

CONCLUSIONS OF THE 10TH INFORMAL ASEM SEMINAR ON HUMAN RIGHTS “HUMAN RIGHTS AND GENDER EQUALITY” IN MANILA, PHILIPPINES ON 7TH TO 9TH JULY 2010

Asia-Europe dialogue on the subject of Gender Equality comes at the creation of “UN Women”, the UN entity for gender equality and empowerment for women. The 10th Informal ASEM Seminar on Human rights was held on 7th to 9th July 2010, aptly hosted by the Philippines in Manila at the same moment as the launch of the Implementing Rules and Regulations of the Philippine Magna Carta for Women. The Seminar was organised by the French Ministry of Foreign Affairs, the Raoul Wallenberg Institute of Sweden and the Asia-Europe Foundation, hosted by the Philippine Department of Foreign Affairs and the Ateneo de Manila University Centre for Human Rights. About 100 Asian and European participants included official representatives from ASEM partners—among them human rights diplomats, also top officials from national gender equality agencies and human rights institutions—as well as civil society participants from the academe, NGOs focused on women’s rights and gender discrimination, research institutes, and other relevant groups.

The discussion at the Seminar focused on four themes under the broad heading of Human Rights and Gender Equality. They were: political rights and political empowerment; civil status and economic empowerment; cultural practices and social empowerment; and, gender-related violence. The thematic discussions addressed both cross-cutting issues as common to all themes and addressed issues specific to the four themes. The summary given below consolidates these discussions.

Legal Frameworks

- Gender equality and women’s rights are universal human rights upheld by the Convention on the Elimination of Discrimination against Women (CEDAW) and other international legal instruments on human rights and gender equality. Cultural diversity, which is often cited to justify non-compliance, does not change the universality of equal rights, though there is diversity among women and also among cultures.
- At the regional level, participants indicate that the CEDAW is not fully utilized by governments and gender equality advocates in the EU. EU treaties and directives on equality are limited in their applicability as they focus on employment and social protection or trafficking. In Asia, the CEDAW is more highly relied upon but there are several reservations on key articles. Reservations reflect prevailing social values and are an expression of power structures in society. In ASEAN there is no regional framework on human rights although there is a newly-formed ASEAN Inter-governmental Commission on Human Rights and a Commission on Women and Children. At the national level, enforcement of laws remains weak due to weak institutions, lack of political will and inadequate technical competence.

Gender Inequality

- While globalization brings many benefits, global economic distress is an impeding factor to gender equality. There remain high barriers to women—especially the poor—to employ legal remedies for resolution of discrimination cases. Among these

impediments are the related costs as well as social stigma. Though progress has been made, the persisting ideology of “men-as-bread-winner” and gender stereotyping are the key causes of slow progress in achieving gender equality in the world of work in many countries.

- Gender inequality persists in varying degrees—for example, in pay gaps, occupational segregation, part-time work, precariousness or informality—despite legal equality in all countries. In many cases, women’s civil status and having children negatively impacts on women’s employability and ability to reconcile work-family balance. There persists widespread inequality of women’s access to social security benefits due to women’s disadvantaged position in the labour market and, in many instances, due to women’s civil status. The extent of maternity, paternity and parental leave coverage and practice differs widely across countries—there is a need for increased participation of men in “unpaid care work”.
- Gender mainstreaming was a process used in many countries and gender equality laws have been adopted in many countries in Asia and Europe. In terms of political participation, temporary special measures (also known as positive action) such as quotas are in place to increase the representation of women in parliaments and other bodies. However, a debate persists: there was no full consensus on whether this should be on a voluntary basis and left to political parties or whether this should be legislated. Furthermore, there is an objection that positive action goes against the principle of non-discrimination although the principle of temporary special measures is included in CEDAW and the EU treaties as a right and essential to achieving *de facto* equality.

Vulnerable Groups

- The situation of marginalized women such as rural poor, irregular workers, indigenous women, the disabled and LGBTs (lesbians, gays, bisexuals, transsexuals) need special attention. The human rights of LGBTs are violated because of the similar gender-based discrimination women face. There is no adequate legal framework for protection against discrimination based on sexual orientation.

