



A Commission Shrouded in Secrecy

A Performance Report on the ASEAN Intergovernmental Commission on
Human Rights 2010-2011

by the
Solidarity for Asian People's Advocacy
Task Force on ASEAN and Human Rights (SAPA TFAHR)

FORUM-ASIA

Asian Forum for Human Rights and Development

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Foreword

The Solidarity for Asian People's Advocacy Task Force on ASEAN and Human Rights (SAPA TFAHR) is presenting, for the second time, a civil society report on the performance of the ASEAN Intergovernmental Commission on Human Rights (AICHR). The report covers the period between October 2010 and December 2011.

We present an annual performance report of the AICHR in order to provide the public with regular information and analysis on developments concerning the Commission. The AICHR's continuing policy of withholding documents and information from the public has made it difficult to access official AICHR materials. Nevertheless, SAPA TFAHR has used all available materials and information in order to compile the present report and make it as informative as possible. The report also reflects our advocacy in engaging with the AICHR during the past year.

Among the most important issues covered in this report are civil society's efforts to engage officially with the work of the AICHR, and the drafting process of the ASEAN Human Rights Declaration (AHRD). Readers can find several submissions by civil society organizations and National Human Rights Institutions (NHRIs) to the AICHR, expressing their views and expectations on the future AHRD, in the annexes of this report.

We would like to sincerely thank those who contributed to the drafting of this report, all members of SAPA TFAHR, FORUM-ASIA Secretariat, and various individuals, too numerous to be listed here. Our gratitude is also extended to the Southeast Asia Women's Caucus, the Election Access for Persons with Disabilities, the Working Group for An ASEAN Human Rights Mechanism, the Asia Indigenous Peoples Pact, the Indigenous Peoples Task Force on ASEAN, Amnesty International and the Southeast Asian National Human

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Rights Institutions Forum (SEANF) for sharing their submissions to the AICHR.

We also would like to acknowledge and appreciate our donors— the Swedish International Development Cooperation Agency (SIDA), United National Democracy Fund (UNDEF) and the Open Society Institute (OSI), whose generous support has helped us in our advocacy work and in making this report possible.

Finally, this report reflects SAPA TFAHR's commitment to strengthen human rights mechanisms in ASEAN, and we hope that it can truly contribute to such strengthening, especially towards the AICHR becoming an effective and responsive regional human rights mechanism working for the benefit of the people in this region.

On behalf of the SAPA TFAHR,

Yap Swee Seng

Co-convenor of SAPA TFAHR

Executive Director of FORUM-ASIA

Haris Azhar

Co-Convenor of SAPA TFAHR

Coordinator of KontraS

Chapter 1

Introduction

“At the end of the day, AICHR Commissioners and the governments they represent, will be judged by what they achieve, how their work compares with regional bodies elsewhere in the world and whether or not it is in line with international standards.”¹

*– Navi Pillay, United Nations High Commissioner
for Human Rights*

Building on the momentum created by the adoption of the Association for Southeast Asian Nations (ASEAN) Charter in 2007, the ASEAN Intergovernmental Commission on Human Rights (AICHR) is widely seen as an important, concrete step towards the full integration of universal human rights standards into the operations of the regional group.

The AICHR’s establishment in 2009 brought much hope and expectations among ASEAN peoples, particularly in civil society, as a new avenue to address the various national and cross-border human rights abuses in the region. However, over the past two years, the AICHR has had little to show in terms of its progress in fulfilling its mandated role of protecting and promoting human rights.

This is the second annual report on the AICHR’s performance by the Solidarity of Asian People’s Advocacy Task Force on ASEAN and Human Rights (SAPA TFAHR). These annual reports assess the work of the AICHR, with a view to providing the public a regular assessment of developments involving the region’s first human rights body. SAPA TFAHR hopes that these reports contribute to the strengthening of the AICHR and human rights in ASEAN more

¹ See “Next two years key to human rights development in ASEAN region – UN human rights chief”, United Nations Office of the High Commissioner for Human Rights, 28 November 2011, annex 11.

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generally.

SAPA TFAHR's first performance review of AICHR was written in the context and understanding that the Commission was at its institution-building stage as a newly-established body. Then, merely one year after its inauguration, it was perhaps understandable that AICHR's main activities were geared towards giving flesh to its mandates and functions, as outlined in its Terms of Reference. For its second year, SAPA-TFAHR hoped that the AICHR will have begun to implement these mandates and functions.

This present report assesses the performance of the AICHR, including the implementation of its work plan, and engagement with various stakeholders, especially civil society. It covers the period between where the first assessment report left off, after the first anniversary of the AICHR on 23 October 2010, and the end of Indonesia's turn as Chair of ASEAN and AICHR in December 2011.

The assessment is based on information gathered from different sources, including publicly available official documents of the AICHR, communications between non-governmental organizations (NGOs) and the AICHR, NGOs and other stakeholders that engage with the AICHR, unofficial sources, news media reports and other information. At the outset, it must be emphasised that there is very little official and publicly available information on the AICHR.

Chapter 2

Institutional building

2.1 Changes in AICHR Composition and AICHR meetings

With the handing over of the Chairship of ASEAN from Vietnam to Indonesia at the closing of the 17th ASEAN Summit in Hanoi on 30 October 2010, the Chairperson of the AICHR also changed accordingly from the Vietnamese representative, Do Ngoc Son to the Indonesian representative, Rafendi Djamin.

Article 6.2 of the Terms of Reference of the AICHR states that the AICHR shall have at least two meetings in a year and each meeting shall not be more than five days.

In the period of coverage of this report, the AICHR met four times on the following dates:

Table 1: Schedule of Official Meetings of AICHR, 2011

Date	Session	Location
10 - 13 February 2011	4 th Meeting	Solo, Indonesia
25 - 29 April 2011	5 th Meeting	Jakarta, Indonesia
28 June – 2 July 2011	6 th Meeting	Vientiane, Lao PDR
28 November – 1 December 2011	7 th Meeting	Bali, Indonesia

During this period, the representative of Vietnam to the AICHR Do Ngoc Son, was replaced by Nguyen Duy Hung, a former ambassador of Vietnam to Thailand. In December 2011, the representative of Brunei, Hamid Bakal, was replaced by Ahmad Jumat, a former Minister of Industry and Primary Resources. This reflected the continued policy of Vietnam and Brunei to appoint their AICHR representatives from amongst former civil servants who are closely

linked to the government rather than independent human rights experts.

2.2 Guidelines of Operations

The discussion on the adoption of a set of rules of procedure of the AICHR did not materialise in 2010 despite the announcement in a press release on 1 April 2010 that it will be completed and submitted to the 43rd ASEAN Ministerial Meeting (AMM) in July 2010.

It was only in the 4th meeting of the AICHR in February 2011 that a set of rules of procedure was finally adopted by the AICHR. The title of the document was changed to Guidelines of Operations. Nevertheless, to this date, the AICHR has not disclosed publicly these Guidelines of Operations, which is vital for members of the public to understand how the AICHR operates in order to be able to engage with it.

According to some sources, a certain member state did not agree with some of the points in the Guidelines on Operation after it had already been adopted. As a result, at the end of 2011, the Guidelines were still not in force, pending further discussions.

2.3 Budget

The annual budget and expenses of the AICHR have never been made public since its inception in 2009. In an interview with the Jakarta Post on 11 March 2011, the Chair of AICHR revealed that the AICHR was using its seed fund for its official meetings and activities². The seed fund is comprised of an equal contribution of US\$20,000 from each ASEAN member states, which essentially comes from taxpayers of all the 10 ASEAN countries.

2 See special report, "We will engage civil society groups", *Jakarta Post*, Ary Hermawan, 1 November 2010, accessed at <http://www.thejakartapost.com/news/2010/01/11/%E2%80%98we-will-engage-civil-society-groups%E2%80%99.html>

2.4 Secretarial Support

The secretarial support for the AICHR is provided by the ASEAN Secretariat. At the time of writing this report, there are only two staff members allocated by the ASEAN Secretariat to support the operation of the AICHR and the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC). This severely limits the operation and effectiveness of the AICHR, and is perhaps a reflection of ASEAN's low priority on human rights.

2.5 Making information public

Article 6.7 of the Terms of Reference of the AICHR requires the AICHR to keep the public periodically informed of its work and activities through appropriate public information materials produced by the AICHR.

From the end of 2010 to the end of 2011, the AICHR adopted several official documents. Although these were announced in AICHR's press releases, not a single one of them has been made available to the public. Most of these documents support its institutional development. These were:

Table 2: Documents adopted by the AICHR

Name of document	Date of Adoption	Public Accessibility
Guidelines on Operations (GO)	4 th Meeting, 14 February 2011	Not accessible
Terms of Reference of the Drafting Group of the ASEAN Human Rights Declaration	5 th Meeting, 25-29 April 2011	Not accessible
Terms of Reference of the baseline study on Corporate Social Responsibility and Human Rights in ASEAN	5 th Meeting, 25-29 April 2011	Not accessible

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Rules of Procedure for the AICHR Fund	5 th Meeting, 25-29 April 2011	Not accessible
The first Annual Report of the AICHR	Submitted to the 44 th ASEAN Ministerial Meeting (Bali, July 2011)	Not accessible
AICHR Work Plan (2013-2015)	7 th Meeting, 28 November – 1 December 2011	Not accessible
Priority Programme 2012 and its budget	7 th Meeting, 28 November – 1 December 2011	Not accessible
Terms of Reference of the thematic study of Right to Peace*	7 th Meeting, 28 November – 1 December 2011	Not accessible

The first annual report of the AICHR was submitted to the Foreign Ministers of ASEAN during the 44th ASEAN Ministerial Meeting (AMM) in July 2011. However, this report has not been made publicly available. The ASEAN Secretary General mentioned in one of his briefings that publishing the report will require the consent of all 10 member states of ASEAN. Based on his comment, it appears that no such consensus was reached on this matter during the 44th AMM.

Since its establishment over two years ago, not a single document adopted by the AICHR has been released for public access. The efforts of CSOs to get access to these documents through official channels have thus far been unsuccessful, with the official explanation being that AICHR considers them all internal documents. For the record, SAPA TFAHR sent a letter to the AICHR in June 2011 requesting access to some of these documents³. An official reply came in

3 SAPA TF-AHR and SAPA Task Force on Freedom of Information (TF-FOI) Letter to the AICHR requesting access to the AICHR's documents, 15 June 2011.

November 2011 from the Chair of the AICHR, Rafendi Djamin, who stated that those documents are “internal working documents” and therefore cannot be disclosed to the public.

This report finds a disappointingly lack of transparency in the way the AICHR conducts its activities. This is contrary to the common practice at the UN and at other regional human rights bodies, which regularly publish news on their work, documents, and summaries of meetings on their websites, including drafts of key documents for public comments; all come under scrutiny. Even on an important issue like the drafting process of the ASEAN Human Rights Declaration, which will become the founding document for human rights in ASEAN, there has been very little information available, let alone space for participation.

An example of the seriousness of the problem is that no information was provided on the ASEAN website about the replacement of Vietnam’s Representative to the AICHR, Do Ngoc Son, by a new representative, Nguyen Duy Hung, at the end of 2010 last year. Similarly, only one sentence in the press release of the Seventh AICHR meeting mentioned the replacement of Pehin Dato Hamid Bakal with Pehin Dato Haji Ahmad Jumat as the Representative of Brunei Darussalam. At the time of publication of this report, AICHR’s webpage on the ASEAN’s website still contains the curriculum vitae of Hamid Bakal and Do Ngoc Son as the representatives of Brunei and Vietnam, respectively.

This problem of lack of transparency is the natural consequence of the AICHR following the “ASEAN Way” of decision making by “consultation and consensus”. Decision-making within the AICHR cannot happen without the consent of the governments of all ASEAN member states. The fact that none of its documents can be published without the consent of all the 10 member states of ASEAN is at the heart of the problem of lack transparency and access to information. This problem is made worse by the institutional self-limitations imposed by the AICHR, such as those described in the AHRD Drafting Group’s Terms of Reference to keep the discussions among members of their group and with AICHR “confidential”.

There is nothing in the Terms of Reference of the AICHR that prohibits them from publishing materials and increasing their transparency. The AICHR should strive to uphold the right of freedom of information at all times, instead of denying the ASEAN peoples of this fundamental human right while undertaking its work. The AICHR should exercise its discretion in this matter and provide the public access to their work and documents, so as to increase their respectability and effectiveness.

2.6 Website

Unlike all other regional human rights bodies, AICHR does not have an independent website; instead it has a web page reachable through the ASEAN Secretariat website (www.asean.org). The web page is rather obscure, accessible through a banner link within the “Quick Links” section on the ASEAN home page. Far from being in a prominent location, the AICHR is only visible on the eighth – and last – banner of the quick links section. The AICHR does not feature on social networks such as Facebook and Twitter.

With the internet being a key channel of information, access and communication, AICHR’s web presence is very poor indeed, which is both disappointing and surprising, in view of the very low cost of creating a well-functioning and user-friendly website. Even more disappointing is the severe paucity of information available from the human rights body. There is no explanation whatsoever on the web page of what AICHR is, how it was established or what its mandate, tasks and plans are. The web page also does not provide any contact information for the AICHR.

2.7 Alignment with the ACWC

Article 6.8 of the Terms of Reference of the AICHR stipulates “the AICHR is the overarching human rights institution in ASEAN with overall responsibility for the promotion and protection of human rights in ASEAN.” Article 2.2 of the Terms of Reference of the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) provides the ACWC with the

mandate “to uphold, promote, protect, respect and fulfil the rights of women and children in ASEAN to live in peace, equality, justice, dignity and prosperity.”

The first meeting between the AICHR and the ACWC regarding the alignment and coordination of work between the AICHR and the ACWC during the period covered by this report took place at the 7th meeting of the AICHR in December 2011. While no agreement was reached during this first meeting, it was encouraging that both commissions have committed to an ongoing dialogue on the matter.

Meanwhile, during this period, the AICHR proceeded with organizing three activities that were directly related to the rights of women and children, with AICHR representative of the Philippines, the focal point on women’s rights within the AICHR, as the main organiser. These activities, described below (see section 3.4), had workshops titled “Towards Achieving Substantive Gender Equality” held in Jakarta, the “ASEAN Conference on Promoting Maternal Health: Responding to the UN Millennium Development Goal 5” and the “Regional Workshop on Statelessness and the Rights of Women and Children”. The latter two events were held in Manila.

The ACWC’s involvement in the latter two events was minimal. The extent to which activities on overlapping issues will be consulted and coordinated with the ACWC in the future remains to be seen.

Chapter 3

Implementation of the Mandates and Functions

In the terms of reference of AICHR, Article 4 outlines 14 mandates and functions of the AICHR, namely:

- 1.1 To develop strategies for the promotion and protection of human rights and fundamental freedoms to complement the building of the ASEAN Community;
- 1.2 To develop an ASEAN Human Rights Declaration with a view to establishing a framework for human rights cooperation through various ASEAN conventions and other instruments dealing with human rights;
- 1.3 To enhance public awareness of human rights among the peoples of ASEAN through education, research and dissemination of information;
- 1.4 To promote capacity building for the effective implementation of international human rights treaty obligations undertaken by ASEAN Member States;
- 1.5 To encourage ASEAN Member States to consider acceding to and ratifying international human rights instruments;
- 1.6 To promote the full implementation of ASEAN instruments related to human rights;
- 1.7 To provide advisory services and technical assistance on human rights matters to ASEAN sectoral bodies upon request;
- 1.8 To engage in dialogue and consultation with other ASEAN bodies and entities associated with ASEAN, including civil society organisations and other stakeholders, as provided for in Chapter V of the ASEAN Charter;
- 1.9 To consult, as may be appropriate, with other national,

regional and international institutions and entities concerned with the promotion and protection of human rights;

- 1.10 To obtain information from ASEAN Member States on the promotion and protection of human rights;
- 1.11 To develop common approaches and positions on human rights matters of interest to ASEAN;
- 1.12 To prepare studies on thematic issues of human rights in ASEAN;
- 1.13 To submit an annual report on its activities, or other reports if deemed necessary, to the ASEAN Foreign Ministers Meeting; and
- 1.14 To perform any other tasks as may be assigned to it by the ASEAN Foreign Ministers Meeting.

3.1 Drafting of the ASEAN Declaration of Human Rights

The main focus of the AICHR's work in the period covered in this report was to draft the ASEAN Human Rights Declaration (AHRD). It is also, arguably, the most important output required from the first batch of representatives as stipulated under Article 4.2 of the Terms of Reference of the AICHR. The AICHR began discussions on the AHRD drafting process in their third meeting in Kuala Lumpur in September 2010. The AICHR decided that the initial drafting would be carried out by a Drafting Group, and adopted the Terms of Reference of that Group during their fifth meeting at the ASEAN Secretariat in Jakarta on 25-29 April 2011⁴.

The Terms of Reference of the Drafting Group were never officially made public by the AICHR. However, SAPA TFAHR has managed to obtain a copy of the document. Among its main points are:

- The purpose of the Drafting Group is to provide a basic draft of the AHRD;
- The Drafting Group is to work in accordance with the

4 Press Release of the Fifth Meeting of the ASEAN Intergovernmental Meeting on Human Rights, <http://www.asean.org/26208.htm>

principles of AICHR itself, as provided in Article 2 of the AICHR TOR;

- Members for each state are to be appointed by its AICHR representative. They must be “senior, competent and fully mandated to fulfil their task” and “have wide knowledge and experience in human rights matters” as well as of ASEAN;
- The Drafting Group is to bear in mind “the national and regional particularities and mutual respect for different political, historical, cultural and religious background within ASEAN, and take into account the balance between rights and responsibilities” but must also uphold international human rights standards;
- All discussions, both within the Drafting Group and with AICHR, “shall be undertaken in a confidential manner”;
- Decision making is to be based on “consultation and consensus”;
- AICHR is to conduct consultations with other ASEAN bodies, national regional and international, including civil society organizations, as provided in Chapter V of the ASEAN Charter and Article 4.9 of the TOR of AICHR. The Drafting Group must “be guided by the outcome” of these consultations;
- The Drafting Group must have regard to ASEAN instruments related to human rights, national consultations and international human rights instruments, particularly those to which ASEAN member states are party;
- The final basic draft is to be submitted within six months, that is, at the end of 2011;
- The Drafting Group is to report to AICHR following each of its meetings;
- Secretarial support is to be provided by the ASEAN Secretariat.

It is regrettable that both this Terms of Reference and the names of

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Drafting Group members have not been publicised despite the fact that the ADHR is supposed to uphold the inalienable human rights of each and every woman, man and child within ASEAN, rather than the privileges of governments or their representatives. Every individual and civil society organization must therefore have access to and an opportunity to influence the process, which should reflect their values and may profoundly affect their future.

As for the Terms of Reference of the Drafting Group, several provisions are particularly disturbing:

- The “confidential clause” that gag those involved in the drafting process, as elaborated above;
- The restriction of consultations with civil society organisations at the regional level to those listed in Chapter V of the ASEAN Charter, which has the effect of leaving the overwhelming majority of CSOs outside the process, particularly regional NGOs;
- The reiteration of elements such as “national and regional peculiarities” and other culturally relativist positions. These elements are not relevant to a human rights declaration, which must reflect universal values. SAPA TFAHR emphasises again, as it did last year, that there is no justification for the AHRD to provide a level of human rights protection and respect lower than that of universal human rights instruments.
- The notion of balancing rights and responsibilities is also alien to human rights values. The most fundamental human rights, including the rights to life, freedom from slavery, torture and other ill-treatment, the right to equality before the law and non-discrimination and freedom of religion or belief cannot be compromised or derogated from even in times of emergency. While other rights may be restricted in certain circumstances, these restrictions are narrowly defined and are a matter of reasonable considerations such as national security or other people’s rights, not of balancing;

- Decision making by consultation and consensus, which may lead to agreeing on the lowest common denominator.

In the Sixth meeting of the AICHR in Vientiane, on 28 June – 2 July 2011, the Drafting Group was officially inaugurated. There was no official information regarding the selection process and the appointment of the members of the Drafting Group. The names of the members of the Group, made up of representatives from the 10 ASEAN member states, have so far not been published on the ASEAN website or any other official sources. However, SAPA TFAHR has managed to obtain the names of its members, which are provided in table 3.

