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# HUMAN RIGHTS HERALD

A BI-ANNUAL PUBLICATION OF THE WORKING GROUP FOR AN ASEAN HUMAN RIGHTS MECHANISM

## ASEAN adopts action plan to protect women's and children's rights

The Working Group for an ASEAN Human Rights Mechanism (Working Group) scored a victory when the Association of Southeast Asian Nations (ASEAN) decided to concretely address the issues of women and children in three decisive moves.

ASEAN adopted the Declaration on the Elimination of Violence Against Women in Southeast Asia on June 13, 2004. The declaration envisions a greater, more integrated regional approach to eliminate violence against women by calling for domestic solutions through legislative and educational measures as well as support services. It also aims to strengthen rela-

tionships between governments and women's organizations, NGOs and community-based organizations.

On November 29, 2004, the ASEAN heads of state adopted the Vientiane Action Programme (VAP) during the 10th ASEAN Summit in Vientiane, Lao PDR. The VAP will establish an ASEAN Commission on the Promotion and Protection of the Rights of Women and Children. This is an advocacy the Working Group has been pushing for since the First Workshop for an ASEAN Regional Mechanism on Human Rights in Jakarta in 2001. The establishment of a mechanism addressing the con-

cerns of women and children demonstrates ASEAN's commitment to human rights.

The 10th ASEAN Summit also led to the heads of state signing the Declaration Against Trafficking in Persons. It particularly addresses the plight of women and children. By undertaking more intensive cooperation among the ASEAN member states, the declaration seeks to take coercive actions against any individual or group engaged in trafficking.

The Working Group welcomes these developments as positive steps in the protection of the vulnerable sectors of women and children. These "show that ASEAN is indeed listening to the suggestions and recommendations forwarded by the Working Group, culled from its annual workshops and consultations with NGOs and other civil society groups," said Mr. Marzuki Darusman, co-chair of the Working Group.



*The establishment of a mechanism addressing the concerns of women and children is a welcome development and breakthrough*

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# Working Group assesses last year's activities

Last December 6, 2004, the Working Group for an ASEAN Human Rights Mechanism (Working Group) met in Bangkok to evaluate the activities of the past year.

Following the discussions of the 10th Association for Southeast Asian Nations (ASEAN) Summit in November, the Working Group discussed ways by which mechanisms on women's, children's and migrant workers' rights could be developed to constitute a general human rights mechanism.

The Working Group agreed that there is a need to set up thematic mechanisms, and that ASEAN must concretize the modalities in the

Vientiane Action Programme.

Other human rights developments in the region were also discussed such as: the results of the Fourth Annual Workshop for an ASEAN Human Rights Mechanism, the progress of creating the Eminent Persons Group, the activities of the four National Human Rights Institutions and the possibility of promoting the establishment of human rights commissions and national working groups in certain ASEAN states.

The year-end gathering gave the Working Group a clearer picture of its accomplishments and an understanding of what actions to take in 2005.



(L-R) Mr. Budiono Kusumohamidjojo of the Indonesian Working Group; Mr. Kem Sokha, chairperson of the Cambodian Working Group; Dato Param Cumaraswamy, chairperson of the Malaysian Working Group and Mr. Marimuthu Nadason of the Malaysian Working Group

## National human rights institutions discuss impact and issues of common concern

The Human Rights commissioners of Indonesia, Malaysia, the Philippines, and Thailand met on October 19, 2004 in Bangkok to discuss how to influence government action to protect and promote human rights.

Professor Saneh Chamarik, chair of the National Human Rights Commission of Thailand, led the discussions of two crucial issues. The first was how to

impact government actions, and the second was what strategies were needed to address common human rights concerns.

The commissioners also exchanged experiences on how to engage the government, the difficulties in doing so, as well as the need to cooperate with different agencies to make an impression.

### OUR PEOPLE

## New faces at the Secretariat

Maria Linda Tinio, a Paris-based consultant in the education sector of the United Nations Educational, Scientific and Cultural Organization (UNESCO), joins the Working Group for an ASEAN Human Rights Mechanism (Working Group) Secretariat as its liaison in Europe. She first became involved



with the Working Group when working on her book *Les droits de l'homme en Asie du Sud-Est* (Human Rights in Southeast Asia).

