ReFLEXion

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Contextualising Retrogression and Capture in Asia

About this paper: what this paper is and is not

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This paper is a reflection on the FLEX virtual workshop, and therefore not a research report or a desk review of challenges to women's rights and social justice activism in the region. This is a reflective pooling together of the perspectives and lived experiences of feminist activists, informed by the rich body of feminist, activist and social scientific analyses.

ReFLEXions on language and naming

Language is a trap. This truth becomes particularly poignant when speaking in a dominant language, which is not the first or primary language for many or most of the participants. It becomes even more poignant when we remember that the dominance of the English language is a result of British and American (neo)colonialism and (neo)imperialisms and is deeply complicit in the continued Western cultural hegemony. The latter is especially important for any effort at contextualisation.

Language is also power. Naming things can help identify, analyse and address them. Unnamed, certain phenomena can remain normalised and invisibilised, wreaking havoc in our lives. Scientific terms in the dominant language, while useful as analytical tools, can, at the same time, undermine our confidence in our ability to comprehend our own realities without the mediation of formal knowledge produced by outsiders, or without completing tertiary degrees in social sciences ourselves. Language reflects and reinforces the hierarchy of knowledges.

The terms 'retrogression' and 'capture' are good examples of this. They are important for furthering our critical feminist analyses of how patriarchal and corporate forces are openly attacking or covertly occupying our social justice and gender equality agendas and spaces. However, these are not terms that most local and national activists, for whom English is not their primary language, use in their daily struggles for social change.

The Rights at Risk 2021 report by the OURs initiative helped to frame the FLEX discussion on retrogressions and capture. This report complemented the 2017 report, which focused on religious fundamentalisms and used the broad term 'anti-rights' to refer to actors using religious fundamentalist discourses in the international human rights system. The term 'religious fundamentalism' referred to 'the authoritarian manipulation of religion and use of extreme interpretations of religion by particular State or non-State actors to achieve power, money, and extend social control'. Common themes of religious fundamentalist discourses were identified as including: 'speaking from the position of the "one true religion," moral superiority and cultural authenticity; emphasizing the traditional family and fixed gender roles; adopting absolutist, intolerant, and coercive stances; and selectively adopting and co-opting human rights language.' The report also used terms 'regressive' and 'ultra-conservative' to refer to actors and stances similar to religious fundamenalist ones.

Neither the 2017 nor the 2021 report explicitly used the term 'retrogressions'. The 2021 OURs report continued to apply the term 'anti-rights' to describe (ultra-) nationalist, religious and cultural fundamentalist actors, tactics and discourses, including 'outright attacks on, and withdrawal from, the framework of international human rights', 'trends of delegitimization, persecution, and criminalization of human rights organizations', and 'national sovereignty and security discourses evoked by ultra-nationalist actors to undermine the very foundations of an international community and international human rights'. This report took the analysis further, examining the structural foundations of the retrogressions and anti-rights trends, focusing on the nexus of the (ultra-)nationalist, religious and cultural fundamentalisms; growing reprisals against activists and independent media, and the shrinking of civic space for feminist and human rights movements; and the rise of neoliberal corporate power and the hegemony of market fundamentalism.

In connection with this, the 2021 OURs report specifically addressed corporate capture, defined as 'the increasing influence and leadership of large businesses and transnational corporations in multilateral policy-making spaces, including the United Nations, with tremendous impacts on how human rights for all can be achieved'. The term is not only about how corporations use their economic power but also about how they infiltrate multilateral and public spaces and capture public discourses and policy agendas to advance corporate interests at the expense of the public good.

The report defined two more related terms, which help to articulate more fully the insidiousness of corporate capture:

Corporate power

'the excessive control and appropriation of natural resources, labour, information, and finance by an alliance of powerful corporations and global elites, in collusion with those in power.'

Market fundamentalism

'the strict and literal adherence to the principles of free market capitalism in which economic growth should be prioritized over all else, including people's health during a global pandemic, undermining the primacy of human rights and threatening the planet.'

This short discussion shows how important terms and definitions are for our activism. They help us to see our realities more clearly, strategise more effectively and better focus our efforts. However, as mentioned above, when written in the dominant and formal (often academic) language, many such terms are alien to activists on the ground. Lack of familiarity with such terms and/or lack of clarity about their meanings can mislead us to think that we lack insight into the threats to our activisms in our own contexts.

With these considerations in mind, we started the session on mapping retrogressions and capture in our diverse contexts by sharing what words we use in our local or national languages to describe 'retrogressions' and 'capture' or similar phenomena. Here are some of the contributions by the participants:

Urdu

'inteha pasandi' is a literal translation of 'extremism,' the term entered local spaces after 9/11 and is often used to refer to the rise of the right-wing political forces in the country

Tagalog

'paglabag' means 'violation'

Bahasa Indonesia

'pembajakan nilai' means 'hijacking of values'

'penangkapan Hak Asasi Manusia' means 'human rights capture'

'kooptasi' means 'cooptation'

'kemerosotan' means 'setbacks'

Malay

'religious extremism' is 'pelampau agama'

no specific term for 'capture'; the direct translation is 'penangkapan' but it is less nuanced

'retrogression': 'kemunduran (mundur ke belakang)', which might be equal with 'backward' (but it misses the nuances)

'gender' is usually translated as 'jantina', which is 'sex', so the political and ideological framing of gender as an inclusive term is not implicit

English

setbacks
hijacking of values

KEMUNDURAN - some discussion of the meaning and nuances.

