

AIRAANZ 2018

**Labour rights for women in
the Philippines, Indonesia,
Myanmar and Vietnam:
Protection, Equality,
Disruption**

Marian Baird and Elizabeth Hill
(RA: Sophia Johnson)

(Research funded by DFAT through the
Investing in Women Initiative)



**WOMEN, WORK AND CARE
IN THE ASIA-PACIFIC**

Edited by Marian Baird, Michele Ford and Elizabeth Hill



- DFAT Project Aim – to empower women in SE Asia
- Our research question:
- Does labour legislation promote women's economic empowerment?

Theoretical debates of impact of legislation - on women

CLS

- Human rights ('universalist' / 'masculinist protective state' approach criticised by feminist scholars; eg Young, 2003; Elias, 2007; Steans, 2007; Hilary Charlesworth, 1994)
- Labour rights (Marshall and Fenwick 2016)

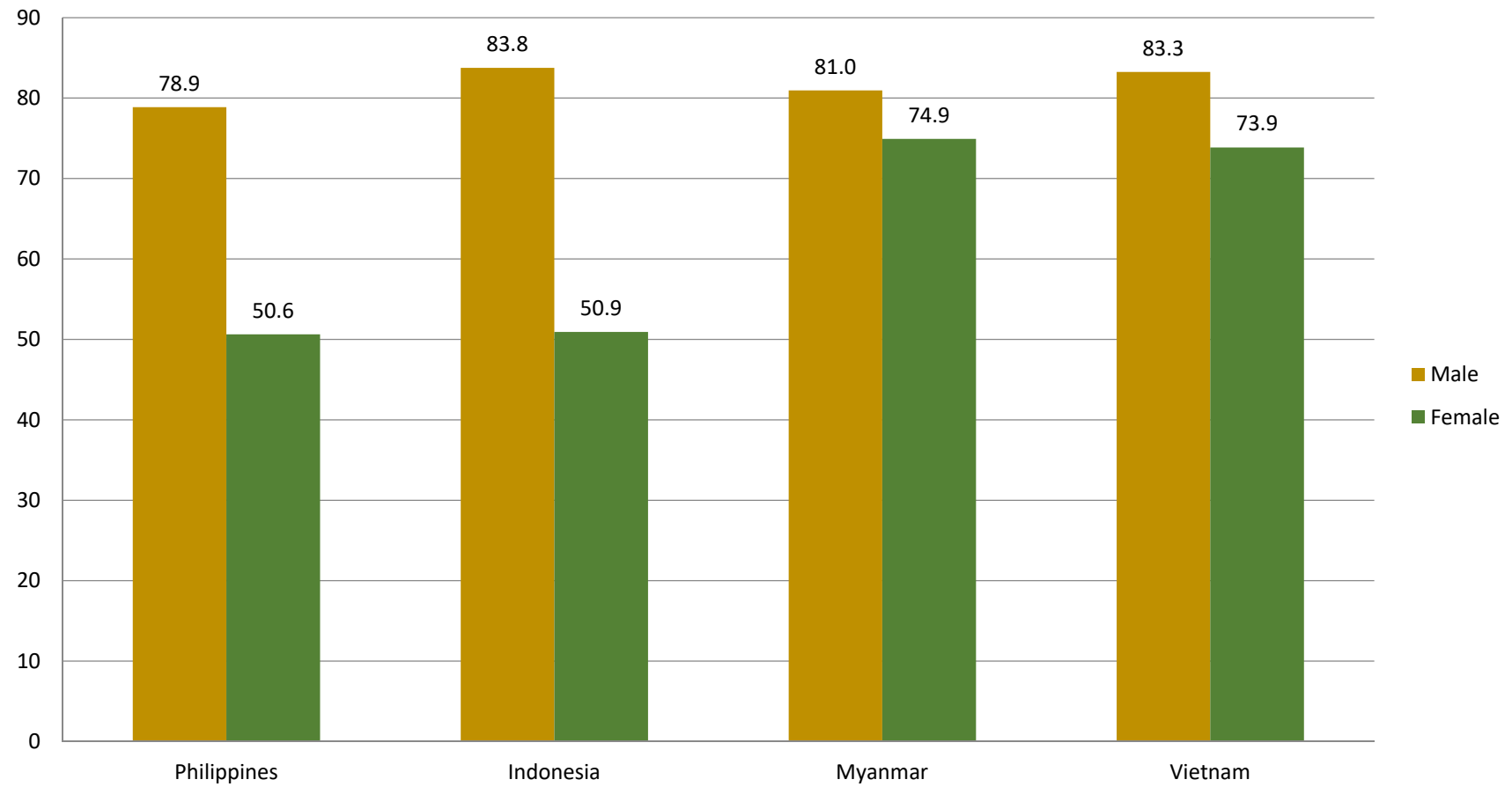
Labour Laws

- Lead economic development v follow economic development – linear relationship or 'systemic interaction' (Deakin, 2016)
- Assist economic growth v impede economic growth
- Lift standards v irrelevant and unenforceable
- Provide normative benchmarks or not recognised

