Women and the ASEAN 2025: Locating the Gender and Human Rights Dimension of the ASEAN Economic Community (AEC)

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June 2019

Working Paper
SHAPE SEA Research Project

Abstract

The framework of the AEC Blueprint 2025 is fundamentally flawed, as it is devoid of human rights and a gender perspective, essentially negating the ASEAN Vision 2025 of inclusive economic growth. Furthermore, while human rights and a gender perspective is critical to inclusive economic growth, only a few literatures delve into human rights and gender in relation to the AEC, which is troubling because development has often resulted to abuse and discrimination against marginalized sectors and communities, in which half of the population is composed of women. Hence, Weaving Women's Voices in Southeast Asia (WEAVE) in partnership with Strengthening Human Rights and Peace Research and Education in Southeast Asia (SHAPE-SEA) has conducted an expository research anchored on feminist action research purposely to surface the multi-faceted and multi-layered issues of women in relation to the ASEAN Community Vision 2025, which is premised on inclusive regional economic integration. Surfacing issues of marginalized women in relation to the AEC Blueprint 2025, particularly in the two ASEAN economies, Indonesia and the Philippines, as both countries were lauded by World Bank as among the fast developing economies in the region, would prove that the ASEAN regional integration is not at all inclusive, but discriminating and abusive to the marginalized sectors and communities of the region, particularly the marginalized groups of women (women with disabilities, LBT women, and indigenous women). Hence for the AEC to bring about a regional economic integration that is a truly inclusive, people-oriented and people-centered community integrated with the global economy, the AEC Blueprint 2025 needs to be reframed along the CEDAW framework of transformative equality that is inclusive, substantive, and that addresses structural gender barriers and discrimination in ASEAN.

Key words: AEC Blueprint; CEDAW; ASEAN; gender; women

Introduction

The AEC Blueprint 2025, which spells out the AEC's framework of the ASEAN Community Vision 2025 of inclusive regional economic integration, is fundamentally flawed and problematic because it is devoid of human rights and a gender perspective that are essential to inclusive regional integration. The regional integration AEC pursues is predominantly economic and pro-business with no clear regard on the rights of communities and marginalized sectors, especially marginalized women who make up almost half of the ASEAN people. In fact, the Blueprint entirely excludes

LBT (lesbians, bisexual, and transgender), indigenous women, rural women, female food producers, women workers in the informal sector and women with disabilities from the ASEAN integration discourse and from the concept of the 'ASEAN woman'. As a whole, the Blueprint reflects a male-centric bias leaning on the formal equality approach.

Lots have been written on the AEC Blueprint 2025, mainly focused on the AEC's trade, investments, and competition in terms of their roles and contributions to the ASEAN's economic growth. However, there is not much literature in terms of interrogating the implications of the AEC Blueprint on human rights, women's rights, peoples' rights, and the rights of communities. Furthermore, while there are many studies on gender in ASEAN, a gap remains in terms of the voices and narratives of marginalized women from local communities. Substantive accounts or stories of marginalized communities and marginalized women affected by the AEC targets, including trade, agriculture, and MSMEs, continue to be limited. In fact, most mainstream literatures that discuss the AEC Blueprint 2025 do not explicitly mention women's rights or human rights. Also, there has been no study yet using human rights instruments or standards in assessing the AEC whose development track directly impacts the rights of communities, including women and peoples' rights.

As such, Weaving Women's Voices in Southeast Asia (WEAVE) in partnership with Strengthening Human Rights and Peace Research and Education in Southeast Asia (SHAPE-SEA) found it imperative to conduct a research in order to bring out issues of marginalized women in the ASEAN regional economic integration. To do so, WEAVE utilized expository research anchored on feminist action research since this type of research builds knowledge and generates social change from the concrete and lived realities of marginalized women as narrated from their own perspectives and in their own way of telling their stories. Specifically, this study aims to surface issues of three marginalized groups of women: women with disabilities, LBT (lesbians, bisexual, and transgender) women, and indigenous women, who are also women workers, women small producers, and women in the informal economy. The study seeks to start the conversation on how women, particularly marginalized women and their rights, are affected by the economic plans and policies of the AEC's targets: trade, agriculture, and MSMEs, as adopted at the country level. The study asserts that the realities and perspectives of marginalized communities and marginalized sectors, especially women should inform the agenda and direction of the AEC and the implementation of the ASEAN

Community Vision 2025. Hence, capturing and surfacing the stories and narratives of women and their issues in relation to the AEC to bring them into the ASEAN, particularly the AEC, is imperative.

