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ASEAN and the Prevention of Sexual Violence in Conflict and Humanitarian Situations: From Commitment to Practical Action in Southeast Asia

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Since the authorisation of UN Security Council Resolution 1820 (2008), the crimes of sexual and gender-based violence in conflict and fragile settings has increasingly secured the attention of leaders in the United Nations and in government and civil society across the world. The United Kingdom government has emerged as a key champion of recognising sexual violence as serious international crimes which constitute a threat to peace and security. In May 2012, the UK government launched the Preventing Sexual Violence Initiative (PSVI), which seeks to enhance and support local, regional and international efforts to build the necessary capacity to prevent and respond to conflict-related sexual violence (CRSV). In June 2014, then British Foreign Secretary, William Hague, and Special Envoy for the UN High Commissioner for Refugees, Angelina Jolie, co-chaired the Global Summit to End Sexual Violence in Conflict. The Summit convened over 1,000 civil society and international organisation experts and 120 country delegations in London with the aim of creating ‘irreversible momentum’ toward building a culture of prevention concerning CRSV.

Drawing from their unique experience, capacity and challenges, leaders from civil society and government from four ASEAN member states (Indonesia, Malaysia, the Philippines and Myanmar) attended the Global Summit to share lessons and recommendations about preventing and responding to violence against women in the context of conflict and humanitarian disasters. This recent high-level attention to PSVI amongst leaders in the ASEAN region provides a stepping-off point for enhancing efforts to tackle CRSV and deepening engagement with the Women Peace and Security (WPS) agenda¹ within Southeast Asia.

Prior to the Global Summit, several Southeast Asian governments officially endorsed the UK’s PSVI. Seven of the ten ASEAN member states— Indonesia, Malaysia, Singapore, Thailand, Vietnam, the Philippines, and Cambodia—were among the initial 113 UN member states to endorse the Declaration of Commitment to End Sexual Violence in Conflict when Foreign Secretary Hague launched the initiative at UN headquarters in September 2013. Myanmar became the eighth ASEAN member state, and 150th UN member state, to endorse the Declaration on 6 June 2014, the week prior to Global Summit. The Declaration outlines twelve specific actions for strengthening CRSV prevention and response efforts. Included amongst these are the commitments to:

‘strengthen and support efforts of regional organizations to prevent and respond to sexual violence in their peacemaking, peacekeeping and peacebuilding initiatives’; and

‘promote women’s full participation in all political, governance and security structures as well as all decision-making processes, including peace negotiations, peacebuilding, prevention and accountability efforts, recognizing the important contribution that National Action Plans on UN Security Council Resolution 1325 can play in this regard’.²



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Although ASEAN has made a number of official commitments to address violence against women, these have not dealt specifically with the impact of armed conflict on women, or enhancing women's participation in political and security institutions as a measure of conflict prevention and regional resilience.³ The endorsement of the Declaration by the majority of ASEAN member states is therefore noteworthy for the express commitment to deepening regional engagement on measures that reflect the prevention, protection and participation pillars of the WPS agenda.

In addition to their general endorsement of the Declaration, it is important to note the specific commitments government leaders from Southeast Asia have made toward addressing CRSV at the national and regional level. Indonesia has agreed to serve as one of the fourteen global champions committed to advancing PSVI, which include four champions in the Asia-Pacific (in addition to Indonesia, Asia Pacific PSVI champions include Timor Leste, Republic of Korea and Australia). In a written statement issued jointly with the Ministers for Foreign Affairs of the Philippines and Timor-Leste, Indonesian Foreign Minister Marty Natalegawa expressed deep concern that sexual violence continues to be deployed as a weapon of war, and emphasized the need for states in the region to both learn and share practices for addressing CRSV with the wider global community. Along with Natalegawa, Secretary of Foreign Affairs Albert Del Rosario (Philippines) and Foreign Minister José Luís Guterres (Timor Leste) reaffirmed the commitment of their governments to act individually and cooperatively to accelerate efforts: to address the root causes of and impunity for CRSV; and to work with and across government, business and civil society sectors to address sexual violence as well discrimination against women and girls more generally in the region.⁴

At the Global Summit, Natalegawa called for 'concrete measures' to end violence against women and children in armed conflicts in four areas of concern: (1) prevention, (2) protection, (3) punishment for perpetrators and justice for the victims, and (4) early detection. In their statements to the Global Summit, and at parallel events held in the region to coincide with the Summit, Southeast Asian government and civil society leaders elaborated on ongoing efforts and gaps with respect to these four areas of concern.

