

**Sixth Workshop on the ASEAN Regional Mechanism on Human Rights  
Manila, Philippines  
16-17 July 2007**

**SUMMARY OF PROCEEDINGS**

**I. Introduction**

1. The Sixth Workshop on the ASEAN Regional Mechanism on Human Rights (the Workshop) was held in Manila, Philippines, on 16-17 July 2007. The Workshop was co-organized and co-hosted by the Philippine Department of Foreign Affairs, the Commission on Human Rights of the Philippines and the Working Group for an ASEAN Human Rights Mechanism (Working Group).
2. The Workshop was attended by participants representing governments of ASEAN member-countries, the ASEAN Secretariat, the national human rights institutions (NHRIs) of Indonesia, Malaysia, the Philippines and Thailand, and members of civil society organizations. Also in attendance were representatives of local, regional and international non-governmental organizations, international institutions, and donor agencies as observers.
3. The opening remarks were delivered by Mr. Marzuki Darusman, Co-Chairperson of the Working Group. He urged Workshop participants propose clear recommendations for submission to ASEAN during the forthcoming 40<sup>th</sup> ASEAN Ministerial Meeting (AMM) in Manila. He focused on the Charter which is being drafted and hoped it would include an ASEAN Human Rights Commission. He said that the shaping of a commission enhances the principle of self-determination of ASEAN, equipping it with the autonomous capability to assess the state of universal rights in the area consistent with international human rights standards and norms, an assessment which has been consistently dominated by external human rights evaluations of the international community. Mr. Darusman ended by saying that a regional human rights mechanism, in truth, reinforces self-determination.
4. The Keynote Address of the Philippine Secretary of Foreign Affairs, the Honorable Dr. Alberto G. Romulo, was delivered by the Honorable Franklin M. Ebdalin, Acting Secretary of Foreign Affairs and Undersecretary for Administration of the Department of Foreign Affairs. H.E. Ebdalin stressed that ASEAN and its stakeholders place great significance on the promotion and protection on the human rights of all its constituents and noted how the Vientiane Action Programme (VAP) specifically lists down program areas on human rights. He said that "the establishment of a regional human rights mechanism is an important component in the course of building an ASEAN Community and is most pertinent at this time when ASEAN is in the process of drafting a legally binding Charter". He cited the report of the Eminent Persons Group (EPG) on the ASEAN Charter which recommended that ASEAN should, as a matter of principle, commit "to develop democracy, promote good governance and uphold human rights and the rule of law, and to establish appropriate mechanisms for these purposes." With a regional mechanism in place, perhaps in the form of a commission or a council, ASEAN could establish its own norms and standards with respect to the human rights of its peoples, in accordance with the region's values, as well as with relevant instruments of international law, such as the 1948 Universal Declaration of Human Rights and other treaties to which ASEAN

member-countries have acceded to. He reaffirmed recent statements of the foreign ministers of Thailand, Indonesia and Malaysia in recent workshops in support of the establishment of the regional mechanism. He also said that the landmark achievement of the 12<sup>th</sup> ASEAN Summit in Cebu successfully held last January 2007 was the adoption of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, which recognizes and promotes migrant workers' basic rights.