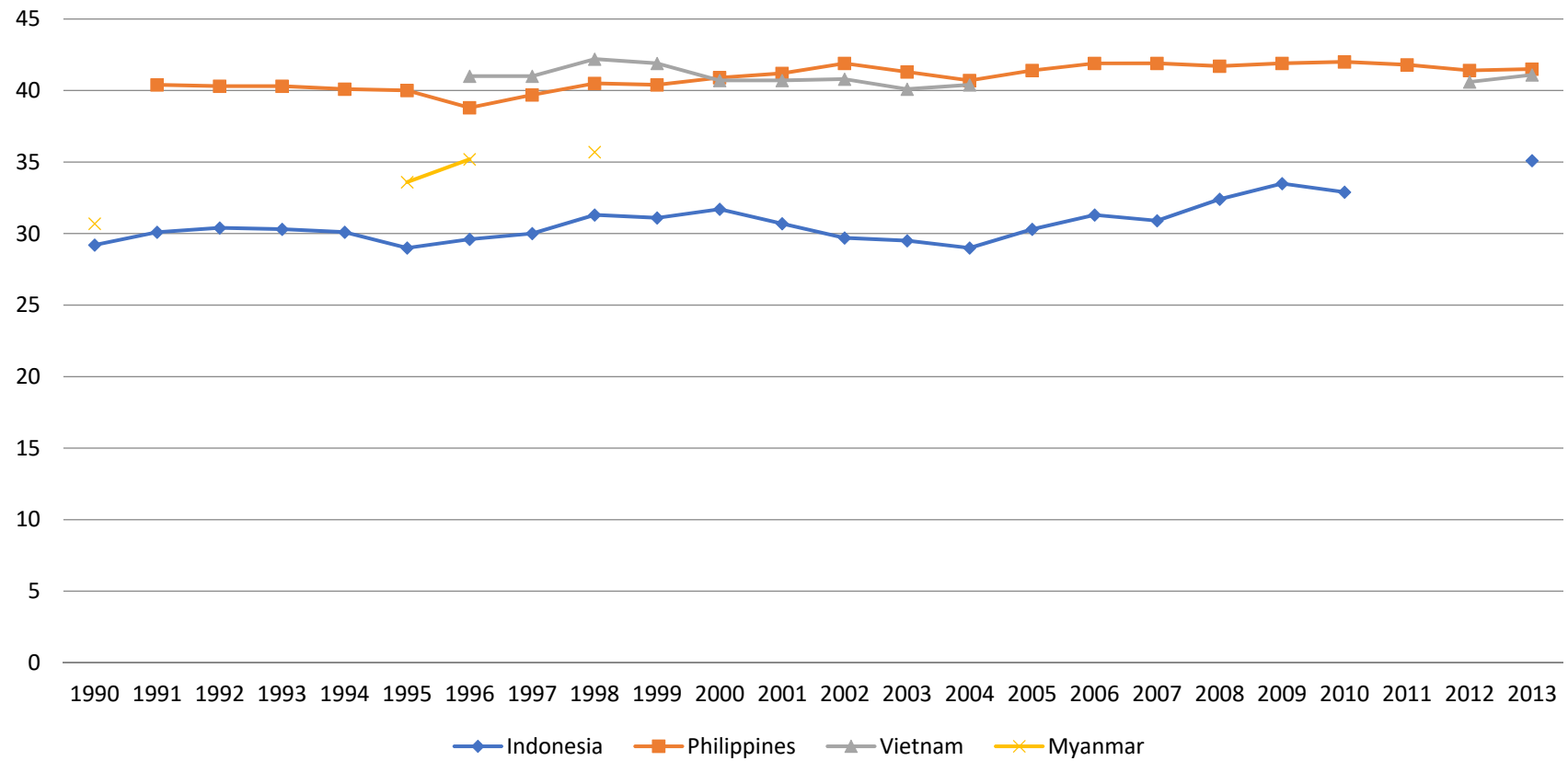
Gender Analysis

- Analyses typically gender blind.
- To take a gender lens, examine policies for their intent or objective:
 - **Maternal protection?**
 - **Equality or difference?**
 - **Economic empowerment?**
 - **Alter/disrupt gender order?**

Labor force participation rate, 2016



Share of women in wage employment in the nonagricultural sector (% of total nonagricultural employment)



Core Labour Standards

Conventions	Philippines	Indonesia	Myanmar	Vietnam
C029 – Forced Labour Convention, 1930	In force since 15 Jul 2005	In force since 12 Jun 1950	In force since 04 Mar 1955	In force since 05 Mar 2007
C087 – Freedom of Association and Protection of the Right to Organise Convention, 1948	In force since 29 Dec 1953	In force since 09 Jun 1998	In force since 04 Mar 1955	
C098 – Right to Organise Collective Bargaining Convention, 1949	In force since 29 Dec 1953	In force since 15 Jul 1957		
C100 – Equal Remuneration Convention, 1951	In force since 29 Dec 1953	In force since 11 Aug 1958		In force since 07 Oct 1997
C105 – Abolition of Forced Labour Convention, 1957	In force since 17 Nov 1960	In force since 07 Jun 1999		
C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	In force since 17 Nov 1960	In force since 07 Jun 1999		In force since 07 Oct 1997
C138 - Minimum Age Conventions, 1973 (Minimum age specified: 15 years)	In force since 04 Jun 1998	In force since 07 Jun 1999		In force since 24 Jun 2003
C182 - Worst Forms of Child Labour Convention, 1999	In force since 28 Nov 2000	In force since 28 Mar 2000	In force since 18 Dec 2013	In force since 19 Dec 2000

