

# **2009 TERMS OF REFERENCE OF THE ASEAN COMMISSION FOR THE PROMOTION AND PROTECTION OF THE RIGHTS OF WOMEN AND CHILDREN**

*Adopted in Cha-Am Hua Hin, Thailand from 23-25 October 2009*

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## **1. BACKGROUND**

1.1. All ASEAN Member States have ratified and are parties to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC).

1.2. At the 10<sup>th</sup> ASEAN Summit in November 2004, the ASEAN Leaders adopted the Vientiane Action Programme 2004-2010 (VAP) which among others called for the establishment of an ASEAN commission on the promotion and protection of the rights of women and children (Measure 1.1.4.7 of the VAP).

1.3. The ASEAN Charter which entered into force on 15 December 2008 called under Article 14 for ASEAN to establish an ASEAN human rights body in conformity with the purposes and principles relating to the promotion and protection of human rights and fundamental freedoms.

1.4. At the 14<sup>th</sup> ASEAN Summit on 28 February – 1 March 2009, the ASEAN Leaders adopted the Cha-am Hua Hin Declaration on the Roadmap for the ASEAN Community (2009-2015) which includes the ASEAN Political Security Community (APSC) Blueprint and the ASEAN Socio-Cultural Community (ASCC) Blueprint that reiterate the establishment of an ASEAN commission on the promotion and protection of the rights of women and children as an important measure to ensure equitable development for women and children.

## **2. PURPOSES**

2.1. To promote and protect the human rights and fundamental freedoms of women and children in ASEAN, taking into consideration the different historical, political socio-cultural, religious and economic context in the region and the balances between rights and responsibilities.

2.2. To uphold, promote, protect, respect and fulfill the rights of women and children in ASEAN to live in peace, equality, justice, dignity and prosperity.

2.3. To promote the well-being, development, empowerment and participation of women and children in the ASEAN Community building process which contribute to the realization of the purposes of ASEAN as set out in the ASEAN Charter.

2.4. To enhance regional and international cooperation with a view to complementing national and international efforts on the promotion and protection of the rights of women and children.

2.5. To uphold human rights as prescribed by the Universal Declaration of Human Rights, the Vienna Declaration and Programme of Action, Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Convention on the Rights of the Child (CRC), Beijing Platform for Action (BPFA), World Fit for Children, International Humanitarian Law and other international human rights

instruments and regional declarations related to women's and children's rights to which ASEAN Member States are parties.

2.6. To promote stability and harmony in the region, friendship and cooperation among ASEAN Member States.

### **3. PRINCIPLES**

- 3.1. To respect for the principles of ASEAN as embodied in Article 2 of the ASEAN Charter.
- 3.2. To respect for human rights principles, including universality, indivisibility, interdependence and interrelatedness of all fundamental freedoms and the rights of women and children, the guiding principles of CEDAW and CRC.
- 3.3. To respect for the principles of impartiality, objectivity, non-selectivity, non-discrimination and avoidance of double standards and politicization.
- 3.4. To complement, rather than duplicate, the function of CEDAW and CRC Committees.
- 3.5. To recognize that the primary responsibility to promote and protect the fundamental freedoms and rights of women and children rests with each Member State.
- 3.6. To pursue a constructive non-confrontational and cooperative approach to enhance the promotion and protection of rights of women and children.
- 3.7. To ensure a balance between the functions of promotion and protection of the rights of women and children.
- 3.8. To adopt an evolutionary approach that would contribute to the realization of the rights of women and children in ASEAN.
- 3.9. To adopt a collaborative and consultative approach with ASEAN Member States, academia and civil society pertaining to the rights of women and children.

### **4. STATUS OF THE ACWC**

The ACWC is an intergovernmental body and an integral part of the ASEAN organisational structure. It is a consultative body.

### **5. MANDATE AND FUNCTIONS**

- 5.1. To promote the implementation of international instruments, ASEAN instruments and other instruments related to the rights of women and children.
- 5.2. To develop policies, programs and innovative strategies to promote and protect the rights of women and children to complement the building of the ASEAN Community.
- 5.3. To promote public awareness and education of the rights of women and children in ASEAN.
- 5.4. To advocate on behalf of women and children, especially the most vulnerable and marginalized, and encourage ASEAN Member States to improve their situation.
- 5.5. To build capacities of relevant stakeholders at all levels, e.g. administrative, legislative, judicial, civil society, community leaders, women and children machineries, through the provision of technical assistance, training and workshops, towards the realization of the rights of women and children.
- 5.6. To assist, upon request by ASEAN Member States, in preparing for CEDAW and CRC Periodic Reports, the Human Rights Council's Universal Periodic Review (UPR) and reports for other Treaty Bodies, with specific reference to the rights of women and children in ASEAN.

