for human rights.

1. Instrumentalist approach to gender equality.

Although governments, the private sector and international lending organisations often identify gender equality as an important goal of development, it is often invoked as a tool for promoting economic growth. The significant risk associated with such an approach is that equality between women and men is simply an instrument in achieving economic growth. Once satisfactory economic growth is achieved, women are no longer a priority in terms of facilitating their inclusion in economic development schemes. As such, this approach falls short of ensuring the full range of human rights to which women are entitled. In contrast, a human rights-based approach views equality as an end unto itself, rather than a means to economic growth.

2. Neoliberalism

There are many different ways to understand neoliberalism. In its simplest form, it promotes a free, unregulated market as the best model for creating wealth, promoting economic growth and ensuring development. Under the neoliberalism model: (1) a government adopts a policy of deregulation, especially in key areas, such as labour and environment, with the ultimate goal of minimising its control over private enterprises; (2) in the name of saving money, the government reduces or eliminates its role and funding in critical areas, such as education, health care, provision of water and electricity, maintenance of roads, operation of schools, and frequently, these critical functions are turned over to private enterprises, which operate them for profit rather than as essential services critical to fulfilling human rights; and (3) notions of the public good and community are replaced by concepts of individual responsibility.⁸⁴



Over the last 30 years, activists, academics, politicians and many others have observed the negative impacts of neoliberalism, including heightened inequality and the devastating results for women.⁸⁵ Specifically, the policies that neoliberalism promotes have been

“directly responsible for the privatization of essential services such as health and education; the concentration of wealth and resources in the hands of a select few; disruptions of local economies and loss of sustainable livelihoods; the undervaluing of work, in particular women’s work; the ascendancy of a model of profit maximization and competition that has devastated environmental and labour standards; the imposition of aid conditionalities that mandate cost recovery and government down-sizing; heightened economic insecurity as a result of the casualization and flexibilization of employment; increased threats to small- and medium-scale farming, natural environments, biodiversity and food security; a sharp increase in women’s unpaid work; growing demands in terms of women’s roles in social reproduction; and a weakened ability by less powerful countries to protect their national industries, as a result of increased trade liberalization.”⁸⁶

3. Challenging neoliberalism with a rights-based approach.

In contrast to neoliberalism, the Framework is grounded in international human rights treaties and standards and applies a human rights-based approach to analysing women’s economic status. The rights-based approach places respect, protection and fulfilment of all human rights at the centre of all endeavours. The rights-based approach is based on the theory that every person is entitled to protection for her human rights by virtue of being a human being; the rights are inherent and cannot be bargained or taken away.

Despite the prevalence of neoliberalism as the driving model of economic development, activists have made significant strides in using the rights-based approach to push for alternative models. The strength of the rights-based approach is responsible for gains in non-traditional areas, including the promotion of women’s economic rights:

“[W]e have begun to see an increase in human rights activity not only in more traditional areas of women’s rights work such as violence against women and reproductive rights, but also in areas in such as trade and investment, corporate accountability, and international co-operation. Human rights as legal standards are now being invoked in the legal arguments that accompany these disputes. More impressively, however, human rights understood as political tools are also compellingly invoked in the political and diplomatic venues where these struggles often play out.”⁸⁷

The strength of injecting human rights language in political discourse on economic rights cannot be underestimated. In documenting the gains women have achieved in promoting their economic rights, the Association for Women in Development has explained that

“[a]t a political level and in public discourse, human rights have become powerful tools. Human rights language is moving into our mainstream lingo, grassroots groups are being empowered by human rights activism, and appeals to international standards are bringing increased legitimacy and leverage to campaigns and lobbying at various levels. As such, whether or not the legal doctrine and mechanisms are in place to support a claim, human rights arguments can still be used. In situations like this, questions of justiciability, admissibility, and jurisdiction fall to the wayside, while the moral and political power of rights discourse is invoked in struggles over resource distribution, economic and social policy, and accountability for the impacts of one’s actions.”⁸⁸

Another significant development in the debate on the best model for economic growth is the World Bank and Asian Development Bank’s acknowledgment that neoliberalism is not achieving gender equality: “The World Bank (WB) and the Asian Development Bank (ADB) have also concluded that competitive markets alone will not eliminate gender discrimination, and that governments have a vital role to play in regulating markets and providing critical economic infrastructure. Recent World Bank research shows that when women and men are relatively equal, economies tend to grow faster, the poor move more quickly out of poverty, and the well-being of men, women, and children is enhanced. (*Engendering Development*, WB 2000).”⁸⁹

