

HUMAN RIGHTS HERALD

NEWSLETTER OF THE WORKING GROUP FOR AN ASEAN HUMAN RIGHTS MECHANISM

VOLUME 3 NOS. 1 & 2

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Workshop for an ASEAN Human Rights Mechanism held in Jakarta, Indonesia

ON JULY 5-6, 2001, the Indonesian Ministry of Foreign Affairs, the Indonesian Human Rights Commission (KOMNAS HAM) and the Working Group for an ASEAN Human Rights Mechanism (Working Group) held a "Workshop for an ASEAN Human Rights Mechanism". The objectives of the workshop were:

- (1) To create a forum for continuous dialogue on human rights mechanisms;
- (2) To learn about existing human rights systems and arrangements in other regions;
- (3) To identify intersections with other mechanisms and arrangements that promote and protect human rights, including institutions for justice, good governance, development, and the like; and
- (4) To start the process of forming an experts' group (study group) on an ASEAN human rights mechanism.

A total of 57 participants attended the workshop. They represent governments, national human rights commissions, NGOs and the academe. Official government delegates were sent from Indonesia, Lao PDR, Malaysia, Myanmar, Philippines and Thailand. An observer from the Vietnamese embassy also attended the workshop. The four national human rights institutions in Southeast Asia, namely: Indonesian National Commission on Human Rights (KOMNAS HAM), Malaysian Human Rights Commission (SUHAKAM), Thai Na-



Participants of the Workshop include representatives of the Governments, National Human Rights Commissions, NGOs and academicians of Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Thailand, observers from the ASEAN Secretariat, Indonesian government agencies, universities and NGOs, and the Vietnamese Embassy.

tional Human Rights Commission and the Philippine Commission on Human Rights, were also represented. The NGO and the academic communities were from the following countries: Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines and Thailand.

Other observers include delegates from the ASEAN Secretariat, officials from Indonesian government agencies, uni-

versities and NGOs, as well as non-Southeast Asian human rights NGOs and funding organizations.

The workshop was divided into several sessions. The first session examined the current human rights policy and practice in the ASEAN region. The second session identified human rights engagements and current initiatives within the ASEAN region. The third session examined existing regional mecha-

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Working Group Meets ASEAN Senior Officials on the Occasion of the 34th ASEAN Ministerial Meeting

ON JULY 21, 2001, at 3:15 – 4:15 p.m., the Working Group for an ASEAN Human Rights Mechanism (Working Group) met with the ASEAN Senior Officials on the occasion of the 34th ASEAN Ministerial Meeting (AMM) at the Melia Ha Noi Hotel in Ha Noi, Viet Nam.

ASEAN was represented by the

The Working Group was represented by Mr. Wigberto Tañada (Philippines), Dato Param Cumaraswamy (Malaysia), Mr. Praphan Hutasingh (Thailand), Dr. Todung Mulya Lubis (Indonesia), Mr. Sun Channdara Wuddh (Cambodia), Mr. Carlos Medina (Secretary General of the Working Group).

the Indonesian Ministry of Foreign Affairs, the Indonesian National Human Rights Commission and the Working Group.

- It reiterated the need for focal points in each ASEAN member-State and sought the assistance of ASEAN in determining those

focal points. The Working Group also discussed the need for a focal point in each ASEAN member-State to coordinate the implementation of the ASEAN Human Rights Mechanism. The Working Group also discussed the need for a focal point in each ASEAN member-State to coordinate the implementation of the ASEAN Human Rights Mechanism.

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JOINT COMMUNIQUE OF THE 34TH ASEAN MINISTERIAL MEETING

Hanoi, 23-24 July 2001

The Working Group for an ASEAN Human Rights Mechanism (Working Group) met with the ASEAN Senior Officials on the occasion of the 34th ASEAN Ministerial Meeting (AMM) at the Melia Ha Noi Hotel in Ha Noi, Viet Nam. The Working Group was represented by Mr. Wigberto Tañada (Philippines), Dato Param Cumaraswamy (Malaysia), Mr. Praphan Hutasingh (Thailand), Dr. Todung Mulya Lubis (Indonesia), Mr. Sun Channdara Wuddh (Cambodia), Mr. Carlos Medina (Secretary General of the Working Group).