## **II. Workshop Sessions**

5. The Workshop was divided into seven sessions covering the following topics: (1) Stocktaking of Efforts to Establish an ASEAN Human Rights Mechanism; (2) Efforts of National Human Rights Institutions in Advancing an ASEAN Human Rights Mechanism and on Human Rights Issues of Common Concern in ASEAN; (3) Efforts to Help Establish a Commission on the Promotion and Protection of the Rights of Women and Children; (4) The ASEAN Charter: a Window of Opportunity for Human Rights; (5) Initiatives to Help Elaborate an ASEAN Instrument on Migrant Workers; (6) Efforts to Help Promote Education on Human Rights in ASEAN; and (7) Plenary Discussion on the 6<sup>th</sup> Workshop Conclusions and Recommendations: Towards an ASEAN Human Rights Mechanism.
6. In Session One, Mr. Wigberto E. Tañada, Chairperson of the Philippine Working Group, summarized existing efforts to establish an ASEAN human rights mechanism, starting from the 26<sup>th</sup> ASEAN Ministerial Meeting (AMM) in Singapore in 1993 to the current moves to have an enabling provision included in the draft the ASEAN Charter. He mentioned ASEAN's request to the Working Group to assist in the implementation of the Vientiane Action Programme's human rights program areas. He encouraged participants to avail of the opportunity to institutionalize the system of promoting and protecting human rights through the ASEAN Charter process, with the possibility of establishing an ASEAN Human Rights Commission. Comments were given by ASEAN Secretariat's Mr. M.C. Abad, Jr., Director of the Bureau for Resource Development and ASEAN Regional Forum Unit, and Mr. Herman Joseph Kraft, of the Institute for Strategic and Development Studies, ASEAN Institutes of Strategic and International Studies (ASEAN ISIS). Mr. Abad observed that ASEAN's engagement with the Working Group is an interesting case of a success story in government and civil society interaction and hailed the establishment of the Working Group as "among the most pivotal developments since the 1993 ASEAN Ministerial Meeting Joint Communiqué". Mr. Kraft noted the disaggregation of human rights issues and stressed the importance of institutionalizing the human rights mechanism, preferably in the ASEAN Charter. The open forum focused on, among others, new developments in ASEAN such as the proposal for an ASEAN committee on migration and development, and ASEAN's engagement with civil society groups. Dr. Hafid Abbas, Director-General of the Agency of Research and Development on Human Rights of the Ministry of Law and Human Rights of Indonesia, chaired the session.
7. In Session Two, Commissioner Mohammad Farid of the National Human Rights Commission of Indonesia (KOMNAS HAM) pointed out the opportunity for standard-setting in the region and stressed whatever is developed must be "living standards" understood by the people. Commissioner Dato' Choo Siew Kioh of the National Human Rights Commission of Malaysia (SUHAKAM), remarked that the 6<sup>th</sup> Workshop represents a clear and unequivocal position of support for the regional

mechanism on human rights and expressed Malaysia's full support to provision in the Charter on the human rights mechanism. Commissioner Wilhelm Soriano of the Commission on Human Rights of the Philippines discussed the role of the National Human Rights Institutions in human rights protection and promotion. He referred to Declaration of Cooperation of ASEAN NHRIs and the commitment to support the establishment of a regional human rights mechanism. Commissioner Surasee Kosolnavin of the National Human Rights Commission of Thailand shared the Thai experience of empowering local communities to assert their economic and social rights, and the promotion and protection of the rights of women and children. He said it is necessary to link the regional mechanism with national and international mechanisms. The open forum touched on the need for NHRIs' to link on efforts to encourage other ASEAN countries to establish NHRIs. Dato Param Kumaraswamy, Chairperson of the Malaysian Working Group, chaired the session.