Table 3: Members of the Drafting Group on ASEAN Human Rights Declaration

No	Country	Representative
1	Brunei Darussalam	Dk. Hajah Faezah Pangiran Haji Abdul Rahman, Deputy Director, Department of International Organizations, Ministry of Foreign Affairs and Trade
2	Cambodia	Orn Panhha, Assistant to the Senior Minister, President of the Cambodian Human Rights Committee (CHRC) and Representative of Cambodia to AICHR
3	Indonesia	Prof. Harkristuti Harkrisnowo, Director-General of Human Rights, Ministry of Law & Human Rights
4	Lao PDR	Mr. Phongsavanh Sisoulath, Deputy Director-General, ASEAN Department, Ministry of Foreign Affairs
5	Malaysia	Y.M. Raja Dato' Nazrin Aznam, Deputy Director-General, APSC, ASEAN-Malaysia National Secretariat

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6	Burma/ Myanmar	Mr. U Nyunt Swe, Deputy Director-General (retired), the International Organizations & Economic Department of the Ministry of Foreign Affairs, Myanmar
7	Philippines	Ms. Irene Susan Natividad, Executive Director, Office of Legal Affairs, Department of Foreign Affairs
8	Singapore	Loh Tuck Keat, Deputy Director-General, the Singapore ASEAN National Secretariat
9	Thailand	Mr. Seree Nonthasoot, Legal Counsel of the State Enterprise Policy Office, Ministry of Finance, Thailand
10	Vietnam	Mr. Vu Ho, Deputy Director-General, ASEAN Department, Ministry of Foreign Affairs of Viet Nam

The Drafting Group was headed by Professor Harkristuti Sisoulath from Indonesia. The group held several meetings in 2011, as listed in table 4:

Table 4: Meetings of the Drafting Group of the AHRD

Title of meeting	Venue/date	Output
Inaugural meeting/ 1 st Drafting Group meeting	Vientiane, Laos (28 June – 2 July 2011))	Establishment of the Drafting Group
2 nd Drafting Group Meeting	Singapore (3 – 5 August 2011)	No information available
3rd Drafting Group Meeting	Bangkok, Thailand (14-16 September 2011)	Draft Preamble of the AHRD reportedly completed

4 th Drafting Group Meeting	Jakarta, Indonesia (30 October – 1 November 2011)	No information available
5 th Drafting Group Meeting	Bandar Seri Begawan (20-23 December 2011)	No information available
6 th Drafting Group Meeting	Manila (4-6 January 2012)	No information available

At the regional level, there has been very limited information and engagement on the drafting process of the AHRD notwithstanding civil society organizations' consistent and repeated requests for dialogue.

The ACWC's level of involvement and contribution in the drafting of the ASEAN Human Rights Declaration, especially on issues related to the rights of women and children in the Declaration, is unclear.

Despite the difficulties of meeting with the AICHR, several civil society groups submitted their inputs to the AICHR on the AHRD through position papers and memoranda. These groups included the SAPA TFAHR, the Southeast Asia Women's Caucus, the Working Group for an ASEAN Human Rights Mechanism, and the Indigenous Peoples Task Force on ASEAN (IP-TF on ASEAN). The South East Asia National Human Rights Institution Forum (SEANF) also made a submission.

At the national level, it is encouraging that several members of the Drafting Group and the AICHR took the initiative to brief civil society organizations and exchange views on the ASEAN Human Rights Declaration. Unfortunately, this was only limited to countries such as Thailand, Indonesia, Philippines and Malaysia.

Based on current available information, it is difficult to assess what type of Human Rights Declaration will emerge from the process. The secretive drafting process does not bode well for a document,

which will be the core document for human rights in ASEAN and the first of its kind in the whole of Asia. Such a document requires an open, wide and inclusive participation in its drafting process. Civil society organizations have shared inputs and other contributions to the process. However, because of the lack of feedback from AICHR, and with the entire process taking place in secrecy, civil society have been left in the dark as to whether these contributions have been considered or to what extent they are to be reflected in any forthcoming drafts.

3.2 Thematic studies

Under Article 4.12 of the Terms of Reference of the AICHR, the Commission is required “to prepare studies on thematic issues of human rights in ASEAN”. According to the information gathered from various sources, three thematic studies were initiated in 2011, namely corporate social responsibility (CSR) and human rights in ASEAN; migration; and the right to peace.

Table 5: Progress on AICHR’s Thematic Studies

Thematic Study	Progress
Corporate Social Responsibility and Human Rights in ASEAN	<ul style="list-style-type: none">• Adoption of the Terms of Reference during the 5th Meeting of the AICHR (Jakarta, 25-29 April 2011)• Selection of the research team (No information)
Migration	Discussion of the Terms of Reference during the 5 th Meeting of the AICHR
Right to Peace	Discussion of the Terms of Reference during the 7 th Meeting

Corporate Social Responsibility and Human Rights

In April, the AICHR adopted the Terms of Reference for a “baseline study” on corporate social responsibility and human rights in

ASEAN.⁵ However, beyond this statement, and general mentions of these studies in its press releases, AICHR has provided no official information on the progress of the study.

At the regional level, civil society initiated at least two regional activities to engage in the study on corporate social responsibility and human rights. The Working Group for an ASEAN Human Rights Mechanism and other organizations held a workshop on this thematic area in Singapore on 30 November – 1 December 2010, which was attended by some AICHR representatives, including Singapore's representative to the AICHR, Richard Magnus.

Another civil society effort to contribute to the thematic study on corporate social responsibility was 'the Public Hearing on Corporate Social Responsibility and Human Rights in ASEAN' organized by a number of organizations and networks within the SAPA Working Group on ASEAN (SAPA WG ASEAN) in Jakarta on 2 May 2011. Indonesia's representative to the AICHR, who is the Chairperson of the Commission, Rafendi Djamin, attended this meeting.

A second SAPA public hearing on corporate social responsibility and ASEAN was held on 25 November 2011 in Bali, Indonesia. It was co-organized by the Asia Indigenous Peoples Pact (AIPP), the Institute for Essential Services Reform (IESR) and the South East Asian Committee for Advocacy (SEACA) for the Solidarity for Asian Peoples' Advocacy (SAPA) Working Group on ASEAN, the SAPA Task Force on ASEAN and the Extractive Industries, and the Indigenous Peoples' ASEAN Task Force.

The objective of the public hearing was to look into the various manufacturing, energy, agricultural and extractive activities by transnational and multinational corporations, including companies originating from within the region as well as local companies that engage with them. Testimonies on the recurring negative consequences of the activities of transnational and multinational

5 See Press Release of the Fifth ASEAN Intergovernmental Commission on Human Rights, Jakarta, 25-29 April 2011, <http://www.asean.org/26208.htm>.

corporations on indigenous peoples, local communities and workers were heard during the public hearing. The hearing also discussed the common challenges in addressing these violations, the relevant obligations under international instruments and regional commitments, and possible remedies.

Migration

Unfortunately, no further information has been available on the thematic study on migration, beyond the fact that the TOR for this study was discussed during AICHR's Fifth meeting⁶.

Right to Peace

Similarly, the press release on the AICHR's Seventh meeting⁷ mentioned their discussions on a draft Terms of Reference on the thematic study on the Right to Peace but provided no further information.

At the time of writing, there is no published output from any of the projects described above. It seems highly probable that none of the AICHR's thematic studies have been concluded yet. Consultations with CSOs and other stakeholders in conducting these thematic studies could have brought support to the AICHR's work on these studies.

3.3 Advisory Role to ASEAN Sectoral Bodies

In 2010, the AICHR received a request from the ASEAN health senior officials to provide advice on the issue of mandatory HIV test for migrant workers. Civil society organisations such as CARAM-ASIA and the SAPA TFAHR have provided inputs on the issue to the AICHR, and individual representatives such as the representative of Thailand, Dr. Sriprapha Petcharamesree, have expressed views that

6 See Press Release of the Fifth ASEAN Intergovernmental Commission on Human Rights, Jakarta, 25-29 April 2011, <http://www.asean.org/26208.htm>.

7 See Press Release of the Seventh Meeting of the ASEAN Intergovernmental Commission in Human Rights (AICHR), Bali, 2 December 2011, <http://www.asean.org/26752.htm>.

such measures are against human rights.⁸ However, the AICHR has yet to produce an official view on the matter to the ASEAN health senior officials.

3.4 Workshops and conferences

In the period covered by this report, the AICHR organised three seminars/workshops/conferences:⁹

- “Towards Achieving Substantive Gender Equality” together with UN Women (in Jakarta);
- The “ASEAN Conference on Promoting Maternal Health: Responding to the UN Millennium Development Goal 5” together with the Centre for Reproductive Rights and the United Nations Population Fund (UNFPA) (in Manila);
- The “Regional Workshop on Statelessness and the Rights of Women and Children” together with the United Nations High Commissioner for Refugees (UNHCR) (in Manila).

Seminar on achieving gender equality

On 5-6 September 2011, the AICHR organized, jointly with the UN Entity for Gender Equality and the Empowerment of Women (UN Women), a seminar entitled “Towards Achieving Substantive Gender,” in Jakarta, Indonesia.¹⁰ No civil society organizations

8 See “ASEAN human rights talk on Monday”, *Bangkok Post*, 23 June 2011, <http://www.bangkokpost.com/lite/breakingnews/243603/asean-human-rights-discussion-on-mon>

9 See Press Release of the Seventh Meeting of the ASEAN Intergovernmental Commission in Human Rights (AICHR), Available at: <http://www.asean.org/26752.htm>,

10 See ASEAN Inter-Governmental Commission on Human Rights (AICHR) UN Entity for Gender Equality and the Empowerment of Women (UN Women) Seminar: Towards Achieving Substantive Gender Equality 5-6 September 2011, Jakarta, Indonesia, Summary report, <http://www.dtp.unsw.edu.au/documents/AICHRUNWomenGenderEqualitySeminarSummaryReport.pdf>.

were invited, and virtually all participants were officials, including AICHR representatives and members of the Drafting Group of AHRD, as well as UN and other experts from outside the region. The seminar issued a number of recommendations for the AICHR workplan, at the national level and for the AHRD.

Conference on Maternal Health

On 14-15 October 2011, the AICHR organized, together with the Department of Foreign Affairs of the Philippines, the Philippine Commission on Women (PCW), the Department of Health (DOH) and two non-governmental organizations, EnGendeRights, and the Likhaan Center for Women's Health, the "ASEAN Human Rights Conference on Promoting Maternal Health" in Manila, Philippines¹¹.

The conference was geared towards an exchange of information and experience in creating and implementing policies and programmes on maternal health. It was co-chaired by the AICHR representative of the Philippines, Rosario Manalo and the AICHR representative of Cambodia, Om Yentieng. Some government officials from Brunei, Laos, Malaysia, Indonesia and Vietnam attended the meeting. The other participants came from UN agencies, particularly UN Women and UNFPA. An encouraging aspect of this conference was that the AICHR facilitated the participation of NGOs such as the Asia Pacific Alliance, Center for Reproductive Rights, International Women's Rights Action Watch Asia Pacific (IWRAP), Asia Pacific Forum on Women, Law and Development (APWLD) and national NGOs from the Philippines.

11 Press Release, Philippines Hosts ASEAN Human Rights Meeting on Promoting Maternal Health, 13 October 2011, <http://pcw.gov.ph/index.php/ncrfw-press-releases/580-pcw-news-dfa-phl-hosts-asean-human-rights-meeting-promoting-maternal-health> [Alternative/ additional source: <http://www.dfa.gov.ph/main/index.php/news-from-rp-embassies/3932-asean-hr-meeting-on-maternal-health-lays-down-recommendations>]

Regional Workshop on Statelessness and the Rights of Women and Children

The AICHR co-organised with the United Nations High Commission on Refugees (UNHRC) a “Regional Workshop on Statelessness and the Rights of Women and Children” in Manila on 18-19 November 2011. Regrettably, there was no NGO participation in this workshop except for the Working Group for an ASEAN Human Rights Mechanism.

5.5 Handling of Human Rights Violations Cases

In 2010, the AICHR refused to accept human rights violation cases submitted to it by civil society organizations during its first official meeting, explaining that it still had yet to develop a procedure for receiving such cases. The cases were conveniently redirected to ASEAN Secretariat. In 2011, no information was provided on the actions taken on the 16 cases submitted, and the procedures and mechanisms to deal with cases submitted to the AICHR.

On 1 July 2011, a civil society joint open letter was sent to the Chair of AICHR on the Malaysian government’s violent clamp down on a mass rally organised by BERSIH – a civil society organizations coalition demanding electoral reform, which resulted in more than 1,500 protestors being arrested. No action or statement was made in response by the AICHR.

In an interview with the *Jakarta Post* in March 2011, the Chair of AICHR, Rafendi Djamin stated that the AICHR did not have any mechanism for handling human rights violation cases because the AICHR does not receive individual complaints.¹² The view expressed by the Chair of AICHR seems to take a very narrow interpretation of the mandates and functions of the AICHR in view of the fact that under Article 4.1, the Commission is required to develop strategies to not only promote, but also protect human rights, which should include receiving and investigating human rights violation cases.

12 See special report, “We will engage civil society groups”, *Jakarta Post*, Ary Hermawan, 1 November 2010, accessed at <http://www.thejakartapost.com/news/2010/01/11/%E2%80%98we-will-engage-civil-society-groups%E2%80%99.html>

Chapter 4

Engagement with Stakeholders

1.1 Consultations with stakeholders at the regional level

During the period covered by this report, the AICHR met and consulted selected stakeholders within and outside ASEAN. The stakeholders engaged by the AICHR during its regular official meetings are listed in table 6.

Table 6: Overview of Meetings with Stakeholder(s) during the regular meetings of the AICHR¹³

Regular Meeting	Stakeholder (s)	Output/ discussed issues
4 th Meeting	Chairperson of the Committee of Permanent Representatives, HE. Ngurah Swajaya**	Enhancing mutual cooperation on human rights with ASEAN Dialogue Partner.
4 th Meeting	Deputy Secretary General of ASEAN, HE. Bagas Hapsoro***	ASEAN Secretariat support to the AICHR
5 th Meeting	Minister of Foreign Affair of the Republic of Indonesia/ Chair of the ASEAN, HE. Dr. RM. Marty M. Natalegawa	The work of the AICHR and the developments and challenges of human rights in ASEAN
5 th Meeting	Committee of Permanent Representatives of ASEAN	Enhancing cooperation and coordination

13 Compiled from press releases of the AICHR on ASEAN website, <http://www.asean.org>

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6 th Meeting	The Working Group for an ASEAN Human Rights Mechanism (WG) ****	Sharing activities and future engagement between the AICHR and the WG
6 th Meeting	United Nations Development Program (UNDP), Office of the High Commissioner for Human Rights (OHCHR), United Nations High Commissioner for Refugees (UNHCR)	No information available
7 th Meeting	ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC)	Discussion of the alignment of ACWC in which ACWC acknowledged the mandate of AICHR as the overarching body on human rights in ASEAN
7 th Meeting	Ms. Navanethem Pillay, the United Nations (UN) High Commissioner for Human Rights	Interface dialogue session on various issues including engagement with CSOs, the drafting of the AHRD and avenues of cooperation between AICHR and OHCHR.

7 th Meeting	United Nations Children's Fund (UNICEF) East Asia and Pacific Regional Office	The meeting took note of UNICEF's presentation concerning the Draft ASEAN – UNICEF Framework of Cooperation and preliminarily explored possible elements of cooperation between AICHR and UNICEF. The Framework of Cooperation, which is a rights-based approach, is going to be further studied by AICHR.
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It is regrettable however, that the stakeholders which the AICHR met did not include CSOs and national human rights institutions from the ASEAN region, despite repeated requests from different groups, including from SAPA TFAHR and the Southeast Asia National Human Rights Institutions Forum (SEANF). Most of SAPA TFAHR's requests during the period under review were not replied to, and no explanation was given by the AICHR on the reasons for not being able to meet these requests.

On 9 February 2011, SAPA TFAHR sent a letter to inquire about the AICHR institutional framework of engagement with civil society organizations. No reply was ever received.

On 21 June 2011, SAPA TFAHR sent a letter together with SAPA TFAHR's position paper on the ASEAN Human Rights Declaration, requesting for an interface meeting with the AICHR during its 6th meeting in Ventianne to present civil society's views on the Declaration. Again no reply was received from the AICHR.

On 18 August 2011, SAPA TFAHR made another official request for an interface meeting with the AICHR during its 7th meeting in

Bali, Indonesia. A request for a copy of the Terms of Reference of the Drafting Group on ASEAN Human Rights Declaration and the Terms of Reference of the thematic study on corporate social responsibility and human rights in ASEAN was also made in this instance. This time, a reply was received in November 2011 from the Chair of AICHR. The reply stated, as noted above, that the documents were confidential, that he needed to consult other representatives in the AICHR about the request for an interface meeting with AICHR and that the Commission was still discussing its guidelines for engaging civil society¹⁴. However, there was no further communication on the decision of the AICHR in response to SAPA TFAHR's request, and thus no such meeting took place.

Table 7: Civil Society Communications to the AICHR¹⁵

Date	Request/Content	Response from the AICHR
9 February 2011	Open letter regarding the AICHR institutional framework for engagement with CSO	No response
21 June 2011	<ul style="list-style-type: none"> Request for an interface meeting Submission of SAPA TF-AHR Position Paper on the AHRD 	No response
18 August 2011	Request for an interface meeting	Reply from the Chairperson that the AICHR is still discussing the guidelines on engagement with CSOs

14 See reply letter from the Chairperson of the AICHR, Rafendi Djamin, 7 November 2011, annex 10.

15 Compiled from letters sent by CSOs to the AICHR.

It is thus clear from table 6 that the AICHR's engagement with stakeholders has been largely confined to ASEAN governments and UN officials. Civil society organizations and national human rights institutions have been largely left out of the processes.

At the regional level, the AICHR's engagement with regional CSOs has been limited to the Working Group for an ASEAN Human Rights Mechanism, an organization accredited or listed in the Annex II of the ASEAN Charter.

While the efforts of the Working Group for an ASEAN Human Rights Mechanism (WG-AHRM) are much appreciated, and the fact that the AICHR granted meetings to the WG-AHRM is a step in the right direction and very much welcome, it must be noted that the WG-AHRM neither is nor claims to be the sole representative of civil society in the region, which by its very nature is diverse and comprised of a variety of groups and organizations. Meeting the WG-AHRM cannot be presented as "ticking the box" of consultation with civil society.

Furthermore, while Article 4.8 of the Terms of Reference of the AICHR stipulates that one of the mandates and functions of the AICHR is "to engage in dialogue and consultation with other ASEAN bodies and entities associated with ASEAN, including civil society organizations and other stakeholders, as provided for in Chapter V of the ASEAN Charter", it must be highlighted that the subsequent Article 4.9 authorizes the AICHR to "consult, as may be appropriate, with other national, regional and international institutions and entities concerned with the promotion and protection of human rights."

Clearly, Article 4.9 of its Terms of Reference provides the AICHR the discretion to engage broadly with national and regional civil society organizations and national human rights institutions that are not part of the Annex 2 list of the ASEAN Charter. Article 4.9 is also more in line with the principles of human rights and the purpose of ASEAN "to promote a people-oriented ASEAN in which all sectors of society are encouraged to participate in, and benefit from, the

process of ASEAN integration and community building.”¹⁶

There was also a stark contrast between the conduct of the AICHR in this respect and that of the ACWC. While the AICHR failed to grant any meeting with civil society organizations except for the WG-AHRM, in the past two years, about half of the ACWC representatives met with civil society organizations informally prior to its first official meeting on 16-18 February 2011 in Jakarta, and ACWC has had unofficial meetings with civil society organizations on the fringes of each of its formal meetings since.

Thus, the failure of the AICHR, as a regional human rights commission, to allow civil society and national human rights institutions to engage with it and to participate in its work meaningfully right from the beginning, is both inexplicable and highly unacceptable, to say the least.

The consistent call of the SAPA TFAHR has been for the AICHR to open its doors wide for regional meetings and consultations, including to schedule formal interfaces in its official meetings as well as to hold informal meetings, with civil society organizations and national human rights institutions of all varieties.

On 28 November 2011, the United Nations High Commissioner for Human Rights, Navi Pillay, in a press release after meeting with both ASEAN civil society organizations and the AICHR, that the failure of the AICHR to engage with civil society organizations was a major concern for her. She emphasized that no discussion of human rights can be complete or credible without significant input from civil society and national human rights institutions, and urged AICHR to listen to civil society’s calls for more transparency, particularly with regard to the forthcoming ASEAN Human Rights Declaration.¹⁷

16 See Article 1.13 of the ASEAN Charter on the purposes of ASEAN, <http://www.asean.org/21861.htm>.

17 See “Next two years key to human rights development in ASEAN region – UN human rights chief”, United Nations Office of the High Commissioner for Human Rights, 28 November 2011, annex 11.

4.2 Consultations with stakeholders at national level

Consultations with stakeholders at the national level took place in some ASEAN countries but not in others. Two countries, which have had fairly regular consultations at the national level are Indonesia and Thailand. The respective representatives of both countries to the AICHR held a number of national consultation meetings, which were usually facilitated by their foreign affairs ministries. During the period covered by this report, consultations with national level stakeholders were held in Indonesia and Thailand either before or after each of AICHR's regular meeting (the 4th, 5th and 6th AICHR meetings).