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...and should be directed to the Commission's capacity to be a People's ASEAN. "



The Workshop was opened by (from left to right) Mr. Marzuki Darusman, Chairman of the Working Group, Mr. Djoko Sugianto, Chairman of the Indonesian National Commission on Human Rights, and Indonesian Foreign Minister Dr. Alwi Shihab.



Workshop for an ASEAN Human R

from page 1

nisms in other regions. The fourth session explored and identified a number of options for the establishment of an appropriate ASEAN Human Rights Mechanism. During this session, the Draft Agreement for the Establishment of an ASEAN Human Rights Commission (Draft Agreement) was presented before the participants. Dato Param

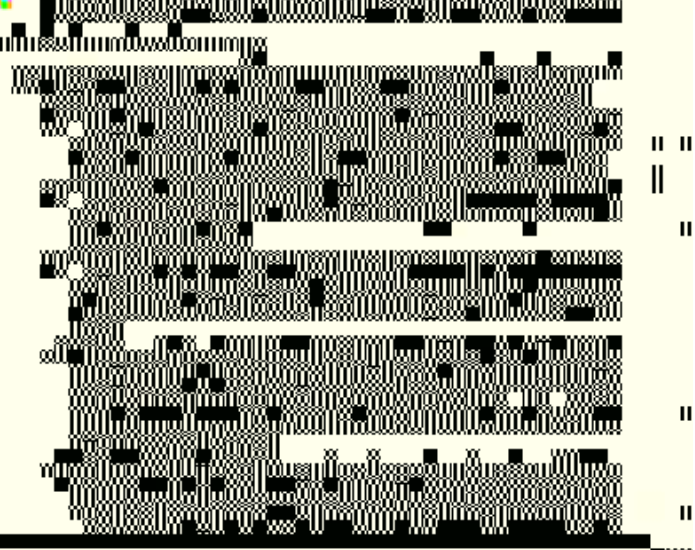
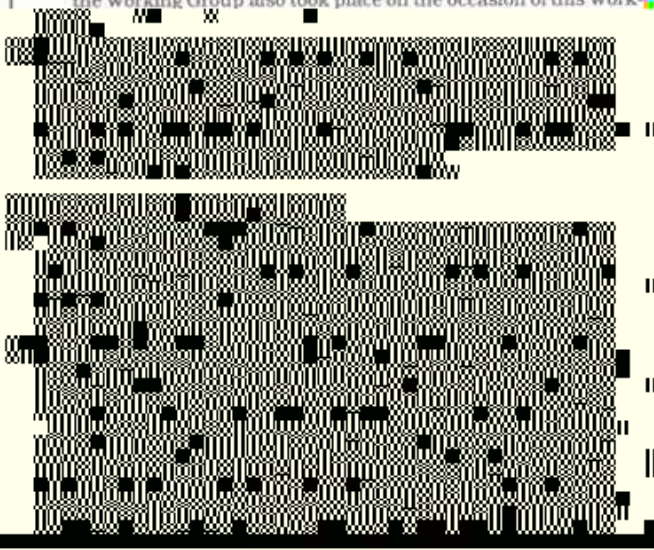
WORKSHOP FOR AN ASEAN REGIONAL MEC

I. INTRODUCTION

1. The Workshop for an ASEAN Regional Mechanism on Human Rights was convened in Jakarta from 5 to 6 July 2001. The Workshop was organized and co-hosted by the Department of Foreign Affairs of the Republic of Indonesia, the Indonesian National Human Rights Commission (KOMNAS HAM) and the Working Group for an ASEAN Human Rights Mechanism (Working Group).
2. The Workshop was attended by participants representing Governments, National Human Rights Commissions, NGOs and academicians from Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Thailand, and observers from the ASEAN Secretariat, officials from Indonesian government agencies, universities and NGOs. An official from [the] Vietnamese Embassy attended the Workshop to observe the proceeding[s]. The informal nature of the Workshop has provided [a] frank and friendly atmosphere and encouraged participants to enthusiastically tak[e] part in the exchange of views and discussions.
3. The Workshop was opened by the Indonesian Minister for Foreign Affairs, H.E. Dr. Alwi Shihab. Additional opening statements were made by [the] Chairman of the Indonesian National Commission on Human Rights, Mr. Djoko Sugianto and Chairman of the Working Group, H.E. Mr. Marzuki Darusman.
4. A parallel meeting among national human rights commissions in the ASEAN region was convened to discuss possible courses of action in the light of the Workshop's objectives. A meeting of the Working Group also took place on the occasion of this Work-