Focusing on Indonesia and the Philippines, which the World Bank (2016) categorized as Lower Middle Income (LMI) economies, but at the same time identified to be where almost 90% of the poor people in the ASEAN region live (UNDP, 2017), women's narratives reveal the unpleasant realities women face and the mixed result of the much-lauded ASEAN economic growth. While the ASEAN economic growth may have given women more opportunities for economic participation, this, however, put them in a more difficult situation in both the public and private sphere, such as doubling women's burden, subjecting women to further discrimination and sexual violence, and more, which is evidence that the ASEAN regional economic integration is not at all inclusive.

To truly realize the ASEAN Community 2025 vision of inclusive regional economic integration, AEC's better alternative is to adopt the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) framework of transformative equality, as there can be no inclusivity without equality. More importantly, at the heart of transformative equality is gender – there can be no equality without gender equality. Thus, espousing the framework of transformative equality CEDAW, the AEC should provide an enabling environment where women can enjoy equally with men the access, opportunity, and beneficial results of the AEC targets.

AEC Blueprint 2025: Problematic framework of an inclusive regional economic integration

The ASEAN Community Vision 2025 of an inclusive regional economic integration requires gender equality and human rights. Yet, the AEC Blueprint 2025 which spells out the AEC's framework of inclusive regional economic integration is devoid of human rights and a gender perspective. In fact, up to this writing, the AEC remains the only pillar without a human rights mechanism and without a space for dialogue with civil society organizations (CSOs), particularly with women rights organizations (WROs). The three human rights bodies: ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC), ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW), and the ASEAN Intergovernmental Commission on Human Rights

(AICHR) are lodged in the ASEAN Socio-Cultural Community (ASCC) pillar, and the ASEAN Political Security Community (APSC) pillar, respectively.

The framework of the AEC focuses on the needs of the ASEAN business community. It mentions narrowing the development gap, but does not acknowledge the structural underpinnings that hinder equality and human development in the region. It uses the perspective of formal equality, where gender equality is perceived as providing opportunities, but not answering to the distinct needs of different peoples, particularly of marginalized women. While women make up almost half of the ASEAN peoples, they, particularly the marginalized women, are made invisible in the AEC discourse of regional economic integration and left out in the AEC processes and engagements. Furthermore, the AEC Blueprint 2025 is missing a gender-sensitive framework on transformative equality that is inclusive, substantive, and addresses structural gender barriers and discrimination in ASEAN. The AEC also lacks an enforcement mechanism that would ensure de facto equality in the region and translate to enhancing the economic livelihoods of Southeast Asian people, particularly women—a typical dilemma of ASEAN Declarations and treaties.

One reason for the AEC Blueprint's lack of CEDAW's Transformative Equality approach as compared to the ASCC and the APSC is the Economic Pillar's estrangement from the two other Pillars, and the lack of regular consultations with civil society networks, rights organizations, and those who would have a direct impact to the AEC's development projects. There are mentions of CSO talks and CSR initiatives, but they are not articulated in the Blueprint itself, and we have yet to see the impact of these programmes.

Oblivious of gender equality, the AEC is incognizant of the intersectionality of women. Its selected targets do not include other dimensions of gender and do not provide due attention to the multi-layered contexts of gender-related issues. The three targets rarely include women in their approach. If they do, it is a single vision of a Southeast Asian woman: a micro-entrepreneur. Thus, the Blueprint entirely excludes women with disabilities, LBTIQ (lesbian, bisexual, transgender, intersex, and queer), indigenous women, rural women, female food producers, and women workers in the informal sector from the ASEAN integration discourse and from the concept of the '*ASEAN woman'*. There is glaring lack of up-to-date, relevant data on persons with disabilities (PWDs), especially gender-segregated data. LGBTIQ remain largely invisible and neglected especially in the

AEC, denied of fundamental freedoms, increasingly criminalized, and subject to extensive discrimination at all stages of employment, from education and training to access to employment, career opportunity and advancement, as well as in access to employment and social security benefits. ASEAN instruments do not refer to indigenous peoples and their rights, leaving indigenous communities indefensible from extractive businesses which subject indigenous women to further discrimination and layered violence; indigenous women face not only threats to their livelihood and health, but also physical and sexual violence.