Gender-related Violence

- Gender-related violence includes violence perpetrated against women because of their gender and because of their sexual orientation. Laws on violence against women must be based on human rights principles of the universality and inalienability of all human rights.
- Cultural practices, prejudices, a patriarchal value system and a culture of silence perpetuate violence against women. Societal attitudes prevent the adoption of good laws, the enforcement of existing laws and the claiming of rights by women. Violence against women and impunity for such violence are, together, the greatest impediment to equality. Honour killings and other forms of harmful practices such as child marriage exist in Asia and among migrant communities in Europe. Governments may be hesitant to take strong action and feel the need to be culturally-sensitive.
- Laws to protect women against violence especially domestic violence had been implemented in many countries. Some countries have laws against marital rape. Nevertheless, formal legal remedies are cumbersome and access to justice for women is a challenge. Women may be prevented from going to court due to societal attitudes.

In this context, informal dispute resolution may not be the answer as these mechanisms are arguably patriarchal. Furthermore, women are still not adequately protected against marital rape and proof of sexual violence requires evidence of force, which may not always be the case.

- No country in conflict is coherently implementing Security Council Resolution 1325, which adopts a gender perspective that includes the special needs of women and girls in situations of armed conflict.

The following recommendations were made on: developing legal/conceptual frameworks; putting in place programmatic measures; addressing culture, ethics and prejudicial mindsets; and, monitoring and benchmarking.

Legal/conceptual framework

1. A multi-faceted approach is necessary to achieve equal rights. There should be full compliance to CEDAW and other international standards on equal rights and the use of relevant international monitoring systems to push for change/progress, including the use of the Optional Protocol and withdrawal of reservations to CEDAW.
Many participants emphasized the continued need for national legislative reforms and specific gender equality policy, including affirmative action and setting a target number of women in both the public and private sectors.
2. Laws on violence against women must be based on two principles, accountability of the perpetrator and protection for the women. There must be a more nuanced understanding of gender-related violence to include violence against LGBTs. Sexual violence laws must require evidence of lack of consent and not lack of force. Anti-sexual harassment clauses must be included in all public and civil service directives. The scope of protection under incitement of hatred laws should include grounds such as women and LGBTs.
3. Institutions could be created or enhanced, for example a competent complaints mechanism such as Ombud's office, as some Asian and European countries have adopted, could be considered.
4. There was no consensus on whether a separate LGBT human rights framework (separate from CEDAW) or the incorporation of LGBT rights in the existing frameworks against discrimination is needed. In addition, authorities and societies were encouraged to accept transgender children and consider creating a third gender category. Such measures could allow children to decide themselves about their gender later as adults and should be accompanied by awareness-raising at all levels.

Programmatic measures

1. Relevant actors must effectively apply corporate social responsibility and promote social dialogue. For those who are outside formal employment and vulnerable, equal access to training/skills development and credit for women should be ensured, including learning new technologies. Women must organize and participate in trade unions to increase their voice and representation.
2. Formal education should focus on mainstreaming Human Rights through various subjects rather than having a single class on Human Rights.

3. There is a need to build capacity of those who are dealing with the LGBT asylum seekers and to use a human rights approach.
4. Gender mainstreaming must continue to take root in public and private institutions. There must be compulsory gender sensitizing training for public officials.

Culture, ethics and changing mind sets

1. Diversity need not be divisive: other cultures can help to broaden perspectives. Greater mutual understanding can be promoted by working within cultures based on interests common to all groups, e.g. well-being of children.
2. Women's roles in religious practices must be promoted and facilitated.
3. Mutual reinforcement of law and ethics can be enabled; for example, decriminalisation of homosexuality and preventing the criminalisation of homosexuality.
4. Men must be involved in all aspects of gender issues, e.g. reproductive health and family planning. More space for dialogue between men and women must be created to discuss common issues and come jointly to decisions.
5. Civil society groups can launch media campaigns and lobby efforts to help the media challenge or change discriminatory mind-sets regarding gender roles in society.

Monitoring and benchmarking

1. Gender mainstreaming and laws to (a) protect women must be implemented through plans for evaluation with process indicators to monitor implementation; as well as (b) indicators of achievement to assess success. Such indicators must be both quantitative and qualitative.
2. Relevant authorities are encouraged to cooperate with statistical agencies and academia to measure progress through data gathering, analysis and setting of indicators for benchmarking.
3. Constant research, knowledge enhancement and capacity building are necessary to influence the implementation of effective monitoring and benchmarking, and to promote good practices.