AICHR representatives from Malaysia and the Philippines also held one national consultation meeting in 2011. In the Philippines, the consultation with civil society organizations took place in Manila during a national workshop¹⁸ organized by the Philippine Working Group for an ASEAN Human Rights Mechanism on 9 September 2011. Meanwhile, the Human Rights Committee of the Malaysian Bar Council initiated a consultation meeting with the Malaysian AICHR Representative on 21 October 2011 and the meeting focused primarily on the ASEAN Human Rights Declaration.

Table 8: National Consultations of AICHR Representatives with Civil Society

Country	Date	Organizer
Indonesia	9 February 2011 (before the 4 th AICHR meeting)	Ministry of Foreign Affairs
	24 June 2011 (Before the 6 th AICHR meeting)	Ministry of Foreign Affairs
	18 August 2011	Ministry of Foreign Affairs

18 See: Philippine AICHR Representative Dialogues with CSOs on the ASEAN Human Rights Declaration, at <http://www.aseanhrmech.org/news/phil-aichr-rep-dialogues-with-cso-of-aseanhrd.htm>

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Malaysia	21 October 2011	Human Rights Committee, Bar Council of Malaysia
Thailand	21 April 2011 (before the 5 th AICHR meeting)	Ministry of Foreign Affairs
	20 June 2011 (before the 6 th AICHR meeting)	Ministry of Foreign Affairs
	9 September 2011	Philippine Working Group for an ASEAN Human Rights Mechanism

So far, we are not aware of any consultations with CSOs in the remaining five ASEAN countries: Brunei, Cambodia, Lao PDR, Burma/Myanmar and Vietnam.

As such, there is still no cause for optimism for an increased space for CSOs to meaningfully dialogue with the Commission at the regional level. The same is true at the national level in at least half of the member states. SAPA TFAHR's previous report¹⁹ concluded that the AICHR has failed to engage and consult with CSOs and other stakeholders (including, notably, the four national human rights institution in Indonesia, Malaysia, the Philippines and Thailand) at the regional level. It is regrettable that a similar situation still prevails into the third year of AICHR's existence.

During the AICHR's 4th meeting in Solo, Indonesia, there was some expectation that the Commission would meet with CSOs after the AICHR adopted its Guidelines on Operation. Despite the fact that

19 SAPA TF-AHR (2010), Hiding Behind Its Limits: A Performance Report on the first year of the ASEAN Intergovernmental Commission on Human Rights (AICHR) 2009-2010. Available at: http://forum-asia.org/2010/Report%20on%20AICHR%27s%20first%20year%20_for_dist.pdf.

the contents of the Guidelines were never published, it has come to SAPA TF-AHR's understanding that the Guidelines generally reiterate Chapter V of the ASEAN Charter, which as noted has been a major hurdle to CSOs' participation. Nevertheless, there is apparently some openness in the Guidelines to dialogue with CSOs and others beyond these restrictions. This matter, however, remains somewhat academic as long as the Guidelines are in abeyance (see section 2.2). The adoption of the Guidelines could have at least provided some institutional foundation for engagement with stakeholders, including CSOs.

3.3 Engagement with international NGOs at International Level

While the AICHR seems still reluctant to engage with CSOs at the regional and national levels, it does not appear to have any problems meeting with representatives of international human rights NGO during visits overseas. This was demonstrated during AICHR's study visits to the United States of America (USA) and Europe.

During the AICHR study visit to the USA in the end of 2010, the Commission met with several international NGOs and research groups, and other organizations. Among them were: Tom Lantos Human Rights Commission, Human Rights Watch, Amnesty International, Freedom House, Center for ASEAN Studies of the American University, UN Agencies, Asian American Bar Association of New York, Center for Reproductive Rights, and other US-based NGOs²⁰.

In their study visit to Europe in May 2011, the AICHR again met with international NGOs, as well as EU bodies and institutions²¹.

20 ASEAN Intergovernmental Commission on Human Rights Visits United States. People's Television Network Inc., <http://ptni.tv/index.php/asean/107-asean/1112-asean-intergovernmental-commission-on-human-rights-visits-united-states>

21 Programme Study Tour AICHR 22-27 May 2011, Brussels, Strasbourg, Vienna, http://eeas.europa.eu/asean/docs/201105_aicmr_studytour_en.pdf

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Meetings and consultations between AICHR and international human rights NGOs have provided its members with valuable information on how civil society works globally and how they engage with their respective regional mechanisms. These meetings are indeed very much welcomed and should be encouraged to continue. However, it is absurd that international NGOs were able to meet with the AICHR without any conditions or limitations, while civil society organizations in AICHR's own region face restrictions, evasion and closed doors.

This clearly demonstrates that the justification given by the AICHR of its inability to meet with civil society organizations in the region due to the absence of its Guidelines on Operation is just an arbitrary excuse that smacks of double standards, discrimination and bad faith against national and regional civil society organizations in its own region. It is indeed unfortunate that such a glaringly discriminatory position is taken by a regional human rights commission that is supposed to uphold human rights, which holds non-discrimination and equality as one of its fundamental principles.

Chapter 5

Conclusions and recommendations

Civil society had much hope for AICHR's second year in 2011 since it fell under Indonesia's turn for the rotational chair of the ASEAN. Indonesia is generally regarded as one of the countries pushing most strongly for the advancement of human rights in ASEAN. Top Indonesian officials made bold pronouncements on opening up ASEAN prior to the country becoming ASEAN chair in 2011.

Unfortunately, at this point, after the end of Indonesia's turn as Chair, there has been little improvement in AICHR's record, particularly in its transparency and readiness to engage with civil society at the regional and national levels. This intransigence may lie less with Indonesia's effectiveness in steering the ASEAN members towards greater openness, than with the institutionalised 'ASEAN Way' of decision making by consensus. Generally this form of decision-making gives conservative members of the region the power to veto any decision by any ASEAN body, including AICHR. It also means that members are left alone to do their own bidding, including in the area of human rights, to implement regional policies – or not to implement them, as they choose. It may need a major leap in terms of democratization among members to make ASEAN in general, and AICHR in particular, more transparent and open to engagement with the general public.

In summary, we reiterate the key points of this assessment report:

1. **The AICHR continues to work in secrecy.** Even when it is leading important undertakings, such as drafting the AHRD, the AICHR denies the ASEAN public access to their documents and working process.
2. **The AICHR continues to avoid engagement with stakeholders from this region,** including CSOs and even the national human rights institutions (NHRIs). This

raises the question of ownership and relevance of this human rights body, which seems to be with governments rather than the ASEAN population as a whole.

3. **The nature of the AICHR as an intergovernmental body has affected its working pace and decision-making process.** Some positive steps, which may have been taken by the AICHR, have been undermined by certain ASEAN member states' interference in the decision-making within the AICHR.
4. **The lack of progress in implementing its mandates and functions,** such as the advisory role to the ASEAN, undertaking thematic studies, and case handling.

SAPA TFAHR thus concludes that 2011 was another disappointing year for the AICHR. We understand that AICHR is still relatively a new body, that it is still finding its way, and that it works under severe political constraints. However, the fact that the AICHR has not published a single document, concluded a single study and - perhaps most worryingly - improved the human rights of a single individual within the ASEAN region two years after its establishment, is indeed a cause for grave concern.

Two years into its work, the AICHR has not yet concretely responded to any real human rights situations, either in the region generally or in specific member states in particular. Instead, too much time seems to be spent on the institutional politics of ASEAN. The AICHR's mandate explicitly provides that it must work for both *promotion and protection* of human rights; it must therefore at least attempt to address the many serious human rights situations in this region, which it has so far failed to do.

Therefore, SAPA TFAHR makes the following recommendations:

To the AICHR:

- **Be transparent:** publish all relevant documents, including drafts, working documents and detailed summaries of

meetings; publish detailed annual reports on AICHR's activities and financial statements; create a website to inform the public about the Commission's work;

- **Engage with civil society and other stakeholders:** implement Article 4.9 of the Terms of Reference of the AICHR immediately by conducting frequent, regular meetings with civil society organizations of all types, both at the national and regional levels, both during AICHR official meetings and between them; share drafts of reports and instruments and seriously consider CSO input before finalizing them; and to recognise and engage with other key human rights stakeholders such as national human rights institutions in the region;
- **Draft an ASEAN Human Rights Declaration for ASEAN to be proud of:** through wide-ranging consultations and by sharing drafts; ensure that the AHRD fully reflects universally-accepted human rights principles as enshrined in the International Bill of Human Rights (the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights) and all other relevant human rights instruments;
- **Make the thematic studies count:** ensure that they include country-studies in each member state; work with national and regional CSOs and experts to produce reports with clear recommendations both on the regional and national levels and undertake to monitor their implementation;
- **Promote and protect human rights:** establish mechanisms to receive complaints on human rights violations from individuals, groups and member states; engage with the state concerned and to ensure that the violation is stopped and justice and reparations are provided to victims and survivors;
- **Work together constructively with other ASEAN sectoral and human rights bodies:** forge collaboration with other ASEAN sectoral and human rights bodies, in

particularly the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children, in order to complement each other's work with the best interest for human rights of the people in ASEAN as the paramount consideration;

- **Become less government-friendly and more human rights-friendly:** start a process whereby representatives act increasingly as independent human rights experts whose job is to promote and protect human rights rather than the interests of their governments.

To the member states of ASEAN:

- **Revise the rules of procedure and criteria for civil society engagement with ASEAN as mandated under Article 16.2 of the ASEAN Charter in consultation with civil society:** Revise the outdated 2006 Guidelines on ASEAN Relations with Civil Society Organizations in consultation with civil society with a view to institutionalise civil society consultation and participation in the work of ASEAN and AICHR through a mechanism that will encourage free and broad involvement of civil society organizations;
- **Institutionalise support for the AICHR:** Allocate additional financial resources for the AICHR to strengthen its capacity and allow the AICHR to establish its own independent secretariat, with the authority to hire its own staff;
- **Allow space for the AICHR to work more independently:** support and encourage the AICHR to finalise and publicise its institutional working procedures, allow AICHR to make decisions independently without the need for approval from the ASEAN Ministerial Meeting, and be transparent and inclusive in carrying out its work;

- **Open up to AICHR research and investigations:** declare readiness to cooperate fully with any thematic or country studies undertaken by the AICHR; allow country visits by the AICHR, as well as allow individuals and groups to submit complaints about human rights violations to AICHR.

Annex I

**Press Release of the 4th Meeting of ASEAN
Intergovernmental Commission on Human
Rights, 13 February 2011**

Solo, Indonesia, 10-13 February 2011

The Fourth ASEAN Intergovernmental Commission on Human Rights (AICHR) meeting was held from 10 – 13 February 2011 in Solo, Indonesia. This Meeting was the first meeting of AICHR in 2011 Chaired by the Indonesian Representative, Chair of AICHR.

The Meeting had a rich agenda. Notably, it discussed and adopted The Guidelines of Operations of AICHR. It also discussed the draft Term of Reference of AICHR Drafting Group for ASEAN Human Rights Declaration. In addition, the Meeting considered the draft Terms of Reference of the thematic studies on CSR and Human Rights and Migration, and the invitations from some ASEAN Dialogue Partners and ASEAN Sectoral Bodies. It also took cognizance of the proposed AICHR Workshop on Statelessness and the Rights of Women and Children, and a concept paper on the best practices to promote and protect maternal health in ASEAN Member States.

At the invitation of AICHR, H.E. Ngurah Swajaya, the Chairperson of the ASEAN Committee of Permanent Representative (CPR) attended the meeting and had a substantive dialogue with AICHR under the agenda of Engagement with ASEAN Organs and Sectoral bodies and other entities associated with ASEAN. It was agreed that AICHR and CPR will enhance their cooperation especially in facilitating human rights cooperation with ASEAN Dialogue Partners.

The Meeting welcomed the presence of H.E. Bagas Hapsoro, the Deputy Secretary-General of ASEAN for Community and Corporate Affairs. Ambassador Hapsoro leads the ASEAN Secretariat team in providing support service to the work of AICHR.

The Meeting agreed that the year of 2011 will be the year of implementation of the work of AICHR to further promote and protect human rights in ASEAN, thus contributing to making ASEAN more people-centered.

The Meeting expressed satisfaction with the visit by AICHR to the United States on 14-21 November 2010, which enabled it to interact with the US State Department, Officials of the US Congress, various UN agencies, the Inter-American Human Rights Commission and other stakeholders. The Meeting also took note of the cooperation AICHR had in arranging a workshop held jointly by the OHCHR Regional Office for South-East Asia, UNDP Asia-Pacific Regional Centre and the ASEAN Secretariat, which took place at the ASEAN Secretariat on 30 November – 1 December 2010. Lastly, AICHR was informed and took note of the successful visit of the officials of the Representatives to Strasbourg and Berlin on 22-26 November 2010. This trip was organized by the Working Group for an ASEAN Human Rights Mechanism and the Friedrich Naumann Foundation.

The Meeting also considered the possible study visit to Europe on human rights matters at the invitation of the European Commission.

The Fifth ASEAN Intergovernmental Commission on Human Rights meeting is scheduled to be held at the ASEAN Secretariat in Jakarta between 25-29 April 2011.

Annex 2

**Press Release of the 5th Meeting of ASEAN
Intergovernmental Commission on Human
Rights, 29 April 2011**

Jakarta, 25-29 April 2011

The Fifth ASEAN Intergovernmental Commission on Human Rights (AICHR) Meeting was held from 25 – 29 April 2011 in Jakarta, Indonesia. This Meeting was the second meeting of AICHR in 2011. Chaired by the Indonesian Representative, Chair of AICHR.

The Meeting welcomed the opening remarks delivered by H.E. Dr. Surin Pitsuwan, the Secretary-General of ASEAN. He underscored the role of AICHR and its significant contribution towards the achievement of an ASEAN Community in 2015. The Secretary-General stressed the importance of the drafting of the ASEAN Human Rights Declaration, which will be a roadmap for the regional human rights development.

The Meeting had discussed and adopted the Terms of Reference of AICHR's Drafting Group for the ASEAN Human Rights Declaration, Rules of Procedure for the ASEAN Intergovernmental Commission on Human Rights' (AICHR) Fund and the terms of reference of the thematic study of baseline study on Corporate Social Responsibilities and Human Rights in ASEAN. Furthermore, AICHR had discussed and reached agreement on key elements of the Five-Year Work Plan 2012-2015 and the terms of reference for the thematic studies on Migration. The Meeting also discussed the preparation for the publication of a booklet on AICHR.

During the course of the AICHR Meeting, the Minister for Foreign Affairs of the Republic of Indonesia/Chair of the ASEAN Ministerial Meeting, H.E. Dr. R.M. Marty M. Natalegawa, received the AICHR Representatives. They had a substantial discussion on the work

of AICHR and the human rights developments and challenges in ASEAN.

AICHR also met and exchanged views with the Committee of Permanent Representatives (CPR) on their closer cooperation and coordination.

The Meeting agreed that the Sixth ASEAN Intergovernmental Commission on Human Rights Meeting will be held in Vientiane, Lao PDR, 28 June – 2 July 2011.

Annex 3

**Press Release of the 7th Meeting of the ASEAN
Intergovernmental Commission in Human
Rights (AICHR), 2 December 2011**

Bali, 2 December 2011

The Seventh ASEAN Intergovernmental Commission on Human Rights (AICHR) Meeting was held from 28 November – 1 December 2011 in Bali, Indonesia. The Meeting was the fourth and the last meeting of AICHR in 2011 chaired by the Representative of Indonesia to AICHR.

The Meeting welcomed the new Representative of Brunei Darussalam to AICHR, H.E. Pehin Dato Haji Ahmad Jumat.

The Meeting discussed and finalized the AICHR Work Plan (2013-2015) as well as the AICHR's Priority Programme 2012 and its budget. The Meeting also discussed and adopted the budget for the thematic study on Corporate Social Responsibility (CSR) and Human Rights, the draft Terms of Reference (TOR) on the thematic study of Right to Peace and approved in principle the concept paper on the two training programmes on human rights.

The Meeting took note of the results of the three seminars: "Towards Achieving Substantive Gender Equality" together with UN Women in Jakarta, the "ASEAN Conference/Workshop on Promoting Maternal Health: Responding to the UN Millennium Development Goal 5" with the Centre for Reproductive Rights and the United Nations Population Fund (UNFPA) in Manila, the "Regional Workshop on Statelessness and the Rights of Women and Children" with the United Nations High Commissioner for Refugees (UNHCR) in Manila, and discussed the possibility of taking concrete steps as a follow up to these seminars.

The Meeting invited the Chair of the Drafting Group on the ASEAN

Human Rights Declaration and noted her report on the drafting progress. The meeting agreed to extend the mandate of the Drafting Group by arranging an additional meeting in January 2012.

During the course of the AICHR Meeting, AICHR Representatives also had an interface dialogue with H.E. Dr. Surin Pitsuwan, the Secretary-General of ASEAN. The Secretary-General highlighted the importance of AICHR, as an overarching human rights institution in ASEAN. He added that recognition and legitimacy is to be gained further by providing leadership, guidance and working together with the relevant stakeholders.

AICHR Representatives met for the first time with the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) to discuss the alignment of ACWC in which ACWC acknowledged the mandate of AICHR as the overarching body on human rights in ASEAN. They exchanged views on the status of these two (2) Commissions based on the ASEAN Charter and their respective TORs. The meeting recognized the mandate of each Commission as stipulated in their respective TORs and will explore cooperation in accordance with the work plans of the two Commissions, for better coordination and collaboration. Both AICHR and ACWC agreed that this meeting will be the first of many between the two bodies.

The meeting also welcomed H.E. Mdm. Navanethem Pillay, the United Nations (UN) High Commissioner for Human Rights, in an interface dialogue session. In her remarks, the High Commissioner stated that the creation of AICHR and ACWC is a positive development for the promotion and the protection of human rights in the region. The AICHR Representatives brought to the attention of Mdm. Pillay various issues including avenues of cooperation between AICHR and OHCHR. AICHR explained to the High Commissioner activities with regards to external relations and its interaction with the civil society. The High Commissioner expressed appreciation for the ongoing work of AICHR and that AICHR is already beginning its efforts to relate with civil society.

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In relation to AICHR's engagement with external parties, the meeting met with UNICEF East Asia and Pacific Regional Office. The meeting took note of UNICEF's presentation concerning the Draft ASEAN – UNICEF Framework of Cooperation and preliminarily explored possible elements of cooperation between AICHR and UNICEF. The Framework of Cooperation, which is a rights-based approach, is going to be further studied by AICHR.

The AICHR Representatives expressed their high appreciation to the Representative of Indonesia, Mr. Rafendi Djamin, for his leadership and hard work as the Chair of AICHR and the tremendous support from the Government and the people of Indonesia for the warm hospitality given to the delegations.

The Eight (8th) ASEAN Intergovernmental Commission on Human Rights Meeting will be held on 6 – 10 March 2012 at the ASEAN Secretariat in Jakarta.

Annex 4

**Open Letter of SAPA TFAHR and FORUM-
ASIA to the ASEAN Inter-Governmental
Commission on Human Rights, 9 February 2011**

February 9, 2011

Distinguished Representatives of the AICHR,

We call on the AICHR to substantively engage and work together with the regional human rights community towards the meaningful and effective fulfillment of its mandate. Such measures are essential to the spirit and content of the ASEAN Charter to promote a people-oriented ASEAN in which all sectors of society are encouraged to participate in, and benefit from, the process of ASEAN integration and community building

These measures should include regular transparent, participative and informative dialogues with the regional human rights community, including civil society organizations committed to the promotion and protection of human rights. This can start from the first meeting of the AICHR in 2011, on 10-13 February in Solo, Indonesia.

Such measures are in keeping with the Terms of Reference to establish the AICHR, which is meant to contribute to the participation of ASEAN peoples in the ASEAN Community-building process, as well as to consult with key stakeholders in the region.

We are concerned that in its 15 months of operations, the AICHR appears to be pre-occupied with procedural matters, at the expense of addressing serious and ongoing human rights challenges in the region. Of particular concern is the AICHR's inability to officially receive information on severe human rights situations forwarded by civil society organizations.

We call on AICHR to turn a new page in its relations with the regional and national human rights community by keeping the

public informed of its work and activities. It is urgent that AICHR is able to address human rights issues in an open and effective way.

It is in the interest of the AICHR to work in partnership with the regional and national human rights community, as a valuable resource of experience, information, skills, energy, human resources and commitment to the promotion and protection of human rights.

