

**UN WOMEN ISSUE BRIEFS ON
WOMEN'S HUMAN RIGHTS IN THE ASEAN REGION**

VIOLENCE AGAINST WOMEN

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) views gender-based violence as a serious obstacle to human rights and fundamental freedoms by women.ⁱ In its General Recommendation 19, CEDAW defines gender-based violence as “violence directed against a woman because she is a woman or which affects a woman disproportionately. It includes physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.”

The United Nations Declaration on Elimination of Violence Against Women (DEVAW) uses the same definition of violence against women (VAW) as CEDAW, but adds that VAW includes gender-based violence “occurring both in public or private life”. This means that violence in the family, in the community and violence perpetrated or condoned by the state, is considered VAW regardless of whether it occurs in private or public.

UN Special Rapporteurs on VAW have elaborated on these forms of VAW as follows:ⁱⁱ

- Violence in the family includes domestic violence, battering, marital rape, incest, forced prostitution by the family, violence against domestic workers and girl children, sex-selective abortion and infanticide, female circumcision, bride price-related violence and religious-customary laws that are harmful to women and girls.
- Violence in the community includes rape/sexual assault, sexual harassment, violence within institutions, trafficking and forced prostitution, violence against women migrant workers, and pornography.
- Violence perpetrated or condoned by the state includes VAW in conflict, custodial violence, violence against refugees and

internally displaced persons, and VAW against indigenous and minority groups.

The Special Rapporteur has also noted that women are increasingly facing new vulnerabilities on a transnational level due to globalization. This is manifested in an increase in specific forms of VAW such as trafficking and violence against women migrant workers, among others.

The Beijing Platform for Action (BFPA) has further expanded that sexual assault and forced pregnancy during armed conflict, sexual slavery, forced sterilization and forced abortion also constitute VAW. Furthermore, it states that VAW may result from prejudice, racism and racial discrimination, xenophobia, pornography, ethnic cleansing, armed conflict, foreign occupation, religious and anti-religious extremism and terrorism.

ASEAN Member States obligations

ASEAN member states are strongly committed to protect and promote the human rights of women. This commitment is manifested in the ratification of CEDAW by all ten member states.

The 2004 Declaration on the Elimination of Violence Against Women in the ASEAN Region recognizes that “violence against women both violates and impairs their human rights and fundamental freedoms.” It calls on member states to take “necessary measures to eliminate all forms of discrimination against women” and “intensify efforts to develop and improve existing legislative, education and social measures and support services aimed at the prevention of violence against women.”

To combat trafficking in persons, the ASEAN Declaration against Trafficking in Persons Particularly Women and Children (2004) stressed the “urgent need for a comprehensive regional approach to prevent

and combat trafficking in persons, particularly women and children.” The Declaration committed to “undertake actions to respect and safeguard the dignity and human rights of genuine victims of trafficking in persons.”

VAW in the Region – Facts

- **VAW is widespread in various forms across the ASEAN region.** It occurs at all levels – in the family, the community, the society, cross-regionally and transnationally. It takes physical, psychological and economic forms, from domestic violence, trafficking, rape and sexual assault, to sexual harassment, forced/child marriage, bride kidnapping, bride price, son preference, sex-selective abortions and other forms.
- **Domestic violence (DV) is one of the most common** but under-reported forms of violence in the ASEAN region. The overwhelming majority of victims in DV cases are women abused by their husbands or intimate partners. Up to 95 percent of all cases of DV in Viet Namⁱⁱⁱ and up to 96 percent in Indonesia^{iv} are perpetrated by husbands against their wives. In Thailand, 44 percent of women reported that they have suffered sexual and/or physical abuse while in their current or former relationship.^v A Malaysian study revealed that up to 57 percent of DV survivors surveyed had suffered violence by their husband, ex-husband, live-in partner or boyfriend, and the majority of them faced abuse in the first year of their marriage/relationship.^{vi}
- Surveys show that most DV cases not only cause **physical injuries, but also psychological and economic harm.** The number of deaths resulting from DV is also significant. For example, the Ministry of Public Security of Viet Nam reported that 14 percent of homicides in 2005 were related to DV. Similarly, in the Philippines, wife battering remained the most prevalent case between 1997 and 2008, accounting for 49.6 percent of all reported VAW cases nationwide.^{vii}
- **Attitudes and perceptions towards VAW in the region remain tolerant.** In Cambodia, 83 percent of men and 81

percent of women reported doing nothing when they knew about domestic abuse. Very few people reported to community authorities, relatives or friends, and even fewer reported to police or courts.^{viii} In Lao PDR, DV is common, and understanding of the concept remains low.^{ix} Of those surveyed, 82 percent of women believed that a husband is justified beating his wife if she makes a mistake such as going out without telling him, neglecting the children, arguing with him, refusing sex or burning the food while cooking.