Workshop Summary

5. The first session examined existing regional mechanisms in other regions. The session was chaired by Mr. Theo Sambuaga (Indonesia). Ms. Songhorn Tajaroensuk, Prof. Saparinah Sadli and Prof. Mely G. Tan spoke on the topic.
8. The second session identified human rights engagements and current initiatives within the ASEAN region. The session was chaired by Mr. Jaran Ditapichai (Thailand). Dato Param Cumaraswamy (Malaysia) spoke on the Initiative of the Working Group for an ASEAN Human Rights [M]echanism.
9. The third session examined existing regional mechanisms in other regions. The session was chaired by Mr. Wigberto Tanada (Chairman Philippines Working Group). Mr. David Padilla (Inter American Commission on Human Rights) made a presentation on the Inter-American and European Human Rights [M]echanism.
10. The fourth session explored and examined existing regional documents and systems and their possible application in Southeast Asia. It also identified a number of options for the establishment of an appropriate ASEAN Human Rights Mechanism. The session was chaired by Dr. H.S. Dillon (Komnas HAM-Indonesia). Dr. Sriprapha Petcharamesree (Mahidol University, Thailand) made [the] presentation on this topic.
11. The participants had also an opportunity to exchange [of] views



Rights Mechanism held in Jakarta

Cumaraswamy explained the history and principles behind the Draft Agreement as well as elaborated on each article.

A document entitled "Workshop's Summary of the Proceedings" was approved by the participants as a true record of exchange of views and dialogue during the two-day session. A copy of the said document is reproduced below.



Mr. Wigberto Tañada and Mr. Marzuki Darusman, both from the Working Group, and Indonesian Director-General for Political Affairs Dr. N. Hassan Wirajuda during the Closing Ceremonies of the Workshop.

HANISM ON HUMAN RIGHTS (Jakarta, July 5 - 6, 2001)

of the Proceedings

- f) The Workshop is encouraged by the openness of countries represented in this Workshop to explore further cooperation on human rights matters;
- g) A number of participants stressed the need for the countries which have not appointed [a] focal point for this purpose to do so in the near future. The workshop is encouraged by the delegations' willingness to facilitate the creation of a focal point for this dialogue;
- h) The Working Group should convince the senior officials and ministers that its objectives and activities are not to undermine government's development program and countries' national stability;
- i) Human rights should be included in the agenda of the next meeting of ASEAN Inter-Parliamentary Organization (AIPO) and that the AIPO Declaration on human rights of 1993 must be disseminated among ASEAN parliaments so that they can strengthen and follow up all their previous commitments;
- j) A clear strategy (action plan) and a set of practical guidelines are recommended in working further towards the realization of an ASEAN [H]uman [R]ights [M]echanism.
- k) Determination and perseverance are needed for the eventual establishment of the ASEAN [H]uman [R]ights [M]echanism.
- l) A number of options for an ASEAN mechanism proposed by the Working Group were also raised. They are:
 - i) establishment of an ASEAN Human Rights Commission
 - ii) establishment of an ASEAN Human Rights Commission and an ASEAN Human Rights Court
 - iii) establishment of an ASEAN Human Rights Court
 - iv) establishment of an ASEAN Human Rights Commission and an ASEAN Human Rights Committee of Ministers or Assembly of Head of Governments
 - v) establishment of an ASEAN Human Rights Commission, an ASEAN Human Rights Court and an ASEAN Human Rights Committee of Ministers or Assembly of Head of Governments
 - vi) establishment of National Human Rights Commissions and Concretisation of their network
 - vii) Promotion of regional human rights activities.
- m) Based on the principles agreed in the UN workshop series on the regional arrangement in the Asia-Pacific as referred to in the Opening Remark[s] of the Indonesian Foreign Minister, notably the principles of step by step building block[s] approach involving consultation among Governments of the region and that the regional arrangements must emerge from and be directed to the

needs and priorities set by Governments in the region, with roles, functions, tasks, outcomes and achievements determined by consensus, three more options were put on the table, they are:

- i) establishment of an ASEAN Commission on Women and Children[s] Rights
 - ii) establishment of an ASEAN Human Rights Commission through three steps: setting up an official regional human rights information center; setting up of a working group to study the draft agreement for an ASEAN Regional Human Rights Mechanism; and to include the outcome of the working group in the ASEAN SOM and AMM.
 - iii) to invigorate the existing ASEAN Committee within the ASEAN functional cooperation framework which relate to human rights.
 - n) A number of options for ASEAN human rights were highlighted. However, the workshop strongly recommends that efforts should be made towards the establishment of an ASEAN [H]uman [R]ights [C]ommission. It is also recommended that the Draft Agreement for the [E]stablishment of [the] ASEAN [H]uman [R]ights [C]ommission be studied by [an] appropriate body, preferably a joint committee between ASEAN and the Working Group.
13. The Workshop highlighted the following elements for the forthcoming ASEAN Ministerial Meeting:
- i) Greater efforts should be made by each member country to raise awareness at all levels, through education, information campaign and advocacy;
 - ii) Human rights issues, such as children and women's rights, are considered as common concerns in the ASEAN region. While continuing to work on these particular issues, it is recommended that each member country should explore possibilities towards the establishment of a comprehensive arrangement on human rights in the region;
 - iii) A national focal point to serve as a mechanism for regional consultations in the promotion and protection of human rights should be designated in each member country. Where a national human rights commission exists, their capacity and independence should be enhanced.
 - iv) The relevant ASEAN intergovernmental bodies should continue their dialogue with civil society. In this regard, there is a need to establish expert working group comprising [of] representatives of ASEAN governments and national institutions, academic institutions and NGOs with the task to examine various ways of establishing an appropriate ASEAN regional mechanism and submit its inputs and recommendations to the ASEAN Ministerial Meeting.
14. The Workshop expressed its appreciation to the co-organizers. The Workshop expressed the need for the same forum to be convened in another ASEAN state for the continuation of this process.



MECHANISMS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS:

The Role of a National Human Rights Institution in Cambodia

THE *Cambodian Working Group for the Establishment of National and Regional Human Rights Mechanisms (CWG)* held a workshop on May 14-16, 2001 in Phnom Penh. The workshop was attended by 106 persons including parliamentarians, officials of government, members of civil society, and international guests.

Participants developed the following strategies:

1. Create a sub-committee to review the draft legislation on the creation of a national human rights institution in Cambodia;
2. Hold workshops, seminars, trainings, and public hearings in Phnom Penh and in the provinces to review and revise the draft law;
3. Produce information materials;
4. Conduct legislative advocacy at the National Assembly and the Senate;
5. Lobby for the support of the King, leaders of different political parties, NGOs, UN agencies, media and the general public; and

6. Propose the law at the National Assembly.

Workshop speakers included:

- H.E. Kem Sokha, Chair of the CWG, Senator, and President of the Senate Committee on Human Rights and Reception of Complaints;
- Mr. Brian Burdekin, Special Advisor on National Institutions to the United Nations High Commissioner for Human Rights;
- Atty. Rea Chiongson, Deputy Sec-Gen Working Group for an ASEAN Human Rights Mechanism;
- Atty. Jacqueline V. Mejia, Executive Director, Commission on Human Rights, Philippines; and
- Ms. Laddawan Tantivitayapitak, Thai Election Committee

CWG members facilitated the small group discussions following the main speaker presentations.

The CWG's "Draft Law on the Establishment and Functioning of the National Human Rights Commission, November 22, 2000", in

English and Khmer was thoroughly discussed during the workshop.

