

Consultation Workshop:

"Engaging the ASEAN Intergovernmental Commission on Human Rights (AICHR) – The People's Views"

Novotel Clarke Quay, Singapore

22 August 2009

A. Background

1. The above-named consultation was organised with the aims of raising awareness to the functions, role and governance of the ASEAN Intergovernmental Commission on Human Rights (AICHR) and for the people sector to engage in this process at the regional and national levels.
2. Ninety participants from various civil society, political and academic organisations, and interested members of the public attended the workshop and participated fully. Others who attended the event included diplomats, media personnel who were observers. The event was closed to media. A press conference was held at the end of the consultation.
3. The Workshop notes that the ASEAN Charter entered into force on 15 December 2008 following its ratification by all member-states. The Workshop notes that the timeline agreed upon by the ASEAN foreign ministers to have the Terms of Reference (TOR) of the AHRB finalized by 2009 will be met and that the High Level Panel (HLP) submitted the final draft of the TOR of the human rights body to the ASEAN foreign ministers on 19 July 2009 for consideration and endorsement.
4. The Workshop asserts that though the TOR does not have a strong mandate on protection, the process of protecting the rights of the people in ASEAN has begun.
5. The Workshop recognizes that while member-states of ASEAN still have diverse records on human rights, it appreciates that ASEAN itself, as a rules-based regional organization, has increasingly paid attention to human rights. The Workshop also thanks the HLP for their commitment.
6. The Workshop looks forward to the establishment of the AICHR by the 15th ASEAN Summit in October 2009 and is encouraged by the level of civil society engagement with the HLP in this process.
7. The consultation began with a plenary session on the AICHR. This was followed with a Question and Answer interaction. The speakers were:- Ambassador Ong Keng Yong, Director of the Institute of Policy Studies and former ASEAN Secretary-General, Singapore; Dr Sriprapha

Petcharamesree, head of Human Rights Centre, Mahidol, Thailand and Chair of the Thai Working Group on ASEAN Human Rights Mechanism; Ms Shanthy Dairiam, former UN CEDAW Committee and founder of IWRAW, Malaysia; Mr Arpee Santiago, Programme Manager, The Working Group for ASEAN Human Rights Mechanism and Law Lecturer, Ateneo Human Rights Centre, Philippines. The chair was Ms Braema Mathiaparanam, Chairperson and coordinator, MARUAH, Singapore.

8. This plenary which was then followed up by break-out sessions aimed at specific aspects of the human rights in ASEAN and on AICHR. These break-out sessions, managed by Mr Siew Kum Hong, Vice-chair of MARUAH, were:

- i. Selection of candidates for the AICHR,
- ii. Dynamics between the State and AICHR,
- iii. The human rights role of civil society and its synergy with the AICHR,
- iv. The Political Declaration and the ASEAN Human Rights Declaration,
- v. The dynamics between the Sectoral Bodies and AICHR.

9. The participants opted for the break-out sessions they were interested in through a registration exercise held earlier. Newcomers were asked to form two additional groups on sessions (ii) and (iii). The recommendations that follow are a summary of the points raised from the break-out sessions.

B. Recommendations

General Recommendations

10. The Workshop considers that as human rights permeate every sector of society, human rights must be mainstreamed into the whole ASEAN agenda.

11. The Workshop reiterates that the role and function of the AICHR also needs to be contextualised in the context of the principles of the Universal Declaration of Human Rights and the International Conventions on Human Rights.

12. The Workshop emphasises that in five years' time the AICHR must have a stronger mandate on protection of human rights as AICHR's Terms of Reference (TOR) are reviewed.

Selection of Candidates

13. The Workshop stresses that the Singapore candidate for the AICHR must hold non-partisan interests, act with integrity and impartiality, have knowledge and experience in human rights work, have good negotiating skills, act as an independent expert even though he or she is a government representative, and most importantly, have the passion and

commitment to uphold the principles as enshrined in the Universal Declaration of Human Rights.

14. The Workshop asserts that at the end of five years, there should be an AICHR which has a strong mandate on protection and that the Singapore government representative needs to enable this process for such a provision to materialise when the TOR comes up for review.

15. The Workshop is keen to see a transparent process being put in place as soon as possible to select the candidate and that this process must be pluralistic and inclusive. In addition the Workshop also requests that the selection criteria and results through minutes of the selection process be published for the public.

16. The Workshop believes that since the government representative to the AICHR holds a human rights mandate, the process of selection itself must be a democratic one which is consistent with the aspects of the Paris Principles with regards to the selection of candidates

17. The Workshop suggests the adoption of a structured approach such as the NMP Selection Scheme with a Select committee comprising government, legal and civil society representatives to select the candidate, or alternatively, this selection could be carried out in a similar manner to that of the Committee of the Convention on the Elimination of Discrimination against Women (CEDAW). In either case various sectors (business, legal, NGO, arts, charity, unions, academe, etc) could be invited to propose candidates for selection.

