

**GENDER ASSESSMENT OF NATIONAL LAWMAKING MECHANISMS
AND PROCESSES IN SELECTED SOUTHEAST ASIAN COUNTRIES:
A CEDAW PERSPECTIVE**

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ACRONYMS

AHRC	Ateneo Human Rights Center
AIPA	ASEAN Inter Parliamentary Assembly
AMDF	Al-Mujadilah Development Foundation
APWLD	Asia Pacific Forum on Women and Law Development
ARMM	Autonomous Region of Muslim Mindanao
ASEAN	Association of Southeast Asian Nations
CASC	Cambodian Acid Survivors Charity
CASE	Community Agency for Social Enquiry
CEAMEG	Centro de Studios, para el Adelanto de las Mujeres y la Equidad de Genero (Research Centre for Women's Advancement and Gender Equality)
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CEGEN	Center for Capacity-Building and Information on Gender Equality
CEPEW	Center for Education, Promotion and Empowerment of Women
CAW	Committee for the Advancement of Women
CHR	Commission on Human Rights
CPP	Cambodian People's Party
CSAGA	Center for Studies and Applied Sciences in Gender, Family and Adolescents
CSO	Civil Society Organization
CWGI	CEDAW Working Group Indonesia
DILG	Department of Interior and Local Government
DPR	People's Representative Council (Indonesia)
DPD	Regional Representative Council (Indonesia)
DSWP	Democratic Socialist Women of the Philippines
ECOSOCC	Economic, Social and Cultural Council
FFRP	Rwanda's Forum of Female Parliamentarians
FFW	Foundation for Women
FONGTIL	Forum ONG Timor-Leste
GAD	Gender and Development
GDA	Gender Development Association
GMAG	Gender Mainstreaming Action Groups
GMAP	Gender Mainstreaming Action Plan

GMPTL	Grupo das Mulheres Parlamentares de Timor-Leste
GRC	Gender Resource Centre
IDASA	Institute for Democracy in South Africa
IRR	Implementing Rules and Regulations
IPWPDM	Integrated Programme for Women in Politics and Decision-making
JALA PRT	National Network for Domestic Workers Advocacy
JMCIQLSW	Joint Monitoring Committee on the Improvement of Quality of Life and Status of Women
LANGO	Law on Associations and NGOs
LGUs	Local government units
LICADHO	Cambodian League for the Promotion and Defense of Human Rights
LRCT	Law Reform Commission of Thailand
LPRP	Lao People's Revolutionary Party
LTC	Legal Training Center
MOLISA	Ministry of Labor, Invalids and Social Affairs
MOWA	Ministry of Women's Affairs
MPs	Members of Parliament
MWG	Mindanao Working Group on Reproductive Health, Gender and Sexuality
NA	National Assembly
NCAW	National Commission for Advancement of Women
NCDD	National Committee for Sub-National Democratic Development
NCFAW	National Committee for the Advancement of Women
NGO	Non-Governmental Organization
NWM	National Machinery for Women
OFW	Overseas Filipino Workers
OLSS	Office of Legal Support Services
PCSA	Parliament Committee for Legal Affairs and the Committee for Social Affairs
PCW	Philippine Commission on Women
PKKK	National Coalition of Rural Women
PMF	Performance Monitoring Framework
PPDI	Center for Research, Data and Information (Indonesia)
RGADCC	Regional Gender And Development Coordinating Committee
SACG	Study and Action Core Group
SEAP	South East Asia Programme
Sub-CAWs	Sub-Committees for advancement of women

TLWOI	Teduray Lambangian Women's Organization, Inc.
UPCWSFI	University of the Philippines' Center for Women's Studies Foundation Inc.
UP-NCPAG	University of the Philippines' National College of Public Administration and Governance
UTIEG	Unidad Tecnica para la Igualdad y Equidad de Genero (Technical Unit on Gender Equality and Equity)
VAW	Violence Against Women
VFMPG	Vietnam Female Members of Parliament Group
VWU	Vietnam Women's Union
WAGI	Women and Gender Institute
WAIPA	Women Parliamentarians of AIPA
WBI	Women's Budget Initiative
WEDPRO	Women's Education, Development, Productivity and Research Organization
WHR	Women's Human Rights
WLB	Women's Legal Bureau
WNAP	Women's Network for the Advancement of Peace
WPC	Women's Parliamentary Caucus

TABLE OF CONTENTS

I. BACKGROUND	1
II. THE FRAMEWORK	2
III. EXISTING GLOBAL PRACTICES	4
A. Executive Branch	4
1. The Ministry of Justice in Finland	4
B. Role of Legislative Committees	5
1. South Africa's Joint Monitoring Committee on the Improvement of Quality of Life and Status of Women	5
2. Costa Rica's Committee on Women	5
3. Spain's Committee on Equality	6
4. Nepal's Committee on Women and Children	7
5. Women Parliamentarians Caucus	7
C. Research and Training Support Structures	7
D. Partnership with Civil Society/Women's Groups	8
IV. LEGISLATIVE STRUCTURES AND PROCESSES IN THE CEDAW SEAP COUNTRIES	9
A. Initiating and Drafting Legislation – Government Institutions	9
1. Cambodia	9
2. Indonesia	10
3. Lao People's Democratic Republic (PDR)	10
4. Philippines	13
5. Thailand	13
6. Timor-Leste	13
7. Viet Nam	14
B. Civil Society Advocacy	14
1. Cambodia	15
2. Viet Nam	15
3. Thailand	16
4. Philippines	16
5. Indonesia	17

C. Committee Deliberation	17
1. Cambodia	19
2. Viet Nam	19
3. Indonesia	19
4. Timor-Leste	20
5. Philippines	20
D. Plenary Discussion, Approval and Enactment	21
E. Oversight of Implementation	23
V. ENTRY POINTS FOR UN WOMEN: SUMMARY OF FINDINGS AND RECOMMENDATIONS	25
A. Main Findings	25
B. Recommendations	28
1. Capacity Development	28
2. Capacity Development for Local Government Units (LGUs)	32
3. Cultivating Gender Champions	33
VI. CONCLUSIONS	33
REFERENCES	34
TABLES	
Table 1: Systems of Government in Southeast Asia	3
Table 2: Initiating and Drafting Legislation - Structures Involved	10
Table 3: Committee System in Southeast Asia	18
Table 4: Women MPs in CEDAW-SEAP Countries	22

FOREWORD

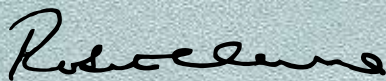
UN Women, the United Nations Entity for Gender Equality and the Empowerment of Women, is mandated to eliminate discrimination against women and girls, empower women and achieve equality between women and men as partners and beneficiaries of development, human rights, humanitarian action, peace and security. The present study entitled “Gender Assessment of National Law-Making Mechanisms and Processes in selected Southeast Asian Countries: A CEDAW Perspective” is thus part of UN Women’s efforts to achieve these goals. This study is a combination of desk reviews and on-site interviews. Information was gathered on how the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is mainstreamed in legislation from the time it is conceptualized to its drafting, discussion in the committees, deliberation on the floor and finally, enactment to law.

Responsibility for translating gender mainstreaming into practice is system-wide and rests at the highest levels. It does not only encompass the process of understanding the nature of the political system or assessing legislation from a CEDAW perspective; noting the political environment and its underlying legislative processes through gender perspective is just as crucial. The study presents detailed information on the legislative structures and processes in targeted programme countries, and provides a review of good global practices of gender mainstreaming in legislation. It highlights successful strategies and approaches and gives concrete recommendations to improve the effectiveness of capacity-development initiatives among lawmakers on the integration of gender in national legislation. The study serves as a baseline and reference guide to programme countries, and will help UN Women identify strategic institutions/mechanisms to target capacity-development support for gender-based legislative reviews. At a side event during the General Assembly of the ASEAN Inter Parliamentary Assembly (AIPA) held in Lombok, Indonesia, in September 2012, the findings of the study were introduced to 50 members of the Women Parliamentarians of AIPA (WAIPA). This was the first joint activity held by WAIPA and UN Women, and established a regional partnership for enhancing national-level work.

The study looks at gender mainstreaming in existing global practices and legislations; reviews the legislative structures and processes of the seven CEDAW Southeast Asia programme (SEAP) countries including Cambodia, Indonesia, Laos, Philippines, Thailand, Timor-Leste and Vietnam; provides findings on capacity developments and sets of recommendations. These are aimed at increasing skills and knowledge of government officials and civil society gender experts on CEDAW compliance in the development and monitoring of the new and revised legislative framework. The study of the global practices serves as a model for CEDAW SEAP countries for government institutions in initiating and drafting legislation, committee deliberation, and approval and enactment into law until the oversight of implementation.

Guided by the performance monitoring framework (PMF) of the CEDAW SEAP, it is integral that gender perspective is highlighted in the designing, implementation, monitoring and evaluation of legislative processes while also noting the diversity within the region. The study uses the Presidential-Parliamentary System Framework to help determine whether it is the executive or the legislature that has the most influence in shaping the strategic framework in the legislative processes. The study further addresses the role of legislative committees in various government systems around the world and their differing functions, types and impacts. For instance, the number of committees in the 7 CEDAW-SEAP countries varies from as many as 58 (the Philippine House of Representatives) to 6 (the Lao National Assembly). In the Philippines there is a dedicated House Committee on Women and Gender Equality and a Senate Committee on Youth, Women and Family Relations, while in countries like Cambodia and Timor-Leste, and, the committees are usually *ad hoc* and are disbanded after the consideration of a bill; they cannot block the passage of a bill and sometimes can only offer technical amendments.

Making laws that integrate a gender perspective is not only a matter of capacity development; it requires persistence and an ability and commitment to bring change. It is hoped that the Gender Assessment of National Law-Making Mechanisms and Processes in selected Southeast Asian Countries: A CEDAW Perspective will serve Members of Parliament (MPs), legislators, parliamentary staff, women's advocates and relevant stakeholders as a vital reference tool. Beyond that immediate purpose, the study will provide the foundation for comprehensive implementation and will be used as a practical tool aimed at strengthening advocacy for mainstreaming gender in legislation.



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I. BACKGROUND

One of the immediate outcomes of Phase II of the CEDAW SEAP programme is “increased skills and knowledge of government officials and civil society gender experts on CEDAW compliance in the development and monitoring of new and revised legislative frameworks.”¹ In line with this, a gender assessment of legislative mechanisms and processes in all seven CEDAW-SEAP countries² from a gender perspective was conducted “to identify the most strategic institution/mechanism to target UN WOMEN’s capacity development support for gender-based legislative reviews.”³ Using a combination of desk reviews and on-site interviews, information was gathered on how CEDAW is being mainstreamed in legislation from the time it is conceptualized to its drafting, discussion in the committees, deliberation on the floor and finally, enactment to law.

The study has five major sections: 1) Introduction of the Framework for the Study; 2) Scanning of Existing Global Practices; 3) Review of Legislative Structures and Processes in the CEDAW-SEAP countries; 4) Major Findings Focusing on Capacity Development; and 5) Concrete and Specific Recommendations.

The Framework used in the study was the Presidential-Parliamentary System Framework as it determines whether the executive or the legislative branch has the upper hand in the legislative process. It will also influence the decision of where to house an institutionalized, sustainable capacity development programme. In a presidential system, the logical place is the Parliament or Congress while in a parliamentary system, the Ministry of Law and Justice may be the most practical location. The scanning of global practices related to gender mainstreaming in legislation showed what works well and can serve as models for CEDAW-SEAP countries. The review of legislative structures and processes started from the drafting of a bill to its enactment into law. The last part of the paper focuses on capacity development and provides concrete and specific recommendations. This study was guided by the PMF of CEDAW-SEAP namely: 1) the general capacity of legislators/executive officials/civil society organizations (CSOs) to apply CEDAW norms and standards in lawmaking and review of legislation; 2) the existence of institutionalized programmes and arrangements for gender mainstreaming in legislation; and 3) the existence of institutionalized processes for mainstreaming gender in the legislature or executive.