5.7. To assist, upon request by ASEAN Member States, in implementing the Concluding Observations of CEDAW and CRC and other Treaty Bodies related to the rights of women and children.

5.8. To encourage ASEAN Member States on the collection and analysis of disaggregated data by sex, age, etc., related to the promotion and protection of the rights of women and children.

5.9. To promote studies and research related to the situation and well-being of women and children with the view to fostering effective implementation of the rights of women and children in the region.

5.10. To encourage ASEAN Member States to undertake periodic reviews of national legislations, regulations, policies, and practices related to the rights of women and children.

5.11. To facilitate sharing of experiences and good practices, including thematic issues, between and among ASEAN Member States related to the situation and well-being of women and children and to enhance the effective implementation of CEDAW and CRC through, among others, exchange of visits, seminars and conferences.

5.12. To propose and promote appropriate measures, mechanisms and strategies for the prevention and elimination of all forms of violation of the rights of women and children, including the protection of victims.

5.13. To encourage ASEAN Member States to consider acceding to, and ratifying, international human rights instruments related to women and children.

5.14. To support the participation of ASEAN women and children in dialogue and consultation processes in ASEAN related to the promotion and protection of their rights.

5.15. To provide advisory services on matters pertaining to the promotion and protection of the rights of women and children to ASEAN sectoral bodies upon request.

5.16. To perform any other tasks related to the rights of women and children as may be delegated by the ASEAN Leaders and Foreign Ministers.

## **6. COMPOSITION**

### **MEMBERSHIP**

6.1. The ACWC shall consist of the Member States of ASEAN.

6.2. Each ASEAN Member State shall appoint two representatives, one representative on women's rights and one representative on children's rights to the ACWC.

### **QUALIFICATIONS**

6.3. When appointing their representatives to the ACWC, Member States shall give due consideration to competence in the field of the rights of women and children, integrity and gender equality.

### **SELECTION PROCESS**

6.4. When appointing their representatives to the ACWC, Member States shall conduct, in accordance with the respective internal processes, a transparent, open, participatory and inclusive selection process of their representatives to the ACWC.

### **TERMS OF OFFICE**

6.5. Each representative serves a term of three years and may be consecutively reappointed for only one additional term.

6.6. To provide continuity for the work of the ACWC, the term of office of representatives shall be staggered. Each Member State shall appoint one of its two representatives to serve an initial term of four and a half years.

6.7. In the event of vacancy caused by recall, resignation, incapacity or demise of a representative, the appointing government will provide a replacement who shall serve for the remaining term of that departed representative. This representative must have the same area of competence (women's or children's rights) as the replaced representative.

6.8. Notwithstanding paragraph 6.5, the appointing Government may decide, at its discretion, to replace its representatives. Whenever appropriate the Government shall inform the ACWC of the reason of the replacement.

### **RESPONSIBILITY OF MEMBERS**

6.9. In the discharge of his/her duties, each representative shall act impartially in accordance with the ASEAN Charter and this TOR, and shall display the highest moral character.

6.10. Attendance at the ACWC meetings by the representatives is mandatory.

### **CHAIR AND VICE-CHAIR OF THE ACWC**

6.11. The first Chair and Vice-Chair of the ACWC shall be elected by the appointed representatives. The subsequent Chair and Vice-Chair shall be rotated among ASEAN Member States on an alphabetical basis. The rotation of Chairmanship and Vice-Chairmanship shall follow an opposite cycle. Should a Member State next in line be not ready to assume the Chairmanship or Vice-Chairmanship, it may forgo its turn. The Chair and the Vice-Chair shall not be representatives from the same Member State and with the same area of competence (women's or children's rights).

6.12. The Chair and the Vice-Chair shall serve a term of 3 years.

6.13. The Chair of the ACWC shall exercise his/her role in accordance with the TOR, which shall include:

- a) Preparing the agenda for and chairing the ACWC meetings;
- b) Leading in the preparation of reports to other ASEAN bodies specified in paragraph 7.5;
- c) Coordinating with the ACWC's representatives during the times between meetings of the ACWC, and promoting the engagement of the ACWC with the relevant ASEAN bodies;
- d) Representing the ACWC at regional and international events pertaining to the promotion and protection of the rights of women and children as entrusted by the ACWC; and
- e) Undertaking other specific functions entrusted by the ACWC in accordance with this TOR.