8. In Session Three, Dr. Sriprapha Petcharamesree and Dr. Varaporn Chamsanit of Mahidol University's Office of Human Rights Studies and Social Development discussed the preliminary results of the ongoing research on the establishment an ASEAN commission on the rights of women and children. The research considered two questions: (1) Is ASEAN ready for the establishment of such a commission; and (2) How should such a commission look like? Among the issues raised during the consultations conducted as part of the research were: (1) the founding document for the establishment of the commission; (2) types of rights to be covered; (3) timelines; (4) structure; (5) mandates and functioning procedures; (6) sources of funding; and (7) avenues for civil society participation. Commentators for the session were Mrs. Ma. Elena Caraballo, the Deputy Executive Director of the Philippine Council for the Welfare of Children and Mr. Nguyen Xuan Thuy of the Ministry of Foreign Affairs of Viet Nam. The open forum considered, among other things, questions regarding the inclusion of women and children who are also refugees and asylum seekers in the coverage of the possible commission, recommendations about a separate workshop, the dissemination of the report and the possibility of a further situation analysis. The session was chaired by Ms. Braema Mathiaparanam, a visiting research fellow with the Institute of Southeast Asian Studies in Singapore.
9. In Session Four, Ambassador Rosario Manalo, Chairperson of the High Level Task Force (HLTF) on the Drafting of the ASEAN Charter, discussed the Charter as a window of opportunity for human rights. She talked of the guidelines adopted by the HLTF in their work and the directive of the ASEAN foreign ministers that the HLTF should come up with an enabling provision in the Charter to institutionalize an ASEAN Human Rights Commission. She said that the HLTF is no longer talking about a "mechanism"; rather, it is now discussing the possibility of establishing a "Commission" as a new organ of ASEAN. The HLTF is currently in the process of negotiating the terms of reference of the possible commission. She ended by saying that the establishment of such a commission will keep ASEAN relevant and will announce to the world that ASEAN honors its human rights commitments. Ms. Thida Aung of the Ministry of Foreign Affairs of Myanmar pointed out the various processes in ASEAN at present, the fact that the Working Group has continuously engaged the EPG and the HLTF, the conclusions of the Second Roundtable in Jakarta last year, and the Declaration of Cooperation entered into by the four ASEAN NHRIs. She expressed reservations about rushing processes and opined that the establishment of a commission may be premature in view of the differing comfort levels of some ASEAN

countries and the fact that there are only four NHRIs in ASEAN at present. She also noted that the HLTF is still in negotiating the terms of reference. The discussion during the open forum focused, among others, on the need for a commission to establish ASEAN's relevance and credibility, sovereignty issues, the observation that membership in a regional commission does not depend on a state having an NHRI, and the possibility of Asia Pacific region being inspired by the ASEAN experience of setting up a regional mechanism. The Working Group's Mr. Marzuki Darusman chaired the session.

10. In Session Five, Mr. Dwi Kurnia Indrana Miftach of the Department of Foreign Affairs of Indonesia spoke on Indonesia's commitment to protecting the rights of migrant workers, The ASEAN Declaration for the Promotion and Protection of the Rights of Migrant Workers. Mr. Miftach said that if the ASEAN Charter is to be effective it must achieve a higher level of awareness among ASEAN citizens. To truly be a regional project, it must not be merely a bureaucratic effort but instead must be promoted and accepted by the citizens of ASEAN countries. Mr. Sinapan Samydorai of Task Force on ASEAN Migrant Workers, spoke about recent consultations with trade unions in Indonesia. He stressed that related provisions in the Charter should not focus solely on "migration" and its economic effect, but must emphasize the individual workers, their families, and the social and cultural impact of migration. He strongly urged that regional standards, based on international labor and human rights conventions, be applied. He said that the issue of migrant workers is regional, and all relevant players can contribute towards policy. A number of concerns were raised at the open forum, including how ASEAN standards will be integrated with international standards, whether bilateral agreements should be considered as a first step towards unifying ASEAN policies, or whether finding a regional minimum standard is the priority, and how to address problems faced by undocumented migrant workers, refugees and asylum seekers. This session was chaired by Atty. Evelyn Dunuan of the National Commission on the role of Filipino Women.
11. In Session Six, Ms. Paulynn Sicam of the Working Group discussed current efforts to help promote awareness on human rights in the ASEAN region. She focused on two threshold questions: (a) how can ASEAN and ASEAN member-countries promote human rights in practical terms; and (b) how, if ever, are they already promoting human rights, both formally and informally? She recommended certain actions for ASEAN, pointing out that every ASEAN member-country has already, in one way or another, began to promote human rights, in both formal and informal manners, in accordance with its state of readiness and development. Ms. Sicam ended by expressing the hope and expectation that ASEAN would continue to increase its commitment from basic awareness raising to full sustainability of human rights education, and by proposing that ASEAN nations and ASEAN itself adopt a holistic approach to human rights promotion that makes human dignity the central focus of governance and development. The UNHCR representative proposed that any human rights curriculum developed should cover the rights of all persons forcibly displaced, including refugees. The session was chaired by Mr. Arthayudh Srisamoot, Deputy Director-General of the Department of ASEAN Affairs of the Ministry of Foreign Affairs of Thailand.
12. The Concluding Session was a discussion on the Workshop's conclusions and recommendations towards an ASEAN Human Rights Mechanism. The Session Chair, the Honorable Luis Cruz, Director-General of the Office of ASEAN Affairs of the Philippine Department of Foreign Affairs, together with

