



Written Submission: Celebrating 25 years of the mandate of the Special Rapporteur on violence against women

Asia Justice and Rights (AJAR) welcomes the call for submissions issued by the Special Rapporteur on violence against women (VAW), its causes and consequences concerning the challenges facing women in attaining their rights and the adequacy of the international legal framework on VAW.

AJAR is a human rights nonprofit focused on preventing and seeking justice for mass human rights violations in the Asia Pacific region. AJAR has engaged with, supported, and advocated on behalf of victims and survivors of mass atrocities. On the basis of this work and in particular the participatory action research AJAR has conducted with women survivors and human rights defenders in the region, AJAR offers the following comments in response to the Special Rapporteur's call.

I. Main Challenges to Addressing VAW

There are many structural and logistical barriers to addressing VAW in the Asia Pacific region. Primary among them is the **enduring impunity of perpetrators**. Local and national mechanisms for justice lack the independence, resources, capacity, and political will to secure accountability, particularly for women victims of conflict. Overwhelmingly, these women do not seek justice, and the few who do experience revictimization and rarely prevail or obtain a satisfying result. AJAR's research in Indonesia, Timor-Leste, and Myanmar has shown that women victims and their communities often believe that seeking justice will bring only additional problems and suffering, resulting in a sense of resignation and acceptance of the status quo.

Another challenge is the **marginalization of women victims of conflict**, who are owed recognition and support and constitute, in some states, a substantial portion of the population. Both during and after conflict, these women remain largely invisible to service providers. They are unable to access basic health services and are in need of specialized programs to deal with trauma, reproductive health, and aging. Moreover, to the extent any attention is paid to women victims of conflict during the conflict or immediately after the conflict ends, this focus tends to cease within a short period of time. Donors, government agencies, and the international community, for example, often cease supporting work with victims of past violence and exclusively focus on current victims of domestic violence. A critical finding of AJAR's research, which also looked at the continuing cycles of violence, is that VAW is maintained by the willingness of governments, donors, and the international community to disregard or abandon women victims of conflict. The failure to bring these women out of the shadows and address the long-term impact of the conflict on them results in the perpetuation of a culture of violence and oppression.

A related and significant logistical barrier is the **failure to allocate sufficient long-term funding and resources to work with women victims of conflict**. AJAR's research and work throughout the region, including with partners in 10 countries in Asia, has shown that long-term government and civil society programs providing social support and positive acknowledgement (as opposed to discrimination) to women victims of conflict are needed to

mitigate the impact of conflict. Critically, to ensure that the memory of what occurred and the commitment to a culture against violence is transmitted to the next generation, these programs must be implemented beyond the relatively short life of most other transitional justice mechanisms, such as truth commissions or specialized courts.

II. Analysis of the Mandate

AJAR affirms the mandate's **focus on the causes of VAW**. As AJAR's work in the Asia Pacific region demonstrates, identifying and addressing the root causes of VAW is a prerequisite to securing the cultural and systemic shifts necessary for lasting change.

AJAR also affirms the mandate's **specific consideration of the “civil, cultural, economic, political and social spheres.”** The recognition that root causes, which may be unique and distinct, operate in these spheres is critical to a comprehensive response to VAW.

In addition, AJAR affirms **the reference to both public and private life contained in the definition of VAW.**¹ In the Asia Pacific region, public understanding of what constitutes VAW, of the cycles of violence, and of the relationship between violence in the public and private spheres remains quite poor. Civil society organizations in the region, such as AJAR, have been able to rely on this definition and the mandate of the Special Rapporteur to advance gender justice. AJAR also appreciates that this definition does not narrowly focus on sexual violence, accurately reflecting the wide-spectrum of violence women experience and allowing interventions that can side-step the stigmatization experienced by women victims of sexual violence.

Efforts to advance gender justice in the Asia Pacific region have benefited from the direct engagement of the Special Rapporteur. For example, the Special Rapporteur's visit to Indonesia and East Timor in 1998-1999 resulted in increased acknowledgement of the violence suffered by women during the conflict. In addition, the Special Rapporteur's discussion in reports submitted to the Human Rights Council regarding VAW in specific Asia Pacific countries has aided in recognition of VAW throughout the region. However, while the increased recognition of VAW prompted by the Special Rapporteur's engagement in the region has contributed to the empowerment of women in Asia Pacific, greater focus is now needed on how the Special Rapporteur can help influence and promote long-term support for women (and other minority) victims of violence.

III. Specific Measures to Further Strengthen the Mandate

As noted above, one key measure that would help accelerate the prevention and elimination of violence against women would be **an explicit recognition of the relationship between past violence against women, particularly that which takes place during conflict, and ongoing violence against women in both private and public life.** Often a false separation is made between VAW during conflict and VAW during peace, and there is a difference in prioritization and treatment results. AJAR's research has shown repeatedly that many women are the victims of violations during both periods. The violence a woman experiences during conflict may not end but rather transform into (or return to) a more “everyday form” of violence, including domestic violence, when the conflict ends. Different actors may be committing the violations, but the same underlying culture of violence and oppression persists. AJAR has found this to be the case, for example, in Timor-Leste and Papua (Indonesia), where women victims of conflict have been stigmatized as separatists after the conflict has ended and hampered from accessing services and resources from the government. Advancing understanding of the culture of violence that can remain even after a conflict ends and the need for government, international community, and donor support of programs aimed at addressing that culture is critical to ending VAW in the Asia Pacific region.