6.14. The Vice-Chair will be responsible for the duties of the Chair in his/her absence, and/or as delegated by the Chair.

## **IMMUNITIES AND PRIVILEGES**

6.15. In accordance with Article 19 of the ASEAN Charter, representatives participating in official activities of the ACWC shall enjoy such immunities and privileges as are necessary for the exercise of their functions.

## **7. MODALITIES**

### **DECISION MAKING**

7.1. Decision making in the ACWC shall be based on consultation and consensus in accordance with the ASEAN Charter.

### **MEETINGS**

7.2. The ACWC shall convene two regular meetings per year and each meeting shall normally be not longer than 5 days.

7.3. Regular meetings of the ACWC shall be held alternately at the ASEAN Secretariat and/or ASEAN Member States.

7.4. As and when appropriate, the ACWC may hold special meetings at a venue to be agreed by the representatives.

### **LINE OF REPORTING**

7.5. The ACWC shall submit an annual report including accomplishments, challenges and recommendations on the promotion and protection of the rights of women and children and other appropriate reports, e.g. progress report, to the ASEAN Ministers Meeting on Social Welfare and Development (AMMSWD) with copy to the ASEAN Committee on Women (ACW) and other relevant ASEAN sectoral bodies.

### **PUBLIC INFORMATION**

7.6. The ACWC shall keep the public regularly informed of its work and activities through appropriate public information materials produced by the ACWC.

### **COORDINATION AND ALIGNMENT**

7.7. The ACWC shall coordinate with AICHR and other relevant ASEAN sectoral bodies dealing with issues pertaining to women and children including consultations on the ultimate alignment between the ACWC and the AICHR as the overarching human rights institution in ASEAN.

7.8. The ACWC shall engage in dialogue and consultation, as may be appropriate, with other national, regional and international institutions and entities concerning the promotion and protection of the rights of women and children.

## **8. WORK PLAN AND FUNDING**

8.1. The ACWC shall prepare and submit a Work Plan of programmes and activities with indicative budget for a cycle of five years to be approved by the AMMSWD. Whenever appropriate, the ACWC may consult relevant ASEAN bodies in the preparation of its Work Plan.

8.2. The ACWC shall also prepare and submit an annual budget to implement the Work Plan to be approved by the AMMSWD upon recommendation of the Committee of Permanent Representatives to ASEAN (CPR) when required.

8.3. The programme and activities of the ACWC shall be funded by ASEAN Member States on cost-sharing basis and voluntary contributions from ASEAN Member States.

8.4. The ACWC may receive funding from other sources, subject to the approval of AMMSWD upon the endorsement of the CPR, to support effective implementation of its work serving the common interest of women and children in all ASEAN Member States.

8.5. The ACWC may establish its own Fund with the terms and conditions to be determined by the ACWC and approved by the AMMSWD, upon the recommendation of CPR.

8.6. All funds used by the ACWC shall be managed and disbursed in conformity with the general financial rules of ASEAN.

8.7. Secretarial support for the ACWC shall be funded by the ASEAN Secretariat's operational budget.

## **9. ROLE OF THE SECRETARY-GENERAL OF ASEAN AND THE ASEAN SECRETARIAT**

9.1. The Secretary-General of ASEAN may bring relevant issues to the attention of ACWC.

9.2. The ASEAN Secretariat shall provide the necessary secretarial support the ACWC.

## **10. GENERAL AND FINAL PROVISIONS**

10.1. This TOR shall come into force upon the approval of the AMMSWD.

### **AMENDMENTS**

10.2. Any Member State may submit, through the Chair of the ACWC, a formal request for an amendment of this TOR for consideration of the ACWC.

10.3. The ACWC shall submit the request for the approval of the AMMSWD.

10.4. Such amendments shall take effect upon approval of the AMMSWD.

### **REVIEW**

10.5. The ACWC shall undertake mid-term and final-term reviews of its 5-year Work Plan. The outcomes of these reviews shall be submitted the AMMSWD.

10.6. The ACWC shall review its TOR five years after its entry into force. The outcomes of this review and subsequent reviews shall be submitted to the AMMSWD.

### **INTERPRETATION**

10.7. Any difference concerning the interpretation of the TOR which cannot be resolved shall be referred to the AMMSWD.