the rapporteur, Mr. Carlos Medina of the Working Group, presented the draft summary of the proceedings and the conclusions and recommendations of the 6th Workshop for plenary deliberation.

13. The closing remarks were also delivered by the Honorable Luis Cruz.

### **III. Conclusions and Recommendations**

#### **General Statements and Recommendations**

14. The Workshop reaffirms the universality, indivisibility, interrelatedness, and interdependence of human rights and emphasizes the principle that the promotion and protection of human rights must go hand in hand with the narrowing of the development gap among the peoples of ASEAN.
15. The Workshop reaffirms the need for and importance of establishing a regional mechanism to promote and protect human rights in the ASEAN region and calls on all stakeholders to strengthen efforts and enhance partnerships towards its realization.
16. The Workshop appreciates ASEAN's efforts to be a truly caring and sharing community as shown by steps it has taken towards greater promotion and protection of human rights in the region. The Workshop affirms that the establishment of a regional human rights mechanism is an essential component in building the ASEAN Community and is most pertinent at this time when ASEAN is in the process of drafting a legally binding Charter.
17. The Workshop acknowledges the fact that all ASEAN member-countries have ratified the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC). It also notes the various human rights-related declarations of ASEAN which also serve as bases for the human rights mechanism, more particularly the following:
  - Declaration of the Advancement of Women in the ASEAN Region (1988);
  - Declaration on the Commitments for Children in ASEAN (2001);
  - Declaration Against Trafficking in Persons Particularly Women and Children (2004);
  - Declaration on the Elimination of Violence Against Women in the ASEAN Region (2004); and
  - Declaration on the Protection and Promotion of the Rights of Migrant Workers (2007).
18. The Workshop affirms that the establishment of a regional human rights mechanism would allow ASEAN to articulate norms and standards with respect to the human rights of its peoples in line with relevant instruments of international law and enable it to assess the state of universal rights in the region consistent with international human rights standards. Hence, the mechanism would, in effect, enhance the principle of self-determination with respect to ASEAN.
19. The Workshop welcomes the decision of the ASEAN foreign ministers in Siem Reap last March 1, 2007 to have the HLTF include a provision to create an ASEAN human rights commission in the charter, as conveyed by the HLTF Chair. The Workshop commends the efforts of the HLTF drafting the Charter in ensuring a people-centered ASEAN.

20. The Workshop acknowledges the efforts of the Working Group, in partnership with governments, national human rights institutions, and civil society groups, in continuously exerting efforts at providing a forum for dialogue on the establishment of a regional mechanism on human rights in ASEAN and in assisting ASEAN in the implementation of the human rights program areas of the 2004 Vientiane Action Programme.
21. The Workshop recognizes the need to have a more definite timeline of implementation of the human rights program areas of the VAP considering that the human rights goals mentioned in it have to be implemented by 2010.
22. The Workshop notes with appreciation the fresh views and perspectives offered by participants and observers who have joined in these discussions and reaffirms the importance of the participation of all stakeholders, particularly civil society organizations, in efforts at establishing a regional inter-governmental mechanism on human rights in ASEAN.