1. Prevention and Participation

Representatives from the Philippines to the Global Summit included an official government delegation and a ten-member 'women's peace delegation', led by Secretary Teresita Quintos Deles, Presidential Advisor on the Peace Process. In her remarks to the Global Summit Ministerial Dialogue 'Delivering Progress through Women's Participation', Secretary Deles stressed that the Philippines has been breaking ground in women's participation through promoting women as negotiators, mediators, peacekeepers, peacebuilders, as well as relief and trauma workers. The March 2014 Comprehensive Agreement on the Bangsamoro, the peace agreement between the Philippine government and the Moro Islamic Liberation Front (MILF), was led by a woman who served as the Chief Negotiator. Women chaired three out of four of the government's technical working groups and also led the Secretariat and the legal team. Women's participation in the Philippine peace process was more than tokenistic—it was integral to shaping the agreement, which expressly upholds the right of women to 'meaningful political participation, and protection from all forms of violence', and to the 'right to equal opportunity and non-discrimination in social and economic activity and public service'

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regardless of gender.⁵ Secretary Deles credited a well-organized and dynamic women's civil society for holding the government to account and offering technical support, and attributed part of the momentum for women's participation to the 2010 Philippines Women, Peace and Security National Action Plan (WPS NAP). Secretary Deles remarked, 'We must, by design and not by default, build national, regional, and global peace leadership and architecture that count women in and make women count'.⁶ Echoing the Philippine delegation's acknowledgement that PSVI is situated in and should be realised through the broader WPS framework, at the Global Summit Malaysian Foreign Minister Datuk Seri Anifah voiced Malaysia's strong condemnation of sexual violence, and called for the 'actual realisation' of Resolution 1325 and other WPS resolutions'.

However, at present, the Philippines is the only ASEAN government to have adopted a WPS NAP (Indonesia has adopted a Presidential Decree to implement a WPS NAP). The support Malaysian Foreign Minister Anifah voiced for the realisation of WPS resolutions needs to be strengthened by tangible commitments at the national and regional level to advance a WPS NAP in Malaysia and across the political, legal and security sectors of all ASEAN member states.

2. *Protection*

While the Philippines delegation stressed the important lessons that the Philippines offers for contextualising the prevention of CRSV within the WPS women's participation agenda, Malaysia's most noteworthy contribution to the Global Summit focused on direct protection efforts through the UN Security Council and UN peacekeeping missions. The high-level participation of Malaysia's Foreign Minister was reported to reflect Kuala Lumpur's 'commitment and seriousness' in addressing CRSV. At the Global Summit's Ministerial Dialogue 'Enhancing Military and Peacekeeping Capability', Foreign Minister Anifah underscored that it is vital for peacekeepers to be given the necessary gender training and mandate to respond to sexual violence where they are deployed.

Malaysia is currently running for a non-permanent rotating seat on the UN Security Council for the 2015-16 two-year term. Anifah indicated that if successful in its candidacy, Malaysia would 'give priority' to ending sexual violence in conflict and post-conflict situations.⁷ Indonesian Foreign Minister Natalegawa also emphasized his country's support for increased capacity and training for peacekeeping forces for CRSV protection.⁸ Indonesia has indicated that it aims to deploy at least 4,000 personnel in UN peacekeeping operations by 2019, the year Indonesia intends to bid for a rotating UN Security Council seat. A key goal for Indonesia is to deploy more women in uniform, and more women civilian personnel to better address violence against women in conflict settings.⁹