- **Marital rape**, or forced sex within marriage, is prevalent in DV cases, and rarely spoken about. Marital rape is still allowed by law in several countries in the region. In countries where it is criminalized, it is seriously under-reported.
- **One of the long-lasting health consequences of VAW is the increase in HIV/AIDS transmission in intimate partner relationships.** In Thailand, 38.7 percent of new infections in 2007 were women infected by their husband, whereas men who were infected from their wives constituted 9.6 percent.^x In Cambodia, two thirds of all new infections in 2009 were among women considered ‘low risk’ or married women not engaged in sex work.^{xi}

Other common forms of VAW in the region include:

- **Sexual assault.** Common but under-reported due to cultural barriers against disclosure. In Thailand, women, especially under age of 18, are at risk of sexual violence, abuse and harassment.^{xii} In Viet Nam issues of sexual violence are barely spoken about due to a strong social prejudice because “a young woman’s worth is judged by her virginity.”^{xiii} In Cambodia, friends or acquaintances accounted for 47 percent of the total number of rapists among the surveyed.^{xiv}
- **Sexual harassment in workplaces, schools, and public or private institutions.** Common but rarely reported or documented throughout the region.^{xv}
- **Son preference.** On the rise in Viet Nam and aided by technology allowing sex detection in foetus and sex-selected abortions.^{xvi}

- **Forced marriages, including child marriage, mail-order brides, and bride kidnapping.**
- **Harmful practices relating to childbirth, menstruation and practices based on double standards and dominant male perceptions of women’s sexuality and chastity.**^{xvii}
- **Trafficking in persons particularly in women for the purposes of exploitation and forced labour.** It has been estimated that 200,000-250,000 women and children in the region are trafficked every year.^{xviii}
- **Forced commercial sexual exploitation or prostitution.** There is no consistent data on its magnitude in the region. Estimates of women in the sex industry in Thailand range from 300,000 to 2.8 million, of which one third to 40 percent are minors.^{xix}
- **Rape and sexual assault during crisis and conflict situations.**^{xx}
- **Violence against indigenous and ethnic minority women.** Studies reveal that indigenous and ethnic minority women are disempowered by harmful practices combined with discriminatory attitudes and practices in mainstream society.^{xxi}

The Issues

Violence against women and its acceptance are deeply rooted in the patriarchal norms that prevail across the globe. All forms of VAW are the cause and consequence of persistent gender inequality. ASEAN member states have made commitments to address these inequalities. VAW not only has long lasting impacts on women’s health, it also affects women’s mental, physical, economic and spiritual wellbeing and self esteem.

The economic cost of VAW to a society is starting to be understood only now. These costs not only include services to survivors and indirect costs in the form of loss of productivity and employment, but also costs attributed to human suffering such as the cost for relocation of survivors and their family for them to feel safe and regain their life.^{xxii}

The following issues perpetuate VAW in the region:

1. **Inadequate legal frameworks addressing VAW.** Overall, legal frameworks in ASEAN

member states have gaps in complying with the CEDAW norms of non-discrimination and substantive equality. Laws in ASEAN member states often reinforce socially constructed and stereotyped roles of men and women in family, community and society. The dominant notion of the superiority of men over women and similarly constructed notions of women’s sexuality and of masculinity underpin the protectionist approach in domestic legislation. For example, the definitions of domestic violence in several countries exclude acts of disciplining wives if it is conducted with “compassion” or because of “negligence” (Cambodia, Thailand).^{xxiii} In a number of countries legal provisions allow marital rape or simply do not recognize it as a crime (Brunei, Lao PDR, Viet Nam).

2. **Pervasive impunity for violence against women in the region due to lack of gender-sensitivity and gender-responsiveness in law enforcement, and the formal, semi-formal, parallel justice and alternative dispute resolution systems.** Generally, women do not receive remedies for violations of their rights. They are discouraged to pursue justice by the inadequate systems and structures that fail to meet needs of survivors of VAW. For example, sexual violence cases are often settled out of court by parents of the survivor receiving compensation. In some cases women are forced to marry the perpetrator to protect family honor.
3. **Large numbers of unreported cases of VAW due to limited awareness of existing laws, poor law enforcement, lack of support services to survivors such as health care, legal aid, and psychosocial counseling.** Women often have limited access to justice because they lack economic resources or mobility to reach justice and support services.
4. **Poor implementation of existing laws due to limited understanding and capacity of law enforcers, judiciary, local government, health care sector and others involved.** Governments are yet to implement multi-sectoral coordinated

responses to VAW at the national and local levels and establish proper monitoring systems for VAW.

- 5. The pervasive culture of discrimination and unequal gender relations further stigmatizes women survivors of violence and prevents them from approaching authorities, filing complaints with law enforcement agencies, getting support services or help from relatives and friends.** Most survivors of domestic violence, perpetrators and authorities, including law enforcers, consider DV a domestic matter. Keeping violence “under the rug” and maintaining the image of a happy and harmonious family underline the reluctance to disclose abuse. Shame of disclosure, negative attitudes and tendency to blame the survivor of sexual violence associated with notions of women’s sexuality, chastity and masculinity also prevent many women from pursuing justice.
- 6. Violence against indigenous women and women of ethnic minorities is compounded by poverty and lack of economic empowerment opportunities.** Migrant women, women living with HIV/AIDS, and women with disabilities are also vulnerable to multiple violations due to intersections of ethnicity, poverty, status, location or other contexts.
- 7. Women survivors of VAW are often left to cope with the consequences of VAW without options for empowerment and long lasting positive change.** State-run programmes tend to treat VAW in isolation from broader gender discrimination issues. Treatments are frequently welfare-based and protectionist in approach.
- 8. Preventing violence before it occurs will cost less than treating its consequences.** This requires long term comprehensive measures to modify harmful practices and transform social attitudes, norms and behaviors of men and women. Education from early childhood free of prejudice and gender stereotypes, about the roles of men and women in families and society will be the cornerstone of such primary preventive measures.

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