A word of caution is necessary: although the World Bank and Asian Development Bank identify gender equality as an important goal of development, the purpose of achieving gender equality is to promote economic growth. The significant risk associated with such an approach is that equality between women and men is simply an instrument for achieving economic growth. Once satisfactory economic growth is attained, women are no longer a priority in terms of facilitating their inclusion in economic development schemes. As such, this approach falls short of ensuring the full range of human rights to which women are entitled. In contrast, a human rights-based approach views equality as an end unto itself, rather than a means to economic growth. Although one argument that the user of the Framework may employ is that women are key players in the economic development and prosperity of a country, this argument must always be placed in the overall context of women’s human rights.

For these reasons, the Framework supports IWRAW Asia Pacific’s partners in contributing to the successful efforts to use the rights-based approach in challenging traditional models of economic development. In addition to being the basis for all of IWRAW Asia Pacific’s work, with certain exceptions noted below, the rights-based approach is a significant aspect of the plans for the political, social and cultural integration of the ASEAN region.

B. How can WROs shape the debate on ASEAN economic integration so that it moves towards a human rights-based model of development?

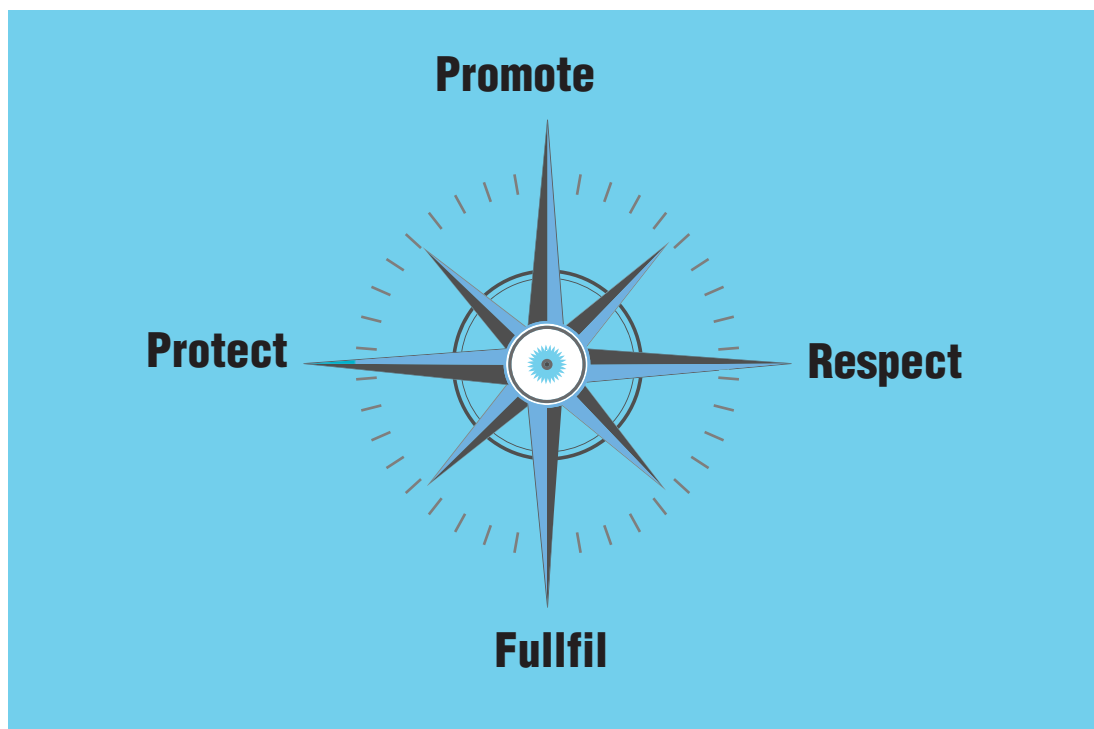
During the EGM, participants discussed neoliberalism as a barrier to achieving women's economic rights in the region. This concern was based on the fact that the AEC Blueprint largely follows a model of economic development motivated by the neoliberal agenda. Despite this fact, a close reading of the AEC Blueprint, as well as the other blueprints for ASEAN integration and other ASEAN-authored documents, reveals that all of these sources contain express references to human rights. These references and the overall trend in the global debates on gender equality and economic development provide ample opportunity and opening for WROs to demand that human rights standards inform the process of ASEAN economic integration. The Framework encourages users to take advantage of these opportunities to influence the process of ASEAN economic integration towards a rights-based approach.