1. UN WOMEN East and Southeast Asia Sub-Regional Office, ‘Programme Brief’, p. 1.

2. The countries of CEDAW-SEAP are Cambodia, Indonesia, Lao People’s Democratic Republic (PDR), Philippines, Thailand, Timor-Leste, and Viet Nam.

3. Terms of Reference, Consultant for Gender Assessment of National Lawmaking Mechanisms in Seven Countries in Southeast Asia,”

II. THE FRAMEWORK

The review of legislation from a gender perspective must cover all stages of the legislative process including: 1) drafting and introduction of the bill; 2) committee deliberation; 3) approval and enactment; and 4) oversight of implementation.

Depending on whether the political system is presidential or parliamentary, the **drafting and introduction of a bill** can be done either by the executive, or the legislature or both, but there are permutations of each type. Normally, in a **presidential system**, where the two branches of government are elected separately and are independent of each other, bills emanate from the legislature although the executive defines its legislative programme/agenda at the start of each congressional session. Such is the case in the Philippines, but in Indonesia – another presidential system – the executive actively participates in the preparation and drafting of legislation. **Table 1** shows that most countries in Southeast Asia are **parliamentary** and there are two executives, the President or the monarch who is the head of State, and the Prime Minister who is the head of government and leader of the biggest or the majority party in Parliament. Both Thailand and Cambodia have constitutional monarchs as their heads of State. In a parliamentary system, the cabinet is chosen from among MPs, and the ministries and legislature can initiate bills. The majority of legislative proposals however come from the government or the executive.

The **role of legislative committees** also varies based on the system of government. In **presidential systems** like the U.S. and the Philippines, committees play a powerful role in the legislative process. No bill can be discussed in plenary without committee deliberation and approval. Political parties are represented in committees in proportion to the number of seats they have in the legislature. The chairmanship of the committee is usually given to the senior member of the majority party. The Committee Chair leads the debate on the committee's proposed bill or any matter related to its area of work during the plenary session. Committees also tend to be a permanent feature of the legislature's organizational set-up. The jurisdiction of the committee is defined by subject matter and follows the structure of the administrative agencies.

Committees in a **parliamentary system** on the other hand can be described as follows: 1) usually *ad hoc* and disbanded after the consideration of a bill; 2) unable to block the passage of a bill and sometimes can offer only technical amendments; and 3) comprised of members whose membership does not last for the duration of parliament. This is because of the belief that the draft proposal has gone through many stages of scrutiny at the executive level and another round of examination at the legislative branch is redundant. However, in CEDAW-SEAP countries with parliamentary governments like Vietnam, Lao PDR, Cambodia and Timor-Leste, the committee system is a well-entrenched structure in the legislature.

There are various players involved in the **approval and enactment of a bill**. Where the legislative process is open and free and a number of political parties participate in decision-making, the final version of the bill is the result of negotiation among competing interests and claims. This is of course not the case when there is only one political party or only one person or group of persons who exercises authority.

Oversight of implementation of the law is very much a part of the legislative process. For what use are laws if they are not executed faithfully? While the legislature remains a principal player at this stage primarily through its investigative and budgetary powers, it is a vigilant civil society, exercising its right to hold governments accountable that is usually able to point out the strengths and weaknesses of laws in addressing the issues they are supposed to solve.

TABLE 1: SYSTEMS OF GOVERNMENT IN SOUTHEAST ASIA

COUNTRY	TYPE OF GOVERNMENT	EXECUTIVE	LEGISLATURE/PARTY SYSTEM
Cambodia	Constitutional Monarchy/ Parliamentary	Head of State: monarch Head of Government: Prime Minister elected by the National Assembly	Bicameral: National Assembly (123 members) and Senate (61) Multi-party system with a dominant party, the Cambodian People's Party (CPP)
Indonesia	Presidential	President is both head of State and head of Government	Bicameral: People's Representative Council or DPR (550) and Regional Representative Council or DPD (130) Multi-party system with the Democratic Party as the biggest party
Lao PDR	Parliamentary	President is the head of State and the Prime Minister is the head of Government	Unicameral: National Assembly (132) One-party system: Lao People's Revolutionary Party (LPRP)
Philippines	Presidential	President is both head of State and Government	Bicameral: House of Representatives (284) and the Senate (23). Multi-party system with the Liberal Party as the biggest party in the House of Representatives
Thailand	Constitutional monarchy/ Parliamentary	Head of State: monarch Head of Government: Prime Minister	Bicameral: House of Representatives (500) and Senate (150) Multi-party system with the Pheu Thai Party as the biggest party.
Timor-Leste	Semi-presidential	President is the head of State and the Prime Minister is the head of Government	Unicameral: National Parliament (65) Multi-party system with the Revolutionary Front for an Independent East Timor as the biggest party.

COUNTRY	TYPE OF GOVERNMENT	EXECUTIVE	LEGISLATURE/PARTY SYSTEM
Vietnam	Parliamentary	President is the head of State and the Prime Minister is the head of Government	Unicameral: National Assembly (498 Members) One Party System: Communist Party.

III. EXISTING GLOBAL PRACTICES

A global scanning of existing practices in the gender review of legislation shows that whether the system is presidential or parliamentary, the following structures play a major role in the effective gender review of legislation: 1) for parliamentary and presidential-parliamentary systems, the initiating/drafting/reviewing body in the executive branch; 2) the legislative committee with jurisdiction on gender issues; 3) the existence and involvement of Women's Parliamentary Caucuses (WPC); 4) research and training support organizations; and 5) CSOs and women's groups.

Below are examples of best practices in how each of these structures worked to advance gender equality and women's empowerment in their respective countries.

A. Executive Branch

In parliamentary and presidential systems, the executive branch plays a major part in the initiation, drafting and review of legislation prior to its submission to Parliament. The sectoral ministries either have their legislative drafting units or a specific ministry, usually the Ministry of Law and Justice is tasked with the responsibility of writing and/or reviewing the legislation based on inputs from the respective ministries.

1. The Ministry of Justice in Finland

The Ministry of Justice in Finland plays a big role in ensuring that all legislation is reviewed from a gender perspective. The Ministry of Justice, through the Revision Bureau of the Law Drafting Department, conducts the "legislative inspection" to monitor compliance with the "Impact Assessment Guidelines for Legislative Drafting" adopted in Nov. 1, 2007. Legislative drafters in every ministry are required to undertake impact assessments of the "intended effects and benefits of the bill as well as its costs and possible negative effects."⁴ The impact assessment covers four areas: economic impact; public administration; environment; and social impact. Gender equality is one of the dimensions of the social impact assessment and recognizing the differential impact of bills on women and men is required from the very start of the legislative drafting process. The basic question asked is:

"How will the legislative proposal impact on equal treatment of women and men at work, their finances, caring for children, balance of work and family, training and professional development, employment prospects, political participation and influence, health, security and risk of violence, leisure, hobbies, recreation and other sectors that are relevant to the equal treatment of both sexes?"⁵

4. Finland Ministry of Justice, 'Impact Assessment in Legislative Drafting Guidelines', 2008.

The results of the impact assessment are written down in the statement of reasons or the justification for the bill submitted to Parliament.

B. Role of Legislative Committees

Legislative committees are the “workshops” of parliaments tasked with scrutinizing bills and they decide whether or not to recommend them for approval by the larger body. The committees conduct public hearings and invite expert testimonies as well as rely on research findings of think tanks and academic institutions for research-based information. Several countries have legislative committees specifically mandated to review legislation from a gender perspective:

1. South Africa’s Joint Monitoring Committee on the Improvement of Quality of Life and Status of Women (JMCIQLSW)

The JMCIQLSW started as an ad hoc committee and evolved into a permanent committee in 1998, to exercise gender oversight of legislation. The JMCIQLSW has also been involved in monitoring legislation that is not traditionally regarded as falling within the ambit of “gender issues” but nevertheless has significant impact on the quality of lives of women, such as the Firearms Control Bill 2000, the Banks Amendment Bill 2000 and the Convergence Bill of 2005.⁶

The JMCIQLSW, together with the Community Agency for Social Enquiry (CASE) and the Institute for Democracy in South Africa (IDASA), started the Women’s Budget Initiative (WBI). The JMCIQLSW has consistently engaged with the Department of Finance about the need to “engender” the country’s macro-economic policy and national budget. It has taken a particular interest in how the country’s budget is allocated, especially in terms of spending on issues such as poverty, gender-based violence and HIV/AIDS.

2. Costa Rica’s Committee on Women

The Committee on Women was established in 1999 in the Legislative Assembly of Costa Rica and is responsible for formulating and assessing bills that relate to women. The Committee is empowered to exercise oversight of the executive action on women’s issues. The Costa Rican legislature is very small and is composed of 57 members, 22 of whom are women (38%). The Committee on Women has five members, one of whom is a man. The mandate of the Committee on Women is to review and make legislative proposals on women’s issues, to study problems in connection with the quality of women’s lives and their human rights, to make the improvements required to current legislation, and to monitor relevant legal developments. The Committee also has a mandate to propose the changes needed to bring national legislation on women’s issues in line with provisions in international treaties. The Committee has the authority to conduct written consultations with and hear testimonies from individuals in the executive branch who are legally required to appear before it. The Committee prepares an agenda for each legislative session, which must be continuously

5. Finland, ‘Impact Assessment’, p. 38.

6. Mahlangu-Nkabinde, G., ‘Legislative and Policy Outputs: Achievements of the South African Joint Monitoring Committee on the Improvement of the Quality of Life and Status of Women’ in ‘The Role of Parliamentary Committees in Mainstreaming Gender and Promoting the Status of Women’; Seminar for Members of Parliamentary Bodies Dealing with Gender Equality, Dec. 4-6, 2006, IPU Publication, 2007.

revised as the country assumes more commitments devoted to the protection of women. The general frame of reference for the Committee's work comes from the country's National Development Plan, the implementation of national policy, the construction of a national system for gender equality, and the development of a strategy for social dialogue and negotiation to achieve equality between men and women.⁷

The Committee has the power to amend laws affecting the status of women and works closely with other parliamentary committees and civil society to achieve gender mainstreaming. It is also tasked with ensuring that legislation in general is worded in a gender-sensitive way, which is also an effective way to assess gender balance. In 2009, the Legislative Assembly organized the Technical Unit on Gender Equality and Equity or the Unidad Tecnica para la Igualdad y Equidad de Genero (UTIEG) under the office of the Executive Director of the Legislative Assembly for the purpose of providing technical support, as well as practical tools and training on gender mainstreaming to MPs.⁸

3. Spain's Committee on Equality

The Committee on Equality has a threefold mandate: to oversee government action in the area of women's issues; to examine problems facing women; and to draft legislation and bring legislative motions on this topic. In 2008, the Congress of Deputies created a subcommittee of the Equality Committee charged with monitoring the enforcement of the 2004 Organic Act on Integrated Protection Measures against Gender Violence.