18. The Workshop expresses concern that the current approach to select candidates independent of each other among ASEAN member countries, has an inherent risk of being inequitable in gender and civil society representation at the ASEAN level. The Workshop believes that as all representatives are working for ASEAN, there needs to be a diversity of fields and a gender balance among the candidature at ASEAN level.

19. The Workshop also believes that once appointed the representative must develop a platform to engage civil society and all other stakeholders in this process, besides being focused on creating the pathway for a stronger AICHR in five years' time.

Dynamics between the State and the AICHR

20. The Workshop emphasises that since ASEAN is aiming to become more people-oriented, the government must develop forward-looking strategies and engage stakeholders to promote and protect human

rights. As such, the workshop would like to see the Government implement human rights education and ensure that there are no barriers to public participation in human rights processes.

21. The Workshop requests that the Government mainstreams human rights across all Government agencies, such that they incorporate human rights into all aspects of policy-making and implementation. To that end, the Government should formulate an action plan to accomplish this, and also institutionalise a platform to engage civil society on issues related to AICHR.

22. The Workshop encourages the Government to set up a national human rights institution consistent with the Paris Principles.

23. The Workshop also suggests that it is important for AICHR to work towards setting up an Optional Protocol on human rights, geared at mainstreaming human rights into other ASEAN bodies, and for Singapore to sign up to it.

24. The Workshop asserts on the importance for AICHR to be aligned with the United Nations human rights system, such as monitoring member states' compliance with and their accountability to human rights obligations.

The Human Rights Role of Civil Society and Its Synergy with the AICHR

25. The Workshop wants a platform for civil society to continually interact with the Government on matters of human rights in relation to the AICHR, and that this provision be mandated in the Political Declaration.

26. The Workshop wants the Government to invest in human rights education for the people, and to allocate budgets to support the human rights-related activities by civil society.

27. The Workshop seeks support from the Government to build up capacity of civil society on human rights processes at both the regional and international levels including the Universal Periodic Review, CEDAW, CRC processes.

28. The Workshops gives the assurance that it will support the Government by working together to make the AICHR a success, subject to an ongoing process aimed at substantive reviews to be put into effect in five years' time for a stronger mandate for protection. In this regard, the Workshop also encourages civil society groups to support each other in this effort and in its watchdog role on human rights issues in Singapore and ASEAN.

Political Declaration/ASEAN Declaration on Human Rights and the ASEAN Human Rights Regime:

29. The Workshop is clear that the Political Declaration must embrace the following principles:

- i. In the interpretation of the TOR, there can be no lowering of standards to below that of international human rights norms, including the ASEAN Charter and the Universal Declaration of Human Rights.
- ii. A committee is established by the Government to assist the AICHR and the government representative in supporting the process of interpreting the terms of the TOR and the ASEAN Charter. This committee should include lawyers and civil society representatives.
- iii. Provisions are made for each AICHR representative to engage constituents in participatory discussions on matters of the TOR and AICHR processes.

30. The Workshop in noting that the principle of non-interference is contained within the ASEAN Charter, affirms that adherence to this principle should in no way compromise human rights as a fundamental principle for the people of ASEAN.

31. The Workshop believes that the ASEAN Declaration on Human Rights should include a roadmap for its own transition to a convention that includes an enforcement mechanism and a stronger protection mandate.

32. The Workshop also encourages the ratification of major human rights instruments including the ICCPR, ICESCR by all ASEAN members and that ASEAN member countries and ASEAN as a region improve on their international rankings on human rights.

Dynamics between Sectoral Bodies and AICHR

33. The Workshop reiterates that the ASEAN Commission on Women and Children (ACWC) cannot be held to principles lower than CEDAW and the Convention on the Rights of the Child (CRC), as these are treaties which all ASEAN states have ratified.

34. The Workshop urges ASEAN member countries to withdraw their reservations on CEDAW and CRC and to accede to the Convention on the Protection of All Rights Migrant Workers and Members of their Families as all these Conventions are rights-based.

35. The Workshop also emphasises that the ASEAN Committee on Migrant Workers (ACMW) cannot have standards that are lower than the

International Labour Standards to which ASEAN member countries have agreed.

36. The Workshop believes that the ACWC and ACMW should function independently of the AICHR, at least in the short term, and that this status quo be reviewed in five years' time based on improvements made to the TOR of AICHR.

37. The Workshop emphasises the need for the AICHR to establish structured linkages with the ACWC and ACMW, as soon as reasonably practicable once these sectoral bodies are created.

38. The Workshop is clear that there must be civil society representation in the ACWC and ACMW.

C. Acknowledgments

The workshop participants thanked Maruah(The Singapore Working Group for an ASEAN Human Rights Mechanism), Konrad Adenauer Stiftung, the Institute of Southeast Asian Studies and the ASEAN Studies Centre for convening the day's discussion. They also thanked the speakers who made the time to be present at this historic event for civil society.