The process of mapping out a rights-based approach to economic integration will involve educating national governments, the general public and ASEAN about: (1) the meaning of the human rights standards they have adopted, including the meaning of these standards in the AEC Blueprint; and (2) the intent of the plans they have adopted for integrating the region, specifically so they understand that the plans do not address separate processes, but combine to form an overall scheme that must be implemented holistically. There will be resistance within ASEAN to this effort. Below are some general suggestions for approaching this task.

1. Human rights standards must guide ASEAN economic integration.

The ASEAN Political-Security Community Blueprint (APSC Blueprint) and ASEAN Socio-Cultural Community Blueprint (ASCC Blueprint) both reflect a rights-based approach. For example, the APSC Blueprint envisions political development consistent with “principles of democracy, the rule of law and good governance, respect for and promotion and protection of human rights and fundamental freedoms as inscribed in the ASEAN Charter.”⁹⁰ The APSC Blueprint “promotes a people-oriented ASEAN in which all sectors of society, regardless of gender, race, religion, language, or social and cultural background, are encouraged to participate in, and benefit from, the process of ASEAN integration and community building.”⁹¹

Pursuant to the APSC Blueprint, ASEAN established the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC). The ACWC Work Plan 2012-2016 and Terms of Reference explain that one purpose of the ACWC is “[t]o uphold human rights as prescribed by . . . CEDAW . . . and other human rights instruments and regional declarations related to women's and children's rights to which ASEAN Member States are parties.”⁹² The principles guiding ACWC's work also echo the commitment of the ASEAN member states to their obligations under international law and describe ACWC's purpose as complementing rather than duplicating the function of the Committee on the Elimination of Discrimination Against Women.⁹³



The ASCC Blueprint contains a similar formulation, committing ASEAN members to promoting “gender equality”, “social justice” and promoting and protecting “human rights”⁹⁴ and envisioning a community dedicated to “Human Development”, “Social Welfare and Protection”, “Social Justice and Rights”, “Ensuring Environmental Sustainability”, “Building the ASEAN Identity” and “Narrowing the Development Gap”.⁹⁵

In addition to the APSC and ASCC Blueprints, ASEAN adopted the ASEAN Human Rights Declaration (AHRD), which contains important references to international human rights obligations and standards, including “all the economic, social and cultural rights in the Universal Declaration of Human Rights”.⁹⁶ The AHRD also contains three paragraphs devoted to the right to development, which is described as:

an inalienable human right by virtue of which every human person and the peoples of ASEAN are entitled to participate in, contribute to, enjoy and benefit equitably and sustainably from economic, social, cultural and political development. The right to development should be fulfilled so as to meet equitably the developmental and environmental needs of present and future generations. While development facilitates and is necessary for the enjoyment of all human rights, the lack of development may not be invoked to justify the violations of internationally recognized human rights.

ASEAN Member States should adopt meaningful people-oriented and gender responsive development programmes aimed at poverty alleviation, the creation of conditions including the protection and sustainability of the environment for the peoples of ASEAN to enjoy all human rights recognised in this Declaration on an equitable basis, and the progressive narrowing of the development gap within ASEAN.

ASEAN Member States recognise that the implementation of the right to development requires effective development policies at the national level as well as equitable economic relations, international cooperation and a favorable international economic environment. ASEAN Member States should mainstream the multidimensional aspects of the right to development into the relevant areas of ASEAN community building and beyond, and shall work with the international community to promote equitable and sustainable development, fair trade practices and effective international cooperation.⁹⁷

2. Points of departure from the rights-based approach.

Despite ASEAN's commitment to international human rights, its own instruments backtrack on the obligation to protect, respect and fulfil the human rights of those living in ASEAN. The ASEAN Charter reiterates the key principles of sovereignty and non-interference, which prevent member states from getting involved in the domestic economic, political and social affairs of other members. These principles have the specific impact of eliminating any influence members may have in encouraging other members to comply with their obligations under international human rights law. Furthermore, the AHRD contains several provisions that would allow ASEAN members to ignore the international norms established by CEDAW, ICESCR and the other international human rights treaties to which they are parties. Specifically, the AHRD provides that:

- “[H]uman rights and fundamental freedoms must be balanced with the performance of corresponding duties as every person has responsibilities to all other individuals, the community and the society where one lives.”⁹⁸
- “[T]he realisation of human rights must be considered in the regional and national context bearing in mind different political, economic, legal, social, cultural, historical and religious backgrounds.”⁹⁹
- “The exercise of human rights and fundamental freedoms shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition for the human rights and fundamental freedoms of others, and to meet the just requirements of national security, public order, public health, public safety, public morality, as well as the general welfare of the peoples in a democratic society”.¹⁰⁰

These troubling departures from the internationally endorsed human rights norms are clearly contrary to the ASEAN member states obligations under international treaties. The fact that enforcement of international human rights treaties is challenging in practice means that ASEAN members may try to use these provisions as the basis for justifying their failures to meet their obligations, at least in discussions on the regional level. In advocating on women's economic rights, one task of the user of the Framework will be to educate her national government and ASEAN about human rights standards and norms, *i.e.*, international human rights treaties set the minimum core standards that state parties must meet and the fact that AHRD allows for derogation does not release the ASEAN member from its obligations under international human rights treaties.

3. Convergence of the AEC and the rights-based approach.

As noted above, a shift in the global debate about the terms of how economic development should be achieved has provided generous openings for arguing that ASEAN economic integration must occur in compliance with human rights principles. This approach is generally reflected in the AEC, APSC and ASCC Blueprints, although more work needs to be done to draw out these arguments. The Framework can be used to shape the meaning of ASEAN economic integration. Some suggestions on how to approach this task are described below.

a. Using advocacy on women's economic rights as an opportunity to educate national governments, the public and ASEAN about the meaning of the human rights standards they have adopted.

Although the ASEAN members have committed to respecting human rights during the process of regional integration, little has been done to define what this means in the context of economic integration and to operationalise this commitment in the form of actions, policies and programmes. The user of the Framework has an opportunity to assist in this process by explaining the meaning of these commitments in the context of a specific problem that women are facing in her country and providing recommendations to the key actors to implement a international human rights-based approach to economic development. Thus advocacy using the Framework should serve two purposes: (1) to highlight a problem and ask for action based on a human rights-based approach; and (2) to shape the meaning of and operationalise the ASEAN commitments to human rights in the context of economic integration based on international human rights norms and standards.

b. The human rights dimensions of economic development in ASEAN have been defined in the AHRD.

One of the strongest arguments for taking a rights-based approach to economic integration is based on ASEAN's commitment to a specific kind of development as defined in the AHRD. Specifically, each individual in ASEAN is "entitled to participate in, contribute to, enjoy and benefit equitably and sustainably from economic . . . development."¹⁰¹ This development must follow a programme that is "meaningful[ly] people-oriented and gender responsive" and directed towards "poverty alleviation".¹⁰² This development must also protect and sustain the environment, narrow the development gap in ASEAN and bring about conditions that allow all individuals in ASEAN to enjoy the human rights set out in the AHRD.¹⁰³

There is an extensive body of literature on the right to development. In 2013, the United Nations Human Rights Office of the High Commissioner published "Realizing the Right to Development" a comprehensive examination of the history and potential of the right to development.¹⁰⁴ This document, which devotes a chapter to the theme of "Women, human rights and development", is a useful source for defining the right to development as reflected in the AHRD and in the context of the specific issue that the user of the Framework is analysing.¹⁰⁵

c. The three pillars of ASEAN are based on an interrelated and integrated plan for regional development.

i. Arguing for a holistic approach to ASEAN integration.

To date, ASEAN has addressed its plans for regional integration through three separate pillars and separate documents, processes and commitments. Nevertheless, ASEAN-authored documents acknowledge and require a holistic approach, especially with respect to economic development.

