OHCHR REGIONAL OFFICE FOR SOUTH-EAST ASIA

SECOND ASIA HUMAN RIGHTS FORUM
ON REGIONAL HUMAN RIGHTS COOPERATION FOR COMBATING COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN IN ASIA
SEOUL, SOUTH KOREA
5 FEBRUARY 2007

OHCHR’ S ROLE IN SUPPORTING THE ESTABLISHMENT OF AN ASEAN REGIONAL HUMAN RIGHTS MECHANISM

Distinguished guests,
Ladies and gentlemen,

On behalf of the UN High Commissioner for Human Rights, Ms. Louise Arbour, I would like to express our gratitude for the invitation to this very important forum which we think is a step forward towards increasing regional and international cooperation on human rights issues.

Let me start with the current challenges that the Regional OHCHR Office for South-East Asia (hereinafter: the Regional Office) is faced with, before we discuss the role of the Regional Office in the establishment of an ASEAN human rights mechanism.

The current challenges are as follows:

1. Human rights are considered by some ASEAN leaders as a challenge to their political, economic, social and cultural systems.
2. It has been expressed by some leaders in the ASEAN region that human rights contradict “Asian values” and therefore cannot be accepted.
3. National economic growth is often given priority (high GDP) and issues relating to human rights are considered less important.
4. The issue of impunity is a problem in the region.
5. There is a lack of structure within some governmental and non-governmental institutions in the region to address violations of human rights committed by state agents.
6. Although national human rights commissions have been established in Indonesia, Malaysia, the Philippines and Thailand, some of them lack political support from their respective governments. Furthermore, they focus on promotional activities rather than on the monitoring of violations of human rights.

The main reasons why the region needs a human rights mechanism could be described as follows:

1. Regional mechanisms can empower Asian people to claim their human rights in accordance with their cultural and social preferences.
2. Regional mechanisms can help to improve international human rights mechanisms.
Regional mechanisms can provide help to national mechanisms to strengthen their role in the promotion and protection of human rights at the national level.

Regional mechanisms can help national governments to implement their international human rights obligations.

Regional human rights mechanisms can provide advisory services to national governments in the administration of justice, legislative reform, human rights education and capacity-building of governmental and non-governmental institutions in order to effectively contribute to the respect for human rights.

Regional mechanisms can help national governments to better address regional human rights concerns such as organised crime (including terrorism, trafficking, sexual exploitation of migrant workers and children) as well as environmental concerns which have human rights implications.

Regional mechanisms' strengthening of the protection of human rights will in turn promote security and peace in the region.

In her address at the opening of the Thirteenth Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asia-Pacific region held in Beijing on 30 August 2005, the High Commissioner for Human Rights, Ms. Louise Arbour, reiterated the critical importance of regional mechanisms in ensuring better respect for human rights. The High Commissioner stated that "their importance lies in the fact that they are designed to articulate a common approach to a complex problem, an approach that will assist states, from a position of shared regional values, to address shortcomings in their national frameworks so as to allow individuals the means to enjoy their rights in full, and to obtain effective redress when those rights are denied."

OHCHR encourages all initiatives and at the same time extends its offer of assistance to Member States, national institutions and NGOs alike in promoting human rights, including the ones being put in place by regional organizations. According to the High Commissioner, it is important that governments take ownership of the process involved in establishing a collective human rights mechanism, with this ownership more easily achieved in the short-term at the regional level.

On 13 January 2007, the 10 leaders of ASEAN unanimously endorsed the "Cebu Declaration on the Blueprint of the ASEAN Charter", which, in turn, endorsed the report of the Eminent Persons' Group on the ASEAN Charter. With regards the establishment of an ASEAN human rights mechanism, paragraph 47 of the EPG report states:

The EPG believes that ASEAN should continue to develop democracy, promote good governance and uphold human rights and the rule of law. The EPG discussed the possibility of setting up of an ASEAN human rights mechanism, and noted that this worthy idea should be pursued further, especially in clarifying how such a regional mechanism can contribute to ensuring the respect for and protection of human rights of every individual in every Member State.