National labour laws – summary*

(note to be confirmed)

Law	Philippines	Indonesia	Myanmar	Vietnam
Protection from night working	✓	✓	✗	✗
Menstrual leave	✓	✓	✗	✓
Maternity leave with pay	✓	✓	✓	✓
Explicit job guarantee after maternity leave	✗	✗	✗	✗
Breastfeeding breaks	✓	✗	✗	✓
Subsidised child care at workplace	✗	✗	✗	✓
Sexual harassment unlawful	✓	✓	✗	✓
Equal pay	✓	✓	✓	✓
Non discrimination in hiring	✓	✗	✗	✓
Paternity leave	✓	✓	✓	✓
Domestic Violence unlawful	✓	✓	✗	✓
Protection of domestic workers	✓	✓ (abroad only)	✗	✗
Flexible/part-time work	✗	✗	✗	✗
Child care/subsidy at work	✓	?	✗	✓

Observation and Trends (1.)

- The earlier developers, Philippines and Indonesia, have protective legislation for female night workers, but not so in Myanmar and Vietnam – suggesting norms have changed and this has become less of an issue in contemporary emerging economies.
- Menstrual leave, a leave not common in the west and developed nations, is available in three countries, Philippines, Indonesia and Vietnam. Good reason when consider type and location of work – physically demanding and isolated (eg mining).
- Maternity leave and with pay – 100 days 100% in Philippines; 90 days and 100% in Indonesia; 98 days in Myanmar (120% for 8 weeks following birth); and 6 months as 100% in Vietnam.
- No clear job guarantee after maternity leave in any of the four countries, although discrimination against women who are pregnant or on leave is unlawful.
- Legislation specifically addressing sexual harassment exists in three countries, but not Myanmar.
- Equal pay and remuneration legislation in all four countries, although use slightly different language – ‘work of equal value’ (Philippines); equal pay for equal work (Indonesia); ‘similar work’ (Myanmar).
- Non-discrimination in hiring most strongly expressed in the Philippines, and in Vietnam the state encourages employers to give priority to recruiting women for ‘work that is suitable for both males and females’.

Observation and Trends (2.)

- Paternity leave, since 1996 7 days for Philippines, more recent in Indonesia (2 days, 2015); Myanmar, (15 days, 2012) and Vietnam, (5 days, 2014). Suggestion of shift in gender norms.
- Legislation prohibiting domestic violence in all four countries, (2004 Philippines, 2006 Indonesia and 2014 Vietnam – encroaching into the private/domestic sphere. ***But no domestic violence leave from work (paid or unpaid).***
- Legislation covering domestic workers only exists in Philippines (2012), and for Indonesian domestic workers while abroad (2004).
- No legislation, except for solo parents in the Philippines, promoting the right to flexible working conditions.

Logics of labour legislation and gender equality

	Law	Philippines	Indonesia	Myanmar	Vietnam
<i>Protecting Women specifically</i>	Protection from night working	✓	✓	✗	✗
	Menstrual leave	✓	✓	✗	✓
	Protection for domestic workers	✓	(abroad only)	✗	✓
	[domestic violence unlawful]	✓	✓	✗	✓
<i>Protecting Women as mothers</i>	Paid maternity leave	✓	✓	✓	✓
	Job guarantee on return from maternity leave.	✗	✗	✗	✗
	Breastfeeding breaks	✓	✓	✗	✓
	Workplace childcare	✓	✗	✗	✓
<i>Formal gender equality</i>	Equal pay	✓	✓	✓	✓
	Non-discrimination in hiring	✓	✓	✓	✓
	Sexual harassment unlawful	✓	✓	✗	✓
<i>Challenging and disrupting work/care; public/private norms</i>	Paternity leave	✓	✓	✓	✓
	Flexible/PT work	(sole parents only)	✗	✗	✗

Conclusions

- Gender lens shows:
 - Maternal protection, a strong focus → excludes women from sectors of the economy; preconceptions about equality rather than examining nature of the work itself for men and women
 - Some shift to equality legislation, but not emphasized and language contestable (except perhaps Philippines).
 - Emerging interest in paternity leave – but effect on gender order not yet known.
 - Recent attention to sexual harassment and domestic violence → protective legislation?; begins to bridge the public/private divide; but focus is not on job or economic security (e.g. no domestic violence leave)
 - Omissions are protections for domestic workers (except Philippines) and for flexibility at work → both markers of acknowledgment in public policy of the private/public interface.
 - States are reluctant to intervene in the gender order through labour laws; but this is necessary to empower women and facilitate economic development.

- Does labour legislation promote women's economic empowerment?
- Potentially yes, but it depends (enforcement another matter)
- Thank you: comments and feedback very welcome