Often, participants remarked on how some local and national terms lack nuances which are present in the English terms. A prominent example was that of 'gender', which gets translated into Malay as 'sex', becoming more biologised and less inclusive.

An important insight by a participant from India was that they do not explicitly name some of the phenomena. This lack of 'naming' points to the need for critical analyses to identify and visibilise retrogressions and capture in our activist contexts.

Activist mapping of retrogressions and capture

Following our reflection on sharing of the language we use to describe challenges to our activist efforts, participants engaged in a mapping of anti-rights threats, retrogressions and capture in our diverse country contexts.

Indonesia

In Indonesia, following the initial excitement and openness in the move to democratization, activists have been witnessing alarming retrogressive trends. They expressed a strong sense that they "enjoyed more rights in the past than in the present" and that the civic space and freedom of expression are shrinking. They see monopolization of political power, with "more government work being done by one particular person," along with the weakening of efforts to address corruption and mounting suppression of media and human rights defenders, with "criticisms being seen as an attack on the government." The passage of the Law on Electronic Information and Transaction has made activists feel less safe to express their opinions. The police have targeted journalists who have been investigating a child sexual abuse case and the defamation law has been used against human rights defenders for "criticisms and uncovering the truth." Furthermore, 'buzzers' - paid pro-government internet trolls - are deployed to repress human rights activist voices in social media.

Activists are observing a growing influence of religious fundamentalism, with more political power being given to religious organizations and fatwas being pursued from the ulema even for COVID-19-related measures. Not surprisingly, women's bodies are being policed more through the patriarchal politicization of their choice of clothing as a moral and religious issue. Women noted how "back then, female students in Indonesia had no problem with their uniforms" whereas "now some public schools require female students to wear hijab as part of the uniform," and that "it is getting more difficult to be 'not wearing hijab' in formal meetings with government actors." At the same time, they see high rates of underage marriage becoming normalised in rural areas and cases of gender-based violence against at-risk communities being dismissed or mishandled by law enforcement agencies. Women's organizations are being pushed out of policy spaces: "in discussions about safe abortion, the MoH blocks civil society involvement and only involves medical associations, to ensure 'neutrality'."

Activists also see growing power of corporations, with more laws being passed in their favor and more swiftly compared to bills supported by civil society. A prominent example is the passage of the UU Cipta Kerja, the Job Creation Act, in 2020, which reverses the rights of workers, including women, weakens indigenous land rights and environmental protection regulations.

Malaysia

In Malaysia, activists noted that religious fundamentalism intersects with racial supremacy, privileging both Muslim and Malay citizens over others (ketuanan/hak Melayu + Islam). Against this backdrop, they see general resistance to the integration of international human rights law into the national legal system and to addressing the colonial legacy in laws and judicial norms. The issue of child marriages remains a critical issue, which is no longer in discussion at policy levels since the latest change of government. The targeting of the LGBTQI+ people has intensified, reinforced by the overturning of the decision to allow 'crossdressing' (the legal term) citing 'false legal mechanisms'.

Malaysian activists see an increasing trend of "privatisation of the state" through government-linked companies and the private sector capture of important long-term political agendas. Thus, employer federations have dominated policy spaces and discourses on labour rights and social protection, utilizing the language of "minimum wages," sidelining discussions about "living wages" and "wage floors" that would benefit workers' rights. Activists also noted how the underlying hegemony of market fundamentalism is impacting on efforts to reform the drug law and liberalise the use of marijuana. The centering of the economic rationale - tax revenues and job creation - puts the future of these reforms at risk should the economic logic fail.

Philippines

Filipino activists are witnessing mounting militarization, with more funding going to the military and the police, and violent targeting of activists and journalists. Activists are 'red-tagged' and labeled byt the military, the police and government officials as terrorists anbd protesters are framed as members of the New People's Army, a terrorist group. Maria Ressa and other journalists who have critiqued the ruling power have been demonized by government officials and are facing conviction for cyberlibel under the repressive Anti-Cybercrime law. The anti-terrorism law imposes restrictions on funding for women's rights groups under the pretext of safeguarding 'national security.' Furthermore, the ruling regime has opposed the SOGIE Equality Bill and seeks to reduce trans rights to bathroom/washroom issues.

India

Indian activists noted similar trends of threatening activists and journalists who expose government and corporate misdeeds with accusations of 'sedition' and endangering national security and law and order. They are seeing an infiltration of right-wing extremism into the education sector, spreading a certain kind of a historical narrative, which posits religious, caste and racial supremacy of some groups. They noted interlinkages between the Hindu right-wing nationalism and seemingly progressive corporatism, particularly among the middle classes, as well as between privatisation and corporate capture of the press/media.

Pakistan

Pakistani activists also observed that the single national curriculum in the education sector undermines the ethnic, religious and linguistic diversity in the country, and promotes a rigid vision of 'a modest and patriotic Pakistani.' This religious-cum-nationalist narrative is exclusionary, patriarchal and authoritarian.