Yours in solidarity with the peoples of ASEAN,

Endorsed by:

1. SAPA Task Force on ASEAN & Human Rights, Bangkok – Thailand
2. Women's Caucus, Chiang Mai, Thailand
3. Asian Forum for Human Rights and Development (FORUM-ASIA), Bangkok – Thailand
4. terre des hommes Germany in Southeast Asia, Davao City – the Philippines
5. Amnesty International
6. Amnesty International Philippines, Quezon City - Philippines
7. Southeast Asia Coalition to Stop the Use of Child Soldiers (SEASUCS), Quezon City – the Philippines
8. Human Security Alliance (HSA), Bangkok – Thailand
9. Asia Pacific Refugee Rights Network, Bangkok – Thailand
10. Mugiyanto – Chair of Asian Federation Against Involuntary Disappearances (AFAD), Jakarta – Indonesia
11. Asian Federation Against Involuntary Disappearances (AFAD) – the Philippines
12. Initiatives for International Dialogue (IID)
13. Asia-Pacific Solidarity Coalition (APSOC)
14. Global Partnership for Prevention of Armed Conflict - Southeast Asia (GPPAC-SEA)
15. Disabled Peoples' International Asia-Pacific, Bangkok – Thailand
16. The International Federation for Human Rights (FIDH), Paris - France

17. Dignity International, Selangor - Malaysia
18. Focus on the Global South, Bangkok - Thailand
19. Centre on Housing Rights and Eviction (COHRE) – Asia Office, Phnom Penh – Cambodia
20. Human Rights Watch (HRW), New York, USA
21. South East Asian Committee for Advocacy (SEACA), Manila – the Philippines
22. Migrant Forum in Asia, Quezon City – the Philippines
23. Asia Indigenous Peoples Pact (AIPP), Chiang Mai – Thailand
24. Asia Pacific Forum on Women, Law and Development (APWLD), Chiang Mai, Thailand
25. INSEC (Informal Sector service Centre) - Nepal.
26. Borok's People Human Rights Organisation – India
27. Roberto E. Benedicto – USA
28. Youseon Oh- Human Rights Defender, Korea
29. Pacita Santander Kimijima –Japan
30. Bonn Juego - Global Refugee Studies, Copenhagen – Denmark
31. Nug Katjasungkana - Forum Solidaritas Rakyat Timor Lorosae (FORTILOS), Dilli – Timor Leste
32. Human Rights education Institute of Burma (HREIB), Chiang Mai - Thailand
33. Alternative ASEAN Network on Burma (ALTSEAN Burma), Bangkok - Thailand
34. Shwe Gas Movement (SGM)
35. Shan Women's Action Network (SWAN)
36. Arakan Rohingya Refugee Committee (ARRC), Kuala Lumpur - Malaysia
37. Assistance Association of Political Prisoners – Burma
38. Burma Centre Delhi (BCD) - India
39. Burmese Women's Union
40. Forum for Democracy in Burma, Mae Sod - Thailand
41. Generation Wave
42. Grassroots Human Right Education and Development, Phang Nga - Thailand

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43. Hong Kong Coalition for a Free Burma
44. Interfaith Cooperation Forum
45. Kachin Women's Association Thailand, Chiang Mai - Thailand
46. Malaysia and Burmese Rohingya Democratic Alliance (BRDA)
47. National Democratic Party for Human Rights (NDPHR) exile, South East Asia Regional Office
48. National Health Education Committee Burma, Chiang Mai - Thailand
49. Nationalities Youth Forum, Chiang Mai - Thailand
50. Students and Youths Congress of Burma
51. Ta'ang Students and Youth Congress
52. ADHOC, Phnom Penh - Cambodia
53. Advocacy and Policy Institute (API), Phnom Penh, Cambodia
54. The Commission for the Disappeared and Victims of Violence (KontraS), Jakarta – Indonesia
55. Human Rights Working Group (HRWG), Jakarta – Indonesia
56. Lembaga Asa Puan, Pontianak – Indonesia
57. Publish What You Pay – Indonesia, Jakarta – Indonesia
58. Kalyanamitra, Jakarta – Indonesia
59. The Institute for Policy Research & Advocacy (ELSAM), Jakarta - Indonesia
60. International NGO Forum on Indonesian Development (INFID), Jakarta – Indonesia
61. The Indigenous Peoples Alliance of the Archipelago/Aliansi Masyarakat Adat Nusantara (AMAN), Jakarta – Indonesia
62. Wahana Lingkungan Hidup Indonesia (WALHI)/ Friends of the Earth Indonesia, Jakarta – Indonesia
63. Berry Nahdian Forqan - Wahana Lingkungan Hidup Indonesia (WALHI)/ Friends of the Earth Indonesia, Jakarta – Indonesia
64. Jumi Rahayu – WALHI, Jakarta – Indonesia
65. Migrant Care, Jakarta – Indonesia
66. Dewi Tjakrawinata – Aliansi Pelangi Antar Bangsa (APAB), Jakarta – Indonesia

67. Pusat Telaah dan Informasi Regional (PATTIRO), Jakarta – Indonesia
68. The Children Human Rights Foundation of Indonesia (YPHA), Jakarta – Indonesia
69. Institute for Defense security and Peace Studies (IDSPS), Jakarta – Indonesia
70. Mufti Makaarim - Institute for Defense security and Peace Studies, Jakarta – Indonesia
71. CEDAW Working Group Initiative (CWGI), Jakarta – Indonesia
72. Aida Milasari – Rumpun Gema Perempuan, Jakarta – Indonesia
73. Rumpun Gema Perempuan, Jakarta – Indonesia
74. R.Valentina Sagala, SE, SH, MH - Perkumpulan Institut Perempuan, Jakarta – Indonesia
75. Ellin Rozana - Yayasan Institut Perempuan, Jakarta – Indonesia
76. Yayasan Institut Studi Arus Informasi (ISAI), Jakarta – Indonesia
77. DEMOS, Jakarta – Indonesia
78. Antonio Pradjasto, Demos, Jakarta – Indonesia
79. Kantjana Indrishwari - KePPaK PEREMPUAN (Kelompok Peduli Penghapusan Tindak Kekerasan Terhadap Perempuan dan Anak), Jakarta – Indonesia
80. KePPaK PEREMPUAN (Kelompok Peduli Penghapusan Tindak Kekerasan Terhadap Perempuan dan Anak), Jakarta – Indonesia
81. Palembang Women's Crisis Centre, Palembang – Indonesia
82. Fabby Tumiwa - Institute for Essential Services Reform (IESR), Jakarta – Indonesia
83. Sri Mulyati - Sapa Institut, West Java – Indonesia
84. Salma Safitri - Rural Women's Voices, Malang – Indonesia
85. Norma Susanti – The Aceh Women's Council, Banda Aceh – Indonesia
86. The Samdhana Institute, Bogor - Indonesia
87. The Revenue Watch Institute, Asia Pacific Program, Bogor - Indonesia.

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88. Thaufiek Zulfahary - Solidaritas Perempuan (Women's Solidarity for Human Rights), Jakarta – Indonesia
89. Dinda Nuurannisaa Yura - Solidaritas Perempuan (Women's Solidarity for Human Rights), Jakarta – Indonesia
90. Aliza Yuliana - Solidaritas Perempuan (Women's Solidarity for Human Rights), Jakarta – Indonesia
91. Ade Herlina - Solidaritas Perempuan (Women's Solidarity for Human Rights), Jakarta – Indonesia
92. The Indonesian Human Rights Monitor (Imparsial), Jakarta – Indonesia
93. Nezar Patria – President of the Alliance of Independent Journalists (AJI), Jakarta - Indonesia
94. Atashendartini Habsjah – Vice chair of PKBI, Jakarta – Indonesia
95. Wanma Yety – Secretary General of Ikatan Keluarga Orang Hilang (IKOHI), Jakarta – Indonesia
96. Diena Haryana - Yayasan Semai Jiwa Amini (SEJIWA), Jakarta - Indonesia.
97. Wiwiek Awiati – Indonesia Center for Environmental Law (ICEL), Jakarta – Indonesia
98. Luluk Nur Hamidah - Deputy General Secretary of PKB Party - Chair of Politics, Media and international relation of PPKB- Women's wing of PKB Party - Director of Ahimsa Society, Jakarta – Indonesia
99. R. Herlambang Perdana Wiratraman - Chair, Center for Human Rights Law Studies (HRLS) - Faculty of Law, Airlangga University, Surabaya – Indonesia
100. Indonesian Migrant Worker Trade Union (SBMI), Jakarta – Indonesia
101. Ecosoc Institute, Jakarta - Indonesia
102. Perkumpulan Praxis, Jakarta – Indonesia
103. Yayasan Anak Akar, Jakarta – Indonesia
104. Yayasan Lembaga Studi Kesetaraan Aksi dan Refleksi (YLSKAR), Salatiga – Indonesia
105. Perkumpulan Perdikan, Semarang – Indonesia
106. PBHI Jawa Tengah, Semarang – Indonesia

107. Institute for Civil Strengthening, Papua – Indonesia
108. Anton Miharjo – Kontras Sulawesi Utara - Indonesia
109. Anton Miharjo – KIPP Sulawesi Utara – Indonesia
110. I Wayan Gendo Suardana – Persatuan Bantuan Hukum Indonesia (PBHI) Bali, Denpasar – Indonesia
111. Frederika Korain - FORDEM PAPUA, Papua - Indonesia
112. Dominggus Pigai - FORDEM PAPUA, Papua - Indonesia
113. Salmon Maurits Yumame - FORDEM PAPUA, Papua - Indonesia
114. Pdt. S. Titihalawa, S.Th - FORDEM PAPUA, Papua – Indonesia
115. Andi Suaib – Kontras Sulawesi Selatan – Makassar, Indonesia
116. Nining Nurhaya – Jakarta, Indonesia
117. Institute for Global Justice (IGJ), Jakarta – Indonesia
118. ALHA-RAKA, Jombang – Indonesia
119. Koalisi NGO HAM Aceh, Banda Aceh - Indonesia
120. Yadesa, Banda Aceh – Indonesia
121. LBH Banda Aceh, Banda Aceh – Indonesia
122. Walhi Aceh, Banda Aceh – Indonesia
123. KKTGA (Kelompok Kerja Transformasi Gender Aceh), Banda Aceh – Indonesia
124. Flower Aceh, Banda Aceh – Indonesia
125. Sahara (Suara Hati Rakyat), Lhokseumawe – Indonesia
126. CDI (Citra Desa Indonesia), Sigli, Kab. Pidie – Indonesia
127. LPLHa (Lembaga Pembelaan Lingkungan Hidup dan HAM), Lhokseumawe – Indonesia
128. LeUHAM (Lembaga untuk HAM), Banda Aceh – Indonesia
129. KontraS Aceh, Banda Aceh – Indonesia
130. Suloh, Banda Aceh – Indonesia
131. Cordova, Banda Aceh – Indonesia
132. YAB (Yayasan Anak Bangsa), Banda Aceh – Indonesia
133. YGHL (Yayasan Gampong Hutan Lestari), Tapak Tuan, Aceh Selatan
134. Papan, Meulaboh, Aceh Barat – Indonesia
135. Puspa, Takengon, Aceh Tengah – Indonesia

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136. Yapesma, Langsa, Aceh Timur – Indonesia
137. YRBI (Yayasan Rumpun Bambu Indonesia), Banda Aceh – Indonesia
138. LBH Apik, Lhokseumawe – Indonesia
139. SPKP HAM Aceh, Banda Aceh – Indonesia
140. YPK, Meulaboh – Indonesia
141. TPKA, Banda Aceh – Indonesia
142. PB HAM ACEH UTARA, Lhokseumawe – Indonesia
143. PB HAM PIDIE, Sigli, Kab. Pidie – Indonesia
144. PB HAM ACEH TENGAH, Takengon, Aceh Tengah – Indonesia
145. PB HAM ACEH TIMUR, Langsa, Aceh Timur - Indonesia
146. PB HAM ACEH BARAT, Meulaboh, Aceh Barat – Indonesia
147. PB HAM ACEH SELATAN, Tapak Tuan, Aceh Selatan – Indonesia
148. JARI ACEH, Lhokseumawe - Indonesia
149. Yayasan Mitra Aksi, Jambi – Indonesia
150. Perkumpulan Keluarga Berencana Indonesia, Jambi – Indonesia
151. KIWARSI, Jambi – Indonesia
152. LBH Lingkungan, Jambi – Indonesia
153. Perkumpulan Kantor Bantuan Hukum Bengkulu (PKBHB), Bengkulu – Indonesia
154. PKBH Manna, Bengkulu Selatan – Indonesia
155. PKBH Argamakmur, Bengkulu Utara – Indonesia
156. Pos PKBH Curup, Rejang Lebong, Bengkulu - Indonesia
157. Pos PKBH Seluma, Bengkulu – Indonesia
158. Pos PKBH Kau, Bengkulu – Indonesia
159. Pos PKBH Muko-muko, Bengkulu – Indonesia
160. Pos PKBH Kepahiang, Bengkulu – Indonesia
161. Pos PKBH Lebong, Bengkulu – Indonesia
162. Serikat Tani Bengkulu (STAB), Bengkulu – Indonesia
163. Serikat Nelayan Bengkulu (SNEB), Bengkulu – Indonesia
164. Himpunan Pedagang Mandiri Bengkulu (HPMB), Bengkulu – Indonesia

165. Forum Komunikasi Kepala Desa (FKKD), Bengkulu Utara – Indonesia
166. Serikat Perempuan Bengkulu Utara (SPBU), Bengkulu – Indonesia
167. Urban Poor Consortium (UPC), Jakarta – Indonesia
168. Konggres Aliansi Serikat Buruh Indonesia (KASBI), Jakarta – Indonesia
169. Lembaga Informasi Perburuhan Sedane, Jakarta – Indonesia
170. Ruangrupa, Jakarta – Indonesia
171. Forum Lenteng, Jakarta – Indonesia
172. Sarekat Rakyat Miskin Kota, Jakarta – Indonesia
173. Institut Sejarah Sosial Indonesia, Jakarta – Indonesia
174. Front Perjuangan Pemuda Indonesia, Jakarta – Indonesia
175. YAPPIKA, Jakarta – Indonesia
176. Front Oposisi Rakyat Indonesia (FORI)
177. YSIK, Jakarta – Indonesia
178. Voice of Human Rights, Jakarta – Indonesia
179. Propatria, Jakarta – Indonesia
180. Perhimpunan Bantuan Hukum Indonesia, Jakarta – Indonesia
181. Komite Aksi Solidaritas Untuk Munir, Jakarta – Indonesia
182. Perguruan Rakyat Merdeka, Jakarta – Indonesia
183. Indonesia Corruption Watch (ICW), Jakarta – Indonesia
184. Orda IKOHI Jabodetabek – Indonesia
185. indoprogress.blogspot.com
186. Walhi Jakarta - Indonesia
187. PBHI Jakarta – Indonesia
188. Front Mahasiswa Nasional – Indonesia
189. Perhimpunan Rakyat Pekerja – Indonesia
190. Aliansi Buruh Menggugat – Indonesia
191. LBH Masyarakat, Jakarta – Indonesia
192. RACA Institute, Jakarta – Indonesia
193. FORMAPPI Jakarta – Indonesia
194. ICJR Jakarta – Indonesia
195. LBH Jakarta – Indonesia
196. Perhimpunan Pendidikan Demokrasi (P2D), Jakarta - Indonesia

197. Jaringan Mitra Perempuan Bandung, Bandung – Indonesia
198. Ikatan Mahasiswa dan Pemuda Timor Leste (Impetil), Bandung – Indonesia
199. Apokalips, Bandung – Indonesia
200. Food Not Bombs Bandung (FNB), Bandung – Indonesia
201. Paguyuban Pedagang Kaki lima Mustofa Bandung (PPKMB), Bandung – Indonesia
202. Paguyuban Pedagang Kaki Lima Gempol Bandung (PPKGB), Bandung – Indonesia
203. Pusik Parahyangan, Bandung – Indonesia
204. Ultimus, Bandung – Indonesia
205. Komunitas Asal Sada, Bandung – Indonesia
206. Rumah Kiri, Bandung – Indonesia
207. Komite Pemuda Anti Kekerasan (Kompak), Jawa Barat – Indonesia
208. Serikat Paguyuban Petani Qaryah Thayyibah, Salatiga – Indonesia
209. SMP Alternatif Qaryah Thayyibah, Salatiga – Indonesia
210. Paguyuban Petani Gunung Payung; Temanggung – Indonesia
211. Paguyuban Petani Gedong Songo, Sumowono, Kabupaten Semarang – Indonesia
212. Paguyuban Petani Rapensa, Banyubiru, Kabupaten Semarang – Indonesia
213. Paguyuban Petani Karyo Raharjo, Pabelan – Indonesia
214. Paguyuban Petani Al-Fallah, Pabelan, Kabupaten Semarang – Indonesia
215. Paguyuban Petani Albarokah, Susukan, Kabupaten Semarang – Indonesia
216. Paguyuban Petani Bakti Pertiwi, Ungaran, Kabupaten Semarang – Indonesia
217. Paguyuban Petani Candi Laras Merbabu, Getasan, Kabupaten Semarang – Indonesia
218. Paguyuban Petani Joko Tingkir, Tingkir, Salatiga – Indonesia
219. Paguyuban Petani Berkah Alam, Kalibening, Salatiga – Indonesia

220. Paguyuban Petani Wijaya Kusuma, Sidorejo, Salatiga – Indonesia
221. Paguyuban Petani Gotong Royong, Pulutan, Salatiga – Indonesia
222. Paguyuban Petani Merapi, Selo, Boyolalo – Indonesia
223. Paguyuban Petani Setyo Tunggal, Boyolali – Indonesia
224. Paguyuban Petani Otek Makmur, Kemusu, Boyolali – Indonesia
225. Paguyuban Petani Tani Usaha Makmur, Kemusu, Boyolali – Indonesia
226. Paguyuban Petani Rogo Runting Subur, Klego – Indonesia
227. Paguyuban Petani Pangeran Samudo Manunggal, Sragen – Indonesia
228. Paguyuban Petani Sendang Rejeki, Sragen – Indonesia
229. Paguyuban Petani Gunung Sono Rahayu, Sragen – Indonesia
230. Paguyuban Petani Kedung Ombo Bersatu, Sragen – Indonesia
231. Paguyuban Petani Merbabu, Magelang – Indonesia
232. Paguyuban Petani Jabal Syarif Merbabu, Getasan, Kabupaten Semarang – Indonesia
233. Paguyuban Petani Sumbing Inti, Magelang – Indonesia
234. Paguyuban Petani Hayatan Thoyibah, Magelang – Indonesia
235. Paguyuban Petani Wahyu Samudro, Kendal – Indonesia
236. Paguyuban Petani Makmur, Banyubiru, Kabupaten Semarang – Indonesia
237. Paguyuban Petani Baru Klinting, Banyubiru, Kabupaten Semarang – Indonesia
238. Paguyuban Petani Pasar Pagi, Salatiga – Indonesia
239. Paguyuban Petani Harapan Makmur, Suruh, Kabupaten Semarang – Indonesia
240. Paguyuban Petani Bancak, Kabupaten Semarang – Indonesia
241. Paguyuban Petani Merdeka, Kab. Semarang – Indonesia
242. Paguyuban Petani Gunung Potro, Banyubiru, Kab. Semarang – Indonesia
243. Paguyuban Petani Sejahtera, Kab. Boyolali – Indonesia
244. Paguyuban Petani Pangudi Luhur, Wonosobo – Indonesia

245. Paguyuban Petani Bengawan Solo, Sragen – Indonesia
246. Paguyuban Petani Sekar Gendis, Kab. Kendal – Indonesia
247. Paguyuban Petani Sido Makmur, Kab. Grobogan – Indonesia
248. Paguyuban Petani Limpung, Kab. Batang - Indonesia
249. PERDIKAN, Semarang – Indonesia
250. PERISAI, Semarang – Indonesia
251. Setara. Semarang – Indonesia
252. LRC-KJHAM, Semarang – Indonesia
253. PBHI Biro Semarang, Semarang – Indonesia
254. Komunitas Seni Fajar Merah, Semarang – Indonesia
255. Komunitas Sanggar Paramesti, Semarang – Indonesia
256. Forum Bundaran Simpang Lima - Kelompok PKL di Semarang – Indonesia
257. Komunitas mahasiswa UNISSULA. Semarang – Indonesia
258. PMKRI Semarang - Indonesia
259. Konsorsium Rakyat Jombang (KRJB) Jombang – Indonesia
260. ICHDRE Jombang – Indonesia
261. Serikat Rakyat Kediri Berdaulat (SRKB) Kediri – Indonesia
262. Serikat Perjuangan Rakyat Mojokerto (SPRM) Mojokerto – Indonesia
263. Paricara Tulungagung; Perkumpulan Punden Nganjuk - Indonesia
264. Solidaritas Buruh Migran Indonesia, Lumajang – Indonesia
265. Solidaritas Buruh Migran Indonesia Region Madura – Indonesia
266. Solidaritas Buruh Migran Indonesia Region Probolinggo – Indonesia
267. Perguruan Rakyat Merdeka simpul Tapal Kuda – Indonesia
268. Sekolah Rakyat Merdeka Ranu Klakah – Indonesia
269. Paguyuban Masyarakat Tegalrandu – Indonesia
270. Koperasi Ranu Klakah, Jawa Timur - Indonesia
271. Komunitas Sastra Gugus Renung – Indonesia
272. Laskar Hijau, Jawa Timur – Indonesia
273. Mitra Wanita Pekerja Rumahan Indonesia – Jawa Timur – Indonesia