3. *Addressing Impunity and Improving Access to Justice*

In parallel to the Global Summit, on 10 June the British Embassy in Phnom Penh organized a Youth Day roundtable discussion at Pannasastra University of Cambodia. Over 400 university students, CSO representatives and members of the diplomatic community in Phnom Penh attended the event. The event featured a presentation by Professor Nakagawa Kasumi, who led a comprehensive research project to gather oral testimony documenting SGBV under the Khmer Rouge regime. Professor Kasumi's work reveals how women were disproportionately affected by sexual crimes because of

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their status in society, and suggests that the culture of impunity for past crimes (which is witnessed in limited access to justice and weak resolve of courts to act on matters of sexual violence) has fed into the ‘normalization’ of SGBV in Cambodian society.¹⁰

Alongside efforts to document sexual violence in the historical record of crimes committed under the Khmer Rouge, recent strides have been taken in Cambodia to hold perpetrators to account. As noted by UN Secretary General’s Special Representative on Sexual Violence in Conflict, Zainab Hawa Bangura, heightened awareness and attention to sexual violence as a serious crime under international law has corresponded with unprecedented efforts to investigate sexual violence that were perpetrated under the Khmer Rouge.¹¹ In May 2014, a month prior to the Global Summit, international prosecutors at the Extraordinary Chamber in the Courts of Cambodia (ECCC)—the hybrid UN/Cambodian court established in 2004 to put on trial senior members of the Khmer Rouge regime responsible for atrocities committed between 1975 and 1979—asked investigating judges to examine evidence of serious crimes of sexual violence in relation to the fourth and final case of the court, Case 004. Although judges had already been investigating the responsibility of three district-level Khmer Rouge chiefs for an array of serious crimes, this directive from the international prosecutor to include sexual violence marked the first time judges have been directly asked to analyse evidence of sexual violence. Two Khmer Rouge leaders currently on trial are facing charges of rape, but only in the context of the state policy of forced marriage. This new directive includes analysis of rape within forced marriages, as well as rape and other sexual violence outside of forced marriages. This opens for judicial scrutiny evidence that suggests women who were determined to be ‘enemies of the state’ were gang raped by Khmer Rouge cadres prior to being executed.

The concern to date has been that a lack of attention to SGBV crimes by the ECCC may give the false impression that there are no crimes of sexual violence in the past or present that require the attention of the Cambodian government. Cambodia’s Women’s Minister Ing Kantha Phavi has acknowledged that there had been no documented cases of women seeking legal redress for violence and abuse through Cambodian courts. The directive to the ECCC and, recently, the Ministry of Women’s Affairs to document SGBV crimes will help address the culture of impunity surrounding these crimes. On 12 June 2014, the Cambodian Ministry of Women’s Affairs issued a 100-page set of guidelines detailing the human rights and specific legal protection needs of women and children. These guidelines were issued in wake of the UN Committee on the Elimination of Discrimination Against Women urging the Cambodian government to take action to ensure women’s access to justice and accountability for perpetrators of violence against women.¹² Hopefully, with respect for a deeply traumatised context and in a culturally-sensitive manner, these combined efforts will render crimes against women in Cambodian society more visible and open for legal redress. Efforts at documentation and increasing access to justice can help address the potential misleading perception that the lack of documented sexual violence means an absence of these crimes. Similar efforts to highlight the depth of the problem and lack of reporting in Myanmar context are also underway at present.¹³

4. *Early detection*

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Myanmar's participation in the Global Summit came just a week after the country's endorsement of the Declaration of Commitment. The Ministry of Foreign Affairs of Myanmar noted that the endorsement of the Declaration and Myanmar's official representation at the Summit 'sent the important signal of the Myanmar Government's commitment to addressing sexual violence in conflict'.¹⁴ According to civil society organizations from Myanmar represented at the Summit, Myanmar's official representative, Deputy Foreign Minister Thant Kway, indicated that the government would hold discussions about implementing their commitment, which would require collaboration with civil society organisations. Myanmar civil society representatives, including Wahku Shee of the Women's League of Burma and Susanna Hla Hla Soe, Director of the Karen's Women's Empowerment Group, stressed that in countries such as Myanmar where humanitarian access is limited and large external humanitarian agencies lack the local trust and knowledge of local community groups, early detection and early response to CRSV relies on supporting local, community-based organisations and frontline women's human rights defenders. In Myanmar, local women's civil society organisations have been working to document sexual violence and to build a system to support survivors and their access to justice. Their efforts include advocating for new laws, documenting crimes, and offering community education services about gender-based violence. Taking note of the government's endorsement of the PSVI Declaration, civil society organizations from Myanmar have stressed that international partners should seek to hold the government of Myanmar to its commitments to women, including women within minority groups and living in conflict-affected areas.