Ms. Tinio graduated *magna cum laude* from the University of the Philippines with a bachelor's degree in French and political science. She also holds a master's degree in political science and philosophy *cum laude* from the Institute of Political Studies of Paris.



Another addition to the Secretariat is Mina C. Peralta. Ms. Peralta is the new communications officer. Ms. Peralta is tasked to disseminate information on Working Group activities and developments. She is also responsible for maintaining the Website and coming out with the newsletter.

Ms. Peralta is a graduate of the Ateneo de Manila University and is completing her master's degree in communication at the University of the Philippines.

## Progress in Philippine human rights situation recognized

On December 8, 2004, the Philippine Working Group (PWG) celebrated International Human Rights Week by holding



*(L-R) Working Group Secretary-General Carlos Medina, Human Rights Commissioner Dominador Calamba, Party-List Representative Mario Aguja, Philippine Working Group Chairperson Wigberto Tañada*



## Vientiane Action Programme pushes towards united ASEAN community

During the 10th Association of Southeast Asian Nations (ASEAN) Summit in Vientiane, Lao PDR, the ASEAN heads of state approved the Vientiane Action Programme (VAP). The VAP will raise the level of ASEAN's political and security cooperation in order to bring about peace, stability, democracy and prosperity in the region.

It outlines five strategic points of proposed action: political development, shaping and sharing of norms, conflict prevention, conflict resolution and post-conflict peace-building.

VAP pushes the region towards its goal of political and security cooperation through political development by promoting human rights and obligations. In order to advance the cause of human rights, the VAP pushes for the pursuance of several activities: the completion of a stocktaking of existing human rights mechanisms and equivalent bodies, including sectoral bodies promoting the rights of women and children; the formulation and adoption of a memorandum of understanding to establish a network among existing human rights mechanisms; the creation of a work program for the network; the promotion of education and public awareness on human rights; the establishment of a network of coop-



Protecting the rights of children is one of the mandates of VAP.

eration among existing human rights mechanisms; the elaboration of an ASEAN instrument on the protection and promotion of the rights of migrant workers and the establishment of an ASEAN commission on the promotion and protection of the rights of women and children.

These actions are in line with the ASEAN Security Community Plan of Action that aims to promote human rights and obligations. It intends to do this by: establishing a network among existing human rights mechanisms; protecting vulnerable groups including women, children, people with disabilities and migrant workers and supporting education and public awareness on human rights.

## Sicam named to Peace Panel

The Government of the Republic of the Philippines (GRP) appointed Ms. Paulynn Sicam, a member of the Philippine Working Group, as the newest panel member in the peace negotiations with the Communist Party of the Philippines-New People's Army-National Democratic Front (CPP-NPA-NDF).



Ms. Sicam, director of the Peace and Human Rights Desk of the Benigno S. Aquino Foundation, is known for her commitment to regional efforts in encouraging Southeast Asian nations to establish a human rights mechanism. As a journalist, she covered issues on the peace process and human rights. She is editor of *Cyberdyaryo*, an online advocacy site.

Ms. Sicam is a former commissioner of the Philippine Commission on Human Rights. She collaborated with government agencies and NGOs to promote civil liberties. She also helped develop a constitutional rights and peace education program for the military and police. This program received the United Nations Educational, Scientific and Cultural Organization (UNESCO) prize in 1995. She was a consultant to the GRP panel negotiating with the CPP-NPA-NDF during former President Ramos' administration.

The peace process, an important part of President Arroyo's 10-point agenda, has been stalled as the CPP-NPA-NDF leadership refuses to continue negotiations due to what it perceives as lack of "effective measures" by the Philippine Government to convince the United States of America to remove the group's terrorist tag. Efforts are being made to resume the suspended negotiations.



ASEAN heads of state approve Vientiane Action Programme

## ASEAN must first promote human rights at home says expert

Respect for human rights should begin at home. This was the message during the 12th Association for Southeast Asian Nations-Institutes for Strategic and International Studies (ASEAN-ISIS) colloquium held this May.

ISIS member Joseph Kraft discussed the ASEAN social environment and its role in facilitating norm change in his paper "State of Human Rights in Southeast Asia: Progress and Setbacks."