274. Himpunan Wanita Pekerja Rumahan Indonesia, Jawa Timur – Indonesia
275. Pondok Pesantren "Lembah Arafah", Jawa Timur – Indonesia
276. Yayasan Wisnu, Kerobokan, Bali - Indonesia
277. Jaringan Ekowisata Desa (JED) Bali - Indonesia
278. Banjar Adat Kiadan, Pelaga, Keamatan Petang, Kabupaten Badung, Bali - Indonesia
279. Banjar Adat Dukuh Sibetan, Kecamatan Bebandem, Kabupaten Karangasem, Bali - Indonesia
280. KSU Danendra Tenganan, Desa Adat Tenganan Pegringsingan, Kecamatan Manggis, Kabupaten Karangasem, Bali - Indonesia
281. KSU Sarining Segara, Nusa Ceningan, Desa Lembongan, Kecamatan Nusa Penida, Kabupaten Klungkung, Bali - Indonesia
282. Perkumpulan Masyarakat Adat Rumpun Bidayuh, Pontianak, Kalimantan Barat - Indonesia
283. Kalimantan Review, Kalimantan Barat - Indonesia
284. LBBT (Lembaga Bela Banua Talino), Kalimantan Barat - Indonesia
285. AMAN Kalbar (Aliansi Masyarakat Adat Nusantara), Kalimantan Barat - Indonesia
286. ABIPG (The Association of Bidayuh Indigenous People Group), Kalimantan Barat - Indonesia
287. Kumpulan Mahasiswa Kalbar, Kalimantan Barat - Indonesia
288. Dewan Pemuda Dayak Kalimantan Barat, Kalimantan Barat – Indonesia
289. Naladwipa Institute for Culture and Social Studies, Kalimantan Timur - Indonesia
290. Nomaden Institute for Cross Culture Studies, Kalimantan Timur - Indonesia
291. Pokja 30, Kalimantan Timur - Indonesia
292. Justice, Equality, Freedom Foundation (JEFF), Kalimantan Timur - Indonesia
293. LBH Kaltim, Kalimantan Timur - Indonesia

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294. Forum Pelangi Kalimantan Timur, Kalimantan Timur - Indonesia
295. Komisi Kepemudaan Keuskupan Agung Samarinda, Kalimantan Timur - Indonesia
296. Perkumpulan Puti Jaji, Kalimantan Timur - Indonesia
297. Jaringan Baileo, Maluku - Indonesia
298. Sekolah Rakyat Madivun, Maluku - Indonesia
299. Yayasan Nen Mas II, Kepulauan Kei Kecil, Maluku - Indonesia
300. Yayasan Nusa Marina, Kepulauan Lease, Maluku - Indonesia
301. Yayasan Sor Silai, Kepulauan Tanimbar, Maluku - Indonesia
302. Yayasan Sita Kena, Kepulauan Aru, Maluku - Indonesia
303. Yayasan El Masrum, Kota Tual, Maluku - Indonesia
304. Yayasan Pasuri, Pulau Utama Seram, Maluku - Indonesia
305. Koperasi Nelayan Ko Umel, Kepulauan Kei Kecil, Maluku - Indonesia
306. Koperasi Perumahan Rahan Fatnim, Kepulauan Kei Kecil, Maluku - Indonesia
307. Arumbai, Kota Tual dan Ambon, Maluku - Indonesia
308. Micros, Kota Tual dan Ambon, Maluku - Indonesia
309. Dana Mitra Maluku, Ambon, Maluku - Indonesia
310. Humanum, Ambon dan Pulau Ambon, Maluku - Indonesia
311. KIPP Sulut, Sulawesi Utara - Indonesia
312. YLBHI Manado, Sulawesi Utara - Indonesia
313. Perhimpunan Rakyat Untuk Perubahan-Bitung (PRP-Bitung), Sulawesi Utara - Indonesia
314. Serikat Rakyat Miskin-Bitung, Sulawesi Utara - Indonesia
315. Lembaga Studi Pengembangan Demokrasi lokal (LSPDL), Sulawesi Utara - Indonesia
316. Solidaritas Mahasiswa untuk Demokrasi (SEMUD), Sulawesi Utara - Indonesia
317. LBH-Anak Manado, Sulawesi Utara - Indonesia
318. Koalisi Perempuan Indonesia-Sulut, Sulawesi Utara - Indonesia
319. Yayasan Jati, Sulawesi Selatan - Indonesia

320. YASMIB, Sulawesi Selatan - Indonesia
321. LBH APIK, Sulawesi Selatan - Indonesia
322. Yayasan Lembaga Konsumen (YLK) Sulsel, Sulawesi Selatan - Indonesia
323. Yayasan Baruga, Sulawesi Selatan - Indonesia
324. Solidaritas Perempuan (SP) Anging Mammiri, Sulawesi Selatan - Indonesia
325. Forum Pemerhati Masalah Perempuan Sulawesi Selatan (FPMP SS) , Sulawesi Selatan - Indonesia
326. Lembaga Pemulihan Keberdayaan Masyarakat Sulsel (LPKM Sulsel) , Sulawesi Selatan - Indonesia
327. AKUR Pangkep, Sulawesi Selatan, Sulawesi Selatan - Indonesia
328. Yayasan Masagena, Sulawesi Selatan - Indonesia
329. Koalisi Perempuan Indonesia (KPI) Sulawesi Selatan, Sulawesi Selatan - Indonesia
330. Yayasan Bonto Langkasa, Sulawesi Selatan - Indonesia
331. Jurnal Celebes, Sulawesi Selatan - Indonesia
332. WALHI, Sulawesi Selatan – Indonesia
333. Lembaga Pengembangan Studi Hukum dan Advokasi Hak Asasi Manusia (LPSHAM), Palu, Sulawesi tengah – Indonesia
334. YPR, Palu, Sulawesi tengah – Indonesia
335. KontraS Sulawesi, Sulawesi tengah – Indonesia
336. SKPHAM, Palu, Sulawesi tengah – Indonesia
337. AJI, Palu, Sulawesi tengah – Indonesia
338. Serikat Petani dan Nelayan (SPTN) Toli Toli, Sulawesi tengah – Indonesia
339. Himpunan Pemuda Mahasiswa Toli Toli (HIPMIT) , Sulawesi tengah – Indonesia
340. LESPEK, Buol, Sulawesi tengah – Indonesia
341. SKAK, Luwuk, Sulawesi tengah – Indonesia
342. Pusat Rekonsiliasi dan Perdamaian Poso (PRKP) , Sulawesi tengah - Indonesia
343. Crisis Center GKST, Tentena, Sulawesi tengah - Indonesia
344. Yayasan Tanah Merdeka, Sulawesi tengah - Indonesia

345. Yayasan Merah Putih (YMP) Sulteng, Sulawesi tengah - Indonesia
346. Kelompok Perlindungan Anak dan Perempuan (KPPA), , Sulawesi tengah - Indonesia
347. Himpunan Pemuda Alkhairaat, Poso, Sulawesi tengah - Indonesia
348. Perhimpunan Bantuan Hukum Rakyat (PBHR) Sulteng, Sulawesi tengah - Indonesia
349. WALHI Sulteng, Sulawesi tengah - Indonesia
350. JATAM Sulteng, Sulawesi tengah - Indonesia
351. Institut Transformasi Lokal (INSTAL) , Sulawesi tengah - Indonesia
352. Chedarip, Sulawesi tengah – Indonesia
353. Perkumpulan Sekolah Rakyat Butuni, Bau-Bau, Sulawesi Tenggara - Indonesia
354. SIMPANG BUMI MERDEKA, Sulawesi Tenggara - Indonesia
355. SULUH INDONESIA Institute, Sulawesi Tenggara - Indonesia
356. SERABUT, Sulawesi Tenggara - Indonesia
357. UPLING Sultra, Sulawesi Tenggara - Indonesia
358. SKP-HAM Sultra, Sulawesi Tenggara - Indonesia
359. WALHI Sultra, Sulawesi Tenggara - Indonesia
360. YLBH Kendari, Sulawesi Tenggara - Indonesia
361. LEPMIL, Sulawesi Tenggara - Indonesia
362. Koslata, Mataram, Nusa Tenggara Barat - Indonesia
363. Bapikir, Maumere, Nusa Tenggara Timur - Indonesia
364. PIAR, Kupang, Nusa Tenggara Timur - Indonesia
365. Triton Sorong, Papua - Indonesia
366. Belantara Papua, Papua - Indonesia
367. LMA Malamoi Sorong, Papua - Indonesia
368. Kelompok Pemuda Malaumkarta, Papua - Indonesia
369. Aliansi Liga Demokratik Papua, Papua - Indonesia
370. FOKER LSM Papua dan partisipannya, Papua - Indonesia
371. Yayasan Kesehatan Bethesda (YKB) , Papua - Indonesia
372. Kelompok Kerja Wanita (KKW) , Papua - Indonesia

373. Yayasan Lingkungan Hidup Papua (YALI) , Papua - Indonesia
374. Lembaga Pemberdayaan Ekonomi Rakyat (eLPERA) , Papua - Indonesia
375. Yayasan Pendidikan Lingkungan Hidup Cycloops Papua (YPLHC) , Papua - Indonesia
376. Perkumpulan Keluarga Berencana Indonesia Papua (PKBI) , Papua - Indonesia
377. Perkumpulan Terbatas untuk Pengkajian dan Pemberdayaan Masyarakat Adat Papua (Pt.PPMA) , Papua - Indonesia
378. Yayasan Pengebangan Masyarakat Desa Papua (YPMD), Papua - Indonesia
379. Yayasan Konsultasi Independen Pemberdayaan Rakyat (KIPRa), Papua - Indonesia
380. Lembaga Pemberdayaan, Pengkajian Perempuan dan Anak Papua (LP3A) , Papua - Indonesia
381. Yayasan Pengembangan Kesehatan Masyarakat Papua (YPKM) , Papua - Indonesia
382. Yayasan Graha Persada Timur Nusantara Gratia, Papua - Indonesia
383. Yayasan Pengembangan Prakarsa Wirausaha Papua (YPPWP) , Papua - Indonesia
384. Yayasan Inai Jaunggi (INAI JAUNGGI) , Papua - Indonesia
385. Lembaga Bantuan Hukum Papua (LBH) , Papua - Indonesia
386. Lembaga Studi dan Advokasi Kemanusiaan Masyarakat Adat (Elsakma) , Papua - Indonesia
387. Pusat Kajian dan Advokasi Senibudaya Kasuari (Pujian Kasuari) , Papua - Indonesia
388. Lembaga Pelayanan Injil dan Pengembangan Masyarakat (LPIPM) , Papua - Indonesia
389. Delsos Jayapura (DELSOS) , Papua - Indonesia
390. Lembaga Pengembangan Sosial Ekonomi dan Lingkungan Hidup Papua (LPSELHP) , Papua - Indonesia
391. Yayasan Trinitas Papua (Yatripa) , Papua - Indonesia
392. Yayasan Pelayanan dan Pengembangan Masyarakat Mamberamo Raya (Yappembra) , Papua - Indonesia

393. Kelompok Kerja Pemberdayaan (Koreri) , Papua - Indonesia
394. Yayasan Koteka Mandiri (Yakoma) , Papua - Indonesia
395. Yayasan Harapan Ibu (YHI) , Papua - Indonesia
396. The Institute Civil Strengthening (ICS) , Papua - Indonesia
397. Yayasan Rumsram, Papua - Indonesia
398. Yayasan Santa Lusía, Papua - Indonesia
399. Yayasan Sosial Bina Mandiri Utama (Yabimu) , Papua - Indonesia
400. Yayasan P-5 Moenamani (YP-5) , Papua - Indonesia
401. Yayasan Elmasme “Gaiva” , Papua - Indonesia
402. Yayasan Pengembangan Masyarakat Adat Yapen Waropen (YPMA-YAWA) , Papua - Indonesia
403. Yayasan Sosial Pengembangan Kawasan Timur (YASOBAT) , Papua - Indonesia
404. Yayasan Bina Mandiri (YBM) , Papua - Indonesia
405. Yayasan Kasih Mulia, Papua - Indonesia
406. Yayasan Alfa Omega, Papua - Indonesia
407. YAMIKO, Papua - Indonesia
408. Yayasan Lima Cahaya, Papua - Indonesia
409. Yayasan Tiara Kasih, Papua - Indonesia
410. Yayasan Pengkajian Adat dan Lingkungan Vogelkop (YAPALVO) , Papua - Indonesia
411. Yayasan Mari Membangun Bersama Rakyat (YNWS) , Papua - Indonesia
412. Lembaga Penelitian, Pengkajian dan Pengembangan Bantuan Hukum (LP3BH) , Papua - Indonesia
413. Perkumpulan Terbatas Pengembangan Masyarakat dan Konservasi Sumberdaya Alam (PERDU) , Papua - Indonesia
414. Yayasan Lingkungan Hidup “Wima Rawana” Manokwari (YALHIMO) , Papua - Indonesia
415. Yayasan Bina Lestari Bumi Cenderawasih (YBLBC) , Papua - Indonesia
416. Unit Gerakan Kampung (UnGKap) , Papua - Indonesia
417. Yayasan Mitra Perempuan Papua, Papua - Indonesia
418. Perkumpulan Terbatas Pengembangan Masyarakat dan Konservasi Sumberdaya Alam (Pt. Peduli Sehat *), Papua - Indonesia

419. Forum Kerja Perempuan Amungsa (FKPAM) , Papua - Indonesia
420. Yayasan Bina Budaya Jayawijaya, YBBJ, Papua - Indonesia
421. Yayasan Humi Inane (YHI) , Papua - Indonesia
422. Yayasan Yasukhogo, Papua - Indonesia
423. Yayasan Bina Adat Walesy, Papua - Indonesia
424. Yayasan Alam Lestari Masyarakat Maju dan Sejahtera (Almamater) , Papua - Indonesia
425. Yayasan Santo Antonius (Yasanto) , Papua - Indonesia
426. Yayasan Suara Kalvari (Yasuka) , Papua - Indonesia
427. Yayasan Rehabilitasi Ekonomi Mandiri (Yarem) , Papua - Indonesia
428. Yayasan Pengembangan Sosial Ekonomi dan Lingkungan Hidup (Yapsel) , Papua - Indonesia
429. Yayasan Peduli Perempuan dan Anak (Yapepa) , Papua - Indonesia
430. Yayasan Wasur Lestari (YWL) , Papua - Indonesia
431. Yayasan Matahari Kehidupan (Yamapan) , Papua - Indonesia
432. 68. Yayasan AESCULAPE (Aesculape) , Papua - Indonesia
433. Kelompok Pemuda Peduli Tambrau, Papua - Indonesia
434. Kelompok Sanggar Budaya Yenbekaki Raja Ampat, Papua - Indonesia
435. DPMA KNASAIMOS Seremuk Sorong Selatan, Papua - Indonesia
436. DPMA SHYWA Maybrat, Kab. Sorong Selatan, Papua - Indonesia
437. Kelompok Sanggar Belajar Teluk Mayalibit Raja Ampat, Papua - Indonesia
438. Kelompok Sanggar Belajar Kumeseri Kota Sorong, Papua – Indonesia
439. Suara Rakyat Malaysia (SUARAM), Selangor - Malaysia
440. Lawyers for Liberty – Malaysia
441. Professor Dr David Ngin Sian Pau, Kuala Lumpur – Malaysia
442. P.S. The Children, Selangor - Malaysia
443. Think Center - Singapore

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444. Singapore Anti-Death Penalty Campaign (SADPC) – Singapore
445. Muhd Khalis Rifhan - Young Liberals and Democrats of Asia – Singapore
446. People's Empowerment Foundation, Bangkok – Thailand
447. Democracy and Environment Network of Thailand
448. Indigenous People's Network of Thailand
449. Karen Network (Western Region) - Thailand
450. The preservation of the 'Baan Prong Krathingbon' Youth Group - Thailand
451. North-eastern (Isaan) Community Radio Network - Thailand
452. Khlongtoey Slum Network - Thailand
453. Burmese-Rohingya Association of Thailand
454. Centre for Sustainable Development in Mountainous Areas – (CSDM), Hanoi – Vietnam
455. Centre for Promotion and Research on Children (CENFORCHIL), Hanoi - Vietnam
456. Paradise of Children Network (PC Network) - Vietnam
457. Task Force Detainees Philippines (TFDP), Manila – the Philippines
458. The Philippine Alliance of Human Rights Advocates (PAHRA) – the Philippines
459. Ranaw Disaster Response & Rehabilitation Assistance Center (RDRRAC), Mindanao – the Philippines
460. Maita Gomez, Coordinator - Bantay Kita, Quezon City - Philippines
461. Medical Action Group (MAG) – the Philippines
462. Aniban ng Mangagawa sa Agrikultura (AMA) – the Philippines
463. Mindanao Peaceweavers (MPW) – the Philippines
464. Center for Migrant Advocacy – the Philippines
465. The Civil Society Network for Education Reforms (E-Net Philippines) – the Philippines
466. Human Rights Defender- Pilipinas (HRD-Pilipinas)
467. Teachers Dignity Coalition - Visayas (TDC-Visayas), Visayas – the Philippines

468. Lanao Alliance of Human Rights Advocates (LAHRA)
469. Foundation for Media Alternatives – the Philippines
470. Jose Maria Oliveros Dimaandal – the Philippines
471. Edgardo Buenaventura - National Urban Poor Coalition (NUPCO), Philippines
472. Dr. Sylvia Estrada Claudio-Professor, Human and Women's Rights Defender, University of the Philippines
473. Rosemarie Doromal-Philippines
474. Dr. Vicente Salas- Professional Development Worker, Philippines/Cambodia
475. Philippine Human Rights Information Center (PhilRights), Quezon City, the Philippines
476. Balay Rehabilitation Center (Balay, Inc.)
477. Sr. Angie Villanueva, r.c., Chairperson of Justice, Peace and Integrity of Creation Commission of the Association of Major Religious Superiors of the Philippines (JPICC-AMRSP) – the Philippines
478. Bruce P. Amoroto - Philippine Forum on Sports, Culture, Sexuality and Human Rights (TEAM PILIPINAS), Manila – the Philippines
479. Fr. Archie Casey - Human rights and Environmental Activist, the Philippines
480. Terence Osorio, Migrant and human rights activist, the Philippines

Annex 5

**Open Letter of SAPA TFAHR and SAPA Task
Force on Freedom of Information to the ASEAN
Inter-Governmental Commission
on Human Rights, 15 June 2011**

15 June 2011

H.E. Rafendi Djamin

Chairperson and Representative of Indonesia ASEAN
Intergovernmental Commission on Human Rights Jakarta,
Indonesia

Dear Sir:

Warm greetings!

We write on behalf of the Solidarity for Asian Peoples Advocacies (SAPA) Task Force on ASEAN and Human Rights (TFAHR) and the SAPA Task Force on Freedom of Information (TF on ASEAN FOI).

The SAPA Task Force on ASEAN and Human Rights (SAPA TFAHR) was established in August 2007 in Kuala Lumpur during the First Regional Consultation on ASEAN and Human Rights. One of the objectives of the Task Force is to promote genuine and meaningful dialogue and engagement between NGOs and the AICHR in promoting and protecting human rights. The TF on ASEAN FOI is an initiative to push for the recognition of the public's right to know and access to information in ASEAN. These two Task Forces work under the SAPA Working Group on ASEAN (SAPA WG ASEAN), a collaboration among various NGOs, peoples' movements, coalitions and campaign organizations that seek to engage ASEAN issues and processes. It has played an active role in the ASEAN Civil Society Conference, and works on specific advocacies on human rights, migrants' rights, economic development and social justice, and democratization, among others.

The SAPA TFAHR and the SAPA TF on ASEAN FOI welcome the progress made by the ASEAN Intergovernmental Commission on Human Rights (AICHR) in institution building. We understand that as a result of the past AICHR meetings, several important documents and decisions have been adopted.

As reflected in Article 1.13 of the ASEAN Charter, the ASEAN aspires to become a People-Oriented ASEAN, “in which all sectors of society are encouraged to participate in, and benefit from, the process of ASEAN integration and community building”. A fundamental requisite to achieving this is to keep stakeholders promptly and sufficiently informed. AICHR itself commits to keep the public periodically informed of its work and activities through appropriate public information materials (Article 6.7 of TOR of AICHR).