The Equality Law, passed in Spain in 2003, stipulates that, "the drafting process of a bill will begin in the appropriate ministry; it shall include a memorandum, reports on the adequacy of the bill, a report on the gender impact of the bill and an economic memorandum." Article 19 of the Equality Law extends this same obligation to every national plan of economic, social, cultural and artistic relevance. Royal Decree 1083/2009 of 3 June, Regulating the Memorandum of Evaluation of Normative Impact, includes gender impact among the items to be evaluated. For the third time since the 2003 legislation was passed, the 2011 Budget Law included a gender impact assessment. The 2011 report was written following the guidelines for information gathering presented by a joint working group of representatives from the Ministry of Economy and Finance and the Ministry of Health, Social Services and Equality. The report studies the gender impact of different budget items to a greater extent than previous reports, especially in the current context of austerity and structural reform.⁹

4. Nepal's Committee on Women and Children

The Committee for Women and Children was established in the Nepali Congress in 2006 in response to the demands for equal participation and representation in the socio-economic and political spheres in society. The main purpose of the Committee is to develop legislation, and investigate complaints on matters related to gender equality. Therefore the Committee

7. Echeverria, A., 'Costa Rica: Committee on Women,' in 'The Role of Parliamentary Committees in Mainstreaming Gender and Promoting the Status of Women,' Seminar for Members of Parliamentary Bodies Dealing with Gender Equality, Dec. 4-6, 2006, IPU Publication.
8. Garcia, A., 2010 'Gender Mainstreaming in the Costa Rica Legislative Assembly,' Case Study for IPU Gender Sensitive Parliaments Project, Geneva in Sonia Palmieri, 'Gender Sensitive Parliaments: A Global Review of Good Practices,' IPU Reports and Documents No. 65-2011, 55.

not only deals with legislation, but it also investigates public complaints regarding gender equality. The Committee has authority to investigate issues, summon persons and make recommendations regarding penalties. The final decisions of the Committee are made known to the public. The Committee works closely with the Human Rights Commission, and the Ministry of Women, Children and Social Welfare who have representatives appointed by Congress to serve as members of this Committee.¹⁰

5. Women's Parliamentary Caucus (WPC)

A parliamentary caucus is an internal group composed of legislators from different political parties who are interested in a common policy issue (e.g. gender issues) or advocates for a common position in several policy issues (such as the Hispanic Caucus in the U.S. Congress) based on their own ideological/political beliefs or the interests of the constituency they represent. A WPC is a structure that is crucial for effective gender review of legislation. Organized across party lines, the caucus can mobilize and push for legislation that promotes gender equality and women's empowerment. Perhaps the best example of how a Women's Parliamentary Caucus can be an effective advocacy group within the legislature is **Rwanda's Forum of Female Parliamentarians (FFRP)**, which included all female MPs—from both the upper and lower houses — and those who represented political parties or were elected on the “women's ballot”. A formidable parliamentary body, the FFRP is a multi-party and multi-ethnic political caucus that has worked for the promotion of gender equality in the parliamentary agenda and for mechanisms to enhance gender oversight legislation since it was first established in 1996. One of its most significant accomplishments has been to propose a bill on gender-based violence. Its success in influencing legislation is the result of the openness of Parliament to allow active advocacy and close partnerships with Rwanda's women parliamentarians. It is also recognized as a formal body in the Parliament.¹¹

C. Research and Training Support Structures

It is critical to have competent technical support when crafting legislation as well as access to sex-disaggregated data and indicators that can assist in the evaluation of legislation from a gender perspective. In Mexico, a congressional research center, the Research Centre for Women's Advancement and Gender Equality or the Centro de Estudios, para el Adelanto de las Mujeres y la Equidad de Género (CEAMEG) was established in the Chamber of Deputies.¹²

The CEAMEG provides technical and information services to MPs, focusing on three fundamental areas: developing gender-responsive budgeting guidelines; enhancing women's formal and substantive political participation; and the integration and harmonization of Mexico's commitments to international treaties and conventions on the protection and promotion of the status of women into its national laws. It also compiles a documentary, statistical and electronic database on gender equality, the status of women, the exercise of women's rights and relevant federal and state laws.¹³

9. Mendez, C., 2010, “Gender Study in the Spanish Parliament,” Case Study for IPU Gender Sensitive Parliaments Project, Geneva in Sonia Palmieri, ‘Gender Sensitive Parliaments: A Global Review of Good Practice’, IPU Reports and Documents No. 65-2011, 36.

10. IPU Women in Parliament <http://www.ipu.org/wmn-e/world.htm>

11. Powley, E. Powley, 2010, ‘Rwanda,’ Case Study for IPU Gender Sensitive Parliaments Project, Geneva, in Sonia Palmieri, ‘Gender Sensitive Parliaments: A Global Review of Good Practices’, IPU Reports and Documents No. 65-2011, 46.

12. Cuevas, D., 2010 ‘Gender Mainstreaming in Parliament: A Mexican Case Study,’ Case Study for IPU Gender Sensitive Parliaments Project, Geneva, in Sonia Palmieri, ‘Gender Sensitive Parliaments: A Global Review of Good Practice’, IPU Reports and Documents No. 65-2011, 55.

D. Partnership with Civil Society/Women's Groups

One of the hallmarks of FFRP's work in Rwanda has been its use of consultative processes—both internally and externally—with constituents, and other women's organizations. The Collectifs Pro-Femmes Twese Hamwe (a collective of 41 different associations), the Rwandan Women Leaders' Caucus, the National Council of Women, and the Ministry of Gender and Women Promotion, have all been active partners of the FFRP.¹⁴ Some of the achievements of the FFRP and its partners are:

- The 1999 Law on Matrimonial Regimes, Liberalities, and Successions which established women's rights to inherit land for the first time. Women parliamentarians worked in close concert with the Women's Ministry and women's CSOs to develop and adopt the law.
- The 2001 Law on the Rights and Protection of the Child Against Violence, which defines a child as anyone under the age of 18, and identifies both the rights and responsibilities of children. It criminalizes murder, rape, the use of children for "dehumanizing acts", exploitation, neglect and abandonment, and forced or premature (before the age of twenty-one) marriage. These three landmark pieces of law were made possible by the commitment of women parliamentarians in shaping them, on the basis of extensive research in the country, and in consultations with everyday women regarding the type of security threats they and their children face. The process of developing the Law on Prevention, Protection and Punishment of Any Gender-based Violence demonstrates the FFRP's participatory approach.

The Law on Prevention, Protection and Punishment of Any Gender-Based Violence, a gender-based violence law adopted by the Rwandan Parliament on August 3, 2006, defines gender-based violence and addresses crimes committed during the Rwandan genocide of 1994 as well as crimes perpetrated after the genocide. The law identifies various types of gender-based violence acts against women, children and men and it specifically highlights polygamy as a cause of violence. Moreover, for the first time under Rwandan law, the law provides a legal definition of rape and marital rape and prescribes punishment for these offenses. It bears noting that the law is gender neutral and therefore applies to both adult women and men.

Advocacy for budgetary appropriation for gender legislation requires a solid, sustained partnership between MPs, particularly women legislators, and CSOs - specifically women's groups. An example of an effective partnership between the parliament and civil society is **South Africa's WBI, which was a coalition of parliamentary committees, two non-governmental organizations (NGOs), CASE, and the Institute for Democracy in South Africa.** The WBI made a significant contribution to budget reform by conducting analyses of budget allocations from a gender perspective. One of the outcomes was a report prepared by the Ministry of Finance for the Parliamentary Committee on the Improvement of Quality of Life and Status of Women. Among the significant findings of the report are: 1) the tax policy was discriminatory on the basis of gender and marital status; 2) the pension fund laws had income differential implications. Women contributed six percent while men contributed eight percent of their salaries towards their pensions, which implied a higher

13. Delgado, B., 'Mexico's Committee on Equality and Gender and CEDAW,' in 'The Role of Parliamentary Committees on Mainstreaming Gender and Promoting the Status of Women,' IPU, 2006, 66.

14. Pearson, E., 'Demonstrating Legislative Leadership: The Introduction of Rwanda's Gender-Based Violence Bill,' The Initiative for Inclusive Security, April 2008.

pension income for men than women; and 3) there was skewed budget allocation towards defense expenditures, which were no longer necessary. In order to address these issues, the government amended the Pension Fund Law to make pension contributions of women and men equal, and defense expenditures were reduced from 9.1% of the budget in 1992-93 to 5.7% in 1997-98.¹⁵

IV. LEGISLATIVE STRUCTURES AND PROCESSES IN THE CEDAW SEAP COUNTRIES

A. Initiating and Drafting Legislation – Government Institutions

As earlier mentioned, in parliamentary and some presidential systems of government, members of the executive branch, also sometimes referred to as the “government,” and MPs have the same right to initiate legislation although most of the time, the government introduces the majority of bills. Such is the case in countries like Vietnam, Lao PDR, Cambodia, Thailand and Timor-Leste.

The **drafting of a bill** is a strategic entry point for mainstreaming gender in legislation. Whether the bill originates from government or parliament, most of them have the following structures: 1) **an internal Drafting Board, legal office or legal bureau** composed of legal and technical staff who reviews the purpose of the bill and the issues involved, identifies gaps of existing policies, solicits the views of relevant stakeholders, prepares the narrative and introductory/explanatory note, and writes an initial draft of the bill; 2) **the Ministry of Law and Justice or a Government Working Group** which advises on the legal aspects of the bill and even the use of technical language; 3) **an Inter-Ministerial Committee**, convened if the bill or proposed legislation covers a number of sectoral ministries; 4) a **Council of Jurists or Office of Legislative Support Services** (for both the government and the National Assembly) which may be attached to the Office of the Prime Minister and provides legal assistance to the drafters of the bill. **Table 2** summarizes the structures involved in the initiation and drafting of bills in the seven CEDAW-SEAP countries:

15. Stapenhurst, R. and Nora, L., ‘Case Study: South Africa Gender Budget Initiative’, Initiative for Inclusive Security, 2006.

TABLE 2: INITIATING AND DRAFTING LEGISLATION - STRUCTURES INVOLVED

COUNTRY	STRUCTURE
Cambodia	Ministry's Legal Technical Drafting Group (Legislative Working Group) Ministry of Justice (on some specific laws including the Civil and Criminal Code) Council of Jurists (reviews all bills from a legal perspective) Inter-Ministerial Committee Council of Ministers ECOSOC
Indonesia	Bills Originating from the DPR Offices of MPs Standing Committee Joint Standing Committee Legislation Council Bills Originating from the President Legal Bureau of Ministry Inter-departmental Committee Ministry of Justice and Human Rights
Lao PDR	President of the Republic Standing Committee of the National Assembly (NA) Government Member and staff of Supreme Court and Supreme Prosecutor Lao Front for National Construction National Mass Organizations
Philippines	Member of Congress and staff Bill Drafting Division of the Reference and Research Bureau
Thailand¹⁶	Offices of Cabinet Ministers Members of Parliament (MPs) Judicial courts Constitutional bodies Council of State
Timor-Leste	MPs Parliamentary benches Government
Vietnam	Drafting Boards in Ministries and the National Assembly Ministry of Justice Office of Government Assessing Council

1. Cambodia

The different ministries in Cambodia have a legal technical drafting group (Legislative Working Group) which drafts legislation linked to their respective sectoral areas. The Ministry of Women's Affairs (MOWA) is usually consulted to provide a gender perspective to the draft bills and its officials are often invited to meetings on the draft bills. In addition to reviewing bills under the umbrella of the justice sector, the **Ministry of Justice in Cambodia** also "receives and gives recommendations for draft laws from other Ministries and relevant institutions."

16. According to the Constitution of the Kingdom of Thailand, B.E. 2550 (2007) under Chapter VII Direct Political Participation by the People, Section 163, the eligible voters no less than ten thousand are also allowed to propose legislation.

MOWA has led in supporting the establishment of Gender Mainstreaming Action Groups (GMAG) in most ministries to ensure that gender issues are being considered, including in the review of draft legislation. In Cambodia, 24 ministries have GMAG and have been allocated a budget amount to implement a **Gender Mainstreaming Action Plan (GMAP)**. Three more ministries are drafting the GMAG including Ministry of Foreign Affairs, Ministry of Culture and Fine Arts, Ministry of Defense.