The interdependence of the three pillars is echoed in the APSC Blueprint, which “subscribes to a comprehensive approach to security, which acknowledges the interwoven relationships of political, economic, social-cultural and environmental dimensions of development.”¹⁰⁶ In addition, ASEAN members have committed to “mainstreaming the multidimensional aspects of the right to development into the relevant areas of ASEAN community building and beyond” and working “with the international community to promote equitable and sustainable development, fair trade practices and effective international cooperation.”¹⁰⁷

The APSC Blueprint’s acknowledgement of the multidimensional aspects of development and the express reference to sustainable development and fair trade clearly encompasses economic integration and tracks the language in the AEC Blueprint. As noted above, the AEC Blueprint repeatedly refers to “equitable economic development”, “poverty-reduction” and “inclusiveness”. These terms are echoed in the AHDR’s description of the right to development. In addition, the AEC Blueprint calls for “sustainable development” in the area of energy and natural resource development. These terms are not explicitly defined in the AEC Blueprint, but WROs should supply their meaning using human-rights language in the ACWC Terms of Reference and the AHRD and international human rights norms and standards.

As noted earlier, the AEC Blueprint includes a policy, the Initiative for ASEAN Integration (IAI), to address the needs of CMLV in relation to economic development in light of the development gap between CMLV countries and other ASEAN member states. The IAI expressly requires “identification and implementation of technical assistance and capacity building programmes for public and private sectors . . . in particular, CMLV . . . to allow them to be equal partners in the development of regional production and distribution networks” and requires building and strengthening of “capacity of government officials to development/implement economic and social policies that would mitigate the effects of economic integration” and “periodic socio-economic studies to monitor/evaluate the impact of economic integration.”¹⁰⁸ The IAI is designed to give “direction and sharpen [the focus of collective efforts to narrow the development gap . . . within ASEAN].”¹⁰⁹ The AEC Blueprint refers to the policy blueprints for SME development and to carry out the IAI.¹¹⁰ The IAI Workplan II is a comprehensive document, not only addressing economic integration, but also setting out the steps for political security, social and cultural integration in ASEAN. Because it focuses on CMLV countries, the IAI Workplan II fortifies the argument that economic integration must occur within the human rights framework that underpins the political security, social and cultural integration of the region.

ii. The role of the indivisibility of rights in shaping the terms of ASEAN economic integration.

The imperative to implement ASEAN's plans for integration according to a human rights- based approach may be simply understood through the concept of the indivisibility of rights. The United Nations Population Fund explains that “[h]uman rights are indivisible. Whether they relate to civil, cultural, economic, political or social issues, human rights are inherent to the dignity of every human person. Consequently, all human rights have equal status, and cannot be positioned in a hierarchical order. Denial of one right invariably impedes enjoyment of other rights. Thus, the right of everyone to an adequate standard of living cannot be compromised at the expense of other rights, such as the right to health or the right to education.”¹¹¹ Because the three pillars of ASEAN envision a region where citizens enjoy the range of civil, political, economic, social and cultural rights, the plans for integration must be implemented together.

The Association for Women in Development has explained the importance of indivisibility in advocacy on women's economic rights:

“Many of the feminists we spoke with were unable to separate gender-based discrimination, civil and political rights, and economic and social rights issues in their thinking or in their work. As Marta Alanís pointed out, you simply cannot eradicate poverty without addressing the fact that there is a huge gap between the rich and the poor, between men and women, and between different groups in society.

Because of the indivisibility of rights, the key issues for the attainment of any rights in the future will be distribution of wealth and the availability of universal social policies, as Haydée Birgin of Equipo Latinoamericano de Justicia y Género (ELA) points out. Without (re)distribution, there can be no economic and social rights. But when a rich understanding of what indivisibility means is applied to both analyzing discrimination and to advocating for change, entitlement claims become more politicized and the potential for transformative change is amplified. In this respect, feminists can make a significant contribution to the mainstream human rights community, through their theoretical and lived understanding of indivisibility.”¹¹²

Because the indivisibility of rights is a practical concept that can be easily grasped by the key actors, it could play a critical role in helping them understand why the plans for ASEAN economic integration are not limited to the actions explicitly set out in the AEC Blueprint. There may be a tendency for the key actors to focus on the tasks in the AEC Blueprint such as eliminating “import duties on all products” and to ignore the more complicated features of the plan, which call for “equitable economic development”, “poverty-reduction” and “inclusiveness”, objectives not accompanied by concrete steps. The user of the Framework can help “fill in” these missing steps by educating the key actors on the actions they must take to meet the AEC Blueprint's equally important objectives of “equitable economic development”, “poverty-reduction” and “inclusiveness”.