It is in this spirit that we would like to request for a copy of the following documents:

1. The Guidelines on Operation of the AICHR;
2. The Terms of Reference for the drafting team of the ASEAN Human Rights Declaration;
3. The Terms of Reference for the thematic study on Corporate Social Responsibility (CSR) and Human Rights; and

We also ask that these documents be made widely available as soon as possible through the website of ASEAN or of AICHR to facilitate genuine and meaningful public participation and consultation on these matters that will have far reaching impact on the fundamental freedoms and human rights of people in ASEAN.

We look forward to your favorable consideration of our request.
Thank you.

Very truly yours,

Yap Swee Seng and Haris Azhar
SAPA Task Force on ASEAN &
Human Rights

Jenina Joy Chaves
SAPA Task Force on
ASEAN FOI

For the SAPA Task Force on ASEAN and Human Rights:

1. Asian Forum for Human Rights and Development (FORUM-ASIA)
2. Disable People International – Asia Pacific (DPI-AP)
3. The Asia Pacific Refugee Rights Network (APRRN)
4. The Centre on Housing Rights and Evictions (COHRE)
5. Asia Indigenous Peoples Pact (AIPP)
6. Task Force on ASEAN Migrant Worker (TF-AMW)
7. Task Force on ASEAN Burma (TF-AB)
8. Human Rights Education Institute of Burma (HREIB) - Burma
9. ADHOC - Cambodia
10. The Commission for Missing Persons and Victims of Violence (Kontras) – Indonesia
11. Human Rights Working Group (HRWG) - Indonesia
12. SUARAM – Malaysia
13. Empower - Malaysia
14. Think Centre – Singapore
15. People’s Empowerment Foundation – Thailand
16. Task Force Detainees of the Philippines (TFDP) – the Philippines
17. Agribusiness Action Initiatives
18. Southeast Asia Coalition to Stop the Use of Child Soldiers
19. Coordination of Action Research on AIDS and Mobility (CARAM-Asia)

For the SAPA Task Force on ASEAN FOI:

1. Southeast Asian Press Alliance (SEAPA)
2. Institute for Freedom of Information (i-FOI)
3. Focus on the Global South
4. Asian Forum for Human Rights and Development (FORUM-ASIA)
5. South East Asian Committee for Advocacy (SEACA)
6. Bantay Kita
7. Foundation for Media Alternatives
8. People’s Empowerment Foundation Thailand

9. Institute for Essential Services Reform (IESR)

Other Endorsers

Cambodia

1. SILAKA
2. Positive Change for Cambodia
3. Cambodia Housing Rights Task Force
4. NGO Committee on the Rights of the Child
5. Cambodia Housing Rights Task Force
6. Cambodian Center for Human Rights (CCHR)
7. The Cambodian League for the Promotion and Defense of Human Rights (LICADHO)

Indonesia

8. Publish What You Pay
9. Yayasan Semai Jiwa Amini (SEJIWA)
10. Imparsial
11. The Indigenous Peoples Alliance of the Archipelago (AMAN-MALUKU) – Moluccas
12. The Children’s Human Rights Foundation (YPHA)
13. KePPaK PEREMPUAN
14. Women’s Institute, Bandung
15. Demos
16. KRuHA (People’s Coalition for the Right to Water)
17. Pergerakan Indonesia – Indonesia
18. Solidaritas Perempuan (Women’s Solidarity for Human Rights)
19. Sahabat Perempuan dan Anak Indonesia (Sapa Indonesia)
20. Jaringan Tambang (JATAM)
21. Indonesia Legal Aid Foundation (YLBHI)
22. Aliansi Nasional Bhinneka Tunggal Ika (ANBTI)
23. Indonesian Center for Environmental Law (ICEL)

Lao PDR

24. Gender and Development Group (GDG)

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Malaysia

25. Southeast Asia Popular Communications Programme
26. Pusat Komnas
27. Community Residents' Association
28. Women's Aid Organisation
29. Women's Caucus Malaysia
30. Era Consumer Malaysia
31. Monitoring Sustainability of Globalization (MSN)

Philippines

32. Action for Economic Reforms, Philippines
33. Stop the War Coalition, Philippines
34. Libertas
35. Women's Legal and Human Rights Bureau, Inc. (Philippines)
36. Rural Urban Peoples Linkages
37. Philippine Network on EU-ASEAN FTA Singapore
38. MARUAH (Working Group for ASEAN Human Rights Mechanism)

Thailand

39. ASEAN Watch
40. NGO Coordinating Committee on Development
41. Thai Committee for Refugee Foundation
42. FTA Watch Thailand Regional/International (based in ASEAN)
43. INHURED International
44. Dignity International
45. International Women's Rights Action Watch (IWRAP) Asia Pacific
46. Southeast Asia Women's Caucus on ASEAN
47. Asia Pacific Resource and Research Center for Women (ARROW)
48. Homenet Southeast Asia
49. Committee for Asian Women (CAW)
50. Union Network International Asia Pacific Regional

Organization (UNI Apro)

51. Asian Partnership for the Development of Human Resources in Rural Asia (AsiaDHRRA)

Others

52. Center for Human Rights and Development (Mongolia)
53. International Federation for Human Rights (FIDH)
54. East Timor NGO Forum (FONGTIL) – Timor Leste

Cc:

- H.E. Pehin Dato Hamid Bakal
Representative of Brunei Darussalam
- H.E. Om Yentieng
Representative of the Kingdom of Cambodia
- H.E. Bounkeut Sangsomsak
Representative of the Lao P.D.R
- H.E. Dato' Sri Muhammad Shafee Abdullah
Representative of Malaysia
- H.E. U Kyaw Tint Swe
Representative of Myanmar
- H.E. Rosario G. Manalo
Representative of the Republic of the Philippines
- H.E. Richard R. Magnus
Representative of Singapore
- H.E. Sriprapha Petcharamesree
Representative of the Kingdom of Thailand
- H.E. Amb. Nguyen Duy Hung
Representative of Viet Nam

Annex 6

**Letter of SAPA TFAHR to the ASEAN Inter-
Governmental Commission on Human Rights,
21 June 2011**

June 21, 2011

To: **HE. Rafendi Djamin**

Chairperson of the ASEAN Intergovernmental Commission on
Human Rights (AICHR)
The ASEAN Secretariat
Jakarta - Indonesia

Re: Request for Interface Meeting with the AICHR

On behalf of the Solidarity for Asian Peoples' Advocacy - Task Force on ASEAN and Human Rights (SAPA TFAHR), we would like to respectfully request an interface meeting with the AICHR during the 6th AICHR meeting, which will be held from 28 June – 2 July 2011 in Vientiane – Lao PDR.

SAPA TFAHR is established in August 2007 in Kuala Lumpur during the First Regional Consultation on ASEAN and Human Rights. Today, it has members of around 70 civil society organizations in South East Asian region.

We hope to present the recommendations of the Task Force and have a constructive dialogue on the ASEAN Human Rights Declaration (AHRD) in this meeting, if granted. Please kindly find attached the Civil Society's Position Paper on the ASEAN Human Rights Declaration. We hope this position paper will assist the AICHR and contribute to your deliberation.

The Task Force together with other civil society organizations had also organized a public hearing on cases of corporate social

responsibility in the Southeast Asian region. We would also like to take this opportunity of meeting with the AICHR to share the findings and recommendations as our contribution to the thematic study on corporate social responsibility and human rights by the AICHR.

We look forward to your positive reply. Should you have any further inquiry, please feel free to contact **Atnike N. Sigiro**, Program Manager on ASEAN Advocacy Department on FORUM-ASIA (+62) 81 2940 1766 (e-mail atnike@forum-asia.org).

Your kind attention and support in this matter is much appreciated.

Sincerely yours,

Yap Swee Seng
Executive Director of FORUM-ASIA
Coordinator of KONTRAS

Haris Azhar

Annex 7

**Joint Open Letter of FORUM-ASIA, SEACA,
SEACeM, SEAPA and IID to the Chairperson of
AICHR regarding the Threats and Intimidation
by the Malaysian Government against the
Electoral Reform Mass Rally Supporters,
1 July 2011**

1 July 2011

H.E. Rafendi Djamin

Chairperson of the ASEAN Intergovernmental Commission on
Human Rights (AICHR) Association of Southeast Asian Nations
(ASEAN) Secretariat Jakarta, Indonesia Fax: +62 (0)21 739 8234
/ 385 7316

Email: rafendidjamin@gmail.com

Your Excellency,

The Asian Forum for Human Rights and Development (FORUM-ASIA), the South East Asian Committee for Advocacy (SEACA), the Southeast Asian Center for e-Media (SEACeM), the Southeast Asian Press Alliance (SEAPA), and the Initiatives for International Dialogue (IID) write to you today to draw your urgent attention to the on-going threats and intimidation by the Malaysian government against the electoral reform campaigners and supporters.

The Coalition for Clean and Fair Elections (Bersih 2.0) is comprised of Malaysian civic and human rights organisations campaigning for electoral reforms and independent monitoring of elections in the country. Bersih 2.0 plans to hold a mass rally on 9 July 2011 to demand for, among others, fair access of all political parties to the media, reform of postal ballots and a revision of the electoral roll to address irregularities for the upcoming 13th General Elections to be held in mid-2012.

We are appalled over the current wave of arrests and intimidation by the Malaysian authorities, which have taken place weeks ahead of the rally. As of today, around 120 campaigners and supporters have been arrested for distributing pamphlets or wearing Bersih 2.0 t-shirts for the 9 July mass rally. In particular, on 29 June 2011, the police raided the Bersih 2.0 office in Selangor without a warrant and confiscated election reform campaign materials including t-shirts, leaflets, laptops and banners while they arrested six staff members and one volunteer in the office. Although some of them were later released on bail, we are deeply concerned that there are still many individuals who remain in detention.

One of main purposes of ASEAN is “to strengthen democracy, enhance good governance and the rule of law, and to promote and protect human rights and fundamental freedoms” in the region. The attempt by the Malaysian government to hinder the 9 July rally and weaken the electoral reform campaigns significantly undermines ASEAN’s inspiration and subverts its aim to establish the community of caring nations. The government of Malaysia must not shut down the space for citizens to freely exercise their rights to freedom of expression and peaceful assembly, which are essential components for a solid and vibrant democratic society.

In this respect, we urge you to exert your full capacity as the Chairperson in order for AICHR to swiftly address this alarming situation of human rights in Malaysia, on which the concerns of international community are mounting. The Terms of Reference mandates AICHR to “uphold international human rights standards as prescribed by the Universal Declaration of Human Rights”, freedom of expression and peaceful assembly among its members, and particularly Malaysia. Therefore, we also strongly call on AICHR:

1. **To address and respond to this appalling situation of human rights in Malaysia as a matter of urgency, as consistent with its mandate;**
2. **To urge the government of Malaysia to stop further arrests of campaigners and supporters**

- of the 9 July rally and to release immediately all those being detained; and**
- 3. To recommend the government to allow Malaysian citizens to assemble peacefully on 9 July and let their electoral reform demands be heard.**

We look forward to your positive response on this matter.

Yours Sincerely,

- Mr. Yap Swee Seng (Executive Director of FORUM-ASIA)
- Ms. Consuelo Katrina Lopa (Regional Coordinator of SEACA)
- Mr. Sean Ang (Executive Director of SEACeM)
- Ms. Gayathry Venkiteswaran (Executive Director of SEAPA)
- Mr. Augusto N. Miclat (Executive Director of IID)

Annex 8

**Letter of SAPA TFAHR to the ASEAN Inter-
Governmental Commission on Human Rights,
18 August 2011**

August 18, 2011

To: **HE. Rafendi Djamin**

Chairperson of the ASEAN Intergovernmental Commission on
Human Rights (AICHR)/ Representative of Indonesia
The ASEAN Secretariat
Jakarta - Indonesia

Re: Request for Interface Meeting with the AICHR

We write this letter on behalf of the Solidarity for Asian Peoples' Advocacy - Task Force on ASEAN and Human Rights (SAPA TF-AHR).

On 9 March 2010, the SAPA TF-AHR requested for a meeting with the AICHR during its first meeting in Jakarta on 28 March to 1 April 2010. However, the request was turned down by the AICHR on the ground that the AICHR has yet to adopt its rules of procedure that will include the procedure of engagement with civil society.

On 14 February 2011, the AICHR issued a press release announcing the adoption of Guidelines on the Operations of the AICHR after its 4th meeting. SAPA TF-AHR subsequently submitted another letter of request for meeting on 21 June 2011 requesting for a meeting with AICHR during the 6th AICHR meeting in Vientiane, Lao PDR on 28 June – 2 July 2011 in order to present civil society's recommendations on the ASEAN Human Rights Declaration (AHRD) and the work of AICHR.

However, to this date, we have yet to receive any reply or confirmation

A COMMISSION SHROUDED IN SECRECY

on our request. We would like to remind the AICHR of this pending request and hope that the AICHR will grant this meeting request to meet with the SAPA TF-AHR in the next AICHR meeting.

SAPA TF-AHR was established at the First Regional Consultation on ASEAN and Human Rights in August 2007 in Kuala Lumpur. Today, it has members of around 70 civil society organizations in South East Asian region.

We look forward to your positive reply. Should you have any further inquiry, please feel free to contact **Atnike N. Sigi**, Program Manager on ASEAN Advocacy Department on FORUM-ASIA (+62) 81 2940 1766 (e-mail atnike@forum-asia.org). Your kind attention and support in this matter is much appreciated.

Sincerely yours,

Yap Swee Seng

Executive Director of FORUM-ASIA

Coordinator of KONTRAS

Co-Convenor of SAPA TFAHR

Haris Azhar

Convenor of SAPA TF-AHR

Annex 9

**Letter of SAPA TFAHR to the ASEAN Inter-
Governmental Commission on Human Rights,
1 November 2011**

November 1, 2011

To: **HE. Rafendi Djamin**

Chairperson of the ASEAN Intergovernmental Commission on
Human Rights (AICHR)

Representative of Indonesia

Jakarta - Indonesia

Re: Request for Interface Meeting with the AICHR

We write this letter on behalf of the Solidarity for Asian Peoples' Advocacy - Task Force on ASEAN and Human Rights (SAPA TFAHR). SAPA TFAHR was established at the First Regional Consultation on ASEAN and Human Rights in August 2007 in Kuala Lumpur. Today, it has members of around 70 civil society organizations in South East Asian region.

We would like to request for a meeting with the AICHR during the next meeting of the commission on 28 November – 2 December 2011 in Bali, Indonesia. The issues that we would like to discuss with the AICHR are as follow:

1. The engagement modalities of civil society organizations in Southeast Asia with the AICHR
2. The drafting of the ASEAN Human Rights Declaration

It is to our regret that despite being in existence for two years, the AICHR has yet to grant any meeting with the Task Force or its member organizations. While the ASEAN Human Rights Declaration will have far reaching impacts on the peoples in Southeast Asia,

A COMMISSION SHROUDED IN SECRECY

there has been no consultation meeting held by the AICHR with all stakeholders, especially the civil society organizations in the region to this date.

ASEAN has aspired to be a people-oriented ASEAN. We believe the AICHR has a key role in ensuring and facilitating the participation of the peoples in ASEAN. We therefore sincerely hope that the AICHR will grant the meeting request this time.

We look forward to your positive reply. Should you have any further inquiry, please feel free to contact **Atnike N. Sigiyo**, Program Manager on ASEAN Advocacy Department on FORUM-ASIA (+62) 81 2940 1766 (e-mail: atnike@forum-asia.org). Your kind attention and support in this matter is much appreciated.

Sincerely yours,

Yap Swee Seng

Executive Director of FORUM-ASIA

Coordinator of KONTRAS

Co-Convenor of SAPA TF-AHR

Haris Azhar

Convenor of SAPA TF-AHR

Annex 10
**Reply Letter from the Chair of the ASEAN
Intergovernmental Commission on Human
Rights to SAPA TFAHR,
7 November 2011**

INDONESIAN REPRESENTATIVE TO THE ASEAN
INTERGOVERNMENTAL COMMISSION ON HUMAN
RIGHTS

No. 66/11/2011/AICHR-NA

Jakarta, 7 November 2011

Mr. Yap Swee Seng

Mr. Haris Azhar

Solidarity for Asian Peoples' Advocacy - Task Force on ASEAN
and Human Rights (SAPA
TF-AHR)

Subject: Follow-up on SAPA TF-AHR's Requests for Access to
Information and Meeting
with the AICHR

Dear Colleagues,

I wish to refer to your letter regarding access to information,
namely concerning a request for a copy of (a) the Guidelines on the
Operations of the AICHR; (b) TOR for the Drafting Team on the
ASEAN Human Rights Declaration (AHRD); and (c) TOR for the
Thematic

Study on Corporate Social Responsibility (CSR) and Human Rights
dated 15 June 2011. I would also like to refer to your letter regarding
the Request for an Interface Meeting with the AICHR which was

A COMMISSION SHROUDED IN SECRECY

submitted during the AICHR's Debriefing Meeting with National Stakeholders on 18 August 2011 in Jakarta.

Regarding your request for a copy of the above mentioned documents, I wish to inform you that the AICHR is not in a position to share the documents with other parties as these constitute internal working documents of the AICHR.

Concerning your request for an interface meeting with the AICHR, I would have to consult with the other AICHR representatives bearing in mind that we are still considering the guidelines for engagement with CSOs. Your understanding in this matter is highly appreciated. Thank you again for your continued support and interest on the work of the AICHR.

Warmest regards,
Rafendi Djamin

Annex 11

“Next two years key to human rights development in ASEAN region – UN human rights chief” – Press Release of Navi Pillay, the UN High Commissioner for Human Rights

BALI/GENEVA(28 November 2011)–The UN High Commissioner for Human Rights Navi Pillay said Monday that the next two years will be crucial to the development of regional and national human rights institutions in the ASEAN region, particularly in the light of developments under way in Myanmar, which will chair ASEAN in 2014.

Pillay has spent the last three days on the Indonesian island of Bali meeting the ASEAN Intergovernmental Commission on Human Rights (AICHR), National Human Rights Institutions from four of the ten ASEAN countries* and a broad range of civil society organizations. While in Bali, she also spoke by telephone with Daw Aung San Suu Kyi, on a range of issues including Myanmar’s forthcoming chairmanship of ASEAN.

“One element that emerged very clearly from the meetings and discussions that I had are that the next couple of years will be crucial if the advancement of human rights is to gather pace in this region,” Pillay said.

Pillay commended Indonesia’s “very positive” approach to human rights during its 2011 chairmanship of ASEAN and AICHR (which was created in 2009 with a broad mandate to promote human rights), and its vice-chairmanship of a second human rights body, the ASEAN Commission for Women and Children.

“These regional human rights bodies are still young, but I hope and believe they will develop in the years to come, and we must be careful to encourage this evolution,” she said. “It is important to sustain the momentum generated by the very welcome creation

of these bodies, and it is now time to start shifting up through the gears.”

Earlier, in the first ever address by a UN High Commissioner for Human Rights to AICHR, she noted that “the aspirations and expectations outside this room are high – in civil society, the media, among ASEAN’s international partners and, most importantly, among ordinary people.” At the end of the day, she added AICHR Commissioners – and the governments they represent – “will be judged by what they achieve,” how their work compares with regional bodies elsewhere in the world and whether or not it is in line with international standards.

“It will be very important to show tangible achievements and creative applications of AICHR’s mandate by the time the first review of AICHR takes place in 2014,” the High Commissioner said.

Pillay noted that a number of concerns had been raised by around 75 delegates, representing 40 civil society organizations from nine of the ten ASEAN countries, with whom she held several hours of discussions on Sunday. “The number one concern,” she said, “was that AICHR – as a body -- is not talking to civil society, although there have been some contacts with the current chairperson and one or two other Commissioners in their individual capacity. That is a major concern to me as well. No discussion of human rights can be complete or credible without significant input from civil society and national human rights institutions.”

The UN human rights chief also urged AICHR to listen to civil society calls for more transparency, particularly with regard to the forthcoming ASEAN Human Rights Declaration, due to be finalized by the end of the year. “This is potentially a very important document which may set the tone for years to come,” Pillay said. “And I can understand civil society organizations’ extreme frustration that they have not even been able to contribute to the drafting of the declaration, or been adequately consulted on its contents. This is happening against the backdrop of some significant changes, for instance the new political dynamics that seem to be developing

in Myanmar and the reform of draconian national security laws elsewhere in the region. At the same time, freedom of expression continues to be threatened in many countries and increasing religious intolerance has placed pressure on women and minorities.”

Noting the intense spotlight that will be focused on ASEAN’s progress on human rights in 2014, when the first review of AICHR takes place under the Chairmanship of Myanmar, the High Commissioner said she had discussed this and other related issues with Daw Aung San Suu Kyi at the weekend.