The GMAG in the Ministry of Justice is one of the more active GMAGs. It has a **GMAP** that lists among its objectives the “setting up of appropriate mechanisms and allocating adequate resources to mainstream gender into policy formulation, organizational planning, drafting of new legislations, regulations and capacity development.” Achievement of this objective is measured by modules that have been developed to support the implementation of the Law on the Prevention of Domestic Violence, Suppression of Human Trafficking and Sexual Exploitation and other relevant laws. By 2013, gender perspectives had been integrated in the drafting process of seven legislations. Within the justice sector, the Ministry is tasked with the drafting of fundamental laws such as the Criminal Code and the Civil Code.

In **Cambodia**, there are two high-level agencies attached to the Office of the Council of Ministers that are involved in reviewing legislation: the **Council of Jurists, and the Economic, Social and Cultural Council (ECOSOCC)**. The **Council of Jurists**, created in 1994, assists various ministries with drafting bills to ensure that all laws are harmonized with the “general principles governing the national legal order.” **ECOSOCC** is composed of members officially and independently designated within Council of Minister and assists in reviewing all bills from the economic, social and cultural aspects.

2. Indonesia

In **Indonesia**, the **Ministry of Justice and Human Rights**, through its Division of Laws and Regulations, reviews legislative proposals to ensure their harmony with the Constitution and other laws and policies as well as their proper use of legislative drafting techniques. On the substantive side, for bills initiated by Members of the House of Representatives (DPR), research-based information and analysis is provided by the **Center for Research, Data and Information (PPDI) and the Drafting Team of the DPR Secretariat-General**. For bills originating from the President, the **National Board for Legal Oversight** assists in the preparation of technical papers, which contain the philosophical, sociological and legal basis for the bill as well as the main scope of the legislative proposal. It prepares and reviews about 10 technical papers/concept notes a year.

3. Lao PDR

In **Lao PDR**¹⁷, legislation is developed, adopted and promulgated by the State authorities at central and local levels. The laws which can be of general and specific application¹⁸ can be proposed to be drafted by the President of the Republic (the law making authority is the Office of the President of the Republic); the Standing Committee of the National Assembly (NA); the Government (the law making authorities are the ministries and Government

17. The Law on Making Legislation adopted by the National Assembly No.081/NA on 12 July 2012, promulgated by the Presidential Decree No.234/Lao PDR on 1st of August, 2012 and entered into force 1st of February 2013.

18. Ibid., Article 3.

authorities); People's Supreme Court; People's Supreme Prosecutor, Lao Front for National Construction and National Mass Organizations.¹⁹ The law is made and amended through the following steps: 1) planning (for law making and amendment); 2) drafting a law; 3) reviewing the consistency of a draft law by the Ministry of Justice; 4) reviewing a draft law by the Government; 5) reviewing the draft law and adoption of the law by the NA; and 6) promulgation of the law by the President of the Republic.²⁰ Proposals for law making and law amendment are done on the basis of yearly and five yearly plans.²¹ The Standing Committee of the NA, after receiving the law making and law amendment plans from the authorized entities, assigns the Law Committee of the NA to cooperate with other concerned committees of the NA to review the law making and amendment plan before submitting it to the Standing Committee of the NA.²²

The law is drafted by a Law Drafting Committee²³ and legislative proposals are reviewed for legal consistency by the **Ministry of Justice**.²⁴ After that process, the Ministry of Justice proposes the draft law with a report on the preparedness of the draft law, unsolved matters, issues needing recommendations and alternatives together with an explanatory note and impact assessment note to the Government at least ninety days before the NA session starts.²⁵ The draft law is considered by the ministers at a Cabinet meeting, and once finalized, the Prime Minister appoints a law defending committee based on the proposal from the law making authority to present and defend a draft law at the NA Session. After that presentation and defense are done, the Government presents the draft law to the Standing Committee of the NA not later than sixty days ahead of the start of the NA Session.²⁶ The Standing Committee of the NA assigns the Law Committee and other relevant Committees to conduct a comprehensive review of the draft law before submitting it to the Standing Committee of the NA for consideration.²⁷ Once the draft law has passed the review and possible open law consultation workshop and public consultation, and it is considered at a NA Session, the draft law is adopted by the NA by a secret or open voting only if it receives a majority of votes from members of the NA attending the session.²⁸ The President of the Republic promulgates the law through a Presidential Decree and the law comes into force on its promulgation date.²⁹

The main gender machinery in Lao PDR is the **National Commission for Advancement of Women (NCAW)**. Sub-Committees for advancement of women or the so-called Sub-CAWs are part of the NCAW at branch office level located in all ministries and at province and district levels. There is also the Women Parliamentarian Caucus and the Lao Women Union, which is an organization working on women's rights issues.

19. Ibid., Article 18.

20. Ibid., Article 19.

21. Ibid., Article 22.

22. Ibid., Article 23.

23. Ibid., Article 31.

24. Ibid., Article 41.

25. Ibid., Article 42.

26. Ibid., Articles 43, 44, 45 and 47.

27. Ibid., Article 49.

28. Ibid., Articles 50 – 56.

29. Ibid., Articles 57 and 58.

4. Philippines

In the Philippines, legislative proposals can be drafted by either of the following actors: 1) the staff of legislators; 2) advocacy groups; or 3) the Bill and Drafting Division of the respective houses of Congress. Among the bills filed by members of the House and Senate in the present Congress related to gender issues as part of the Women's Priority legislative agenda of the Philippine Commission of Women are: the Reproductive Health or the Responsible Parenthood Bill; the Anti-Prostitution Bill; the Marital Infidelity Bill, the Local Sectoral Representation Bill; and the Kasambahay or Household Workers Bill.

5. Thailand

In **Thailand**, the **Council of State** plays a central role in drafting legislation and reviewing legislation drafted by other government agencies, and ensures that legislative proposals conform to the Constitution and are consistent with existing laws. The Council of State does not conduct the gender oversight of draft laws thus most of the review committee for draft laws is composed of senior law experts from outside. The **Law Reform Commission of Thailand (LRCT)**, an independent national organization established in 2011 in compliance with the 2007 Constitution, provides the Cabinet with technical advice and support to develop or amend legislation. Its tasks include research and analysis, formulation of policy recommendations, and building the capacity of civil society through knowledge sharing and dissemination of legal information. One of its seven committees is the Committee on Amendment and Development of Gender Responsive Legislation, which reviews how laws on labor, penal code, civil code, justice system, elections, education, and local government, etc. comply with the norms and standards of CEDAW.

6. Timor-Leste

In Timor Leste, laws can be initiated by MPs, Parliamentary Benches, or the Government. The **Ministry of Justice is tasked** with "the preparation of draft laws and regulations for the continuation of policies in the areas of justice and law, as well as the implementation of these measures; and ensure, whenever requested, the systematic harmonization of legislative production and material in general."³⁰ The Ministry is assisted by six Direct State Administrative services, one of which is the National Directorate of Legal Advice and Drafting described as the "service responsible for providing legal assistance within the scope of the Government competence, as well as conducting legal studies and preparing draft legislative and regulatory acts."³¹ Specifically, it is tasked with: (1) preparing draft regulatory acts; (2) conducting studies, issue opinions and providing the necessary technical information on draft regulatory acts and on other legal documents referred thereto; (3) monitoring, assessing and informing the country's legal system and proposing measures required for the improvement thereof; and (4) providing legal assistance to other government departments and to the Council of Ministers, in consultation with the Secretariat of State for the Council of Ministers.

30. Decree No. 3/2003 of 29 Oct 2003, "Organic Structure of the Ministry of Justice"

31. Ibid., Section 8.

The President of Parliament determines whether a legislative proposal meets the requirements for inclusion in the legislative agenda. If the *projektu* (from the executive) or the *proposta lei* (from Parliament) is accepted, it will be sent to the appropriate committee that has jurisdiction over the subject.

7. Vietnam

Drafting boards in Vietnam are composed of the head of the lead drafting agency, representatives of the senior management of the lead agency as well as other concerned agencies and experts/scientists. The Ministry of Justice and the Office of Government have to be represented as well. Composed of at least nine members, the **Drafting Board** is tasked with: (1) reviewing and approving the outline of the draft law/ordinances and resolutions; (2) deliberating on related basic policies and substantive issues of the proposal; (3) discussing the draft documents and introductory notes supporting the submission of the draft document as well as incorporating comments from other agencies/organizations and individuals.³²

The **Ministry of Justice** reviews all drafts prepared by the government ministries and agencies to: 1) ascertain the need for enacting such laws/ordinances/resolutions; 2) review the scope of coverage of a draft; and 3) ensure the alignment of the draft documents to the Party's directions and policies as well as their constitutionality, legality, feasibility, consistency with the legal system and conformity with international treaties.³³

The Ministry of Justice is also responsible for supporting the Government in contributing to the formulation of the **Law and Ordinance Development Program**. The programme consists of a National Assembly "term-based law and ordinance development sub-programme (to be submitted at the second session) and an annual law and ordinance development sub-programme (to be submitted during the first session in the previous year)."³⁴ The sub-programmes are based on: 1) the party's directions and policies; 2) socio-economic development strategy; 3) national security and defense policies; and 4) governance requirements ensuring citizen's rights and obligations.

B. Civil Society Advocacy

CSOs, particularly women's groups, participate actively in the legislative process. They bring to the discussion the perspectives and interests of their respective constituents but also their research-based findings on an issue.

32. Viet Nam National Assembly, 'Law on the Promulgation of Legal Documents', 2008, Articles 30-32.

33. Ibid., Art. 36

34. Ibid., Art. 27

1. Cambodia

In Cambodia, CSOs such as the Cambodian League for the Promotion and Defense of Human Rights (LICADHO) and the Cambodian Acid Survivors Charity (CASC) provide substantive inputs to and advocate for key legislation such as the Law on Associations and NGOs (LANGO) and the Acid Control Law. The latter is aimed at preventing and punishing acid attacks. CSOs also engaged in the discussion of the draft law on administration and management of capital, municipal, provincial and *khan* (districts). They are involved in different venues of the drafting process such as the technical drafting group of the concerned ministry and the consultative workshops. However, some civil society organizations and the international community have raised concerns that these existing mechanisms sometimes lack transparency and consistency.

2. Vietnam

The **Vietnam Women's Union (VWU)**³⁵ is an organization with 15 million members at the central, provincial, district and commune levels. Its major role in Vietnamese society cannot be disputed. Its participation in the legislative process is to "participate in the formulation, social counterargument and supervision of implementation of laws and policies on gender equality."³⁶ The VWU members are in the Committee for the Advancement of Women (CFAW) of every ministry, which depend on them to mainstream gender in their legislative proposals and other policies. VWU believes that it is more effective if they are involved in the drafting of the bill from the very start and has asked the Ministry of Labor, Invalids and Social Affairs (MOLISA) to invite them to the Drafting Boards of all ministries.

The network of NGOs working on gender equality, led by the **Gender and Communication Development Network**, has participated in consultations on the Gender Equality Law, Domestic Violence Law, Law on Trafficking, Law on the Protection of the Elderly, Law on Prevention of Smoking, and Labor Law. The **Center for Education, Promotion and Empowerment of Women (CEPEW)** used to lead the network.

Another NGO advocacy group is the **Center for Studies and Applied Sciences in Gender, Family and Adolescents (CSAGA)**. CSAGA carried out a well-planned and strategic advocacy for the enactment of the Domestic Violence Prevention Law (2007). To get MPs interested in the issue, it collaborated with the Parliament Committee for Legal Affairs and the Committee for Social Affairs (PCSA) to organize meetings between women survivors of crime and perpetrators, and MPs. It also provided the MPs with CDs and books of stories on women survivors and conducted workshops for the staff of the Secretariat departments. But where it was most effective was its collaboration with the media in the production of documentary films and articles on the issue. After the law passed, CSAGA helped communities implement the law and using the media once more, enlisted famous artists to disseminate information on the law and make women aware of their rights.