Sri Lanka

A Sri Lankan activist noted the connections between militarisation, institutionalised Buddhism, post-war machismo and normalisation of neoliberalism. She described them as "strange bedfellows": "there is a link between anti-Western narratives and nationalism based on Buddhist supremacy and capitalist production." Participants reflected on the need to further explore these linkages.

Mongolia

Mongolian activists noted the shrinking space for local and national NGOs, with INGOs increasingly occupying policy spaces, funded by multilateral and bilateral donors. Within the neoliberal funding scheme, NGOs are treated as competitive service providers rather than agents of social change and key stakeholders in democracy and development. They are encouraged to compete against each other rather than build solidarity and capacity for collective action to address systemic issues. At the same time, similar to other countries, activists are facing growing nationalism, populism, authoritarianism and militarisation of the public space and restrictions on the freedom of information and media.

Australia

While overt repressions may be absent or rare in the Australian context, an activist noted how the government "manages" women's rights organizations by announcing small women's rights projects to demonstrate their support and respect for women while, in practice, ignoring grassroots voices. This form of suppression was explore further in the following sessions.

Regional and global levels:

Participants observed that corporations wield significant power in ASEAN, with work plans prioritizing economic growth, riding on neoliberal ideology. International mechanisms are being captured by overtly or covertly religious groups who co-opt and distort the language of rights, and have financial resources to develop and disseminate attractive knowledge products. The democratic principle of "nothing about us without us" is not being adhered to by state and international/multilateral bodies that are meant to serve the global public interest.

Common themes

Despite tremendous diversity among the represented countries, several common themes emerged clearly:

- More disciplinary laws and practices, including anti-terrorism and anti-defamation laws, militarization and attacks against journalists and activists.

- Growing nationalism and authoritarian deployment of 'national security' discourses, closely linked to religious fundamentalisms, racism and gender/sexuality-based oppression.

- More disciplining of women's bodies, shrinking spaces for women's rights activism, lessened policy attention to addressing GBV, SRHR and SOGIE rights.

- More political power to corporations, hegemony of the neoliberal logic as the basis for public policy, including in relation to civil society.

Back to language: defining retrogressions and capture

Based on the mapping exercise, we returned to defining the two key terms in our own words. Participants proposed that 'retrogression' can be understood as 'a backwards movement with regard to human rights,' or an 'anti-rights' stance. It was described as:

- **Losing** rights and gains

- **Withdrawing** from commitments and international obligations with regard to ensuring human rights and gender equality; public statements by officials denying laws, policies, positions that were already committed to

- **Moving back** and **Backsliding** on human rights, gender equality and democratic gains

- **Taking away** something that was guaranteed

- **Replacing** NGO-endorsed laws and policies by those that are endorsed by anti-rights groups (e.g. religious, right-wing, 'family first' groups that use identity politics in exclusionary ways).

Participants discussed that 'capture' can be understood as 'minimalisation of civil society space' and as 'co-optation'. It was described as:

- **Subordinating** public interests to particular interests: public interest losing to lobby groups.

- **Co-opting** the language of rights: using words that have political meaning for activists, but in ways that harm public interest and human rights concepts; claiming of personhood by corporate, profit-seeking entities; using legal personhood to justify 'rights' for corporations.

- **Managing** and **disciplining** activists and their spaces: controlling the participation of NGOs through bureaucratic processes, e.g. designated, hand-picked participation, requirements and procedures for accreditation and legal registration, etc.

- **Taking away** something that was guaranteed

- **Supplanting** activist voices and taking over their spaces: infiltrating activist spaces, pushing activists out, taking over policy discussions and discourses.

Importantly, a participant noted that retrogressions and capture involve "invalidating lived experiences" and "seeing the worst situations as something light or unimportant."

Issues left un/under-explored, possibly unnamed

The mapping session gave us space to share our experiences, compare country contexts and reflect on the language we use to make sense of our realities and drive our activism. However, participants felt more in-depth exploration is needed to deepen our understanding of many of the phenomena we noted, especially the following:

- The link between nationalisms, religious fundamentalisms and neoliberal capitalism/market fundamentalism.

- The connections between the shrinking of civic spaces and disciplining of women's bodies (slut-shaming for showing "skin", imposing the wearing of hijab, anti-abortion stances, etc.)

- The politics in the cyberspace, including issues such as the right to data transparency, gaps in accountability systems, and corporate capture (as in the cases of Facebook highlighted by Francis Haugen, Paradise Papers and Maria Ressa).

Finally, participants expressed interest in continuing to reflect on language and power.

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Response and effectiveness of multilateral system

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In international relations, multilateralism refers to an alliance of multiple countries pursuing a common goal.[1] Human rights treaties falls under the norm-setting of multilateralism. As they are international agreements, a State that officially accepts a human rights treaty - commonly through ratification or accession - has a binding obligation to protect and promote rights and freedoms.[2] In addition, multilateralism includes cooperation among world governments, which can be seen through the United Nations, World Trade Organization, Association of Southeast Asian Nations (ASEAN) and South Asian Association for Regional Cooperation (SAARC).