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10. <http://www.asean.org/communities/asean-political-security-community>
11. <http://www.ohchr.org/EN/HRBodies/CEDAW/Pages/CEDAWIndex.aspx>
12. <http://www.ohchr.org/en/hrbodies/cescr/pages/cescrindex.aspx>
13. The concluding observations of all of the United Nations treaty rights bodies, including the CEDAW Committee and the Committee on Economic, Social and Cultural Rights concluding observations are [available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en).
14. The distinction being made here is between advocacy to individual ASEAN representatives, when based in their own countries, such as advocacy to the National Secretariats/Directors-General or a member of the ASEAN Socio-Cultural Community Council, and advocacy in the context of meetings of ASEAN regional mechanisms, such as a meeting of the ASEAN Committee for Women and Children, or the bi-annual meetings of the ASEAN Coordinating Council.
15. The Women’s Legal and Human Rights Bureau, Inc. has noted that “[d]espite claims of a “people-centered” ASEAN community, the awareness-deficit on ASEAN among peoples in the region still persists. ASEAN’s accreditation system of CSOs further limits and impedes peoples’ meaningful participation in the region. As ASEAN’s decision-making processes are mostly at the regional level, there is no institutionalized space for CSOs, including women to engage and participate in these processes. While there may be CSO-led initiatives at the regional level, national CSOs lack resources and support to participate to bring in voices and issues from the ground.” The Missing Women: Implications of the ASEAN Integration on Women Migrant Workers’ Rights at 46 (2015).
16. In its publication, “Achieving Women’s Economic & Social Rights Strategies And Lessons From Experience” at 29 (2006) (“Achieving Women’s Economic & Social Rights”), http://www.awid.org/sites/default/files/atoms/files/achieving_womens_economic_social_rights_strategies_and_lessons_from_experience.pdf, the Association for Women in Development noted the importance of data collection: “More so than a separate strategy, having accurate information is essential to all other strategies for implementing economic and social rights, whether proving a case in court, planning a campaign, advocating for a policy change, or putting an international spotlight on a local situation.”
17. The specific attributes of these rights are described in detail on pages 12-16 of “Claiming Women’s Economic, Social and Cultural Rights”, an April 2013 co-publication of the International Network for Economic, Social and Cultural Rights and IRAW Asia Pacific, available at <https://www.escr-net.org/sites/default/files/Guide%20on%20Women's%20ESCR%20-%20Final.pdf> (hereafter Claiming Women’s Economic, Social and Cultural Rights).
18. For more information on substantive equality, non-discrimination and state obligation, see Claiming Women’s Economic, Social and Cultural Rights at 16-18.

19. For more information on this principle, see Claiming Women's Economic, Social and Cultural Rights at 21.
20. For more information on this principle, see Claiming Women's Economic, Social and Cultural Rights at 18.
21. For more information on this principle, see Claiming Women's Economic, Social and Cultural Rights at 19-20.
22. For more information on this principle, see Claiming Women's Economic, Social and Cultural Rights at 21-22.
23. For more information on this principle, see Claiming Women's Economic, Social and Cultural Rights at 20-21.
24. United Nations Population Fund "Human Rights Principles" (2005), available at <http://www.unfpa.org/resources/human-rights-principles>.
25. For more information on this principle, see Claiming Women's Economic, Social and Cultural Rights at 18.
26. Association of Southeast Asian Nations.
27. AEC Blueprint at 6, available at <http://www.asean.org/communities/asean-economic-community> and <http://www.asean.org/archive/5187-10.pdf>.
28. AEC Blueprint at 6.
29. AEC Blueprint at 6-8.
30. AEC Blueprint at 16-17.
31. ASEAN Framework Agreement for the Integration of Priority Sectors Vientiane, 29th November 2004, <http://www.asean.org/news/item/asean-framework-agreement-for-the-integration-of-priority-sectors-vientiane-29th-november-2004>.
32. ASEAN Framework Agreement for the Integration of Priority Sectors Vientiane, 29th November 2004.
33. The ASEAN Sectoral Integration Protocol for Agro-Based Products and the Roadmap for Integration of Agro-Based Products Sector, which is an appendix to the protocol, <http://www.asean.org/news/item/asean-sectoral-integration-protocol-for-agro-based-products>.
34. Roadmap for Integration of Fisheries Sector at 6-7.
35. AEC Blueprint at 18-23.
36. AEC Blueprint at 20-21.
37. AEC Blueprint at 21.
38. AEC Blueprint at 22.
39. AEC Blueprint at 22.
40. AEC Blueprint at 24-25. The APBSD Blueprint I is available at http://www.asean.org/archive/pdf/sme_blueprint.pdf and documents associated with the IAI are available at <http://www.asean.org/communities/asean-economic-community>.
41. APBSD at 1.
42. APBSD at 3-26.
43. http://www.aseanfoundation.org/index2.php?main=social_sub.php&sCatID=0109
44. <http://www.asean.org/archive/SME/SPOA-SME.pdf>