He said that officials from countries indifferent to liberal democracy hamper custom change and that they should become open to changes in human rights norms domestically before these can happen regionally.

The changes seen in the national level show that change can spur advancement of human rights in the region. For progress to be sustained, stakeholders should not waver in their stand, Kraft added.

The persistence of ASEAN traditions poses the main challenge in adopting human rights norms in the region, and he recommended several ways of supporting the movement toward change. The continued establishment of working groups in the countries throughout the region is one of them.

Kraft noted that despite the rejection of the proposed Regional Human Rights Commission, the Working Group for an ASEAN Human Rights Mechanism (Working Group) has made impressive gains in advancing a human rights mechanism.

Governments and NGOs outside of ASEAN should support these efforts. He

added that Working Groups, other networks involved in advocacy, and ASEAN officials must strengthen cooperation among themselves.

Although the Working Group has increased coordination among the existing national human rights com-

missions in the region, Kraft said that the use of this network still needs to be maximized.

Regular consultations among the commissions can lead to the establishment of criteria on best practices and the development of standards of evaluation.

He also recommended that advocates interpret ASEAN norms in ways that can help advance human rights and use documents on human rights and democratization to encourage ASEAN nations to reflect on their commitment to these aspirations.

**The persistence of ASEAN traditions poses the main challenge in adopting human rights norms in the region.**

## Darusman rallies support for Human Rights Mechanism

Marzuki Darusman, co-chairperson for the Working Group for an ASEAN Human Rights Mechanism (Working Group) met with Makarim Wibisono, chair of the United Nations Commission on Human Rights (UNCHR), and Dr. Hassan



Marzuki Darusman

Wirajuda, the Indonesian foreign minister separately early this year. Both meetings discussed the human rights situation in

the region.

In his meeting with Wibisono, Darusman gave his views on how the UNCHR can better address human rights issues. Darusman also suggested creating a joint activity of the Working Group and the UNCHR that would push for the creation of a regional mechanism on human rights in Southeast Asia.

During Darusman's meeting with Wirajuda last March, Wirajuda announced the forming of a Commission of Truth and Friendship between Indonesia and East Timor to resolve human rights violations that occurred in 1999.

Darusman supported this endeavor and related the Working Group's efforts in establishing a mechanism on human rights in the region.

"An ASEAN Regional Mechanism on Human Rights can help prevent a repeat of the situation in East Timor during its separation from Indonesia. It also establishes accountability on human rights violations to ensure that the victims get justice for the fate that they suffered," Darusman said.

# Taking to court the fight for international economic, social and cultural rights

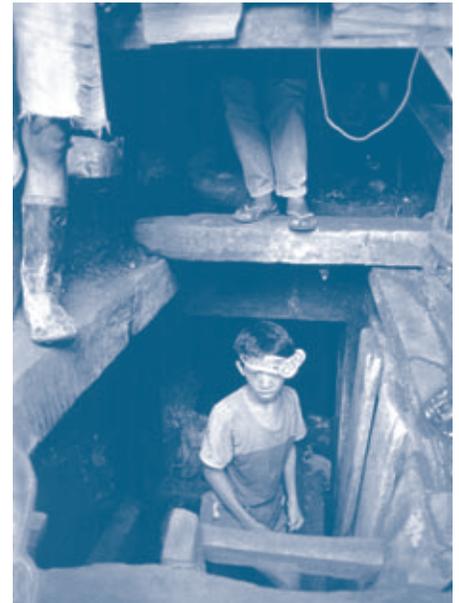
The Commission on Human Rights of the Philippines, an active institutional member of the Philippine Working Group, hosted a workshop for judges and lawyers on the "Justiciability of Economic, Social and Cultural Rights in Southeast Asia" on November 3-5, 2004. Organized in cooperation with the Office of the United Nations High Commissioner for Human Rights, the three day sub-regional seminar included judges and lawyers from all 10 Association for Southeast Asian Nations member states as well as observers from NGOs and specialized agencies. The conference assessed the possibility of trying in court cases involving economic, social and cultural (ESC) rights.