The workshop is co-sponsored by the United Nations Cambodian Office of the High Commissioner on Human Rights (UNCOHCHR). It was made possible through the support of the Working Group for an ASEAN Human Rights Mechanism, The Asia Foundation (TAF), The Embassy of Netherlands, Partnership for Development in Kampuchea (PADEK), the South East Asia Funds for Institutional and Legal Development (SEAFILD) and the Canadian Human Rights Foundation (CHRF).

The CWG was formed in April 2000 to encourage the creation of an independent and effective national human rights institution in Cambodia, which is in conformity with international standards. It also works with counterparts in other ASEAN countries to encourage the creation of an inter-governmental human rights mechanism in Southeast Asia. CWG members include parliamentarians, government officials and members of civil society.

NATIONAL CONSULTATION: "SUHAKAM After 1 Year — Has the State of Human Rights Improved in Malaysia?"

A NATIONAL consultation jointly organized by ERA Consumer and SUARAM was held on May 5, 2001 at the Pearl International Hotel in Kuala Lumpur, Malaysia. The consultation was well attended with 200 participants coming from the Malaysian National Human Rights Commission (SUHAKAM), NGOs, trade unions, indigenous community, consumer associations, academicians, students, and embassies.

The objectives of the consultation were the following: to evaluate the annual report prepared by

SUHAKAM; to obtain feedback, comments and concerns from people working on various issues pertaining to human rights; to evaluate the performance of SUHAKAM a year after it had been established; and to draft and submit a memorandum containing concerns and recommendations to SUHAKAM.

The consultation was divided into two segments: (1) the panel presentation where five experts presented their opinions and views on the subject of the consultation, and (2) the workshop session where the

participants were divided into eight groups with each group tasked to evaluate the role of SUHAKAM.

The programme managed to provide a forum for civil society to express their views and opinions on the role and performance of SUHAKAM.

The participants came out with a resolution to urge SUHAKAM to immediately visit the ten detainees who have been arrested under the Internal Security Act and to issue a statement about their condition.



Philippine Working Group Sponsors Fora on Human Rights Institutions and the Mechanism

THE Philippine Working Group for an ASEAN Human Rights Mechanism (PWG) held two fora on June 28-29, 2001 at the Stoffels Room of the Rembrandt Hotel in Quezon City, Metro Manila.

The forum on 28 June 2001 was entitled: "Strengthening the Commission on Human Rights: Bills and Issues." International human rights standards on national human rights institutions and the pending bills and issues on the Philippines Commission on Human Rights were discussed. The forum served as a consultative assembly on a bill that will hopefully strengthen the Philippines Commission on Human Rights.

The forum on 29 June 2001 was entitled: "Towards an ASEAN Human Rights Mechanism." The Draft Agreement on the Establishment of the ASEAN Human Rights Commission was discussed. The objectives of the forum were to create awareness on the initiative and to gather support from government and civil society to lobby for the mechanism.

The participants in the two fora came from the government, NGOs, peoples' organizations and the civil society. The fora served as springboards in the Philippine campaign and lobbying efforts towards the creation of an ASEAN Human Rights Mechanism.

Initiatives of National Rights Instruments and Arrangements in the Asia-Pacific

INSTRUMENTS

Various Asian NGOs and certain states have in recent years been trying to address the absence of a regional human rights instrument in Asia-Pacific, each with a different vision, and aiming to fulfill different needs.

- In January 2001, the Association of Asian Parliaments for Peace considered but did not adopt a draft Charter of Human Rights for Asian Nations. Only one public consultation was held ahead of the conference.
- In July 2000, ASEAN noted the Draft Agreement on the Establishment of the ASEAN Human Rights Commission proposed by the Working Group for an ASEAN Human Rights Mechanism. This was pursuant to the decision made at the ASEAN Ministerial Meeting in 1993 to "consider the establishment of an appropriate regional mechanism for human rights."
- In March 1998, a coalition of Asian NGOs, led by the Asian Human Rights Commission, drafted the Asian Human Rights Charter, following extensive open consultations over a period of five years.
- In April 1993, representatives of Asian States met in Bangkok in the context of preparations for the World Conference on Human Rights, and agreed on the text of a seminal Asia-Pacific human rights document, the Bangkok Declaration. One week ahead of the regional meeting of the States, a large assembly of Asia-Pacific NGOs adopted the Bangkok NGO Declaration.
- In May 1989, a group of delegates at the LAWASIA conference in Western Samoa adopted a "Pacific Charter of Human Rights," which envisaged the

establishment of the Pacific Human Rights Commission, tasked with "promoting respect for and defence of human and peoples' rights."