45. ASEAN's commitment to narrowing the development gap extends beyond the IAI. For example, in 2013, the ASEAN Secretariat partnered with the OECD Development Centre on a publication devoted to the topic of addressing the India Narrowing Development Gaps", [http://www.asean.org/ images/2013/economic/iai/SAEO2013%20Complete%20light.pdf](http://www.asean.org/images/2013/economic/iai/SAEO2013%20Complete%20light.pdf)
46. <http://www.asean.org/communities/asean-economic-community/category/declarations-and-work-plans>
47. <http://www.asean.org/communities/asean-economic-community/category/initiatives>
48. IAI Work Plan II (2009-2015) at 11, 12 and 14.
49. The AADCP is "a long term partnership program between Australia and ASEAN to help the move towards the ASEAN Economic Community (AEC) and the post-2015 vision."
50. <http://aadcp2.org/narrowing-the-development-gap-in-asean-drivers-and-policy-options-2013/>
51. Policy Brief 2 at page 4-5, available at <http://www.asean.org/communities/asean-economic-community/category/commissioned-work>.
52. AEC Blueprint at 20.
53. AEC Blueprint at 28.
54. AEC Blueprint at 28.
55. These sources have made projections about the impact of ASEAN economic integration and therefore, whether they prove accurate will not be known for some time. Thus, it is important for the user to note that the potential impacts are based on projections.
56. ADB and ILO, ASEAN Community 2015: Managing integration for better jobs and shared prosperity ("ASEAN Community 2015") at 37-39.
57. ASEAN Community 2015 at 31.
58. ASEAN Community 2015 at 31.
59. ASEAN Community 2015 at 43.
60. ASEAN Community 2015 at 31.
61. ASEAN Community 2015 at 43.
62. ASEAN Community 2015 at 12.
63. ASEAN Community 2015 at 44.
64. ASEAN Community 2015 at 51, 54.
65. ASEAN Community 2015 at 51, 54, 58, 64.
66. ASEAN Community 2015 at 102.
67. ASEAN Community 2015 at 55.
68. ASEAN Community 2015 at 67, 70, 81-82.
69. ASEAN Community 2015 at 73-74.
70. ASEAN Community 2015 at 73.
71. ASEAN Community 2015 at 77-78.

72. ASEAN Community 2015 at 83, 93.
73. ASEAN Community 2015 at 83.
74. ASEAN Community 2015 at 85-86.
75. ASEAN Community 2015 at 93.
76. ASEAN Community 2015 at 93.
77. ASEAN Community 2015 at 93.
78. ASEAN Community 2015 at 93.
79. ASEAN Community 2015 at 93, 100.
80. ASEAN Community 2015 at 95.
81. ASEAN Community 2015 at 94-95, 100.
82. ASEAN Community 2015 at 102.
83. The ILO and ADB study is also important in that it suggests that ASEAN economic integration may add to the significant structural changes that are already occurring in the economies of CLMV. Although CLMV still primarily rely on agriculture, they are increasingly moving towards an industry-based economy. The acceleration of this process as a result of ASEAN economic integration is a reasonable projected outcome.
84. Elizabeth Martinez and Arnoldo Garcia, National Network for Immigrant and Refugee Rights, “What is Neoliberalism? A Brief Definition for Activists”, available at <http://www.corpwatch.org/article.php?id=376>.
85. <http://www.theguardian.com/commentisfree/2013/jan/14/neoliberal-theory-economic-failure>
86. Achieving Women’s Economic & Social Rights at 7. Neoliberalism is not the only threat, however, to achieving women’s economic rights. The Association for Women’s Rights in Development has noted that “[t]he obstacles to realizing women’s economic and social rights today are multiple, multifaceted and often inter-connected. Environmental degradation, for example, has put strains on traditional livelihoods in many regions. Trade liberalization and structural adjustment policies have promoted a development model that focuses on economic growth and consumption, rather than on human development and expanding freedoms. Harmful cultural and religious practices have resulted in restrictions on women’s rights to inheritance, access to health, education and work, and freedom of movement. Trends in terms of labour migration, influenced by rapidly changing economic opportunities, have been implicated in new forms of exploitation and risk to women. Corruption and organized crime have also obscured accountability.” Achieving Women’s Economic & Social Rights at 6.
87. Achieving Women’s Economic & Social Rights at 37.
88. Achieving Women’s Economic & Social Rights at 37.
89. “A Fair Share for Women Cambodia Gender Assessment” at iii, <http://www.adb.org/documents/fair-share-women-cambodia-gender-assessment>. See also, <http://documents.worldbank.org/curated/en/2001/01/891686/engendering-development-through-gender-equality-rights-resources-voice>.
90. APSC Blueprint at 1-2.
91. APSC Blueprint at 2.
92. Terms of Reference at 11.
93. Terms of Reference at 12.
94. ASCC Blueprint at 1.