“We covered a range of issues in Myanmar, including recent encouraging developments such as the release of some political prisoners and the creation of the national human rights commission,” Pillay said. “Aung San Suu Kyi has always been a tremendously inspirational figure when it comes to the promotion of human rights and democracy. I am encouraged by the fact that the Government of Myanmar, and in particular the President, have started a dialogue with her. Nevertheless, we both agreed that there is still a very long way to go.”

Pillay said that Myanmar would need to be making significant progress in a number of key areas by the time it takes over the Chair of ASEAN and its human rights subsidiaries in two years time.

“Aung San Suu Kyi informed me that she believes the number of political prisoners remaining in detention is probably around 600, although there may be others her party is not aware of,” Pillay said. “I join her in her desire to see all political prisoners released in the very near future.”

Pillay said she and Aung San Suu Kyi discussed a number of other key issues where demonstrable progress would be needed by 2014. “Perhaps most fundamentally, significant moves towards establishing the rule of law are key to halting the serious human rights violations taking place in Myanmar,” the High Commissioner said. “For the outside world to be sure this is happening, there will need to be a system of independent human rights monitoring across the country, including in remote conflict-affected areas, and there needs to be a

major effort to resolve the conflicts themselves, and the underlying issues that fuel them.”

“During my talks with the four existing ASEAN National Human Rights Institutions, and with Aung San Suu Kyi, we agreed it was important to engage with the fifth national human rights institution created in Myanmar in September. It will inevitably require time and support to establish the independence and credibility it needs to be fully accepted on both the national and international stages.”

Pillay also said the next round of by-elections will provide a further indication of how quickly progress is being made. “In addition to the conduct of the next elections, the Government needs to encourage the development of independence: independent civil society organizations, independent media and a truly independent National Human Rights Commission,” she said.

“Aung San Suu Kyi was cautiously optimistic,” Pillay added. “I share her optimism -- and her caution. We should not underestimate the magnitude of the tasks that lie ahead for the Government, people and institutions of Myanmar as they develop their much-needed reforms. I pledge to do everything I and my office can to help transform the recent positive signals and tentative advances into substantial and irreversible progress.”

Pillay noted, as another encouraging sign, that staff from her Regional Office in Bangkok were invited to carry out human rights training for a wide range of government officials from various ministries in November. “The feedback was encouraging,” she said. “These officials, many of them from an emerging younger generation, were very positive, interested, energized. Both the human rights training, and its enthusiastic reception, would not have been permitted only a couple of years ago.”

(*) The four ASEAN states with internationally recognized National Human Rights Institutions are Indonesia, Malaysia, the Philippines and Thailand.

Learn more about the UN High Commissioner for Human Rights,

Navi Pillay: <http://www.ohchr.org/EN/AboutUs/Pages/HighCommissioner.aspx>

For more information on the UN Human Rights office mandate and work: <http://www.ohchr.org/EN/Pages/WelcomePage.aspx>

For more information on human rights in the Asia-Pacific region: <http://www.ohchr.org/EN/Countries/AsiaRegion/Pages/AsiaRegionIndex.aspx>

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Annex 12

**List of Members of the Drafting Group on
ASEAN Human Rights Declaration**

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Annex 13

**Submission of the SAPA TFAHR to the AICHR
on the ASEAN Human Rights Declaration,
21 June 2011**

I. INTRODUCTION

Under Article 4.2 of its Terms of Reference (ToR), the ASEAN Intergovernmental Commission on Human Rights (AICHR) has been mandated “to develop an ASEAN Human Rights Declaration (AHRD) with a view to establishing a framework for human rights cooperation through various ASEAN conventions and other instruments dealing with human rights”.²²

The Solidarity for Asian People’s Advocacy Task Force on ASEAN and Human Rights (SAPA TF-AHR), a coalition of more than 70 non-governmental organizations in Southeast Asia, welcomes the drafting of the AHRD. We are committed to assist the AICHR and the Drafting Group in this important historical endeavour for the peoples in the Southeast Asian region. We therefore wish to submit this position paper as part of our contribution to the AHRD for the consideration of the AICHR and the Drafting Group.

This position paper sets out the views and perspectives of the SAPA TF-AHR as to the proposed principles and the drafting process that should guide the AICHR and the Drafting Group in drafting the AHRD.

Like its predecessors in other regions throughout the world, the AHRD should be inspired by the Universal Declaration of Human Rights (UDHR) and take into account the obligations of ASEAN Member States as members of the United Nations and under its Charter to promote universal respect for, and observance of,

22 Terms of Reference of the ASEAN Intergovernmental Commission on Human Rights (“ToR”), Article 4.2.

human rights and fundamental freedoms. It should also enshrine universal human rights principles and rules as provided in the International Bill of Human Rights²³ and other universal human rights treaties, declarations and standards. Under no circumstances may the standards for human rights in the AHRD fall below those provided by universal human rights instruments. Instead, ASEAN as a regional association should aspire to commit itself to higher standards of human rights and contribute to the advancement of the promotion and protection of human rights globally.

II. GUIDING PRINCIPLES IN FRAMING THE AHRD

The ASEAN Charter sets out that all ASEAN Member States shall act in accordance with a set of principles, including “adherence to the rule of law, good governance, the principles of democracy and constitutional government (Article 2.2(h)); respect for fundamental freedoms, the promotion and protection of human rights, and the promotion of social justice (Article 2.2(i)); and upholding the United Nations Charter and international law, including international humanitarian law, subscribed to by ASEAN Member States (Article 2.2(j)).”

In addition, the ToR of the AICHR obliges it, including when drafting the AHRD, “to uphold international human rights standards as prescribed by the Universal Declaration of Human Rights, the Vienna Declaration and Programme of Action, and international human rights instruments to which ASEAN Member States are parties” (Article 1.6)

The SAPA TF-AHR calls upon the AICHR to ensure that the AHRD is drafted with the guidance of at least six central principles that will create a strong culture of human rights in the ASEAN region and lead to human rights-sensitive regional policies by taking into

23 The International Bill of Human Rights consists of the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and its Optional Protocol, and the International Covenant on Civil and Political Rights (ICCPR) and its two Optional Protocols.

account universal human rights law and standards.

Principle 1: Compliance with international human rights law and standards

The SAPA TF-AHR submits that the basis of ASEAN's normative framework of human rights should be in compliance with international human rights law and standards, and in particular that human rights standards in ASEAN are to be no lower than those at the international level. Moreover, in developing its human rights standards, ASEAN should take cognizance of the latest developments in human rights law and standards internationally, including in other regions. In this regard, ASEAN as the latest intergovernmental body that is going to adopt a regional human rights declaration, should strive to commit to the highest human rights standards in line with the international development of human rights.

The term 'other instruments dealing with human rights' on which (among other standards) the AICHR must base the AHRD under Article 4.2 of its TOR, as mentioned above, should be interpreted as referring to international human rights instruments, including the UDHR, the ICCPR, the ICESCR, and other international human rights treaties and standards.

Principle 2: Human dignity

Pursuant to Article 1 of the UDHR, which proclaims that "All human beings are born free and equal in dignity and rights", as reiterated in the Preamble of the two international Covenants, human dignity should be the key principle that underpins the AHRD since all human rights derive from the inherent dignity of the human person. The respect for 'human dignity' is also upheld in at least six Constitutions of the ASEAN Member States as illustrated in Annex 1.

Principle 3: All human rights are universal, indivisible and, interdependent and interrelated

The universality of human rights is reflected in the very name of the

Universal Declaration of Human Rights (UDHR), and in the fact that it is proclaimed “as a common standard of achievement for all peoples and all nations.” The Vienna Declaration and Programme of Action (VDPA) reaffirms the universal nature of all human rights and fundamental freedoms for all in accordance with the Charter of the United Nations, other instruments relating to human rights, and international law.²⁴ Because individual states have sometimes used concepts such as cultural relativism as a convenient pretext for denying and violating human rights, it is important that the application of universal human rights should go beyond one’s own national and regional particularities and various historical, cultural and religious backgrounds. As expressed in Article 5 of the VDPA, “The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis”.

Further, under the principle of interdependency and interrelatedness of all human rights, “the promotion and protection of one category of rights should never exempt or excuse States from the promotion and protection of the other rights”.²⁵ In other words, duties of states arising from one particular right are inseparable from and often overlap duties arising from other rights. Therefore, the fulfilment of one right often depends, wholly or in part, upon the fulfilment of others. Human rights are also indivisible in the sense that rights do not exist in isolation and that one human right cannot be exercised at the expense of another.

As noted, Article 1.6 of the AICHR’s ToR obliges it to uphold, among other standards, those of the VDPA. Moreover, the TOR explicitly refers to “respect for international human rights principles, including universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms (Article 2.2).

The AHRD should reflect this principle, as provided in the VDPA.

24 General Assembly, Vienna Declaration and Programme of Action (VDPA), A/CONF.157/23, 12 July 1993, Article. 1.

25 See for instance, UN Commission on Human Rights, Resolution 2000/67, 26 April 2000, Preamble.

International law acknowledges the principles of independence, sovereignty and non-interference, and there is also a widespread acknowledgment across the globe of the need to respect different cultures. Article 2.3 of the TOR recognises, rightly, “that the primary responsibility to promote and protect human rights and fundamental freedoms rests with each Member State.” This is reflected in the principle of complementarity, upheld by all human rights treaty bodies and courts, under which they only admit individual cases for consideration once domestic remedies have been exhausted. However, there is no “sovereign right to violate human rights” - it is similarly accepted universally that when a state fails to live up to its responsibility to respect and protect human rights in its territory or within its jurisdiction, such a state can no longer claim that its sovereignty, right to non-interference or unique culture is compromised by regional or international human rights mechanisms stepping into the breach and exercising their duty to protect those whose rights have been violated or who are facing such violations.

The AHRD should reflect these principles.

Principle 4: Equality and non-discrimination

The principle of equality and non-discrimination is embodied in practically every international human rights instrument; not least Article 7 of the UDHR, Articles 2(1) and 26 of the ICCPR and Article 2(2) of the ICESCR. The principle calls for the assurance that as equal human beings, no one shall be subjected to any form of discrimination on grounds such as race, colour, ethnicity, gender, age, language, sexual orientation, religion, political or other opinion, national, social or geographical origin, disability, property, birth or other status in the enjoyment of their human rights.

ASEAN acknowledges the significance of the principle of equality and non-discrimination by enshrining it in the ASEAN Charter, not least Article 1(11) which provides an equitable access to opportunities for human development, social welfare and justice.

As part of the bedrock principle of equality and non-discrimination,

actions aimed at advancing vulnerable or disadvantaged groups, is encouraged until equality is achieved, and does not constitute discrimination.²⁶

The AHRD should therefore include a strong and unequivocal provision for equality and against discrimination in the enjoyment of human rights for which it provides.

Principle 5: Democracy

Article 1(7) of the ASEAN Charter provides that all ASEAN Member States adhere to the principles of democracy, the rule of law and good governance, respect for and protection of human rights and fundamental freedoms.

Article 21(3) of the UDHR, for instance, states: “the will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures”. This right is also provided in Article 25 of the ICCPR and elsewhere.

Democracy and good governance are essential preconditions for the building of a free society based on human rights and the rule of law. In an explicit manner, the UN General Assembly in its resolution 59/191 recognises that “the respect for human rights, the respect for democracy and the respect for the rule of law are interrelated and mutually reinforcing”.²⁷ It is in a truly democratic society alone that all human rights and fundamental freedoms are respected and protected. This is particularly relevant to countries which have experienced authoritarian regimes.

The rights of democratic governance, as recognised by the United

26 Human Rights Committee, General Comment No. 18: Non-Discrimination, 37th Session, 1989, para. 10.

27 UN General Assembly, “Protection of human rights and fundamental freedoms while countering terrorism”, A/RES/59/191, 10 March 2005.

Nations,²⁸ comprises the right of the citizens to choose their governmental system through constitutional or other democratic means; the right of political participation; the right of universal and equal suffrage; transparent and accountable government institutions; the right to freedom of opinion and expression, of thought, conscience and religion, and of peaceful association and assembly; the right to freedom to seek, receive and impart information and ideas through any media; the rule of law; and the right of equal access to public service. States should ensure the protection and respect for all human rights, including those related to the right of democratic governance.

The AHRD should echo these standards to ensure a democratic and rule of law framework for human rights protection.

Principle 6: Right to development

Paragraph 10 of the VDPA unequivocally stipulates the right to development as a universal and inalienable right and an integral part of fundamental human rights. The right to development places the human person as the “central subject of development” as well as the “active participant and beneficiary” of the development process.²⁹

The VDPA also clarifies, “While development facilitates the enjoyment of all human rights, the lack of development may not be invoked to justify the abridgement of internationally recognized human rights.”³⁰ The AHRD should echo this position, and clarify that neither under-development nor measures to facilitate or enhance development may be used as pretexts to suppress other human rights, such as freedom of expression, association and assembly and the rights of minorities and indigenous peoples.

The AHRD should provide for the right to development, ensuring its place among other human rights without either trumping or being

28 Commission on Human Rights Resolution 1999/57 of 27 April 1999.

29 UN Declaration on the Right to Development (A/RES/41/128), art. 2(1).

30 VDPA, Article 10.

trumped by other rights.

III. THE DRAFTING PROCESS

ASEAN has aspired to promote a people-oriented ASEAN in which all sectors of society are encouraged to participate in, and benefit from, the process of ASEAN integration and community building. (ASEAN Charter, Article 1.13)

Paving a greater way for civil society participation in every aspect of ASEAN, including in direct input into ASEAN decision making processes, entails more openness and transparency by ASEAN bodies, including, but not limited to, human rights-specific ones. This would allow civil society to play a more active role in building ASEAN's commitment to human rights and fundamental freedoms. Further, in a people-oriented ASEAN, civil society will not only help shape ASEAN human rights agenda, but also help ASEAN meet its human rights commitments.

As such, the process of drafting the AHRD should be inclusive, participatory, consultative and transparent. In order to ensure this, we recommend that the AICHR and the Drafting Group:

- a. Conduct broad consultation meetings at national level with all national stakeholders, including the government, civil society organizations and national human rights institutions;
- b. Conduct broad consultation meetings at regional level that will bring together all stakeholders from the ten ASEAN countries to develop regional agreement;
- c. Make public the draft AHRD to allow comments from stakeholders before final texts are adopted;
- d. Invite human rights experts from within and beyond ASEAN to provide technical assistance and advice;
- e. Invite the United Nations Office of the High Commissioner for Human Rights to provide technical and other assistance, support and guidance.

IV. LIST OF RIGHTS AND FREEDOMS THAT SHOULD BE PROTECTED UNDER THE AHRD

The rights and freedom that should be protected in the declaration should include:

1. Right to life
2. Right to liberty and personal security
3. Prohibition of enforced disappearance
4. Prohibition of slavery, forced labour and human trafficking
5. Prohibition of torture, cruel, inhuman or degrading treatment or punishment
6. Freedom of thought, conscience and religion or belief
7. Freedom of expression and opinion
8. Freedom of information
9. Freedom of peaceful assembly and association
10. Freedom of movement and residence
11. Right to seek and obtain asylum
12. Right to a nationality
13. Freedom to found a family
14. Respect for private and family life
15. Rights of Human Rights Defenders
16. Prohibition of discrimination
17. Right to equal protection
18. Rights of women
19. Rights of children
20. Protection of minorities
21. Rights of indigenous peoples
22. Rights of the elderly
23. Rights of persons with disabilities
24. Rights of Lesbian, Gay, Bisexual and Transgender persons
25. Rights of Internally Displaced Persons

26. Right to recognition as a person and equality before the law
27. Right to an effective remedy and fair trial
28. Presumption of innocence and right of defence
29. Freedom from retroactive punishment
30. The prohibition of impunity
31. Right to participate in Government
32. Right to participate in free elections
33. Right to work
34. Rights to social security
35. Protection of migrant workers and members of their families
36. Right to an adequate standard of living
37. Right to property
38. Right to health
39. Right to education

ANNEX 1

RECOGNITION OF DIGNITY OF HUMAN PERSON
IN THE CONSTITUTIONS OF 6 ASEAN COUNTRIES

Country	Provision	Reference
Cambodia	“The law shall protect the life, honour and dignity of the citizens”.	Constitution, Article 38
Indonesia	“Every person shall have the right to protection of his/herself, family, honour, dignity [...]”.	Constitution, Article 28G(1)
Myanmar	“No penalty shall be prescribed that violates human dignity”.	Constitution, Article 44
Philippines	“The State values the dignity of every human person and guarantees full respect for human rights”.	Constitution, Article 2, section 11
	“The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity [...]”.	Constitution, Article 13, section 1
Thailand	“[...] the human dignity, right, liberty and equality of the Thai people protected by the democratic tradition of Thailand [...]”.	Constitution, Section 3
Vietnam	“Citizens have the right to physical inviolability and to have their lives, health, honour and dignity protected by law. [...] All forms of coercion, humiliation and violation of a citizen’s honour and dignity are strictly prohibited.”	Constitution, Article 71

Annex 14

Submission of the Southeast Asia Women's Caucus to the AICHR on the ASEAN Human Rights Declaration, 21 October 2011

PRINCIPLES

The Southeast Asia Women's Caucus on ASEAN³¹, also known as the Women's Caucus is committed to uphold and ensure the following three **Principles**:

- **Human Rights For All Above All**, particularly for the more vulnerable, marginalised, disadvantaged women and girl children;
- Ensure **Accountability to Women and the Peoples of Southeast Asia** through independent, transparent, effective and responsive processes and structures which are consistent with Member States' human rights obligations to protect, promote, fulfil and realise the human rights of women. This includes extraterritorial obligations and recognition of primacy of human rights over and above other obligations;
- **Meaningful and Substantive Participation and Representation of Women in ASEAN** which is inclusive and representative of the diverse and multiple sectors of society aimed at eliminating discrimination and ensuring substantive equality of all women in Southeast Asia.

GUIDING STANDARDS

In its submission towards the development of the **ASEAN Human**

31 The Women's Caucus has identified the following themes and issues, as informed by diverse feminists and women's human rights groups across Southeast Asia: **Violence Against Women, Political Participation, Economic Participation, Migration and Discriminatory Laws.**

Rights Declaration (AHRD), the Women's Caucus proposes the following **Guiding Standards**:

1. Recalling and reaffirming respect for all international **human rights principles** including universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms;
2. Emphasizing obligations of member states as duty-bearers in exercising **due diligence** towards effective implementation of human rights standards.
3. Recognising duty of all member states to uphold **rule of law** and adhere to principles of **good governance** and **democracy**³²;
4. Reaffirming the principles of **right to life and human dignity** as inalienable and non-derogable rights under international law and the duty of member states to promote **social justice**;
5. Recognising the need for adoption of **people centred**³³ approach for the greater benefit of ASEAN community;

In specific reference to the following:

1. Universal Declaration of Human Rights
2. Convention on the Elimination of Discrimination Against Women
3. Convention on the Rights of the Child
4. Beijing Platform for Action
5. Vienna Declaration on Human Rights and Program of Action
6. ASEAN Declaration on the Elimination of Violence

32 Democracy shall be understood as promotion of self governance on the basis of popular sovereignty, political equality of all citizens, and free and fair electoral processes.

33 Signifying participation, representation and inclusion of civil society in all matters relating to the preservation, strengthening and development of the ASEAN Community.

Against Women

6. Mandate and Terms of Reference of the ASEAN Commission for the Promotion and Protection of the Rights of Women and Children
7. Declaration on the Advancement of Women in the ASEAN Region
8. ASEAN Declaration Against Trafficking in Persons Particularly Women and Children
9. Declaration on the Elimination of Welfare and Development of ASEAN Women and Children
10. ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers
11. Constitutions of ASEAN Member States
12. Other international human rights instruments

HUMAN RIGHTS

The Women's Caucus encourages the drafting committee to consider the inclusion, inter alia, of the following **Human Rights**:

1. Equality and Non-Discrimination

- a. All women and men are **born free and equal in dignity and rights**, with the guarantee of free and full exercise of their rights in the public as well as private sphere. They should act towards one another in a spirit of solidarity.
- b. No person shall be **discriminated** against directly or indirectly, by public or private actors, on any ground whatsoever, such as race, colour, sex, sexual orientation, political or other opinion, national or social origin, social and economic status, marital status, age, disability, ethnicity, religion, nationality, language, birth or any other condition.
- c. States shall guarantee **equal protection and benefit of law** to all persons.

- d. States must acknowledge intersectional identities resulting in multiple discrimination, and historical impact of discriminatory laws, policies and practices resulting in unequal status between men and women towards adopting a **substantive equality** approach. States shall not only ensure equality in opportunity but equality of results through means including but not limited to **temporary special measures** and such measures shall not be considered discrimination under clause 1(b).
2. States shall have the obligation to protect, promote and fulfil all human rights with a standard of **due diligence**, including the obligation to eliminate, reduce and mitigate the incidence and consequences of discrimination by private persons and entities.