As a whole, the AEC appears to reflect an androcentric bias with the predominance of androcentric language throughout its plans. The AEC blueprint has also not made it evident as to how it will facilitate women's equal access and participation in the project for the large part of its targets. There is inadequate attention to the obstacles to women's participation and access to information on its projects. The seeming 'inclusive' language has in effect, subsumed and concealed the visibility of women in economic plans and programs. With this invisibility, it would be difficult to determine whether benefits accrue to women community members, especially so that ASEAN treats women's issues as socio-cultural and not political or economic, as women were framed not only separate from political concerns but fundamentally apolitical.[1]

Evidently so, the AEC framework of inclusive regional economic integration as spelled out in the AEC Blueprint 2025 is fundamentally flawed and problematic. Devoid of human rights and gender perspective, it is essentially negating itself.

Research study on AEC and human rights and gender equality: An imperative

Inclusive economic growth presupposes human rights and gender equality. Hence, it is troubling to note that only few studies AEC in relation to human rights and gender equality despite the many cases of human rights violations and gender-based violence committed in the course of implementing so-called development projects. Substantive accounts or stories of communities affected by the AEC targets continue to be limited. And, there has been no study assessing the AEC

[1] Davies, Matthew. (2016). Women and development: Not gender and politics: Explaining ASEAN's failure to engage with the women, peace and security agenda. *Contemporary Southeast Asia: A Journal of International and Strategic Affairs, 38* (1): 108. Retrieved from https://muse.jhu.edu/article/614289

using human rights instruments or standards. Yet literatures and studies on AEC's trade, investments, and competition in terms of their contribution to economic growth abound.

Most mainstream literatures discussing the AEC Blueprint 2025 do not explicitly mention human rights, peoples' rights or women's rights. In fact, the ASEAN Community Vision 2025 explicitly mentioned gender only in the initiative to strengthen the science, technology and innovation sectors (C.9.), as well as strengthening the role of Micro, Small, and Medium Enterprises (D.1). Concepts of substantive equality and addressing marginalized people's rights and women's issues are relegated to the ASCC.

The mainstream economics literature is gender blind and views trade as gender-neutral. Hence there is an exclusion of gender considerations in studies and policymaking regarding trade in Southeast Asia.[2] This is related to the fact that advocates of neoliberal economic policy generally claim that trade liberalization is a prerequisite for national reform, but it does not necessarily translate to gender rights in the Southeast Asian region.[3]

The limited understanding of women has allowed elites to frame addressing women's issues as a vehicle in which to achieve their concerns with economic growth and social and political stability. ASEAN's rather conservative view of women confines women to the "private/domestic" sphere.[4] ASEAN is focused on a conservative agenda of economic and social cohesion, which is why gender concerns are framed within that context: the advancement of women was institutionally and aspirationally linked to the realization of ASEAN goals in economic and social cohesion.

It is not clear how the AEC blueprint, particularly its three targets, will not reinforce discriminatory stereotypes on women. While there were notable female economists and policymakers in the realm of trade, women were often the subject of exploitation to advance these policies. What is clear though is the imperative to conduct a study on the AEC in relation to human rights and gender equality.

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[2] Chandra, Alexander C., Lontoh, Lucky A. and Margawati, Ani. (2010). Beyond barriers: The gender implications of trade liberalization in Southeast Asia. *International Institute for Sustainable Development,* 10-11. Retrieved from https://www.iisd.org/sites/default/files/publications/beyond_barriers_gender_southeast_asia.pdf

[3] Ibid, 15.

[4] Davies, Matthew. (2016).

Feminist action research: Surfacing marginalized women's narratives into the AEC

The research team of WEAVE is of the strong view that economic data and indicators – which are heavily quantitative – may often times fall short of capturing the depth and breadth of the intersectionality and women's situation and issues. Hence, the research posits that women's narratives or stories based on their perspective and own story-telling, along with qualitative studies undertaken by non-economic institutions, including non-government organizations (NGOs), women's movements, and feminist social researchers, should be given equal premium and considered in economic policy formulation and programming.