To deal with retrogression and capture, the Asian feminists utilised multilateral mechanisms (especially the United Nations, SAARC, and ASEAN) to submit complaints or highlight worsening situations, with the aim of pressuring the international community to come up with a standard-setting or ruling for the protection of human rights.

The FLEX 2021 convening discussed recognition of multilateralism as a mechanism to uphold State accountability, and also reflected on whether the multilateral system supports human rights protections or rather contributes toward further retrogression and capture. From the discussion, it was evident that the majority of the FLEX 2021 convening participants shared disappointment in the multilateral mechanism due to its inability to provide prompt actions, which often accelerates retrogression or simply sets a precedent of impunity that allows human rights setbacks at the national level. However, there are key milestones in the multilateral system, such as the UN renewing the crucial mandate for protection against violence and discrimination based on sexual orientation and gender[3] identity as well as the International Court of Justice ruling on Rohingya genocide in Myanmar.[4]

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[1] https://www.britannica.com/topic/multilateralism

[2] https://www.ohchr.org/en/hrbodies/tbpetitions/Pages/IndividualCommunications.aspx

[3] https://www.amnesty.org/ar/wp-content/uploads/2021/05/IOR4007692019ENGLISH.pdf

[4] https://www.aljazeera.com/news/2020/1/23/after-icj-ruling-myanmar-denies-genocide-against-rohingya

National

Under the purview of assessing regional and global mechanisms to address the violation of rights, one must look at the domestic mechanism, as the exhaustion of domestic remedies is usually the first step in seeking redress for human rights violations. This step requires that a person attempt to use the available national legal protections to seek accountability or reparation for the violation, appealing as necessary until the claim can be pursued no further at the national level. If a person does not receive an adequate remedy from a national body, then the group or individual may submit a complaint - a submission alleging human rights violations - for consideration by an international human rights court or mechanism.

The FLEX 2021 discussion showcases disappointment in national mechanisms in addressing retrogression and capture. The main culprit in the inability of national mechanisms to respond to the retrogression of rights is the *rise of populist authoritarian leaders* in the region. The head of State in several Southeast Asian countries dismissed issues of human rights (especially women's and LGBTIQ rights) to preserve the political hegemony that

enabled the ruling party to retain power. In addition, authoritarian leaders often utilise repressive laws to stifle dissent through misuse of overbroad and vague national sovereignty arguments that put women's bodily authority, as well as sexuality, on a pedestal.

Furthermore, the FLEX participants also highlight the *lack of resources and awareness of gender and SOGIESC issues within the National Human Rights Institutions (NHRIs)*. In Mongolia, the NHRI is severely underfunded, and the selection of the chairperson often poses questions due to a lack of independence. Participants also shared more examples of NHRI commission and staff knowledge gaps in regards to SOGIESC, which contribute towards some of their actions that endorse anti-rights narratives, with emphasis on traditional family and heteronormativity values. Lastly, the absence of protections for women human rights defenders within the NHRI's area of work was also increasing feminists' vulnerability in utilising the national or global mechanisms, given the risks of reprisals.

Regional

In Asia, there are two major regional mechanisms, namely the Association of Southeast Asian Nations (ASEAN) and the South Asian Association for Regional Cooperation (SAARC). Both mechanisms are State-led and often seen as prioritising economic interests. Furthermore, the ASEAN Human Rights Declaration (AHRD) was adopted by the ASEAN States in 2012. However, AHRD is not fully compliant with international or even constitutional norms of its members, due to its content in challenging the universality of human rights, allowing broad and all-encompassing limitations on rights, as well as balancing State-imposed duties with the protection of rights.[5]

The FLEX participants shared a sense of discouragement regarding ASEAN mechanisms, mainly due to the State's disproportionate use of 'non-interference principles and consensus decision-making processes that are often known as the 'ASEAN way' of dealing with human rights violations in the region. These flaws contribute to the bloc inaction towards gross human rights violations in the region, such as the Rohingya genocide and Myanmar military coup. However, there was also a feeling that civil society

needed to be 'patient' given the newness of the rights mechanism within ASEAN. Nevertheless, after ten years of treading water, the slow evolution of the ASEAN human rights mechanism signifies a symptom of retrogression of rights in the region.

As for the regional context, ASEAN feminists highlighted the existence and also the domination of government-organised non-governmental organisations (GONGOs) as key anti-rights actors within the bloc. GONGOs often endorse anti-rights rulings in ASEAN and take over space of participation. Furthermore, FLEX participants shared how some ASEAN officials dismissed and invalidated the lived experiences of LGBTIQ people and people with disabilities in an open forum.

In alignment with the bloc inaction and hindrance in participation, given the geopolitical clout of ASEAN, is there evidence that it can be influential in addressing accountability gaps of member States or corporate power? Is there any merit in engaging with ASEAN?

> "We've been trying so many times (to make the ASEAN mechanism effective). So since like decades ago, to ask the place at least, check and balance and accountability on the implementation of human rights principles among members, but actually it doesn't work. It's still stuck. It's still at the same place now."

> "ASEAN has a tendency not to interfere with the national issue, even for the biggest issues, for example, like Rohingya and even in Myanmar (coup) right now, there isn't anything substantial that has been done by ASEAN."