### **National Human Rights Institutions (NHRIs)**

23. The Workshop commends the functional networking efforts of the four NHRIs in the ASEAN region and welcomes the signing of their Declaration of Cooperation to, among others,;
  - carry out joint programs and activities in areas of human rights;
  - develop common strategies for the promotion and protection of human rights, including advising their respective governments to take the necessary steps towards the establishment of an appropriate ASEAN human rights mechanism and/or any other human rights organ in the ASEAN Charter;
  - further enhance their functional cooperation; and
  - consider joint efforts with other like-minded organizations to pursue human rights commitments in their respective countries, in the region and in the international community.
24. The Workshop encourages the four NHRIs to adopt a more inclusive approach and allow for greater possibility of ASEAN countries that do not at the moment have an existing NHRIs to participate in their activities to enable such countries to benefit and learn from the expertise and experience of existing NHRIs in the region.
25. The Workshop commends efforts at establishing other NHRIs in the region, noting in particular the ongoing process in Cambodia, and affirms the importance of such process for the enhancement of human rights promotion and protection in the ASEAN region.

### **The Rights of Women and Children**

26. The Workshop welcomes existing efforts within the ASEAN region at establishing a commission for the promotion and protection of the rights of women and children pursuant to the Vientiane Action Programme, and acknowledges parallel activities, both at national and international levels, which complement these efforts.
27. The Workshop affirms the need to ensure that women and children who also belong to other vulnerable sectors, e.g., refugees and migrant workers, are

- not overlooked in the processes being undertaken towards the establishment of a commission for the promotion and protection of the rights of women and children.
28. The Workshop emphasizes that such commission that is to be established must take into account a holistic approach on child rights.
  29. The Workshop welcomes the progress made by the research undertaken by Mahidol University, on behalf of the Working Group, on the establishment of an ASEAN commission on the promotion and protection of the rights of women and children and looks forward to its final outcome. The Workshop appreciates the offer of the research team to share the information and findings of the study to all institutions and government agencies which may wish to invite them.
  30. The Workshop supports the submission of the study to ASEAN for its consideration and recommends the soonest possible publication and dissemination of the research study to all relevant and interested institutions and individuals.
  31. The Workshop recommends further discussions to look into possible modalities of the commission on women and children with participation from governments and civil society groups.

### **The Rights of Migrant Workers**

32. The Workshop acknowledges the value of the recently-adopted ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers as an important first step in ensuring the rights of migrant workers in the region.
33. The Workshop recognizes the importance of continuous dialogue among stakeholders on the human rights program areas of the VAP. As such, the Workshop welcomes the various activities being conducted in line with this, particularly the experts meeting and the regional consultation on the establishment of an ASEAN commission on the promotion and protection of the rights of women and children, both held in Bangkok, in aid of Mahidol University's research, and the various consultations conducted by the civil society and trade union network, Task Force on ASEAN Migrant Workers.
34. The Workshop takes note of the submissions to ASEAN of a draft paper on the establishment of an ASEAN Committee on Migration and Development to the ASEAN Senior Officials in May 2007 and a draft Standard Operating Procedures (SOP) for the Provision of Consular Assistance by ASEAN Missions in third Countries to Nationals of ASEAN member-countries. The Workshop anticipates the accord to be reached on these two documents in the upcoming ASEAN Ministerial Meeting (AMM) in Manila.
35. The Workshop urges ASEAN governments to address the plight of migrant workers as involving not merely an employee-employer issue, to review recruitment forces and agencies in order to address the root problems, and to consider the particular problems faced by undocumented migrant workers.
36. The Workshop recommends that the issue of migrant workers be treated not merely as a security or economic issue but as a crosscutting issue that

