

All of the eight countries involved in CEDAW SEAP are signatories to CEDAW. CEDAW is the cornerstone of the State parties' commitment to incorporate the principles of state accountability, non-discrimination and equality in their respective legal systems. The Convention also provides guidance for the interpretation and application of the fundamental principles of gender equality, the rule of law, independence of the judiciary and the promotion and protection of human rights enshrined in the national constitutions of countries in South-East Asia (SEA). Hence, the Judicial Colloquium provides a forum to familiarise judicial actors in the region with the growing international jurisprudence on human rights and women's access to justice.⁵

The Association of Southeast Asian Nations (ASEAN), as a regional governmental institution, is in the process of drafting standard-setting instruments for application in SEA. The ASEAN Intergovernmental Commission on Human Rights (AICHR) drafted the ASEAN Human Rights Declaration in 2009. ICJ, as an international organization committed to the advancement of human rights and the rule of law, is critical of the Declaration because it appears to be a step back from existing commitments that ASEAN member States have made in various international human rights conventions including CEDAW.⁶

In particular, the Declaration employs the concept of 'cultural relativism' which makes the realisation of human rights conditional on regional and national contexts such as the different political, economic, legal, social, cultural, historical and religious backgrounds of various countries. This Judicial Colloquium is a timely platform to confront the implications of this Declaration in invoking culture or religion as 'justification' for violations of the rights and freedoms of women. Rather than subscribe to the notion that culture – including traditions, religious beliefs and customary practices – is static, the better approach is to be cognisant that culture evolves and that the process of change presents an opportunity to capture the best aspects of every culture and promote human rights as a global cultural framework that negates any form of discrimination and violence against women.⁷

Feminist and critical legal scholars have long ascertained that the law can reinforce and recreate unequal power relations between men and women. The law is laden with ideologies in its content, in its omissions and its interpretations by the courts. According to UN Women Asia and the Pacific Regional Director Roberta Clarke, "this is so because those charged [with] making and interpreting the law drink from the same cultural pool as the rest of us characterised by inequalities".⁸ Therefore, members of the judiciary have to be aware of how law is used, wittingly or unwittingly, to maintain unequal power relations between men and women.

In this colloquium, the premise is that culture can constrain legal developments. But law reform and jurisprudence can also compel and support cultural change in equal measures. Hence, this forum provided a platform to discuss the ideologies and bias systems, as well as the remnants of culture that are inimical to women's human rights and harness the transformative potential of law and jurisprudence in ending all forms of discrimination and inequality. In this context, members of the judiciary play a critical role in disrupting inequalities and the normalcy of unequal gender relations through the application of the core principles of CEDAW on state accountability, non-discrimination and equality before the law.⁹

5. Introductory Remarks, Deepa Bharathi, Regional Programme Manager, CEDAW Southeast Asia Programme, UN Women Regional Office for Asia and the Pacific, 4 September 2013

6. Opening Remarks, Saman Sia-Zarifi, Regional Director for Asia and the Pacific, International Commission of Jurists (ICJ), 4 September 2013

7. Ibid.

8. Opening Remarks, Roberta Clarke, Regional Director of UN Women Regional Office for Asia and the Pacific, 4 September 2013

9. Ibid.