35. Historically, VWU was found (1930) to unify women during the French and American war times to defend the country. It has been a strong affiliate of the Party during the war times and at present. The government and VWU officially announced that VWU is a network of organizations but that, in fact, it is a political organization governed by the Party.

36. 'Tasks and Measures of Vietnam Women's Union in the 2007-2012 Period,' Vietnam Women's Union Brochure

3. Thailand

In Thailand, the Coalition of women's NGOs and other civil society organizations has played an active role in consultations on various discriminatory laws. The **Coalition to End Violence Against Women** put efforts to end marital rape. Key members of the coalition comprise the Foundation for Women, Friends of Women's Foundation, Teeranat Kanjanauksorn Foundation, Anjaree Group, Rainbow Sky Association of Thailand and the Child Rights Protection Foundation. Another advocacy group is the **Women's Network for Advancement and Peace (WNAP)**, a coalition of about 40 women's organizations at the national and sub-national levels working actively on advocacy for the passage of the Domestic Violence Act of 2007 as well as the Anti-Trafficking Law.

It is now working on a revised version of the Gender Equality Bill to ensure that discrimination does not happen in any form. WNAP has expanded its areas of legislative concerns to cover areas such as free trade, peace and security issues. FFW has played its coordinating role as the Secretariat of the coalition of the grassroots women NGOs and CSOs.

4. Philippines

There are countless women's advocacy groups involved in the legislative process in the Philippines. Among those women NGOs which, over time, have engaged Congress to pass legislation on their respective areas of work are: 1) **GABRIELA**, a militant women's movement composed of about 250 organizations and describes itself as "dealing distinctly with the problems of women as women, working to free women from all forms of economic and political oppression and discrimination, sexual violence and abuse, neglect and denial of their health and reproductive rights".³⁷ 2) **WEDPRO, Inc.** (Women's Education, Development, Productivity and Research Organization), a feminist NGO that focuses on issues of prostitution and trafficking; 3) the **Women's Legal Bureau (WLB)**, an alternative law group that actively engages in advocacy together with other women's groups to "transform the law and the legal system in furtherance of the right of women to self-determination and the advancement of their dignity, rights and leadership";³⁸ 4) the **Democratic Socialist Women of the Philippines (DSWP)**, a socialist feminist organization composed of over 257 accredited grassroots community and sector-based women's organizations that has launched a concerted campaign for the passage of the Reproductive Health Bill. Strongly opposed by the church and its supporters, the bill "leaves the number and spacing of children to the sound and informed judgment of couples based on their personal conviction and religious beliefs, while assuring that they are afforded free and full access to relevant, adequate and enlightening information on reproductive health";³⁹ 5) **PILIPINA**, a national network of women's groups with chapters in 10 cities/provinces played a key role in the enactment of the Magna Carta of Women. Tapped by CEDAW WATCH, PILIPINA steered the passage of the Magna Carta, a gender equality law that used CEDAW as its basic framework. Among the steps that PILIPINA took were to: 1) form a Study and Action Core Group (SACG) which served as a Technical Working Group to draft the

37. GABRIELA principles, http://members.tripod.com/~gabriela_p/home.html

38. The Alternative Law Groups, 'Women's Legal Bureau', <http://www.alternativelawgroups.org/members.asp?sec=unique&id=21>

39. Democratic Socialist Women of the Philippines <http://dswp.org.ph/>

Magna Carta and lobby for its passage; 2) through the SACG, engage the House Committee on Women and Gender Equality; 3) in partnership with CEDAW SEAP, convene roundtable discussions to gain support for the Magna Carta and organize a national conference for “updating, leveling-off and consensus-building.”⁴⁰

GABRIELA however is more than an advocacy group. It is a women’s political party that has won seats in the Philippines House of Representatives through the party list system. It has two members sitting in the present House who recently introduced a bill amending the Anti-Rape Law of 1997 to strengthen the existing law and make justice more accessible to victims and survivors. It has taken on other pressing national issues such as promoting the welfare and rights of overseas Filipino workers (OFW) through a bill against illegal recruitment, and protecting the environment through a bill on the conservation of the Mindanao River System.

5. Indonesia

A good example of CSO advocacy in Indonesia was done by a network of NGOs called the **National Network for Domestic Workers Advocacy (JALA PRT)** – now linked with trade unions and called the Action Committee – on the passage of the Domestic Workers Bill that acknowledged that domestic workers, 90% of whom are women, have rights. The group advocated for the bill’s inclusion in the legislative agenda in 2009 but did not succeed until last year when the PRT occupied the meeting room until the Secretary-General agreed to talk to the PRT head. An alliance with trade unions, organizing domestic workers, and a strategic focus on the issue were the factors that contributed to the group’s success.

Another advocacy group is the CEDAW Working Group Indonesia (CWGI), a coalition of 10 Women’s NGOs⁴¹ working on advocacy for better implementation and monitoring of CEDAW in Indonesia. Most CWGI member organizations are national and grassroots women’s groups. For example, Kalyanamitra, a women’s organization established in 1985, focuses on the protection of women’s and girl’s rights in Indonesia. At the regional level, CWGI is member of APWLD (Asia Pacific Forum on Women and Law Development) and the Southeast Asia Women’s Caucus on ASEAN. CWGI has engaged in policy advocacy, education, training, documentation and information exchange and other activities to address issues and concerns of marginalized women in Indonesia. It has lobbied at the regional and international levels for government commitments to international conventions and the integration of gender issues at regional and international forums. CWGI produced a draft NGO version of the Gender Equality Law that incorporates CEDAW principles.⁴²

C. Committee Deliberation

Legislative committees play an important role in Southeast Asian parliaments. They review draft legislation before the whole assembly discusses them in the plenary sessions. In **Thailand**, the Standing Committees receive people’s complaints and monitor the overall administration of

40. UNIFEM CEDAW South-east Asia Programme ‘Going CEDAW in the Philippines’, February 2009, p. 58

41. The ten member organizations of CWGI are: Kalyanamitra, Aliansi Pelangi antar Bangsa, Koalisi Perempuan Indonesia untuk Keadilan dan Demokrasi, LBH APIK Jakarta, Mitra Perempuan, Rahima, Rumpun Gema Perempuan, Solidaritas Perempuan, Yayasan Kesehatan Perempuan, Jurnal Perempuan

42. Interview with Lily Puspasari, UN WOMEN, Indonesia

government. However, once the House of Representatives accepts a bill in principle in its first reading, a specific *ad hoc* committee is set up to do the second and third reading prior to submission to the Senate. *Ad hoc* committees are given a set period of time in which to review and issue a report on the draft. The Thai committees may include outside experts as well as members of the Assembly.

Table 3 shows that the number of committees in the **seven CEDAW-SEAP countries vary from as many as 58 standing committees in the Philippine House of Representatives, to six in the Lao National Assembly.** Their types, functions and impact differ as well but in most cases, the committee stage is a prerequisite for the adoption of a bill. In **Cambodia**, the commissions review the draft law and either: 1) recommend that it not be considered by the Assembly; 2) request the Assembly to decide whether to consider the proposal; or 3) request that the bill be considered on an “emergency” basis. In any case, the decision is left to the full Chamber. In the **Philippines**, the committees can decide not to bring the original bill to the full House but instead amend it, consolidate it with other bills or propose a substitute bill.

Except for the Philippines where there is a dedicated House Committee on Women and Gender Equality and a Senate Committee on Youth, Women and Family Relations, women’s issues in the other parliaments are lumped together with two or more issues or included collectively in a Social Affairs Committee as shown in the following matrix:

TABLE 3: COMMITTEE SYSTEM IN SOUTHEAST ASIA

COUNTRY	NUMBER OF COMMITTEES	COMMITTEES/COMMISSIONS RELATED TO WOMEN'S ISSUES
Cambodia	Nine commissions in the National Assembly and Senate plus a Permanent Standing Committee composed of the Chairs of the nine Commissions	Commission on Public Health, Social Work, Veterans, Youth Rehabilitation, Labor, Vocational Training and Women's Affairs
Indonesia	11 commissions in the House of Representatives (DPR)	Commission on Religion, Social Affairs and the Empowerment of Women
Lao PDR	Six Committees in the National Assembly	Cultural and Social Committee
Philippines	House of Representatives: 58 Standing Committees and 11 Special Committees Senate: 37 Standing Committees and 33 Oversight Committees	House Committee on Women and Gender Equality Senate Committee on Youth, Women and Family Relations
Thailand	<i>Ad Hoc</i> Committees	Established as the need arises
Timor-Leste	Seven Standing Committees and two <i>ad hoc</i> Committees	Committee on Poverty, Rural and Regional Development and Gender Equality
Vietnam	Standing Committee, the Ethnic Council and nine Committees	Committee of Social Affairs

1. Cambodia

In Cambodia the legislative process is governed by the Royal Decree of June 27, 2006. Specific ministries draft legislation on their subject areas. The Ministry of Interior, for example, initiated the preparation of the laws related to political parties and to the Commune Sanghkat elections in 2007. Several meetings of key ministry members are called before the draft is submitted to the Government for further deliberation, adoption and submission to the National Assembly for review. Gender oversight of draft laws is conducted by the Commission on Public Health, Social Work, Veterans, Youth Rehabilitation, Labor, Vocational Training and Women's Affairs. CSOs are invited to articulate their views and positions on the draft bill.

2. Vietnam

The **2008 Law on the Promulgation of Legal Documents of the National Assembly** governs the legislative process in Vietnam. It requires that after review by the Ministry of Justice, a bill is heard/discussed collectively by the Government and once approved by a majority vote, the bill is sent to the National Assembly. But before the National Assembly and the Standing Committee of the National Assembly discuss the bill, a process of verification takes place. The **Ethnic Council and relevant National Assembly committees** look at the following aspects of the draft document: 1) the scope and objects of regulation; 2) its contents and controversial issues; 3) alignment with the Party's directions and policies, the Constitution, existing laws and the legal system; and 4) the feasibility of the draft.

For gender equality advocates, the **Parliament Committee for Legal Affairs and the Committee for Social Affairs (PCSA)** have a strategic role. The former participates in all verification to "ensure the constitutionality, legality and consistency with the legal system of the proposed laws, ordinances and draft resolutions." (Art. 46) The latter on the other hand is expressly mandated "to participate in the verification of gender equality integration into proposed laws, ordinances and draft resolutions." (Art. 47)

The PCSA received its mandate for gender review and the oversight of legislation from three sources: the Gender Equality Law (Art. 22); the Law on the Promulgation of Legal Documents (Art. 47); and the 2007 Resolution reaffirming the role of the PCSA. The PCSA has 50 members from the 500-member National Assembly and is supported by 20 Secretariat staff, five of whom are working on gender. In the 12th National Assembly, the PCSA "took key responsibility for appraising nine draft laws and participated in verifying eight other draft laws of other agencies. In the 13th National Assembly, the Committee exercised its key verification role of gender mainstreaming in two draft laws and coordinating with other committees in four other draft laws."⁴³

3. Indonesia

Every bill in Indonesia, whether it originates from the Government, the DPR (People's Representative Council), or the DPD (the Regional Representative Council), is deliberated

43. Cu, L., 'The Practice of Mainstreaming Gender Equality Into the Draft Laws---Experience from the Parliamentary Committee of Social Affairs', PowerPoint Presentation, 2011

in the DPR through two levels of discussion: First Reading (Level 1) conducted in Standing Committee Meetings, Joint Standing Committee Meetings, Legislation Council Meetings, Budget Committee Meetings or Special Committee Meetings; and Second Reading (Level 2) conducted in a Plenary Session.⁴⁴ It is in Level 1 when CSOs have the opportunity to express their views on the proposed legislation although they can participate as early as the drafting of the bill.