Mauritanian Chief Justice Ariranga Govindasamy Pillay and Professor Virginia Dandan, chair of the International Committee on Economic, Social and Cultural Rights started the workshop with a dis-

cussion on International Human Rights Law on ESC rights. This was followed by a presentation on the International Covenant on Economic, Social and Cultural Rights (ICESCR) implementation by former Indian Supreme Court Justice Sujata Manohar. P.N. Bhagwati, a United Nations Human Rights Committee member, spoke on the judicial execution while Tulika Srivastava of India's Association for Advocacy and Legal Initiatives followed with a talk on the emerging challenges in relation to an optional protocol to the ICESCR.

Each ASEAN country team also presented a case study on the legal and judicial mechanisms available in their states for the enforcement of ESC rights. The participants also examined its justiciability through a survey of hypothetical cases.

The conference is expected to create a network of jurists and lawyers to facilitate the sharing of information regarding



*Mines employing children will be lessened if the conference's goals are achieved.*

cases on ESC rights and to help them in their judicial deliberations. A database of national cases on these rights will be developed for the access of interested people.

## FUNDER'S CORNER

### The Asia Foundation

The Asia Foundation (TAF), a non-profit NGO with headquarters in San Francisco and 17 in-country offices throughout Asia, is committed to the development of a peaceful, prosperous and open Asia-Pacific region.

Drawing on half a century's worth of experience in Asia, TAF teams up with private and public partners to support leadership and institutional development, conduct policy research and develop educational materials. In the last five years, TAF has aided more than 1,000 NGOs across Asia.

It assists programs that help improve governance and law, eco-

nomics reform and development, women's empowerment and international relations. In 2004 alone, TAF provided more than \$72 million in program support throughout Asia.

Recognizing that Asian countries are "facing the twin challenges of establishing and maintaining institutions of governance that can sustain positive socioeconomic development on the one hand, while addressing and managing growing instabilities and conflicts on the other," TAF has supported endeavors fortifying the rule of law and promoting participatory, accountable and transparent governance. It also assists societies manage the



difficulties associated with changes brought about by globalization.

TAF funding over the past few years has been instrumental on allowing the Working Group for an ASEAN Human Rights Mechanism to pursue many of its planned activities. Government visits, workshops, dialogues with ASEAN senior officials, meetings with NGOs and donor organizations, as well as Secretariat support, are made possible by TAF grants.

For more information about TAF, visit [www.asiafoundation.org](http://www.asiafoundation.org).

## Singaporeans still fearful of asserting rights -- MP

Singaporean Member of Parliament Steve Chia said that his countrymen still cannot speak freely, gather together or form associations because these rights, although constitutionally enshrined, have been curtailed "in the name of national security."

Mr. Chia spoke during the Annual International Human Rights Day Forum at the Oxford Hotel on Dec. 11, 2004. The Think Center-Human Rights Working Group organized the forum with the theme: "Constitutional Rights and Citizenship Education."

Mr. Sinapan Samydorai, Think Center

president and an active member of the Singapore Working Group, raised the call for human rights education programs. He says "citizenship classes" in school will help Singaporeans realize that human rights are basic and inherent in every human being, not a boon that one receives from the government.

He warned that without tolerance for differing perspectives or respect for pluralism, human society is doomed. Think Center emphasized that promotion of human rights education is the key to unity, and it could be the remedy to violence, hatred and terror.



Steve Chia

The discussion attended by academics, students and activists tackled issues on freedom of speech, the right to association and the perceived lack of interest in human rights issues due to fear of the government.

The panel of speakers was chaired by Dr. Tan Chong Kee and included opposition MP Mr. Chia, last year's Think Center-Human Rights Awardee; the Venerable JB Jeyaratnam and the president of the Disabled People's Association, Mr. Ron Chandran-Dudley. Mr. Chandran-Dudley is this year's Human Rights Awardee.

## OUR OPINION

### Changes should first come from within

By Budiono Kusumohamidjojo

On January 17, Makarim Wibisono, one of Indonesia's outstanding career diplomats, was elected chairman of the United Nations Commission on Human Rights (UNCHR) for 2005.

However, Makarim's election to UNHCR reflects the international recognition of his personal reputation and does not necessarily indicate an acknowledgment of Indonesia's accomplishments in upholding human rights. Makarim's chairmanship of the UNCHR can then be seen as an honor but also as a tremendous challenge.