In the context of SAARC, there is barely any concept of Asian solidarity or voice on international issues or human rights violations, because members are busy with oneupmanship or bilateral issues (e.g. India, Pakistan, China in the context of Taliban recapture of Afghanistan). Hence, the mechanism is far from effective.

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[5] https://www.icj.org/wp-content/uploads/2013/07/ASEAN-leaflet-240713.pdf

Global

The FLEX participants defined the UN as a major global multilateral system and affirmed the OURs report on the domination of anti-rights actors within the global system, especially the UN. The anti-rights actors attacked the UN system by lobbying the State to opt out of international agreements, defunding agencies, entrenching regressive norms, and undermining accountability. Overall, the anti-rights actors' infiltration strategy in the UN includes infiltration in the NGO committee, lobbying for the key official positions (mostly on sexuality and bodily authority in regards to contraception and abortion access), promoting a parallel human rights framework (such as the Geneva convention, which supported by Asian countries to banned abortion and upheld harmful family values),[6] training to influence delegates (which encapsulates the inability of the Commission on Population and Development to achieve the outcome document), and mobilising anti-rights youth to infiltrate youth spaces. The groups are extremely well funded, which allows them to flourish.

In addition, the FLEX discussion also touches on how the independent global human rights bodies with strong mandates, such as the treaty bodies, do not work together and are sometimes even influenced by conservative State politics. However, the Sri Lankan civil society is still willing to utilise the treaty bodies as well as the Human Rights Council, given its potential to uphold women's and LGBTIQ rights. Nevertheless, there's a robust effort made by the UN official to make these spaces more accessible to women and LGBTIQ people from all backgrounds.

During the discussion, there's also an opinion that women's rights and feminist groups are very much fixated on 'traditional' spaces for participation, such as the Commission on Status of Women, and omit engagement in trade, security, and development platform. In alignment with that opinion, the FLEX participants reflected on how COVID-19 restrictions and limitation of funding, coupled with the scarcity of public information, influence feminist and rights groups' limited ability to engage in other platforms or to respond to weaknesses in international mechanisms.

> *"There's like one row that civil society or NGOs shares with UN agencies. So if you're lucky enough, you may be able to get a seat. But of course, that's if you have the passport or the visa, to get to Geneva, the money to get there in person … so, ECOSOC status, in other words, and of course, that favours a lot of the international or Global North NGOs in the first place … Participation that NGOs are afforded is very restricted; you're able to speak in the formal meetings, but only if you signed up for a speaking slot way in advance, and if you were lucky enough to get on the list, so that you will get a chance to speak. And when you finally do, it's usually limited to one minute, 30 seconds … this kind of exclusion has always been the case."*

The mishap of the global mechanism's top-down approach also deeply affected Asian feminists, as well as enabled negative norm diffusion from international to the national and regional mechanisms, as well as policy that further weakened protection of women's and LGBTIQ rights.

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[6] https://www.washingtonpost.com/world/2020/10/22/trump-geneva-consensus-abortion-family

Response and effectiveness of multilateral system

Visioning a feminist multilateral system to better address retrogression and capture

The main discussion point around visioning a feminist multilateral system was the urgent need for a radical transformation towards reshaping patriarchal and authoritarian state control over the mechanism into a people-oriented approach. The transformation of power is vital to ensure the multilateralism platform's ability to demand StateState and non-state accountability for retrogression of rights, as well as enabling meaningful participation of individuals or groups, especially from the Global South, who are most affected by the rulings, decisions or norms - namely feminists, women, girls, LGBTIQ people, indigenous people, people with disabilities, migrants and refugees. In order to achieve this aspiration, key areas of discussion within FLEX convening included:

Rewiring the modus operandi of multilateralism

- Giving legitimacy and accountability to the people, and not letting the mechanism centre with the (political) agenda of the ruling government or authoritarian leader. *This also includes demanding that staff/bureaucrats of multilateral bodies are accountable to the people (beyond the State authorities); and defining rules of engagement between CSOs and functionaries of any system (local or multilateral).*

- Reshaping the notion of effectiveness is essential. Effectiveness should not be reduced to the number of meetings and phraseology of the outcome document, but rather focus on meaningful participation of feminist groups or activists, timeliness, and compliance of perpetrators to implement recommendations.

- Firm and powerful mandates to protect human rights, with full political support from the stakeholders.

- Open and democratic selection mechanism that enables women's participation and upholds the independence of key leaders, representatives, and commissions.

- Sufficient resources for the mechanism, without any conditionality that might affect its independence.

Multilateralism as a reflection of grassroots realities: moving beyond disconnection and silos

- Ensuring follow-up and alignment at the country level

- Moving beyond the modality of working in silos, and looking at intersectional approaches to human rights and ecological justice issues.

- The feminist view of a multilateral system for human rights should link and mirror our local politics and strategies. It is imperative to ensure these connections to avoid hesitancy to engage with the regional or global mechanism. #EmptyChairs and OURs can be utilised as models to build the bottom-up connection from local to the global mechanism.