Commission VIII or the Commission on Religion, Social Affairs and the Empowerment of Women is presently working on the draft of a Gender Equality Bill which is an “umbrella legislation” that will include all other laws and regulations on gender equality. Unlike Vietnam’s PCSA, Indonesia’s Commission VIII is not mandated to review all bills for their gender content. It provides gender inputs to bills of other committees if their members are part of an inter-Committee Task Force. However, the Commission’s capacity to review legislation from a CEDAW-based gender perspective is quite limited. It depends on the assistance of gender experts from research and training institutions as well as women’s groups.

4. Timor-Leste

Timor-Leste’s National Parliament has nine Standing Committees and two ad hoc committees provided for in the Rules of Procedure of the Parliament. These consist of a President and representatives from various political parties. The role of the Committees is to examine and investigate subjects and make recommendations to the plenary body on draft legislation, amendments and treaties. When considering a proposed law, a Parliamentary Committee can call ministers or public authorities to explain the contents, ask for expert advice, invite civil society groups to participate in public hearings, and gather information from their local constituents.

One of the nine Standing Committees is **Committee F on Health, Education, Culture, Veteran and Gender Equality**. Part of its mandate is to ensure that the legislative process, from bill drafting to plenary approval, promotes gender equality and women’s empowerment. Permanent members of this Committee are expected to promote gender equality in committee discussions on their respective policy areas including national budgeting. For instance, for the approval of the National Budget Report, the committee requested the technical support of Gender Advisers.

After deliberating on the *projektu* or **proposta lei**, the committee can recommend to the plenary any of the following actions: 1) that a session is held on the “generality of the law”; 2) the revision of the proposal; or 3) the rejection of the bill.

5. Philippines

In the Philippines, a bill goes through two readings before the members of Congress take a final vote in the Third Reading. The First Reading is simply the reading of the title and the number of the bill by the Secretary-General after which the Speaker refers the bill to the appropriate committee. In the House of Representatives, committees are categorized as either Standing Committees (58) or Special Committees (11). In the Senate, they are either Standing Committees (37) or Oversight committees (33).

44. Febrían, F., ed, ‘Handbook on the Legislative Process’, UNDP, House of Representatives Indonesia, 2009, p. 19

“It is in the committees that much of the legislative work is done. The Committee on Women and Gender Equality has jurisdiction over all matters directly and principally relating to the rights and welfare of women and female children and youth, inclusive of their education, employment, working conditions, and their role in nation building, and all concerns relating to gender equality. All members of the Committee are aware of CEDAW and use it as a framework for the development of legislation particularly the Magna Carta of Women.”⁴⁵

Public hearings are conducted, if necessary, where the public and private sectors, academia and research institutions get the opportunity to articulate their positions for or against the bill. The Committee prepares a Committee Report that it formally transmits to the Plenary Affairs Bureau. The Committee on Rules schedules the bill for the Second Reading, which is a period for debates and amendments. The Third Reading is the roll call or nominal voting though a member, if he/she desires, has three minutes to explain his/her vote. After a bill passes the House, it goes to the Senate where a similar process takes place. If there are differences between the House and Senate versions of the bill, a conference committee is convened to reconcile their differences. A final vote is taken and if the two Houses agree, the bill is transmitted to the President who can either approve or veto the bill. A presidential veto can be overridden by a 2/3 vote from each house.

While this process sounds simple, the fact is women’s bills such as the Responsible Parenthood and Reproductive Health Bill take a long time to pass. It has been introduced and reintroduced since the 12th Congress convened in 2001. During the 15th Congress, the bill was still being debated. However, in an unexpected move, the House of Representatives voted to end all debates on the bill on August 6, 2012 after President Benigno Aquino III met with the legislators and asked them to move the bill forward and cast a “conscience vote.”⁴⁶ The bill was subsequently approved by both the House and the Senate and the President signed it into law in December, 2013. The groundbreaking law guarantees universal and free access to nearly all modern contraceptives for all citizens, including impoverished communities, through government health centers. The law also mandates reproductive health education in government schools and recognizes a woman’s right to post-abortion care as part of the right to reproductive health.

The law was supposed to be implemented three months after its approval or in March, 2013, but opponents of the law questioned its constitutionality before the Supreme Court claiming that it violates the constitutional guarantee “of the right to life from the moment of conception.” The Supreme Court is expected to render its decision in early April 2014.

D. Plenary Discussion, Approval and Enactment

When the bill reaches the floor for a vote, three groups can play a major role in the legislative arena: 1) the political parties; 2) the Women Parliamentarians’ Caucus; and 3) the Secretariat. In a single party State like Vietnam and Lao PDR, the fate of a bill is reached at the Politburo or the

45. Interview with Beatriz Sanga, Committee Secretary, Committee on Women and Gender Equality, Philippine House of Representatives, June 19, 2012.

46. Salaverria, L. and Ubac, M., ‘House Ends RH Debate,’ Philippine Daily Inquirer, August 7, 2012, p. A6.

highest governing body of the party. Thus, the voting in plenary is just an affirmation of the party decision. The same is true for a single, dominant party system like Cambodia where minority parties have reported difficulty in contributing to plenary discussion during the legislative process. There are mechanisms in place for all parties to contribute to the discussion, however it was suggested by interviewees that these processes are sometimes inconsistent. With the Cambodian People's Party (CPP) holding the majority of seats, it can be difficult for smaller parties with limited representation to influence the review process effectively.

But in a free, democratic political environment where a number of parties compete, the debates in the plenary session can be intense and passionate, as MPs or legislators try to sway votes in support of their position. Such is the case in Thailand, Indonesia and the Philippines where the most riveting speeches and interpellations happen at the plenary. In the Philippines, the debates happen in the Second Reading of the bill. When the bill comes to a vote in the Third Reading, the members can explain their vote but further discussion ceases.

Since it is votes that count in the plenary session, the **Women Parliamentarians Caucus (WPC)**, which cuts across party lines, is a potential political force to be reckoned with. Consider the following women MPs in the CEDAW countries of Southeast Asia:

TABLE 4: WOMEN MPS IN THE LOWER HOUSE OF CEDAW-SEAP COUNTRIES⁴⁷

COUNTRY	NUMBER OF SEATS	PERCENTAGE
Cambodia	25 out of 123	20.30%
Indonesia	104 out of 560	18.60%
Lao PDR	33 out of 132	25%
Philippines	79 out of 289	27.30%
Thailand	79 out of 500	15.80%
Timor-Leste	25 out of 65	38.50%
Vietnam	121 out of 498	24.30%

WPCs exist in all of these countries and have the following objectives: 1) draw support from each other in a male-dominated legislature; 2) share ideas and experiences; 3) develop a common legislative agenda especially on women's issues; and 4) reach out collectively to civil society. However, most WPCs are weak for a variety of reasons including: 1) low level of gender sensitivity and awareness within countries; 2) lack of a legislative agenda in general and on women's issues in particular; 3) loyalty to the party; 4) weak ties with women's groups and vice-versa; and 5) a lack of capacity.

In the Philippines, the women's political caucus called the **Association of Women Legislators Foundation** organized in 2001 by women legislators participates actively in committee hearings and floor deliberations. In the Twelfth Congress (2001-2004), they were able to push for the passage of three landmark laws: 1) the Anti-Trafficking in Persons Act of 2003; 2) the Special Protection of

47. Inter-Parliamentary Union (IPU) Women in Parliament, 1st January 2014 <http://www.ipu.org/wmn-e/classif.htm>

Children Against Child Abuse, Exploitation and Discrimination Act; and 3) the Anti-Violence Against Women and Children Act. In the 14th Congress, (2007-2010) they worked hard for the enactment of the Magna Carta of Women also known as the Philippine Bill of Rights for Women.

Another active caucus is the **Vietnam Female Members of Parliament Group (VFMPG)** created by a National Assembly Resolution on May 15, 2008. Well-structured and adequately supported, the VFMPG has a Standing Committee composed of a Chair, Vice-Chair and Executive Members and assisted by the Department of Social Affairs of the Parliament Secretariat. It works closely with the VWU PCSA, the National Committee for the Advancement of Women (NCAW) and MOLISA. The VFMPG is a venue for women legislators to share experiences, a source of information about legislative issues and a training ground for raising their awareness and building their capacities as legislators.

In Timor-Leste, through the support of the Center for Capacity-Building and Information, the **Grupo das Mulheres Parlamentares de Timor-Leste (GMPTL)** has formulated its goals/objectives and work plan to strengthen the role of women parliamentarians. UNDP and UN Women through the Support to the Parliament Project and the Integrated Programme for Women in Politics and Decision-making (IPWPDM), respectively, have provided technical support to the group and the country's Parliament has also allocated additional budgetary resources. GMPTL holds regular dialogue and consultation with the Secretary of State for the Promotion of Equality (national machinery for women or NWM), civil society organizations including Rede Feto (women's network) and Forum ONG Timor-Leste (FONGTIL), and has a capacity development programme for its members that included training programmes and study tours abroad. To enhance their effectiveness in influencing legislation, the women MPs have formed thematic subgroups on gender-related policy issues such as reproductive health, HIV/AIDS, prostitution, and domestic violence.

The **Secretariat of the Legislature** provides support services to MPs ranging from assistance in drafting bills, scheduling and documenting committee hearings, conducting legal research, indexing bills, and organizing plenary sessions, etc. The Secretariat provides continuous, reliable services to MPs on a permanent and sustainable basis. In a sense, they have the institutional memory of the legislature. While MPs come and go, the staff, especially those with civil service eligibility, stays on. Each of the parliamentary committees is supported by a committee staff composed of legal, technical, and administrative staff. It is important to keep them aware of gender issues so that they can provide support for gender issues in the Parliament.

E. Oversight of Implementation

Laws to promote gender equality and women's empowerment, uphold women's rights and protect them from all forms of violence have been passed in all CEDAW-SEAP countries, but implementation and accountability remain big challenges. In both presidential and parliamentary systems, the legislature has a significant role in ensuring the efficiency, probity and fidelity in the implementation of laws by the executive through its oversight function. For gender legislation, the integrity of legislation can be ensured by: 1) requiring executive departments to report on gender expenditures; 2) questioning ministers during Question Hour about progress in the implementation of gender equality legislation; 3) holding committee hearings to ascertain how the law is promoting gender

equality and women's empowerment; 4) demanding sex disaggregated information on beneficiaries of programmes and activities; and 5) setting up oversight mechanisms such as the Ombudsman for Equality in Finland who monitors implementation of the Act on Equality Between Women and Men passed in 1987; and 6) reviewing national periodic reports on CEDAW implementation, follow up concluding observations and questioning the executive on its responses to the CEDAW Committee.

Institutional oversight in the implementation of laws on VAW in Indonesia is done by Indonesia's **National Commission on Violence Against Women**. Among other things, the Commission reviews, assesses and monitors national and local legislation from a human rights and a gender perspective and in the process connects with academics, women's groups, etc. At the national level, it has reviewed 23 of 61 laws and at the local level, has found 207 gender discriminatory laws. The Commission provides its findings to the relevant ministries and its recommendations are highly respected. It believes that legislative review at the subnational level must be strengthened. While its main work is advocacy on VAW, the Commission also provides gender inputs on legislative proposals related to climate change, migrant workers, etc.