As a feminist action research, the study proceeds from the standpoint that concrete and lived realities of women are core sites from which to build knowledge and generate social change (WLB, 2016). To do so, the two participating member organizations of WEAVE Women's Legal and Human Rights Bureau (WLB) in the Philippines and Kalyanamitra in Indonesia together with the lead researchers conducted key informant interviews (KII) and developed case studies in their respective countries. Human rights and gender issues were identified by bringing the narratives and voices of women through desk reviews, KII, and focused group discussions (FGDs), capturing women's issues and perspectives on the AEC.

This study adopts the CEDAW as the lens in examining the intersectionality of women's issues in the AEC, particularly in the select targets: trade, agriculture and MSMEs. The CEDAW framework puts gender at the heart of equality. It serves as the overarching framework that underpins norms and standards for equality with gender at the center. It presupposes that there can be no equality without social transformation and system for structural change. Social transformation, in turn, must be able to alter power and gender relations, dominant systems and structures that maintain inequality and inequities, between, among and within genders and marginalized groups. At the heart of the Convention is transformative equality, requiring the transformation of systems, structures, relations, including cultures to pave the way for equality. It defines equality as substantive equality or transformative equality which translates to *de facto* – or in reality – equality that is felt by women, especially marginalized women.

Building on the seminal research on the *Projected Gender Impact of the AEC*,[5] the study seeks to deepen the discussion on the implications of the AEC on gender and women's rights with the attempt to show sexual violence as one of the critical gender and women rights' issues in the AEC. Specifically, the study aims to:

1. Identify the issues of three marginalized groups of women: women with disabilities; lesbians, bisexual and transgender women; and indigenous women, who are also women workers, women producers, and women in the informal economy, specifically from Indonesia and Philippines, in relation to access, opportunity, and results of AEC's selected targets;
2. Describe the challenges that impede the identified three marginalized groups of women from benefiting from the AEC targets; and
3. Explore the initiatives of the AEC bodies in involving women's rights groups, especially the concerned marginalized groups of women; human rights organizations; and people's organizations in the AEC processes.

Gender gap in AEC: Examining women's issues in AEC's trade, agriculture and MSME

AEC's promotion of economic integration through liberalization that allows the free movement of capital, goods, services, and skilled labor appears to be a 'double-edged sword'[6]. The ASEAN economic growth much lauded by the finance capital[7] has mixed results. While the ASEAN economy rises, poverty and sexual violence in the region also persist. Amidst growth during the past three decades or so, ASEAN continues to be confronted with around 95 million poor people by late 2000s until 2014.[8] The gap between rich and poor member ASEAN economies remains very wide.[9]

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[5] This study was jointly commissioned by the ASEAN Secretariat, UN Women Regional Office for Asia and the Pacific, and the Friedrich-Ebert-Stiftung (FES).

[6] Abidin, Mahani Zainal. (2012). Mainstreaming Human Security in the ASEAN Economic Community. In Carolina G. Hernandez and Herman Joseph S. Kraft (Eds.) *Mainstreaming Human Security in ASEAN Integration: Human Security and the Blueprints for Realizing the ASEAN Community*, pp. 32-33. Quezon City: Institute for Strategic and Development Studies, Inc.

[7] Magkilat, Bernie. (2016, January 2). ASEAN Economic Community seen as trading powerhouse. *Manila Bulletin.* Retrieved from http://www.mb.com.ph/asean-economic-community-seen-as-a-trading-powerhouse/; Vinayak, HV, Thompson, F., & Tonby, O. (2014, May). Understanding ASEAN: Seven things you need to know to know. *McKinsey & Company*. Retrieved from https://www.mckinsey.com/industries/public-sector/our-insights/understanding-asean-seven-things-you-need-to-know

[8] Orosa, Theoben Jerdan C. (2012). ASEAN integration in human rights: Problems and prospects for legalization and institutionalization. *Asian Regional Integration Review, 4* (2012): 72. Retrieved from http://www.isn.ethz.ch/Digital-Library/Publications/Detail/?lang=en&id=143441

Along persistent poverty is the pervasiveness of sexual violence in Southeast Asia, wherein ***"one in three women in Indonesia, and one in five in the Philippines, has experienced different forms of violence against women."*** [10] WEAVE's 2016 research: *Coming out of the Dark: Pursuing Access to Justice in Cases of Sexual Violence in ASEAN* in six ASEAN countries, namely Brunei Darussalam, Cambodia, Indonesia, Myanmar, Philippines, and Thailand, reveals that sexual violence against women and girls, as well as child abuse, is widespread in Southeast Asia. However, in the course of the research, it was found that there is lack of systematic repository of data on sexual violence both at the country and regional level. In fact, there is no mention in the AEC on the issue of sexual violence, missing out the "complex relationship between economic development, economic empowerment and violence against women and girls," [11] where economic development can potentially lead to women's economic empowerment, while also a site of violence. The lack of data in most ASEAN countries suggests the need to take urgent collective action to discuss violence against women and girls, as it is bound to remain an invisible issue.