- has a deep and highly personal impact on the individual workers, their families, as well as the sending and receiving countries.
37. The Workshop recommends that the ASEAN member-countries examine the recommendations contained in the Jakarta statement, and consider the impact of working towards the harmonization of national migrant worker laws with core ILO conventions, as well as the creation of ASEAN mechanisms to promote and protect the rights of migrant workers.
  38. The Workshop suggests that, in light of multiple levels of bureaucracy, ASEAN nations work towards streamlining the documentation process for migrant workers by creating focal points for migrant workers to register; it is hoped this will in greater accuracy of information collecting on the migration of workers, better security and protection of the rights of workers and their families, and will enhance and simplify regional cooperation efforts on these issues.
  39. The Workshop recommends the establishment of a joint working group within the relevant ASEAN sectoral bodies to discuss initiatives to elaborate the declaration on migrant workers and that such joint working group be tasked to do the following:
    - a. Undertake identification of elements of the ASEAN Framework for the Protection and Promotion of the Rights of Migrant Workers, in line with the requirements of the VAP;
    - b. Develop an effective multilateral instrument to which we all aspire; and
    - c. Identify and take stock of all existing regulations concerning the protection of the rights of migrant workers, and the prevention and elimination of their exploitation. In particular, it seeks to put an end to the illegal or clandestine recruitment and trafficking of migrant workers, and to discourage the employment of migrant workers in irregular or undocumented situations.

### **Human Rights Education**

40. The Workshop recognizes that there are levels of strategies for the promotion of human rights, and that: (1) awareness-raising is the most basic level of human rights promotion where all ASEAN member-countries already have some accomplishments; (2) the integration phase is where governments use human rights/ good governance as tool for delivering services to the public and requires the integration of human rights standards in government programs and policies; and (3) the sustainability phase ideally uses human rights as a tool in governance and aims to transform government into a human rights learning community and infuse the public service sector with the culture of human rights.
41. The Workshop highlights the need to continue promoting and enhancing education on human rights among the peoples of ASEAN, as mandated in the VAP, while acknowledging that there already exists a certain level of awareness of human rights in ASEAN member-countries and that steps are already being taken by every country to promote them.
42. The Workshop recognizes that the various ASEAN member-countries are at various levels when it comes to human rights education and proposes that those countries who are recognized to be more advanced in this field than others actively seek ways by which they can assist their neighbors.

43. The Workshop emphasizes that prosperity and human rights are correlated conditions and should not be sequential in realization.
44. The Workshop affirms the view that when ASEAN, in its Vientiane Action Programme, calls for the promotion of education and public awareness on human rights, it should be taken to mean the promotion of a set of values based on freedom, justice, fairness, dignity and respect for human life.
45. The Workshop notes that human rights education is one of the issues of common concern that the four ASEAN NHRIs have identified and endorses the idea of the development of an ASEAN human rights curriculum.
46. The Workshop expresses the hope that the ASEAN region continues to increase its commitment to human rights from basic awareness raising to integration and to full sustainability.

### **The ASEAN Charter**

47. The Workshop endorses the adoption of an enabling provision in the Charter for a duly created ASEAN human rights commission and expresses the hope that the inclusion of such provision will meet with the approval of ASEAN leaders and be carried out in the final draft of the Charter. The Workshop recognizes that if and when ASEAN comes up with a Charter which enshrines human rights as a fundamental principle, ASEAN will be seen as a norm builder in inter-state relations and can possibly play the same role in domestic political governance.
48. The Workshop acknowledges the importance of the Charter process for the substantive advancement of human rights promotion and protection in the region. The Workshop endorses the recommendation of the Eminent Persons Group (EPG) on the ASEAN Charter that ASEAN should, consistent with its principles, commit "to develop democracy, promote good governance and uphold human rights and the rule of law, and to establish appropriate mechanisms for these purposes."
49. The Workshop commends the High Level Task Force (HLTF) on the Drafting of the ASEAN Charter for its work, and expresses its appreciation for the emphasis placed on human rights as a fundamental principle of the draft Charter.

### **IV. Acknowledgments**

50. The Workshop participants and observers expressed appreciation to the Philippine Department of Foreign Affairs, the Commission on Human Rights of the Philippines, and the Working Group for an ASEAN Human Rights Mechanism for co-hosting and co-organizing the Sixth Workshop, and to the Canadian International Development Agency (CIDA) sponsored Southeast Asian Regional Cooperation for Human Development (SEARCH) project, the Friedrich Naumann Foundation, and the European Commission for providing invaluable financial support.

Manila, 17 July 2007