Issues left un/under-explored, possibly unnamed

Feminist multilateralism will only come to fruition when feminists strategically and intentionally resist and recapture the platforms. Furthermore, for future discussion, it is essential to deep dive into 'what's next' for multilateralism. With the failure of states to uphold human rights in the multilateral system and visioning towards a better system, how can we rally together for a feminist approach in multilateralism? In addition, as power dynamics that decide who can participate in multilateralism also operate even within feminist and human rights movements, discussion must take place to ensure steps to dismantle the practices.

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Red flags

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Red flags: watch out!

When we become aware of what retrogression and capture mean with regards to human rights, we will start to notice 'red flags'. Red flags are warning signs that indicate impending danger or problems. In the human rights context, red flags are concerning or worrying developments that could potentially have an impact on the extent to which human rights are upheld, fulfilled, and protected, especially for vulnerable and marginalised groups.

What are red flags?

There are many different terms for red flags, both in English and other languages. Some alternative terms identified by the FLEX 2021 participants included:

Bad sign   **Omen**   **Alert**

Toxic   **Foreboding**

A sign to stop or be careful

Cue to RUN!

FLEX participants shared some interesting thoughts on their local contexts around the interpretation of 'red flags'. In several countries, red flags made participants think of resistance and rebellion, while in Mongolia, a participant pointed out that a red flag has a positive meaning because it marks a milestone achievement. This reaffirms that while we all know in our minds what red flags are, the language we use to discuss warning signs differs across the region.

Why do we need to talk about red flags?

To effectively respond to retrogression and capture of human rights, we need to be aware of the warning signs. Some of these signs may seem harmless or innocuous by themselves; others might be more alarming. When analysed as a whole, either at a country level or a regional level, it becomes clear that much of the Asian region is facing significant challenges to human rights, democracy, and freedom.

The regional map is, unfortunately, full of red flags. Recognising them enables us to align local strategies with global agendas to push back against retrogression and capture.

What do red flags look like and how do we identify them?

After the facilitator shared some examples of red flags from Indonesia and Singapore, such as the increasing involvement of the State Intelligence Agency in Indonesia's COVID-19 response and Singapore's new Foreign Interference (Countermeasures) Act, FLEX 2021 participants were easily able to pinpoint tens of red flags on retrogression and capture from across the region. Participants shared that they can particularly see red flags appearing in recent laws and regulations, including how they were developed and enacted, and in the ways states engage (or do not engage) with local civil society and international human rights mechanisms.

Several broad themes can be identified in the Asian region:

State reluctance to engage with international human rights mechanisms	Militarisation and use of militaristic symbols	Expanding influence of religious groups on human rights		Cybersecurity, critical speech, and self-censorship
Several Asian states are reluctant, or simply unwilling, to engage with international human rights mechanisms such as CEDAW. While some states delay and obfuscate, submitting their CEDAW reports many years behind schedule, others straight out refuse to engage with international processes and mechanisms. FLEX 2021 participants highlighted that this is often (successfully) sold to a domestic audience as a pushback against Western values and/or neocolonialism; it is thus very hard for feminist organisations to combat this argument, especially as feminism is already largely seen as a Western movement. For Southeast Asian nations, governments often prefer to engage with ASEAN rather than alternative international bodies (such as various UN agencies), primarily due to ASEAN's non-interference policy, which essentially acts as a guarantee that other Southeast Asian nations will not explicitly demand an end to human rights violations in neighbouring countries.	FLEX 2021 participants from multiple countries noted that their nation's militaries are becoming more powerful and/or more visible, especially in 2020-21 during the pandemic, and that public officials increasingly appear in military/quasi-military uniform. Current or former military leaders have also recently been appointed as senior ministers (such as the 2019-20 Minister of Health in Indonesia), or as COVID-19 response commanders/chiefs in several nations (including Indonesia's closest neighbour, Australia). In one country, the prime minister (ex-military) also prefers to give a military salute in lieu of traditional greetings, leading to other officials adopting the gesture. The increasing use of militaristic symbols can be considered a red flag because of close ties between militaries and authoritarian regimes across the world.	In several countries, religious groups are increasingly powerful. They are frequently consulted by government agencies as stakeholders on proposed policies and programmes, including those relating to women's rights and gender equality. Religious groups are also becoming noticeably more active in contributing to the development of laws and regulations, such as Islamist advocacy against the Draft Bill on the Elimination of Sexual Violence in Indonesia. This is in sharp contrast to feminist groups and women's rights defenders, who are largely shut out of government and parliamentary consultation processes across the region, such as in Malaysia where the	Ministry of Women refused to meet with women's CSOs during the pandemic. An extreme example of the expanding influence of religious groups is the selection by President Joko Widodo of Ma'ruf Amin, the head of the Indonesian Ulema Council (MUI), as his deputy for the 2019 election, and Amin's refusal to step down from MUI despite a clear conflict of interest. Interestingly, participants identified Amin's selection as a red flag rather than retrogression because his potential influence on decision making does not appear to have eventuated.	FLEX 2021 participants identified that online spaces, especially social media platforms, are becoming not only increasingly divided but also increasingly monitored by government and law enforcement agencies. Cybersecurity concerns among feminists are significant, with human rights defenders frequently being digitally attacked, threatened with physical harm and sexual violence, and even doxxed. Complicating this are laws such as the Electronic Transactions and Information Law (UU ITE) in Indonesia, which in the last five years has been regularly used to prosecute critical online speech. Consequently, a silencing effect has been felt, with both activists and lay people self-censoring in order to avoid criminalisation.