It should be noted that the rising incidence of violence is both an affront and impediment to the acceleration of development and upholding of justice and the rule of law, which the ASEAN promotes. Physical, sexual and mental violence as well as forced labor and child labor are violations of human rights, and therefore criminal activity. Violence also restricts women's economic rights by constraining their access to work and better job opportunities, and affecting their job productivity. According to one study, "the global economic impacts and costs resulting from the consequences of physical, psychological and sexual violence against children can be as high as $7 trillion."[12] In addition, "sexual violence survivors experience reduced income in adulthood as a result of victimization in adolescence." Those who implement AEC policy and related activities must be aware of concerns of violence and ensure their economic interventions will also prevent and

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[9] Ibid

[10] Siddharta, Amanda. (2017, December 20). *Can A Regional Body Like ASEAN Eliminate Violence against Women?* Southeast Asian Press Alliance (SEAPA). https://www.seapa.org/can-a-regional-body-like-asean-eliminate-violence-against-women/; emphasis added.

[11] Taylor G., Jacboson, B., and Pereznieto P. (2015, February) DFID Guidance Note - Part A, Addressing Violence Against Women and Girls Through DFID's Economic Development and Women's Economic Empowerment Programmes. In Jatfors, AK. (2017, February). *Violence against Women and Women's Economic Empowerment. UN Women Regional Office for Asia and the Pacific.* Retrieved from https://www.gov.uk/government/publications/violence-against-woment-and-girls-economic-development-and-womens-economic-empowerment

[12] Child Fund Alliance. (2014). *The cost and economic impact of violence against children*. Retrieved from: http://childfundalliance.org/wp-content/uploads/2014/10/ODI-Policy-Brief.-The-cost-and-economic-impact-ofviolence-against-children.pdf

eradicate violence against students, vocational trainees, students, workers, migrants, and residents in affected communities, particularly women and children.

Focusing on Indonesia and the Philippines – categorized by World Bank[13] as Lower Middle Income (LMI) economies, but at the same time identified by UNDP as the two countries where almost 90% of the poor people in the ASEAN region live[14] – women's narratives illustrate the undeniable truth that the paradox in the ASEAN's economic growth and poverty has a woman's face: with the rise of women's education and workforce participation, women continue to experience a high share of poverty, wage and promotion gaps in employment, and increased exploitation and trafficking of women and girls for prostitution.[15] While economic growth provides more opportunities for women's economic empowerment, gender hierarchy remains. It persists in the division of power and responsibility in the family, where violence against women also continues unabated. [16]

Particularly for the AEC's three targets, namely trade, agriculture and MSMEs plans, significant gender gaps were found. *Trade* targets look to inclusivity and rights simply as access to employment for skilled and educated workers, lacking any insight on economic disparities between men and women and actively excludes the participation of marginalized women in the service liberalization agenda. Most businesses and industries capitalize on women's productive work which is considered cheap labour (e.g. in electronics, garments, etc.). However, without women's reproductive or care work attending to the needs of households, both the labour and private sector will not be able to produce and earn profits. In *Food, Agriculture and Forestry (FAF)*, gender issues are related with climate change and disaster prevention plans. However, there is no mention of women's roles and participation, as well as the impact of FAF liberalization under a single market and production base to Southeast Asian women. The FAF plan does not provide sufficient basis to address the constraints to women in the food, agriculture, and forestry sector such as lack of access to productive resources (e.g. land, credit, and inputs), education, rights, and services. For *MSMEs,*

[13] World Bank Country and Lending Groups. (2016). *Country Data*, Retrieved from https://datahelpdesk.worldbank.org/knowledgebase/articles/906519-world-bank-country-and-lending-groups