¹ See E/CN.4/RES/2003/45; A/HRC/RES/32/19.

Incorporating language into the mandate that strengthens the Special Rapporteur's ability to help bring resources to civil society organizations working on VAW would also accelerate efforts to address VAW. A significant challenge to civil society organizations working on VAW in the region is the securing of funding for their work, particularly work that seeks to address the long-term needs of victims and survivors and/or to promote a cultural shift. Work that seeks to promote a cultural shift must also incorporate male members in the communities where women victims live. However, often VAW funding is limited to supporting women's organizations. Allowing the Special Rapporteur to more proactively encourage governments, the international community, and donors to support civil society efforts, including those targeting long-term needs and work with men, would have a significant and immediate impact in the Asia Pacific region where such encouragement can prompt real fiscal support.

Given the rise of intolerance and the increase in religious conservatism in the region, efforts to advance gender justice would benefit from a **broadening of the mandate to ensure the Special Rapporteur is engaging with the challenges on the ground and all of the entities dealing with those challenges**. The Special Rapporteur must be empowered to look well beyond women's organizations and/or actors focused predominantly on gender justice. The Special Rapporteur must be encouraged to engage more heavily with organizations dealing with violent extremism, indigenous rights, environmental rights, etc. In addition, engaging with the challenges on the ground must entail looking at the systems in place that contribute to the culture of violence, such as formal and informal restrictions on women's access to leadership positions and the ownership of property. AJAR's research has shown that women with the capacity to be leaders in their community and who are recognized as having the requisite skills to lead are often not elected to leadership positions in the community because they are women. AJAR's research has also shown that women whose husbands die during conflict often are barred from receiving their husband's inheritance because they lack, either as a matter of law or as a matter of community practice, the right to own property. The resulting lack of property renders these women and their children particularly vulnerable to poverty and violence.

Because the LGBTQ+ community is an especially vulnerable group in the Asia Pacific region and because the culture that sustains VAW is the same culture that supports the oppression of LGBTQ+ individuals, **further encouragement of the Special Rapporteur to consider issues of intersectionality, particularly involving the LGBTQ+ community**, would significantly aid gender justice. This encouragement would not only entail increased engagement between the Special Rapporteur and the LGBTQ+ community but also increased effort by the Special Rapporteur to bring together and support civil society entities working to combat the culture of violence in the region.

IV. Special Measures to Ensure Better Institutional Coordination

In its experience, AJAR has found the Asia Pacific region to be significantly underrepresented at conferences, working group meetings, consultations, and other high-level events involving the international community. At times, this is because of logistical issues, such as the inability of individuals in the region to obtain visas as quickly as necessary to attend the engagement, or because of cost. At other times, this is due to the failure to contact those outside a small circle of known international, regional, or national entities. Ultimately, the failure to secure sufficient engagement from the region means that key perspectives are missing from policy and practice discussions. Accordingly, AJAR supports a call for **greater representation from the Asia Pacific region in conferences, working group meetings, consultations, and other engagements** coordinated by and/or supported by the Special Rapporteur.

AJAR also reiterates the importance of **strengthening the ability the Special Rapporteur to help bring resources to civil society organizations working on VAW and improving the Special Rapporteur's engagement with a broad array of civil society actors**.

V. Opportunities and Challenges under International and Regional Frameworks

The regional body for Southeast Asia, ASEAN, has mechanisms dealing with the eradication of violence against women and girls. For example, the Commission on the Promotion and Protection of the Rights of Women and Children reviews the treatment of women and children in the region and their ability to exercise their rights and issues recommendations. However, the mechanism lacks teeth; it is unable to secure implementation and enforcement of its recommendations. In addition, ASEAN is a highly political and not always sufficiently transparent entity. **Encouraging the Special Rapporteur to exert greater influence on ASEAN's human rights mechanisms, including through increased monitoring and increased engagement with its officials**, may improve efforts to address VAW in the region.

Although there are several regional and national mechanisms that deal either directly or indirectly with VAW, a common barrier to their effective use is the appointment of inexperienced or ill-suited leaders. In some contexts, there is a lack of transparency and of participatory processes in appointing individuals to leadership positions in these mechanisms. In some cases, mechanisms become purely a tool for whitewashing an issue or topic. To combat this problem, AJAR recommends **empowering the Special Rapporteur to encourage states and regional bodies to create genuine selection processes for positions of leadership in national and regional mechanisms with a mandate to end VAW**.

Asia Justice and Rights (AJAR)

28 February 2019

Contacts:

Galuh Wandita, Executive Director, AJAR, gwandita@asia-ajar.org

Nicole Janisiewicz, Human Rights Advisor, AJAR, njanisiewicz@asia-ajar.org

About Asia Justice And Rights (AJAR)

AJAR is a regional human rights organization based in Jakarta. AJAR works to increase the capacity of local and national organizations in the fight against entrenched impunity and to contribute to building cultures based on accountability, justice and a willingness to learn from the root causes of mass human rights violations in Asia Pacific region.

www.asia-ajar.org