Manipulation of online discourse

In addition to increasingly persecuting critical online speech, governments across the region are attempting to manipulate online discourse. The individuals involved come from an array of backgrounds: some are civil servants or law enforcement officers, while others are lay people who are paid or otherwise supported to manipulate discussions. In the Philippines, Malaysia, Indonesia, and India, government-sponsored influencers (referred to as 'buzzers' in Indonesia and 'cybertroopers' in Malaysia) deliberately stir up online debate, especially on controversial topics, and regularly attack outspoken individuals such as human rights defenders and academics.

Government-developed mobile phone apps required during pandemic

Globally, mobile phone apps have become required to participate in many public activities and to use public services. This includes the Asian region, where apps such as MySejahtera in Malaysia and PeduliLindungi in Indonesia have become crucial to everyday life. Individuals who refuse to use these apps, including for security reasons, are all but excluded from services and public spaces. FLEX 2021 participants mentioned their long-standing concerns about how governments and law enforcement agencies can use the data collected through these apps, including location and GPS information.

Capture and use of feminist terminology

Working with men and boys is a crucial part of feminism. However, there is an increasing tendency, especially from multilateral agencies, to view male involvement as critical and to include the discussion of 'men's rights' in the gender-mainstreaming discourse. In several countries, such as Mongolia and the Philippines, the concept of 'gender' is being used in dissociation from systemic patriarchal oppression, resulting in the diversion of funding and attention away from women's rights. One global example of this is the #HeForShe campaign. Men are taking up space that is meant for women and LGBTQ+ people, such as talking about women's and queer issues even though they do not have lived experience, or even openly pushing back against feminism because men are afraid they will lose their power and positions. This co-optation of women's platforms - which are minimal and marginalised in the first place - is a significant red flag that is likely to become full-blown retrogression and capture across the region in years to come.

Unequal space for women and insufficient attention to 'women's issues'

Issues that affect primarily women continue to be sidelined and receive insufficient attention. A key example of this is women's health, with abortion remaining heavily restricted across much of Asia. In Indonesia, the Ministry of Health is seen as having 'closed the doors' to women's NGOs when it comes to issues such as safe abortion, because they are seen as too pushy and 'not neutral'. Meanwhile in politics, women's participation remains minimal at the national level, with few female candidates supported for high-profile positions, such as in the Philippines, where there is often only one or two female presidential candidates in comparison to five male candidates.

Under-explored topics for future discussion

Due to time constraints, several topics could be explored in more depth in the future. These include public-private partnerships; human rights and gender equality commitments that are voluntary rather than mandatory; the roles and (dominating) contributions of international NGOs, government-organised NGOs, NGOs founded and/or run by current or former politicians, and NGOs that do not undergo natural revitalisation and new leadership; funder-driven politics and civil society, especially in the case of international philanthropic and government agency funding for local organisations; and how some governments, politicians, right-wing groups, and media outlets intentionally highlight controversial/sensitive issues, such as LGBTQ+ rights and communism, to push their own agenda.

ReFLEXion

Strategies and way forward

About this paper: what this paper is and is not

The Feminist Learning Exchange: Defining Retrogression and Capture in the Context of Women's Human Rights in Asia (FLEX) aims to consolidate feminist knowledge and analyse the social, political, economic and legal context of women and marginalised groups organising to claim their rights; and to understand how women's rights groups advocate for the rights of marginalised groups, defining the challenges and issues within their local contexts. In order to achieve these objectives, FLEX, led by IWRAW AP and in partnership with the Sexual Rights Initiative, plans to conduct several activities. These include a virtual feminist learning exchange workshop aimed at building common understanding and contextualisation of retrogression and capture. The virtual workshop was organised on 13-14 October 2021 and brought together a diverse group of women, youth, tech and LGBTIQ activists from India, Indonesia, Malaysia, Mongolia, Pakistan, the Philippines and Sri Lanka.

This paper is a reflection on the FLEX virtual workshop, and therefore not a research report or a desk review of challenges to women's rights and social justice activism in the region. This is a reflective pooling together of the perspectives and lived experiences of feminist activists, informed by the rich body of feminist, activist and social scientific analyses.

Strategies for responding to retrogression and capture

The FLEX 2021 discussion identified four key thematic areas of pressing retrogression and capture in Asia:

Retrogression and capture of feminist agenda;

Media, freedom of speech, and right to information;

Women, peace, and security (including sexual and gender-based violence [SGBV] and criminalisation of women human rights defenders);

Culture, religion, and retrogression.

In small groups, FLEX participants shared some of the strategies and tactics they utilise locally, nationally, and regionally to address the above matters.