Within the framework of women's rights as human rights, the **Provedor for Human Rights and Justice**, an oversight body in Timor-Leste appointed by and reporting to the National Parliament can be mobilized as a gender champion. The Provedor combines three related but different roles: an ombudsman; a human rights watchdog; and good governance with functional links to the Prosecution Service and the police in case of criminal abuse of public authority.⁴⁸

In the Philippines, the Magna Carta of Women designated the Commission on Human Rights (CHR) as the Gender and Development Ombudsman that will: 1) monitor, along with the Philippine Commission on Women (PCW), compliance with the Magna Carta; 2) facilitate access of women to legal remedies under the Act; and 3) assist in filing of cases against violators. The CHR will designate a commissioner who, together with the Women's Human Rights Center, shall be primarily responsible for the "formulation of policies, development and implementation of programs and activities related to the promotion and protection of women's rights." Victims of violations of the Magna Carta of Women are considered victims of human rights violation.⁴⁹

Oversight of implementation of gender laws is also done by NGOs such as **LICADHO** in Cambodia. Since its establishment in 1992, the organization has been monitoring the government's observance of human rights including women's and children's rights and advocates for legal and social change. It closely monitors the legislation being proposed in the Cambodian National Assembly including LANGO, which it describes as "intended to restrict the lawful activities of Cambodian civil society organizations.

48. Nicolau G., "Ombudsman for Human Rights: The Case of Timor Leste: FOCUS March 2007 Vol. 47.

49. Republic of the Philippines, 'Republic Act No. 9710' or the Magna Carta of Women, 14 August 2009.

V. ENTRY POINTS FOR UN WOMEN: SUMMARY OF FINDINGS AND RECOMMENDATIONS

A. Main Findings

This seven country study of gender assessment of lawmaking mechanisms and processes in the CEDAW-SEAP countries reveals that:

1. The initial entry point in mainstreaming gender in the legislative process is the drafting not of the legislative proposal but of the legislative agenda/programme, or what in Indonesia is referred to as the *Prolegnas* and in Vietnam, the **Law/Ordinance Development Program**. Whether a system is parliamentary or presidential, it is the **legislative agenda/programme** that serves as the strategic framework for legislative initiatives to be prepared either by the ministries or the legislature. It is important to find out who is in charge of developing the legislative agenda/programme. While it is true that bills can still be introduced outside of the legislative agenda/programme, it involves a longer advocacy period than if they were in the legislative agenda.
2. In order for the **ministries** to initiate gender-responsive bills within the framework of the legislative agenda, they should have the capacity to identify gender issues and provide a gender analysis of the issue in order to develop gender-responsive policy solutions. While it is true that in countries like Lao PDR, Cambodia, and Vietnam there are subcommittees for the Advancement of Women, GMAGs or VWU representatives in each ministry that can advocate for gender mainstreaming, they often lack the capacity for gender analysis and the influence to make a difference. The same is true of other countries like Thailand, Indonesia and the Philippines.
3. **Technical or concept notes** are prepared before the bill is drafted providing the background and justification for the bill including an analysis of the issue being addressed, gaps in existing policy solutions and how these gaps will be remedied by the proposed bill. However, most legislative initiatives lack gender analysis and thus do not respond to the differential needs of women and men.
4. Often, we think of the **bill drafters** in the legal bureaus and offices in each ministry as key players in mainstreaming gender in legislation. While it is important to sensitize them to gender issues, the fact is they will only write bills based on the inputs from the ministries themselves. They make sure that the structure and language of the bill meets the requirements of bill construction according to accepted norms and practices.
5. Since the **Ministry of Justice**⁵⁰ within countries typically ensures that legislative initiatives are harmonized or aligned with the constitution, laws and international treaties, they play a central role in mainstreaming gender in legislation. Legislative proposals must conform to the gender equality provision of the Constitution as well as existing laws promoting gender equality and women's empowerment in international treaties like CEDAW and the Beijing Platform for Action.

50. In Cambodia, the Ministry of Justice reviews only some draft bills.

6. **NWMs** in most CEDAW-SEAP programme countries are not perceived as influential players in the legislative process. Though their participation is required in ministry drafting boards and their advice on gender mainstreaming in legal normative documents is sought, this area of work is new to them and they have few staff and limited knowledge of ways to apply gender mainstreaming. However, this is not to generalize that NWMs do not provide gender inputs to legislation. For example, the **NCFAW Bureau of the Gender Equality Department of MOLISA of Vietnam** contributed to mainstreaming gender in the Law on Advertisement and Sexual Exploitation of Women in Media as well as the Labor Policy on Age Retirement for Women and Men. MOLISA has also taken the lead in revising the Labor Code from a gender perspective. It also prepared a "Guide in Gender Mainstreaming in Laws and Policies and other Legal Normative Documents". However, there is no close monitoring of gender mainstreaming in the legislative process and there is inadequate collection of sex-disaggregated data. In the **Philippines**, the **PCW** is actively engaged in the legislative process, coordinating with women's groups and the Committees on Women of both the House of Representatives and the Senate for the passage of its priority bills. It played a strategic role in the enactment of the Magna Carta of Women in 2009 and took the lead in drafting its Implementing Rules and Regulations (IRR). With the Commission on Human Rights, it monitors the implementation of the Magna Carta.
7. Once the bills are transmitted to the legislature, the **committees**, whether standing or ad hoc, take center stage. The committees scrutinize the bills in terms of: 1) the policy issues addressed; 2) the policy solutions proposed; 3) the implementation mechanism to be used (administrative feasibility); 4) the costs involved (economic efficiency and affordability); and 5) the political acceptability. The committee members are strategically placed in order to facilitate gender mainstreaming in legislation and so is the staff assisting them. The latter in particular are crucial because the MPs depend on them for administrative and technical support. In **Vietnam**, the **PCSA**, whose mandate is to verify gender mainstreaming in legislation and to exercise oversight of implementation of gender-related laws, has 20 Secretariat staff, but only five are working on gender-related issues.
8. The **Secretariat of Parliament or Congress** provides continuity and stability in the work of the legislature. The Secretariat staff is present at all stages of the legislative process from drafting of the bill to voting in plenary session. It has a Bill Drafting Bureau, a Committee Affairs Bureau, a Reference and Research Bureau, a Bill and Index Bureau and a Plenary Affairs Bureau. Thus, it is crucial to inform them of the importance of gender mainstreaming so they can be gender allies or gender champions in the legislative process.
9. Several governmental institutions and NGOs provide training and research services in the region on gender equality and women's empowerment:
 - In Vietnam, the **Training Centre for Elected Representatives** of the National Assembly provides training for both incumbent Members and potential candidates to the National Assembly. In the 1st phase of the CEDAW-SEAP programme, UN Women provided seven training courses on Gender Equality and CEDAW for MPs and potential candidates to the National Assembly as well as members of the People's Council during 2006 – 2007. The training courses also supported the MPs in the development of the Gender Equality Law and the Law on Domestic Violence Prevention and Control. In Timor-Leste, the **Centre for Capacity Building and Information on Gender Equality** (formerly the Gender Resource Centre - GRC) started as a donor-funded project to support women MPs but has evolved to be an integral part of the Parliamentary Secretariat's Directorate

for Research and Technical Information. A similar body at the Ministry of Justice is the **Legal Training Center** that offers courses for legal professionals such as judges, lawyers, prosecutors, public defenders, notaries.

- In the Philippines, the **Ateneo Human Rights Center** conducts training and seminars for government, NGOs and grassroots communities, publishes human rights legal treaties, and provides legal aid to indigent clients and grassroots communities. The **University of the Philippines' Center for Women Studies** implements programmes on and for women, promotes gender equality, and upholds and protects the rights of women and young girls. It also serves as the secretariat to a network of nine region-based gender resource centres (GRCs) developing the modules used for training local gender and development (GAD) experts. The **Women and Gender Institute (WAGI)** is a specialized centre for advocacy on women's rights, gender equality and non-sexist learning in support of the leadership of young women. WAGI is also the secretariat for CEDAW Watch — a network of women leaders from civil society which works to ensure systematic implementation of the CEDAW Convention. The **Mindanao Working Group on Reproductive Health, Gender and Sexuality (MWG)** has a track record in gender mainstreaming work in the Regional Development Council through the Gender and Development Coordinating Committee (RGADCC). **Women's groups such as the WLB, the National Coalition of Rural Women (PKKK), PILIPINA, and the Nisa-UI Haqq** based in the Autonomous Region of Muslim Mindanao (ARMM) have also been actively involved.⁵¹
10. It is strategic to work with the **Women Parliamentarians Caucus** as it cuts across party lines. Though the numbers are still below the 30% critical mass, the caucus has the potential of becoming an effective advocacy group for gender issues within the legislature. But that is only if they are gender sensitive, have a gender focused agenda, work closely with women's groups and are strongly linked with gender research institutions that can provide research-based gender information and analysis.
 11. The **political party** has the final decision on the fate of legislative proposals whatever the system may be, i.e. presidential or parliamentary. Though the number of women members is growing, the party leadership still remains in the hands of men. Though they include women candidates in their party list, they are usually at the bottom. Though most party platforms proclaim their adherence to gender equality and support for the Gender Equality Law and other women's empowerment laws in their respective countries, gender discriminatory policies and practices still persist within the party. Gender sensitization of party officials can thus result in more gender-responsive party positions on policy issues and more oversight of the implementation of gender-related laws.
 12. Finally, this has focused its discussion on national laws but, it bears noting that **local laws** are equally important, especially in the context of increasing decentralization and the devolution of powers from national to local governments. In Thailand for example, the opportunity to mainstream gender in a process of decentralization affecting about 7,000 local government units (LGUs) seems to have been omitted. The Local Government Code empowers LGUs to pass ordinances, which in most cases are the first experiences that constituents have with the law-making process and thus must be carefully guided, especially from a gender point of view.

B. Recommendations

51. Canlas, C. and Rivera, R., 'Evaluation Report: UN Joint Programme to Facilitate the Implementation of the CEDAW Concluding Comments', 2011, pp. 6-17

1. Capacity Development

Issues and Problems

Respondents of this study were unanimous in their opinion that the lack of capacity for gender mainstreaming in legislation is pervasive, particularly in the application of CEDAW norms and standards. This is true whether the system is presidential where the legislature initiates bills, or parliamentary where bills originate primarily from the executive. Some of the issues/problems identified by the respondents were as follows:

- (a) **With the exception of the Philippines, the general capacity for developing and reviewing legislation from a CEDAW/women's human rights (WHR) perspective in the CEDAW-SEAP countries is low and weak.**

In the **Philippines**, the high and strong capacity is due to the effective collaboration of a CEDAW-focused PCW, the House Committee on Women and Gender Equality and a number of university-based and NGO CEDAW experts.

- (b) **Some countries have developed programs for capacity development on WHR compliant lawmaking but they are neither institutionalized nor sustained.**

In the executive branch, **Cambodia's MOWA** has taken an active role in the setting up of GMAGs in the different ministries. The Philippines' **PCW** has similarly facilitated the establishment of the GAD Focal Point System in the various departments of government.

In the legislature, several countries have set up training centers offering capacity building courses on CEDAW and legislation. **Vietnam** has the **Training Center for Elected Representatives** of the National Assembly, and **Timor-Leste** has the **Center for Capacity Building and Information on Gender Equality** (formerly the Gender Resource Center - GRC) and the **Legal Training Center**.

- (c) **In the majority of countries, it is the NGOs that have provided training, conducted research or organized advocacy for CEDAW-compliant legislation.**

- The CWGI produced an NGO version draft of the Gender Equality Law which incorporates CEDAW principles.
- In **Lao PDR**, the **Gender Development Association (GDA)**, composed of 24 member organizations, commented on the Development and Protection of Women Act using CEDAW as a framework.
- In the **Philippines**, there are countless women's groups working on CEDAW, like the **Women's Legal Bureau**, an alternative law group which actively engages in advocacy together with other women's groups to "transform the law and the legal system in furtherance of the rights of women, and **PILIPINA** which steered the passage of the Magna Carta, a gender equality law that used CEDAW as its basic framework."