ARRANGEMENTS

- Since 1982, States in the Asia-Pacific region have been meeting regularly under the framework of the UN program of technical cooperation and advisory services in the field of human rights. Through annual workshops organized under the framework, a consensus has been reached on the principles of "step-by-step", "building blocks" approach involving extensive consultations among Governments of the region, concerning the possible establishment of regional arrangements. (see related article on page 1, "Asia-Pacific States Discuss Regional Arrangements").
- Article 26 of the 1993 Bangkok Declaration calls for an exploration of the "possibilities of establishing regional arrangements for the promotion and protection of human rights."
- Meeting later in the same year in Vienna, the States agreed that "[r]egional arrangements play a fundamental role in promoting and protecting human rights. They should reinforce universal human rights standards, as contained in international human rights instruments... The World Conference on Human Rights reiterates the need to consider the possibility of establishing regional and sub-regional arrangements for the promotion and protection of human rights where they do not already exist." (Vienna Declaration and Plan of Action, Article 37)

(Source: Office of the High Commissioner for Human Rights)



ASIA-PACIFIC STATES MEET IN BANGKOK TO DISCUSS REGIONAL ARRANGEMENTS

REPRESENTATIVES of Asia-Pacific governments recently held initial discussions on possible arrangements for the promotion and protection of human rights in the region.

Meeting in Bangkok, Thailand, from February 28 to March 2, 2001, the participants expressed their commitment to "enhancing regional and international cooperation to promote universal respect for and observance of human rights." They also reiterated the importance of an "inclusive, step-by-step, practical, building blocks approach" towards any regional or sub-regional arrangements on human rights.

The workshop, organized annually by the Office of the UN High Commissioner for Human Rights, was the ninth such meeting of Asia-Pacific states on regional cooperation in human rights. Among those who attended were observers from national human rights institutions and NGOs in the region.

Previous meetings have affirmed the need for such joint efforts and for a step-by-step approach involving consultations among governments, national institutions and NGOs. In such meetings, Asia-Pa-

cific states have further stressed that regional arrangements must address regional needs and priorities, with functions determined by consensus and in conformity with international standards.

In 1998, in Tehran, agreement was reached on a Regional Framework for Technical Cooperation which identified four priorities: (1) national plans of action for the promotion and protection of human rights; (2) human rights education; (3) national institutions for the promotion and protection of human rights; and (4) strategies for the realization of the right to development and economic, social and cultural rights. These key areas of concern have become the basis of subsequent programs in the region.

Thus, in 1999, in New Delhi, the states adopted a document which identified follow-up measures to facilitate the process of regional cooperation and possible regional arrangements pursuant to the Tehran Framework. In 2000, in Beijing, more concrete steps were proposed at regional, sub-regional and national levels to enhance regional cooperation on human rights. These

proposals include, for instance, sub-regional workshops to explore the process of national human rights planning and to develop sub-region-specific education programs for vulnerable groups and for those involved in the administration of justice.

In Bangkok earlier this year, aside from discussing possible regional or sub-regional modalities for cooperation in the field of human rights, Asia-Pacific states also proposed that regional workshops within the Tehran Framework be accompanied by sub-regional and national activities, including training and awareness programs for government officials and professional groups such as police, prison officials, educators, judges, lawyers and parliamentarians.

While noting that the Tehran Framework is mainly a governmental process, they nevertheless acknowledged the importance of participation by national institutions, NGOs and inter-governmental organizations, and called for partnerships with them in implementing the Tehran Framework for Regional Cooperation.

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