Allyship and solidarity, including globally	Combination of online and offline activism	Engagement with and capacity building of media	Establishment of new services to respond to violence (digital and offline)	Advocacy with governments, lawmakers, and businesses
Allyship is a natural part of activism for younger generations, with fewer concerns about organisational 'branding' or name recognition, as well as more interest in reaching out to the broader community to encourage more people to become involved in a movement. For example, in Indonesia, Jakarta Feminist began engaging with members of the BTS Army (fans of Korean pop group BTS) in 2021 to hold joint events advocating for the ratification of the Draft Bill on the Elimination of Sexual Violence (RUU PKS). Participants also highlighted that lawmakers and law enforcement often only act after an incident becomes 'viral' - that is, after it gains a high level of attention on social media and/or in mainstream media. In alignment with that, joining a coalition is an important strategy to galvanise support and public knowledge, such as on the repression of freedom of expression in multiple Southeast Asian countries. In order to draw attention to internet shutdowns in Papua and Myanmar, SAFEnet joined a coalition with global groups like Access Now.	Despite valid concerns about 'clicktivism', FLEX 2021 participants reported that online activism was crucial to their work. Digital platforms are incredibly useful in raising public awareness and garnering support for advocacy activities in Asia, and are regularly used in combination with 'traditional' offline activities such as protests. An excellent example is the Milk Tea Alliance, a pro-democracy regional alliance of organisations and communities across Southeast Asia who are standing up against repressive regimes in Myanmar, Thailand, and Hong Kong. The Milk Tea Alliance is a rare example of cross-country solidarity in Asia and has been incredibly influential in encouraging young people to become involved in civil society movements. The Alliance is also notable for the high number and prominent roles of young feminist women and allies.	KRYSS Network shared that not all media are independent; some promote government hegemonic narratives that favour repression of sexuality. These include the frequent sensationalisation of content about trans people, and sometimes journalists doxx trans people in order to get news material. Therefore, the media has a lot of power to shape the public discourse on women and LGBTIQ issues. In response to this, KRYSS Network developed a gender guideline on reporting, to address the normalisation of violence in Malaysia and ensure that published news is human-rights-centric.	SAFEnet established a hotline for people experiencing digital attacks, and developed easy-to-understand guidelines on psychological first aid, laws that can be utilised to address incidents, and how to communicate with police and digital platforms. Jakarta Feminist developed Cari Layanan (carilayanan.com) as a national online directory for victim-survivors of gender-based violence to find civil society organisations that can provide legal aid, counselling, medical help, safe houses, and other services.	Feminist movements in Asia work strategically to create policy change through advocacy with government (local and national), lawmakers, and businesses (especially multinationals) in addressing retrogression and capture of human rights. These advocacy strategies are usually carried out as collective efforts, taking evidence from the field and using it to push influential parties to act. An example of proactive advocacy from Indonesia is SAFEnet's efforts to demand the Ministry of Women's Empowerment and Child Protection to recognise online harassment as a form of SGBV. In addition, SAFEnet also shared advocacy efforts to demand tech company accountability and inclusion of safeguards towards the protection of women and the LGBTIQ community. In Malaysia, however, participants explained that they have had significant difficulties getting tech companies to respond to and take seriously reports of online SGBV, hindering their advocacy efforts and ability to affect change.

Research and evidence generation	**Utilisation of religious and cultural approaches**	**Reduced engagement with national and sub-national human rights institutions**	**Digital security capacity building**
To support their advocacy, SAFEnet conducted extensive research on how women human rights defenders (WHRDs) face online SGBV and doxxing, which impacts their safety and ability to enjoy freedom of expression. Furthermore, these online attacks and smear campaigns against WHRDs often focus on their (perceived) (im)morality and relationship status. These online attacks can be easily observed on social media platforms like Twitter.	FLEX 2021 participants highlighted the continued importance of incorporating religious and cultural approaches into their work in order to reach and change the perspectives of 'conservative' audiences. For example, when faced with questions about religion and feminism, it remains effective to have a religious woman tackle these topics, as she is more likely to be trusted and believed than secular feminists, especially in countries where religion remains a key part of everyday life for the majority of the population.	Following disappointing results (or even no results) after previous engagements with national human rights institutions (NHRIs) and sub-national commissions, multiple feminist organisations shared that they had begun to reduce their interactions with such bodies. For example, women's groups had been supporting the efforts of the Mindanao Peace Commission in the Philippines, but found that there was little progress on SGBV and women's rights more broadly due to the formal nature of the Commission.	Purple Code Collective and Jakarta Feminist provide digital security capacity building for women's and LGBTIQ organisations and communities in Indonesia. Particular efforts are made to ensure that this capacity building is accessible to people with disabilities, especially those with hearing impairments.

Challenges

In addition to successful strategies and tactics, during discussions the FLEX 2021 participants also identified several challenges being faced by feminist movements in Asia. They include:

- Too many issues requiring advocacy and solidarity, resulting in being spread thin and thus limited ability to effectively challenge retrogression and capture;

- Tendency to be reactionary (especially to large events that gain high levels of media coverage) rather than proactive in determining advocacy activities;

- Ongoing debates around identity politics: is it more effective to focus on advocating for rights in the context of individual identities or collective rights? How do we act effectively through solidarity to achieve feminist goals?;

- Hesitancy in speaking out on certain debates due to concerns about backlash or a lack of in-depth knowledge on the topic at hand (e.g., constitutional law knowledge);

- Difficulties in advocating for change in the face of long-term cultural, religious, and ethnic norms and values;

- Erasure by government and dominant groups of feminist figures from history, leading to misconception that feminism is a new and Western approach.