- In **Thailand**, the **FFW** started in 1984 with a focus on women's rights, especially on VAW and forced prostitution. The organization was very much involved in the passage of the Domestic Violence Act of 2007 as well as the Anti-Trafficking Law.
- In **Vietnam**, the **CEPEW** participated in consultations on the Gender Equality Law, the Domestic Violence Law, the Law on Trafficking, the Law on the Protection of the Elderly, the Law on Prevention of Smoking, and the Labor Law. **CSAGA** carried out a well-planned and strategic advocacy for the enactment of the Domestic Violence Prevention Law.

(d) **The lack of an institutionalized process for conducting CEDAW-based gender assessments of legislation**

In presidential or mixed presidential-parliamentary systems, **Committees on Women and Gender Equality or Committees of Social Affairs** deal with women and gender issues in legislative proposals. But with the exception of Vietnam where the Committee is mandated by law to do a gender analysis of all legislations (labor, agriculture, trade, education, etc.), the Committees on Women in other countries are only specifically assigned to comment on gender-related bills, such as those pertaining to VAW. In the Philippines however, some gender-related bills are even assigned to other committees, e.g., a reproductive health bill could be referred to the Committee on Population and Family Relations, whereas divorce, anti-prostitution, amending anti-trafficking laws could be assigned either to the Committee on Justice or to the Committee on Revision of Laws.

In a parliamentary system where the executive initiates a majority of bills, the **Ministry of Justice and Law** reviews all legislation prior to their submission to Parliament. However, there is no information gathered for this study that proves that Ministries of Justice and Law use CEDAW in the assessment of legislation. The Ministry of Justice of Cambodia though has one of the most active GMAGs whose objective is "setting up of appropriate mechanisms and allocating adequate resources to mainstream gender into policy formulation, organizational planning, drafting of new legislations, regulations and capacity development." In Thailand however, the Committee on Amendment and Development of Gender Responsive Legislation of the LRCT is responsible for reviewing and recommending legislation from a CEDAW and women's human rights perspective to the Commission.

Responding to the Issues and Problems

What solutions can address the capacity development issues/problems identified? This paper argues that lawmaking mechanisms need to **develop a holistic, integrated capacity development strategy, and identify gender champions with deep personal and political commitments to gender equality and women's empowerment in order to form alliances and share information.**

A holistic, integrated capacity development strategy for mainstreaming gender in the legislative process should include not only the “what” or the topics to be learned but also the “how”. The “how” is not necessarily the pedagogy or methods of teaching alone but will include the following: 1) a baseline study about the present capacity level of the target participants; 2) a clear results framework and time frame; 3) the indicators and the mechanism to be used in monitoring progress; and 4) the criteria and plan for evaluating results. Capacity development that is not well thought out or strategically conceived will end up as a series of seminar/workshops without clear results.

Equally important as the “what” and the “how” is the “who,” both in terms of **who will be the target participants and who will implement the capacity development strategy in a systematic, sustained and institutionalized way.**

- (a) **There is absolutely no doubt that building the capacity of the players identified in this paper is necessary. This capacity development should involve participants from both government and civil society.**

From the **executive branch**: the Drafting and Legal Office, the sub-CAW within each ministry including the NWM; the Law and Human Rights Division of the Ministry of Justice; ministries currently focused on legal reform such as the Ministry of Industry of Lao PDR; for specific countries, the Council of Jurists or the Council of State; and specialized Commissions such as the Law Reform Commission of Thailand, and the National Commission to End Violence Against Women, etc.

From the **legislature**: the committee members responsible for gender verification and oversight such as Vietnam’s PCSA; the relevant Secretariat staff such as those supporting the committee system and those in research; and the legislators’ staff, especially those tasked with drafting bills and providing other technical support.

Local government officials from both the executive and legislative councils must be included in the capacity development programme as well. In the wake of extensive decentralization in most CEDAW-SEAP countries – particularly Thailand, Indonesia and the Philippines – legislation occurs mostly at the local level where patriarchal practices and norms pose barriers to gender equality and women’s empowerment.

From **civil society**, those actively providing inputs for legislation during consultations and those monitoring the implementation of laws related to gender such as CEPEW in Vietnam, the JALA PRT in Indonesia, or the Gender and Development Association of Lao PDR should be included in capacity development efforts.

Research and training groups involved in legislation should also be included. In Timor-Leste, these are the Centre for Capacity Building and Information on Gender Equality, the National Directorate for Legal Advice and Legislation, and the Legal Training Center.

But a strong recommendation is to include political parties, particularly the leadership, in the capacity development program. To avoid partisanship, all political parties represented in Parliament should be included. Political parties are the principal actors

in the legislative process and wield tremendous influence and authority over their members. They decide the position the party will take on policy issues, and every member has to abide by this decision.

- (b) **Any capacity development plan and programme must be nationally owned, resourced, managed and implemented to be effective and sustainable.**

Embedding a capacity development program for assessing/reviewing legislation from a CEDAW perspective in the legislative process and in the strategy, budget and work plan of every single ministry will demonstrate a commitment to build, improve or enhance in-house capacity to draft and advocate for gender-sensitive legislation.

- (c) **The recommendation regarding the institution that is best positioned to implement a capacity development programme for assessing/reviewing national legislation from a CEDAW perspective depends on whether the system is presidential or parliamentary (the framework used for this study).**

In a presidential system where bills originate primarily from the legislature, the most appropriate institution is the **Parliament or Congress Secretariat**, the permanent structure providing training, research, legal, and other support services to members of the legislature. In a parliamentary system where legislative proposals are generally initiated by the Ministries in their respective sectors and reviewed by the **Ministry of Law and Justice** before it is presented to Parliament, the Ministry is the logical institution to lead the capacity development program. In mixed presidential-parliamentary systems, **either the Secretariat or the Ministry of Law and Justice** or both can be tapped. But whether it is the Secretariat or the Ministry of Law and Justice, it must be supported by well-established, highly-recognized, research and training institutions with expertise on CEDAW and international human rights standards such as:

- **Philippines:** University-based research and training institutes involved in CEDAW training such as the Manila University's Ateneo Human Rights Center (AHRC); the University of the Philippines' Center for Women's Studies Foundation Inc. (UPCWSFI); and WAGI.
- **Vietnam:** Human Rights Institute of the Ho Chi Minh Political Academy.
- **Thailand:** King Prajadhipok's Institute and the Office of the Council of State.
- **Timor-Leste:** Center for Capacity-Building and Information on Gender Equality (CEGEN) and the Legal Training Center (LTC).

Capacity Development for LGUs

At the local level, capacity development can be institutionalized if done through the national or federal ministry supervising the LGUs and supported by the NWM and/or a research/training institution that has vast knowledge and expertise on gender. For example, in Indonesia, the Ministry of Home Affairs is in charge of creating subnational legislation and making sure it is aligned with national legislation. The Ministry can be assisted in ensuring that gender concerns are appropriately addressed in all legislation by one of the member NGOs of the CWGI such as the Kalyanamitra, which has produced the NGO version of the Gender Equality Law incorporating CEDAW principles.

In **Cambodia**, the **Ministry of Interior** is responsible for the decentralization of policy that emphasizes gender mainstreaming. Its GMAG is actively working and there is also a National Committee for Sub-National Democratic Development (NCDD) responsible for the decentralization.⁵² As a member of NCDD, MOWA ensures that gender is mainstreamed in all levels of subnational administration policies and regulations. Thus, the Ministry of Interior can take charge of the Capacity Development Program of LGUs for gender assessment of legislation supported by MOWA and local women NGOs such as Prosperity for Women.

In the **Philippines**, the capacity development of the LGUs can be done through the **Department of Interior and Local Government (DILG)** assisted by the **Philippine Commission on Women and the University of the Philippines' National College of Public Administration and Governance (UP-NCPAG)** or any of the university-based research and training institutions mentioned earlier in this paper. At the **Autonomous Region in Muslim Mindanao (ARMM)**, DILG can be assisted by women NGOs involved in mainstreaming CEDAW at the local level.⁵³ These NGOs include:

- The Al-Mujadilah Development Foundation, Inc. (AMDF) who facilitated CEDAW consultations in ARMM. It has translated Muslim laws into five Moro ethno-linguistic groups such as Maguindanao, Maranao, Samal, Tausug and Yakan.
- **Nisa-Ul Haqq**, a network of Muslim women leaders advocating for gender, reproductive health and women's rights within the context of Islam and human rights, undertook evidence-based research on the situation of Muslim women in ARMM and led the UN project on gender mainstreaming in governance processes in ARMM.
- The **Teduray Lambangian Women's Organization, Inc. (TLWOI)** incorporates 35 grassroots based Teduray and Lambangian organizations in the ARMM. The organization strives to achieve environmental and sustainable development with respect to their indigenous culture. They have a track record of being champions for the basic rights of tribal women in terms of decision-making, community development projects and the promotion of peace and justice.

52. National Committee for Sub-national Democratic Development <http://www.ncdd.gov.kh/en/about-ncdd>

53. Canlas and Rivera, 'Evaluation Report', pp. 7-18.

Cultivating Gender Champions

Even the best capacity development programmes will not have enduring results if not accompanied by a heartfelt commitment to gender equality and women's empowerment. Advocacy for gender-responsive legislation is about a strong desire to change that can only come about with persistence, hard work and dedication. Here is where nurturing gender champions come in; gender champions may be few but they are the ones who produce results. UN Women should be able to identify and nurture them.

Among the tasks of gender champions are: 1) sustained advocacy for the enactment of cutting-edge laws on gender that are CEDAW-compliant; 2) systematic monitoring of the implementation of these laws; and 3) sensitizing the staff and management of their respective organizations to gender issues from a CEDAW and women's human rights perspective. UN Women should identify gender champions in each CEDAW-SEAP country to establish a core of advocates to be nurtured and cultivated. They can be known as the "GAD-CEDAW Champions Team." A specially designed capacity development programme should be designed for them that will include not only competencies but results as well.

VI. CONCLUSIONS

Mainstreaming gender in legislation is not as simple as understanding the nature of a system (presidential or parliamentary), or following the legislative mill or the formal stages of how a bill becomes a law. Neither is it only about assessing legislation from a CEDAW perspective. Comprehending the legislative process and applying CEDAW in legislation are not enough. Grasping the dynamics of the political environment is even more crucial. Underlying the legislative process are political forces like the party system, the political leadership or the maturity of political institutions. For example, in countries with a single party-system like Vietnam and Lao PDR, the extent and impact of citizen participation in policy-making in general and legislative decision-making in particular is substantially limited. In Vietnam, all legal normative documents are checked/verified for their "relevance to the Party's directions and policies."⁵⁴ The same is true in Lao PDR where the Lao People's Revolutionary Party (LPRP) is the only political party. Though there is increasing openness in the debates on policy issues, more participation from other branches of government and involvement of civil society, no law can be enacted without the approval of the party. In Cambodia where there are several political parties but there has been only one dominant political party for years, mechanisms are in place to ensure all stakeholders are actively involved in the legislative process, but they do not function as intended. In Timor-Leste on the other hand, political institutions like the legislature are still building their capacity to formulate and implement policy decisions.

If advocacy for mainstreaming gender in legislation is to succeed, it is extremely important to keep in mind both the formal process of legislation and the dynamics of the political environment. To ignore the latter is to be divorced from political reality and become ineffective in pushing for concrete, specific legislative initiatives to promote gender equality and amend gender discriminatory legislation.

54. Viet Nam National Assembly, 'Law on the Promulgation of Legal Documents', p. 22.

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