[14] ASEAN Secretariat. (2017,November 17). Publication on financing the Sustainable Development Goals in ASEAN. *ASEAN Secretariat News*. Retrieved from http://asean.org/launched-publication-on-financing-the-sustainable-development-goals-in-asean/

addressing women's participation is merely limited to access to online courses and education on finance, marketing and trade. This measure does not specifically address women's unequal access and obstacles to participation, business ownership, and self-sufficiency in the MSME sector. How women workers from the informal economy can participate in the formal economy is also not addressed. Also, AEC and the select targets do not provide due attention to marginalized sectors, especially marginalized women, such as women workers, women migrant workers, and women workers in agriculture and informal economy, women with disabilities, LBTIQ, indigenous women, and women in MSME.

In conclusion, findings of the research are as follows:

- The AEC Blueprint 2025 is missing a gender-sensitive framework on transformative equality that is inclusive, substantive, and addresses structural gender barriers and discrimination in ASEAN;
- The AEC Blueprint's lack of CEDAW's transformative equality approach can be attributed to its estrangement from the two other Pillars, and the lack of regular consultations with civil society networks, rights organizations, and those who would have a direct impact to the AEC's development projects; and
- The AEC's three targets: trade, agriculture, and MSMEs rarely include women in their approach. If they do, it is a single vision of a Southeast Asian woman: a micro-entrepreneur. The targets therefore do not include other dimensions of gender and does not acknowledge the intersectionality of gender-related issues, essentially excluding LBTIQ, indigenous women, rural women, female food producers, women workers in the informal sector and women with disabilities from the ASEAN integration discourse and from the concept of the "ASEAN woman."

The CEDAW framework of transformative equality: The framework for genuine inclusive regional economic integration

The AEC Blueprint 2025 needs to be reframed along the CEDAW framework of transformative equality that is inclusive, substantive, and that addresses structural gender barriers and discrimination in ASEAN to bring about a regional economic integration that is a truly inclusive, people-oriented and people-centered community.

The CEDAW puts gender at the heart of equality. It serves as the overarching framework that underpins norms and standards for equality with gender at the center. It presupposes that there can be no equality without social transformation and system or structural change. Social transformation, in turn, must be able to alter power and gender relations, dominant systems and structures that maintain inequality and inequities, between, among and within genders and marginalized groups. At the heart of the Convention is transformative equality – requiring that systems, structures, relations, including cultures should be transformed to pave the way for equality. It defines equality as substantive equality or transformative equality which translates to de facto – or in reality – equality that is felt by women, especially marginalized women.

CEDAW's approach to equality follows three principles: (1) de jure or formal equality to ensure the equal treatment of women before the law, (2) de facto or substantive equality to ensure that women are given an 'equal start' to achieve equality of results given women's inherent (biological) and man-made (social and cultural) constructed differences from men; and (3) most importantly, transformative equality or equality that transforms to ensure that discrimination and violence against women are addressed at the very root of the social and structural and power relations which justify and promote models of subordination-domination of sexes. The first two, de jure or formal equality and de facto or substantive equality, lay the authoritative ground to ensure the removal of formal barriers to equality, while the third, transformative equality, ensures the achievement of real equality. This is to emphasize that achieving gender equality goes beyond the legal (formal) and programmatic (substantive) framework, because for women to really enjoy equality, this requires challenging the well-entrenched social and cultural relations, patterns and structure promoting asymmetric, discriminatory gender relations. Thus, without transformative equality, there will be no real equality and without real equality, human rights will always be challenged.[17]

Transformative equality or the concept of substantive equality arose out of the recognition that "traditional notions of equality, such as formal equality, may not be sufficient to ensure that women enjoy the same rights as men."[18] For instance, "[a]n ostensibly gender-neutral policy, while not

[17] Biholar, Ramona. (2014, June 24-25). *Challenging the barriers to real equality: Transformative equality*. Annual Gathering of the Group of Women Parliamentarians: Moving from Formal to Substantive Equality. Mexico City, Mexico.
[18] International Women's Rights Action Watch (IWRAW). (2016). *CEDAW Principles*. Retrieved from http://www.iwraw-ap.org/cedaw/what-is-cedaw/cedaw-principles/

excluding women per se, may result in a de facto discrimination against women. It does not consider:

- Sex or biological differences whereby, for example, women bear children, not men.
- Gender differences or socially-created differences resulting in norms and assumptions about women and men's roles in society, and their capability and need. This in turn influences both policymaking and its implementation.
- Differences between women and men whether based on biological (sex) difference or socially created (gender) differences results in women's asymmetrical experience of:
- Disparity and disadvantage.[19]

Hence, CEDAW espouses transformative equality with the following characteristics or traits:

1. Equality is not androcentric.

The raison d'être of CEDAW is to ensure that the framework of equality takes into account the position and situation of women in the society. It calls out, in view of transforming, the pervasive and deeply entrenched "androcentric" views about equality. The term "androcentric" or "androcentric bias" as illustrated in an earlier work by Patricia Maguire[20] reveals the "the ways in which **man** and his power, problems, perspectives, and experiences have been at the center… while **woman** has been relegated to the periphery."[21]

The Framework of Equality as espoused by CEDAW "recognizes women as legal subjects equal to men in human dignity, establishing a concept of equality that is **not androcentric** but based on the protection of women's human rights."[22] Feminists noted that the crux of the problem is that the "concept of equality has been androcentric, which is to say that **men are the frame of reference and their experience is the norm**."[23] This in turn, makes men as the "model or standard for the human experience and as the **subject for whom human rights have been established**."[24] Thus, in closer look, equality between men and women inadvertently means "making women equal to men—the

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[19] Ibid

[20] Maguire, Patricia. (1987). Doing participatory research: A feminist approach. *Participatory Research & Practice.* Paper 1. Retrieved from http://scholarworks.umass.edu/cie_participatoryresearchpractice/1

[21] Ibid; emphasis in original

[22] Facio, Alda & Morgan,Martha. (2009). Equity or equality for women? Understanding CEDAW's equality principles. *IWRAW Occassional Paper No. 14.*

[23] Op cit; emphasis supplied

[24] Ibid; emphasis supplied

standard." [25] This results to women having to **be more like men,** while men do not need to be more like women.[26]

2. It challenges traditional notions of equality.

The traditional notion of equality is understood to mean "the right to be equal to men." This narrows the understanding of equality as it presupposes that men and women should be treated similarly. By doing so, "**the same traditional approach fails to address the systemic and social factors preventing equality**." [27] This approach is called **formal equality** which simply provides the same or identical opportunities to men and women, but does not eliminate and address the obstacles for women to be able to access and enjoy these opportunities. It ignores the differences between men and women; and the distinct needs of women. This approach "often ignores other obligations that society places on women and not men, such as childcare and household duties that prevent women from committing additional time to their career."[28]

The CEDAW, and as enshrined in other human right treaties, challenges the traditional concept of equality. [29] It calls for a framework of equality and realization of women's rights that would take into account and address the "disparity or disadvantage, rather than a "one size fits all" approach.[30] "Equality must give due regard to "the ways in which women are different from men, and ensuring that these differences are acknowledged and responded to by State measures."[31]

3. Discrimination as an act violates the principle of equality.

The title of the Convention specifically calls attention to discrimination. CEDAW defines **discrimination as an act that violates the principle of equality**… the variety of discriminatory practices that can be encountered, at times even in the form of "rights" or "protection."[32]

The different forms of discrimination include beliefs that have been deeply entrenched in and thus form part of traditional or cultural norms or practices. The persistence of gender-based stereotypes is

[25] Ibid
[26] Ibid
[27] IWRAW. (2016); emphasis supplied
[28] IWRAW. (2016); emphasis supplied
[29] Facio, Alda & Morgan,Martha. (2009). 1150.
[30] IWRAW. (2016)
[31] Ibid
[32] Facio & Morgan. (2009). 1142-43

indicative of the systemic discrimination experienced by women. With the gender-based nature of discrimination, "[e]liminating some of the most hidden, yet pervasive, forms of discrimination against women requires the dismantling of gender stereotypes."[33] Thus, "naming a gender stereotype and identifying its harm is critical to its eradication."[34] These stereotypes are maintained by the perpetuation of traditional roles of men and women in the society. This in turn reinforces and manifests the prevailing unequal gender-based relations including in the law, legal and societal structures and institutions. "The harms of gender stereotyping can be thought about in terms of degrading women or diminishing their dignity, and in many cases denying them justified benefits or imposing unjust burdens."[35]