As chairman of the UNHCR, Makarim is expected to preside over 3,000 political actors and stakeholders and get them to cooperate despite their often conflicting opinions and interests.

He will address various cases of human rights violations from all over the

world, but his biggest challenge will be to act impartially in bringing about strategic decisions towards improving the global human rights situation.

It is unlikely that Indonesia's unimpressive record on human rights will provide Makarim with the empirical and substantive support he needs, and because he is an Indonesian diplomat chairing the UNCHR, he may have to respond to questions on Aceh, Papua, Poso and probably also the Munir case.

Indonesia's turn to chair the UNCHR in 2005 could easily turn out to be an opportunity for international pressure to be applied on Indonesia to improve its performance with regards to respect for and protection of the human rights of its people.

It would be unfair to make negative



H.E. Makarim Wibisono, chairperson of the United Nations Commission on Human Rights

assumptions regarding the effectiveness of Makarim's leadership of the UNCHR in 2005.

However, he must be aware of the fact that he will most likely face international pressure addressed to the Indonesian government to seriously implement programs to improve the human rights situation in the country.

*The complete version of this article was published in The Jakarta Post on February 14, 2005. Budiono Kusumohamidjojo is a member of the Indonesian Working Group for an ASEAN Human Rights Mechanism.*

# Cambodia needs an independent Human Rights Commission

By Dr. Kek Galabru

Funcinpec and the Sam Rainsy Party have demanded the creation of an independent National Human Rights Commission (NHRC) and the abolition of the existing government-controlled Human Rights Committee during the recent political negotiations between Funcinpec and the Cambodia Peoples Party.

Human rights NGOs have long seen the need for a truly independent and effective NHRC. An NGO draft law to establish such a commission was written by a group of NGOs in 1997. The fact that it is still being discussed today indicates its importance in ensuring human rights in Cambodia. The controversy that it has generated reveals the power that the proposed commission would hold to challenge human rights abuses in the country.

Human rights NGOs have achieved much particularly in the areas of investigation and promotion of human rights through educational activities. While NGOs have had the freedom to investigate sensitive cases, they are limited because they have no legally defined power. NGOs in Cambodia are only in a position to advise the government. Human rights defenders have been targets of intimidation and even violence in carrying basic human rights activities. These forms of intimidation hamper efforts to reduce and prevent human rights abuses.

The government's Human Rights Committee has failed to meet the basic requirements for a National Human Rights Institution as determined by a long formative process conducted by the United Nations (UN). The members were not appointed through a proper and transparent procedure, nor do they represent a cross-section of Cambodian society. Perhaps most significantly, the Human Rights Committee has not been very active, conducting only a few investigations or educational activities, sending few reports to the UN Committees or to the National Assembly, and barely even acknowledging any human rights violation or wrongdoing by the government. This governmental committee is not accountable to the Cambodian people and is mostly inaccessible to citizens in rural areas.

The proposed NHRC, guided by the principles derived under the UN's auspices, would avoid many of the shortcomings of the government's human rights committee. It would be independent from the government. Its procedures would be transparent to the public and accountability mechanisms would be put in place. Finally, the Commission would be granted a broad mandate and sufficient budget to carry out its tasks.

*Dr. Kek Galabru is a member of the Cambodian Working Group for an ASEAN Human Rights Mechanism and is president of the Cambodian League for the Promotion and Defense of Human Rights (LICADHO).*



*Dr. Kek Galabru*

## FROM THE EDITOR

There are a number of human rights developments within the region: the Association for Southeast Asian Nations adopted two human rights declarations, established a commission promoting and protecting women's and children's rights and an Indonesian is chairperson of the United Nations Commission on Human Rights.

During the recent Association for Southeast Asian Nations-Institutes for Strategic and International Studies (ASEAN-ISIS) Colloquium on Human Rights, there were still mixed reactions and perceptions coming from participating ASEAN governments and think tanks on how to best proceed in establishing a regional mechanism on human rights.

What is clear is that the foundation for a possible human rights mechanism is in place due to the ASEAN Security Community Plan of Action and the Vientiane Action Programme.

It is only a matter of when a human rights mechanism will be set-up, depending on the step-by-step, building block approach which ASEAN employs. Hopefully it will be sooner than later.

## HUMAN RIGHTS HERALD

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