Time to Act

The participation of four high-level government delegations and civil society expert delegations from ASEAN member states to the Global Summit to End Sexual Violence in Conflict drew critical attention to the need to advance policy and programs to address CRSV in the ASEAN region. In London and at parallel events in the region, Southeast Asian government and CSO leaders highlighted that the prevention of CRSV is linked to gender equality and enhancing women's participation in political and security institutions. Both Malaysia and Indonesia linked their aspiration for a rotating seat on the United Nations Security Council to their record of commitment to improving women's protection through UN peacekeeping operations. In Cambodia, unprecedented strides have been taken to move from a culture of impunity to a culture of accountability for sexual and gender-based crimes targeted against women. The government of Myanmar's decision to endorse the Declaration of Commitment opens a particularly significant opportunity to induce the government to take measures to translate the rhetoric to practical action to enhance women's political participation and realise women's peace and security. These high-level political commitments are only a first, nascent step toward building national and regional capacity to prevent and respond to violence against women in conflict and humanitarian situations in Southeast Asia.

Two significant means by which ASEAN and member states could carry forward commitments under the PSVI Declaration is to offer guidance on National and Regional level Action Plans on WPS, and to ratify the 1998 Rome Statute as a key part of the CRSV accountability framework. In particular, it would be beneficial for the ASEAN Political-Security Community to take the lead and advise member

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states on their responsibilities concerning implementation of the UN Security Council Resolutions 1325 and 1820 (equivalent to the Comprehensive Approach document issued by the European Union to its member states).¹⁵ Beyond addressing national and regional level vulnerabilities and issues concerning the inclusion of women and gender sensitive policy in political, legal and security settings, there would be international benefit derived from ASEAN member states providing gender sensitive deployments within peacekeeping missions.

In light of the recent high-level support voiced for PSVI in the ASEAN region, and the call by civil society organizations for greater attention to the matter, the Asia Pacific Centre for the Responsibility to Protect hosted a workshop on ASEAN and the Prevention of Violence Against Women in Conflict and Humanitarian Situations, in Jakarta in late August 2014. The workshop provided an opportunity for deeper exploration of how civil society organisations and governments in the region can work together towards concrete plans of action for addressing violence against women in conflict and humanitarian situations in the region. The workshop gathered over forty women leaders, human rights and WPS advocates from nine ASEAN member states, and government representatives from Australia and the UK to discuss four cross-cutting themes that leaders and civil society organizations from the region have identified as priority areas for preventing conflict-related violence against women: (1) enhancing women's participation in regional peace and security institutions, (2) addressing root causes through national and regional architecture and capacity building, (3) defending women's rights and improving women's access to justice, and (4) providing protection through the security sector and humanitarian missions.

With a focus on prevention, the workshop identified local and national cases of resilience that advance efforts to address sexual violence within the context of WPS, gender justice and gender equality commitments in the region. Recommendations arising from the workshop included the need to:

- Identify high profile WPS Champions within ASEAN membership who are willing to support discussion of political-legal-security community level engagement with WPS.
- Strengthen training and engagement on WPS within the military sector, initially focusing on gender protection and participation in humanitarian crises and peacekeeping missions.
- Enhance monitoring and evaluation of ASEAN members engagement with 3 pillars of WPS – participation, prevention and protection. This requires a regional level framework of WPS adoption and implementation to informally monitor progress.
- Engage the ASEAN Intergovernmental Commission on Human Rights and the ASEAN Institute for Peace and Reconciliation to assist and advise on the three recommendations above.

These recommendations, and more information, will be available in a report on the workshop to be released in September 2014.

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