4. Transformative equality brings out social transformation and social change.

CEDAW's principle, "substantive equality" made the term "*de facto* equality" its rallying call. With its standard- and norm-setting character, CEDAW underscores that these standards and norms must translate to women's realities; and be felt by women themselves, especially those from marginalized groups and communities. *De facto e*quality is viewed towards social transformation and social change – equality that is not only bound to *de jure* or provided only in law. "**The goal is social transformation, social change that goes far beyond legislative change, though including it."** [36]

CEDAW's concept of transformative equality "makes social and cultural transformation a legal obligation under its provision… transformative equality opens a space that enables working with underlying causes of inequality and gender-based violence against women."[37] Transformative equality, hence, requires systemic and structural change. Equality can only be fully enjoyed by marginalized women "**when social and cultural structures and power relations that perpetuate models of subordination domination of sexes are modified**."[38]

5. Transformative equality facilitates women's access to justice.

In its research, the Women's Legal & Human Rights Bureau (WLB) revealed the "constant

[33] Heureux-Dube, The Honourable Madame Justice Claire l. (2001). Beyond the myths: Equality, impartiality, and justice. In Cook, Rebecca J. & Cusack, Simone. (Eds.). *Journal of Social Distress and the Homeless, 10* (2001): 87-104.
[34] Ibid, 2.
[35] Ibid. 3.
[36] Facio & Morgan. (2009). 1144.
[37] Biholar. (2009). 6.
[38] Biholar (2009); emphasis supplied

exclusion"[39]of women in the Philippine legal and justice system, which holds true globally. The barriers were founded on 'the law and to society's construction of women and of women's issues'.[40] WLB argued that the law has a narrow view, and lacks understanding on the "interplay of politics, economics, and culture in women's access to justice in cases of violence." Because of the constant exclusion of women's varied experiences in the law and the legal processes, and the society's continued failure to recognize the serious nature of violence against women, thereby promoting a culture of impunity, the experiences of women continue to be undermined and rendered invisible.

Adopting a feminist frame, and viewing violence against women as a product of a hierarchal system of oppression," WLB's access to justice framework calls for a view on access to justice that is,

> beyond mere access to legal resources and multi-disciplinary support services, it goes beyond court victories such that even when a case is decided in favor of the woman, the question as to how such success effectively **improves and empowers the woman** (economically, politically, culturally) can and will be posed as part of the process.[41]

6. Transformative equality attends to intersectionality: attention to marginalized groups of women.

The CEDAW, in its General Recommendations, provides that "women may suffer from discrimination directed against them as women, and they may at the same time suffer from discrimination based on grounds such as race, ethnic or religious identity, disability, age, class, caste or other factors. Such discrimination may affect groups of women primarily, or to a different degree or in different ways than men."[42]

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[39] Women's Legal & Human Rights Bureau (WLB). (2010). Understanding access to justice. A Briefer on Women's Access to Justice. Retrieved from https://www.ohchr.org/documents/HRBodies/CEDAW/AccesstoJustice/WomensLegalAndHumanRightsBureau.pdf

[40] Ibid

[41] Ibid; emphasis supplied

[42] United Nations. (2004) *General recommendation No. 25, on article 4, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women, on temporary special measures.* Retrieved from https://www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20(English).pdf

There are grounds or distinctions that exacerbate the discrimination and marginalization of particular groups of women. "**Without taking into account the intersectionality of gender with ethnicity, economic class, geographic location, immigration status, sexual identity and orientation, age, abilities, and other such factors, equality between the sexes can never be achieved because equality is based on the elimination of all forms of discrimination**.[43]

As such the following recommendations are being forwarded:

1. Reframe the AEC Blueprint towards a rights-based, gender-responsive, transparent and accountable regional economic integration using the CEDAW transformative equality framework because without substantive equality there can be no inclusivity.

2. Conduct further comprehensive study and systematic repository of data on gender in the select targets, including incidence of sexual violence in workplace/services and put in place strong regulatory and accountability mechanisms to monitor and investigate violations to women especially marginalized women, and implement adequate and effective remedies to address violations of women's and workers' rights.

3. Establish institutionalized spaces and platforms within AEC bodies for the meaningful participation and regular engagement of civil society, especially women CSOs and marginalized groups and communities.

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[43] Facio & Morgan. (2009). 1156

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