95. ASCC Blueprint at 1.
96. AHRD at 26. For an excellent analysis and critique of the history of AHRD and the ASEAN Intergovernmental Commission on Human Rights (“AIHCR”), and recommendations for the evolution of human rights in the region, see John D. Ciorciari, “Institutionalizing Human Rights in Southeast Asia” (October 22, 2010), http://www.umich.edu/~iinet/media2/cseas/50thAnniversary/papers/Panel4_Ciorciari.pdf (noting the AIHCR could play an important role in institutionalizing human rights in ASEAN through public education on human rights, by partnering with national and international organisations on projects with complementary objectives, by engaging with civil society and by recruiting AIHCR leadership from key countries, such as Indonesia and the Philippines).
97. AHRD at 35-37. It is important to note that Article 1.1 of the United Nations Declaration on the Right to Development describes the right to development as “an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.”
98. AHRD at 6.
99. AHRD at 7.
100. AHRD at 8.
101. AHRD at 35.
102. AHRD at ¶ 36.
103. AHRD at 36.
104. http://www.ohchr.org/Documents/Publications/RightDevelopmentInteractive_EN.pdf
105. The author refers to the recommendation of a UN Conference on Trade and Development Secretary-General, who “stated that explicit references to gender equality in trade agreements could help to increase the political commitment of key stakeholders and could increase the funding available for gender-related programmes of technical cooperation”. Realizing the Right to Development at 157. The author also notes the progressive provisions in the African Union’s Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, which includes an article devoted to women’s right to: “sustainable development, including the right to land and credit, and that States parties shall ‘introduce the gender perspective in the national development planning procedures’. Participation of women is a leitmotif of the Protocol, which requires States parties to take steps to ensure that women are involved in political decision-making processes, in the construction of cultural values, in ‘the planning, management and preservation of the environment’ and, of course, in the ‘conceptualization, decision-making, implementation and evaluation of development policies and programmes’. Women’s independent right to housing irrespective of marital status is guaranteed, as is the right to education.” Realizing the Right to Development at 157. In addition, “it calls on States parties to ‘ensure that the negative effects of globalization and any adverse effects of the implementation of trade and economic policies and programmes are reduced to a minimum for women’.” *Id.*
106. APSC Blueprint at 2.
107. AHRD at 37.
108. AEC Blueprint at 25.
109. AEC Blueprint at 24.
110. AEC Blueprint at 24-25. The APBSD is available at http://www.asean.org/archive/pdf/sme_blueprint.pdf and documents associated with the IAI are available at <http://www.asean.org/communities/asean-economic-community>.
111. United Nations Population Fund, “Human Rights Principles” (2005), <http://www.unfpa.org/resources/human-rights-principles#sthash.Lp4vG1Nv.dpuf>.
112. Achieving Women’s Economic & Social Rights at 37.

International Women's Rights Action Watch Asia Pacific (IWRAP-Asia Pacific) is an independent, non-profit NGO in Special Consultative Status with the Economic and Social Council of the United Nations. IWRAP Asia Pacific has gained expertise, experience and credibility from 20 years work of mobilizing and organizing women's groups and NGOs to support the work of the State in fulfilling its obligations to Respect, Protect and Fulfill women's human rights under CEDAW, through capacity building, advocacy and knowledge creation initiatives aimed towards development of effective national women's rights advocacy strategies.

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