1 Address by the High Commissioner for Human Rights, Ms. Louise Arbour, at the opening of the Thirteenth Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asia-Pacific Region, Beijing, 30 August 2005.
2 Ibid.
In keeping with the High Commissioner’s sentiments, and in the context of the “Cebu Declaration on the Blueprint of the ASEAN Charter”, OHCHR’s Regional Office considers the establishment of an ASEAN regional human rights mechanism its highest priority.

Unfortunately, the above-mentioned paragraph of the Eminent Persons Group Report only mentions “the possibility of setting up of an ASEAN human rights mechanism…”. But we hope very much that our Office together with other stakeholders, including representatives of governmental and non-governmental institutions, parliamentary human rights committees, national NGOs as well as the four national human rights commissions in Indonesia, Malaysia, the Philippines and Thailand will be in close contact with the ASEAN High Level Task Force to have fruitful discussions in order to come up with a concrete plan of action. We also hope that a unit can be created in the ASEAN Secretariat to ensure the institutionalisation of human rights in the ASEAN agenda.

Asia is the only continent to have no regional human rights mechanism. Based on the Joint Communiqué of the ASEAN Ministerial Meeting in Singapore in 1993 and a la longue with the World Conference on Human Rights, which took place in Vienna, Austria in June 1993, the Working Group for an ASEAN Human Rights Mechanism (hereinafter: the ASEAN Working Group) has been trying to create a regional human rights instrument for the region since it was established at the 31st ASEAN Ministerial Meeting in Manila in 1998.

The first workshop for an ASEAN Regional Mechanism on Human Rights, which was convened in Jakarta on 5-6 July 2001, was organised by the ASEAN Working Group. But the process has been very slow, as some Member States still have difficulties integrating a human rights agenda into their national programmes.

During the meeting of the Working Group with the ASEAN Senior Officials (SOM) in Vientiane, Lao PDR, on 25 July 2005, the SOM decided to mandate the Working Group to help in the implementation of the human rights related programmes in the Vientiane Action Programme (VAP). They are as follows:

- Establishment of a commission on the promotion and protection of the rights of women and children;
- Elaboration of an ASEAN instrument on the promotion and protection of the rights of migrant workers;
- Promoting education and public awareness on human rights in the region; and
- Networking among existing national human rights institutions in the region.

In terms of activities of the Regional Office, at the First Regional Conference on Building Networks to Strengthen ASEAN Human Rights Cooperation that was held from 3 to 6 April 2006 in Manila it was decided that, in cooperation with the four established National Human Rights Institutions in the South-East Asian region, the Regional Office in Bangkok would help to organise a series of workshops on regional human rights mechanisms based on the experiences of Africa, Europe and Latin America.

The first of this series of workshops entitled “Experiences with Regional Human Rights Mechanisms in Africa, Europe and Latin America”, will take place in Bangkok, Thailand from 26 October 2005. A report on the workshop will be submitted to the ASEAN Ministerial Meeting in Vientiane.

---

4 Ibid
to 27 February 2007. This workshop aims to contribute to the process of pursuing the goal of an ASEAN human rights mechanism by exploring the experiences had with regional human rights mechanisms in Africa, Europe and Latin America. It hopes to make senior ASEAN government officials more familiar with the implications of having an ASEAN regional human rights mechanism and to clarify some misconceptions about human rights promotion and protection at the regional level. It is ultimately hoped that this can encourage the inclusion of a human rights mechanism in the first draft of the ASEAN Charter when it is presented by the High Level Task Force to the 13th ASEAN Summit in Singapore in November 2007.

We hope very much that the above-mentioned activities will help contribute to the establishment of an ASEAN regional human rights mechanism which, in turn, should help in the protection and promotion of human rights at the national, regional and international levels.

Dr. Homayoun Alizadeh
Seoul, 5 February 2007