In acknowledgement of harmful effects of violence against women and its role as barrier in enjoyment of right to life with dignity, states shall institutionalise mechanisms which prevent, prosecute, punish, and provide remedies for any infringement of human rights by both state and non-state actors in private or in public.
3. Everyone has the **right to access the public sphere, social protection measures, financial resources, information and technologies** on the basis of justiciable, fair and equal access.
 - a. Everyone has the **right to access natural resources** such as land, water systems and other resources as well as derivative public services such as water, energy and transportation.
 - b. Everyone has the **right to food sovereignty**.³⁴
 - c. Everyone has the **right to access social protection services** such as affordable and effective health

34 Food sovereignty refers to the right of peoples to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define their own food and agriculture systems and policies against unfair trade.

- care, including sexual and reproductive health, adequate and affordable housing and education be it formal, informal and traditional.
- d. Everyone has the **right to access financial resources** such bank loans, mortgages and other forms of financial credit especially for poor and marginalized groups and reparations such as those arising from harmful developmental projects and disproportionate impact of climate change.
 - e. Everyone has the **right to access information** in the spirit of good governance, accountability and transparency.
 - f. Everyone has the **right to access and benefit from innovative technologies**, especially those which have been developed with public resources.
4. Everyone has **equal rights to access to justice** which includes procedural and substantive justice in both formal and informal justice systems, with the principles of equality and non-discrimination before the law, in particular among the poor and disadvantaged groups and their access to fair, effective, and accountable mechanisms for the protection of their human rights.
 5. Every adult has the right to **decent work; free choice of work; protection against unemployment; safe, equal and satisfactory working conditions; a living wage and adequate benefits especially for women workers**. States must ensure adequate and effective social protection measures to adults who are engaged in informal work and implement appropriate measures to eliminate discrimination against women in the field of employment in order to ensure equality of men and women.
 6. Everyone has the right to be **free from any forms of violence, exploitation and other forms of abuse**, including those related to women human rights defenders and media representations, in both the public and the

- private spheres. All forms of violence against women constitute a violation of human rights.
7. Everyone has the **right to communicate** one's ideas, opinions and aspirations with individuals, the State and non-State actors freely and securely in both the public and the private spheres, using any language and media. States must ensure the free flow of information and pursue the expansion of the public domain of knowledge.
 8. Everyone has the right to **freedom of association and to organise** collectively.
 9. Everyone has the **right to meaningfully participate in all spheres of social and community life including political processes, peace negotiation processes and decision-making processes in both the public and the private spheres.**
 10. Everyone has the **right to integrity, peace and security.**
 11. **Women and men have the same rights and roles in all matters relating to marriage and family relations** and in particular shall ensure, on a basis of equality of men and women: including the same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount.
 12. Everyone has the **right to have a name and citizenship.** This human right must not be negatively affected by marriage. States must ensure that indigenous peoples, marriage migrants, children of mixed heritage, orphans, internally displaced persons and refugees are formally documented and afforded citizenship.
 13. Everyone has the right to **freedom of movement.**
 14. Every individual and community has the **right to self determination.**
 - a. Every individual is free to decide over one's identities, body such as the exercise of one's exercise of one's sexual and reproductive rights,

- relationships, mobility and future.
- b. Slavery, servitude and the traffic of persons in any form, including those which take place within family relationships and in domestic employment, are prohibited.
 - c. Every community is free to envision its development and the means to pursue this while ensuring observance of individual and collective human rights, rule of law and environmental integrity.
15. All human beings and nations within ASEAN have **the right to equal and sustainable human development** and enjoy its benefits. The human right to development also implies the full realisation of the right to national and community sovereignty over all their natural wealth and resources. Decisions regarding national priorities and allocation of resources must prioritise eradication of poverty and the full realisation of human rights.
 16. Every individual and community has the **right to survive and cope with disasters and climate change**. Marginalised and/or affected individuals and communities on their **own or through the States** must be **free to demand and access climate justice**.³⁵ All persons have the **right to participate actively in local, national and international environmental management and education**.

FRAMEWORK FOR HUMAN RIGHTS COOPERATION

Premised on the principle of equality and elimination of discrimination, ASEAN member states shall undertake initiatives to ensure the effective implementation of the AHRD through the

35 Climate justice is the moral and ethical responsibility over climate change as triggered by the historical and aggressive exploitation of natural resources and climate systems primarily by the developing countries and private companies especially those in the global North and as disproportionately affecting communities in the global South.

development of a framework for human rights cooperation by recognising the importance of regional, international and national cooperation and its promotion, in support of national efforts for the realisation of the objectives and purposes of the AHRD, and shall undertake the following measures which shall include, inter alia:

Regional level

To facilitate, support and ensure coherence and cohesiveness within ASEAN, particularly within the human rights bodies (eg. the AICHR, ACWC, ACMW) towards the protection and promotion of human rights of individuals and peoples in ASEAN, including women and marginalised groups and to develop substantive, procedural and institutional framework for cooperation amongst the relevant bodies.

While recognising the AICHR as the overarching human rights institution in ASEAN with overall responsibility for the promotion and protection of human rights in ASEAN, it is of paramount importance to recognise the role of the ACWC as a specialised body focusing on the human rights of women and children

The human rights bodies, inter alia, to ensure complementarity, coherence and cohesiveness of policies and programmes of ASEAN sectoral bodies, coordinating councils and other structures, entities and processes of ASEAN aimed at promoting and protecting the human rights of individuals and peoples of ASEAN.

International level

ASEAN member states to establish coordination and cooperation arrangements at the regional and international levels such as with the Office of the High Commissioner on Human Rights regional and global offices, United Nations (UN) human rights bodies and mechanisms, and agencies like UN Women as well as with other regional structures and entities such as the European Union, Inter-American systems and the African Union and civil society organisations, including inter alia:

- a. Ensuring that international cooperation, including

development and trade agreements and programmes, are in adherence to fundamental and universal principles of human rights; and

- b. Facilitating and supporting capacity-building, including through the exchange and sharing of experience, information, training programmes and good practices aimed at promoting and protecting the human rights of individuals and peoples.

National level

The provisions of the articles on regional and international cooperation are without prejudice to the obligations of each ASEAN member state in fulfilling its obligations under the AHRD. There shall be cohesive and coherent framework for human rights cooperation between ASEAN, particularly the human rights bodies, inter alia:

- a. With **all relevant State machineries**, including the ASEAN national secretariats, ministries, inter and intra departments and between all member states of ASEAN;
- b. With the **national human rights institutions (NHRIs)**, including with specialised national agencies on women. The member states to also facilitate the establishment of independent NHRIs, particularly specialised institutions on women to ensure the promotion and protection of human rights;
- c. With close and regular consultations with **civil society organisations** including those who are involved in advocating for the protection and promotion of women's human rights to ensure meaningful, substantive and full participation and representation of peoples of ASEAN, including women, in all stages and initiatives of ASEAN. This shall include measures to ensure the protection of human rights defenders including those who provide information to and participate in processes of ASEAN and its human rights mechanisms.

IMPLEMENTATION³⁶

ASEAN member states shall ensure that appropriate support measures such as drafting of laws, policies and programme³⁷ are adopted for the implementation of the AHRD within a specific timeframe through a transparent and inclusive process that adheres to the principles of human rights and democratic governance.

There shall also be appropriate and efficient institutional arrangements to ensure effective implementation including³⁸, procedures and effective systems in place; allocation of fiscal and human resources; clear rules and regulations for implementation (enforcement/implementation responsibilities) and safeguards against discrimination in implementation against women and marginalised groups; and capacity building of duty holders (all branches of government - vertically and horizontally) which also takes into consideration the facilitation of intra and inter-departmental cohesion at the national level as well as cohesion at the regional and international level.

There shall be measures to ensure and monitor inclusion and representation of women as well as integration of women's human rights perspective and considerations in decision-making and other processes of all organs and bodies of the ASEAN.

MONITORING and ACCOUNTABILITY³⁹

ASEAN member states shall ensure continuous monitoring of implementation of the AHRD, including through participation of rights-holders⁴⁰ as well as collection, analysis and utilisation of data, (disaggregated by sex and other identities) to determine benefit of

36 Elements adopted from the CEDAW Application Framework (CAF) developed by IRAW Asia Pacific, August 2007

37 Sources of State obligation under CEDAW: Article 2, 3, and GR 25.

38 Sources of State obligation under CEDAW: Article 2, 3, 7, 24, GR 6.

39 Elements adopted from the CEDAW Application Framework (CAF) developed by IRAW Asia Pacific, August 2007

40 Sources of State obligation under CEDAW: Articles 2 (preamble para), 3, 18, 22.

the implementation of the AHRD (evidence base of impact – is there equality of access, results, etc)⁴¹.

There shall be provisions to provide for transparency and access to all information collected⁴². Internal and external monitoring mechanisms shall be established to ensure accountability for institutional commitment to equality⁴³ and elimination of discrimination which shall also include tracking of the utilisation of resources allocated for the advancement of women and marginalised groups (both national revenue and foreign aid).⁴⁴

The Member States shall ensure inputs from NHRIs and diverse human rights groups in monitoring the effectiveness of the implementation of human rights laws, policies and programmes in ASEAN towards ensuring the full realisation of human rights in ASEAN.

41 Sources of State obligation under CEDAW: GR 9, GR 23 (para 48d), GR 12 (specifically in relation to violence against women), GR 14 (specifically in relation to female circumcision), GR 16 (specifically in relation to unpaid women workers).

42 Sources of State obligation under CEDAW: Articles 2, 3 and GR 9

43 Sources of State obligation under CEDAW: Article 3, and GR 6.

44 Sources of State obligation under CEDAW: Articles 2 (preamble para), 3, 18, 24]

Annex 15

**Submission of the Election Access for Persons
with Disabilities to the AICHR on the ASEAN
Human Rights Declaration, 12 December 2011**

**ELECTION ACCESS FOR PERSON WITH DISABILITIES:
RECOMMENDATIONS FOR THE ASEAN HUMAN RIGHTS
DECLARATION**

**Submitted to the AICHR by AGENDA Asia on 12 December
2011**

EXECUTIVE SUMMARY OF RECOMMENDATIONS

AGENDA, a network of disabled people's organizations (DPOs) and other civil society organizations (CSOs) that work to promote election access for persons with disabilities throughout ASEAN Member States, submits this recommendation paper to the ASEAN Intergovernmental Commission on Human Rights (AICHR) to consider in adopting the ASEAN Human Rights Declaration (AHRD).

Recommendation for General Principles:

AICHR should include general principles in the AHRD that apply to and inform all of the rights and obligations set forth in the AHRD. AGENDA recommends that the following general principles should be included in the AHRD and should clearly and unequivocally apply to persons with disabilities:

- 1: Respect for inherent dignity and individual autonomy;
- 2: Non-discrimination;
- 3: Full and effective participation and inclusion in society;
- 4: Equality of opportunity;
- 5: Accessibility;
- 6: Equality between men and women.

Recommendation for Substantive Rights:

In addition, the AHRD should include an Article on The Right to Participate in Political and Public Life that clearly and unequivocally provides for equal access to political and public life for persons with disabilities. To this end, the AHRD should articulate:

1. The right of persons with disabilities to access voting procedures and facilities;
2. The right of persons with disabilities to cast their ballot in secret;
3. The right of persons with disabilities to assistance in order to exercise their right to vote;
4. The right of persons with disabilities to be elected to public office;
5. The right of persons with disabilities to participate in the conduct of public administration, including the administration of political parties and civil society;
6. The right of persons with disabilities to participate in the work of international organizations, including serving as a representative of government in international organizations.

Introduction

AGENDA, a network of disabled people's organizations (DPOs) and other civil society organizations (CSOs) that work to promote election access for persons with disabilities throughout ASEAN Member States, welcomes the drafting of the ASEAN Human Rights Declaration (AHRD). At present, persons with disabilities experience many obstacles throughout Southeast Asia to accessing their basic human right to participate in political and public life, particularly in exercising their right to vote. Representatives from DPOs throughout ASEAN noted in the December 2010 *Jakarta Declaration* that "60 million persons with disabilities living in ASEAN are still largely marginalized in society due to the physical,

informational, attitudinal and systemic barriers.”⁴⁵

AGENDA is committed to developing a collaborative relationship with AICHR to promote election access for persons with disabilities. Therefore, AGENDA takes this opportunity to provide recommendations that, if adopted, will promote inclusion and advance election access for persons with disabilities in ASEAN. We are hopeful that the Drafting Committee includes our recommendations in the final draft of the AHRD that is submitted to AICHR. Furthermore, we look forward to the opportunity to work closely with AICHR in the future to promote election access for persons with disabilities throughout ASEAN.

ASEAN Charter

The ASEAN Charter sets forth the legal and institutional framework for ASEAN and calls on ASEAN Member States to adhere to “the principles of democracy, the rule of law and good governance, respect for and protection of human rights and fundamental freedoms.”⁴⁶ In order to uphold those principles, “ASEAN shall establish an ASEAN Human Rights body.”⁴⁷ The ASEAN Intergovernmental Commission on Human Rights (AICHR) was created in compliance with Article 14 of the ASEAN Charter⁴⁸. The Charter provides that the “ASEAN human rights body shall operate in accordance with the terms of reference to be determined by the ASEAN Foreign Ministers Meeting.”⁴⁹ Under Article 4.2 of AICHR’s Terms of Reference (ToR), the Commission is required “to develop an ASEAN Human Rights Declaration (AHRD) with a view to establishing a framework for human rights cooperation through various ASEAN conventions and other instruments dealing

45 Jakarta Declaration adopted Dec. 2, 2010, available at http://www.dpiap.org/reports/doc/ASEAN_Disability_Jakarta_Declaration_10_12_08.doc.

46 Charter of the Association of Southeast Asian Nations [ASEAN] pmbl., *adopted* November 2007, *available at* <http://www.asean.org/21069.pdf>.

47 *Id.* art. 14.

48 *Id.* art 14, para. 1.

49 *Id.* at para. 2.

with human rights.”⁵⁰

International Human Rights Instruments

AICHR’s ToR states, “The purpose of the AICHR is to uphold international human rights standards as prescribed by the Universal Declaration of Human Rights, the Vienna Declaration and Programme of Action, and international human rights instruments to which ASEAN Member States are parties.”⁵¹ Therefore, it is essential for the AHRD to be informed by the Universal Declaration of Human Rights (UDHR) and to include the rights and obligations of ASEAN Member States under relevant international human rights treaties. In particular, AGENDA calls on the Drafting Committee and AICHR to consider important provisions related to the right to political participation and election access set forth in the UDHR, the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), and the Convention on the Rights of Persons with Disabilities (CRPD).

The right to equal access to political processes was first articulated in 1948 in the Universal Declaration of Human Rights (UDHR). Article 21 of the UDHR states, “[e]veryone has the right of equal access to public service in his country.”⁵² The UDHR also sets forth the right to vote in secret, providing that “[t]he will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.”⁵³

In 1966 the United Nations General Assembly adopted the

50 ASEAN Intergovernmental Commission on Human Rights, *Terms of Reference* [ToR], art 4.2 (2009), available at <http://www.asean.org/publications/TOR-of-AICHR.pdf>.

51 *Id.* at art. 1.6.

52 Universal Declaration of Human Rights art 21 para. 2, G.A. Res. 217 (III) A, U.N. Doc. A/RES/217(III) (Dec. 10, 1948).

53 *Id.* at para. 3.

International Covenant on Civil and Political Rights (ICCPR), the first legally binding international instrument that includes the right to political participation. Article 25 of the ICCPR provides:

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:...

- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) To have access, on general terms of equality, to public service in his country.⁵⁴

The ICCPR's implementation is monitored by the Human Rights Committee. The Human Rights Committee is the body of independent experts that develops general interpretive and guiding Comments to States Parties on thematic issues in the ICCPR. Paragraph 10 of General Comment 25 articulates useful guidance relevant to election access for persons with disabilities: "[t]he right to vote at elections and referenda must be established by law and may be subject only to reasonable restrictions, such as setting a minimum age limit for the right to vote. It is unreasonable to restrict the right to vote on the ground of physical disability or to impose literacy, educational or property requirements."⁵⁵ Further, paragraph 20 of General Comment 25 notes, "States should take measures to guarantee the requirement of the secrecy of the vote during elections.... Assistance provided to the disabled, blind or illiterate should be independent. Electors should be fully informed of these

54 International Covenant on Civil and Political Rights [ICCPR], G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/63`6 (1966), *entered into force* Jan. 3, 1976.

55 Human Rights Committee General Comment 25 para. 10, CCPR/C/21/Rev.1/Add.7 (Jul 12, 1996) *available at* <http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/d0b7f023e8d6d9898025651e004bc0eb?OpenDocument>.

guarantees.”⁵⁶ The ICCPR provisions and General Comment 25 are important instruments to inform the AHRD, as six ASEAN Member States are party to the ICCPR.⁵⁷

The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) is another international instrument AICHR should consider in developing the AHRD. The ten ASEAN Member States are all States Parties to CEDAW. CEDAW provides for the realization of equality between women and men through ensuring women’s equal access to, and equal opportunities in, political and public life—including the right to vote and to stand for election.⁵⁸ Articles 7 and 8 of CEDAW are pertinent to ensuring the right of women to participate in political and public life free from discrimination. Article 7 encourages States Parties to eliminate discrimination against women preventing their full participation in political and public life:

Article 7

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- (c) To participate in non-governmental organizations and associations concerned with the public and political

⁵⁶ *Id.* para. 20.

⁵⁷ The six ASEAN Member States which are States Parties to the ICCPR are: Cambodia, Indonesia, Lao, Philippines, Thailand, and Vietnam.

⁵⁸ Convention on the Elimination of all Forms of Discrimination Against Women [CEDAW], G.A. Res. 34/180, U.N. Doc. **A/RES/34/180** (Dec. 17, 1979), *available at* <http://www2.ohchr.org/english/law/cedaw.htm>.

life of the country.⁵⁹

Article 8 states that the participation by women in political and public life should not be limited to the domestic level; women should be able to participate on equal terms with men in “Governments at the international level and to participate in international organizations.”⁶⁰ The protection of women with disabilities is recognized as inherent to the protection of all women with regard to participation in political and public life and thus CEDAW sets forth obligations on ASEAN Member States to ensure the rights of women with disabilities.

The Convention on the Rights of Persons with Disabilities (CRPD) is the first international human rights convention to explicitly recognize disability as a prohibited ground of discrimination, together with the obligation to ensure that reasonable accommodations are made to facilitate human rights enjoyment by persons with disabilities. Article 3 sets forth general principles that inform the CRPD’s overall approach and that apply across the treaty:

- (1) Dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons;
- (2) Non-discrimination, participation, and inclusion in society;
- (3) Respect for difference;
- (4) Equality of opportunity;
- (5) Accessibility;
- (6) Equality between men and women; and
- (7) Respect for the evolving capacities of children with disabilities.⁶¹

The non-discrimination and equality provisions are further elaborated in Article 5, which requires States Parties to ensure the equality of persons with disabilities and prohibit any

⁵⁹ *Id.* at art. 7.

⁶⁰ *Id.* at art. 8.

⁶¹ Convention on the Rights of Persons with Disabilities [CRPD] art 3, U.N. *adopted* Dec. 13, 2006, *available at* <http://www.un.org/disabilities/default.asp?id=263>.

discrimination on the basis of disability. Further, Article 9 of the CRPD lays out clear requirements and standards of accessibility for States Parties to follow in ensuring non-discrimination and equality for persons with disabilities and their full participation in society.⁶² Article 9 is a general obligation and thus applies to all provisions in the CRPD, including substantive rights set forth in Article 29 on participation in political and public life. Article 9 requires States to ensure that persons with disabilities are able to access a comprehensive range of venues, facilities, and services on an equal basis with others.⁶³ In order to ensure access, Article 9 calls on States to identify and remove barriers that prevent persons with disabilities from enjoying access on an equal basis with others.

Article 29 of the CRPD codifies existing international law regarding the rights to participate in political and public life,⁶⁴ and specifically applies those rights to persons with disabilities. It provides States Parties with guidance as to their obligation to introduce positive measures to ensure that persons with disabilities have effective access to political processes. Article 29 (Participation in Political and Public Life) provides:

States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and undertake to:

- (a) Ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by:
 - (i) Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;

⁶² See *id.* at art. 9.

⁶³ *Id.*

⁶⁴ *Id.* at art. 29.

- (ii) Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums, without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;
- (iii) Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;
- (b) Promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:
 - (i) Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties;
 - (ii) Forming and joining organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.⁶⁵

Article 29 sets forth an obligation on States to ensure the right to participate in political processes, including voting, and to provide, *by means of positive State action*, that citizens with disabilities have the opportunity to exercise their political rights. As the chart below indicates, five ASEAN Member States are party to the CRPD and, accordingly, they are obligated to comply with the CRPD provision on political rights articulated in Article 29. Further, three additional ASEAN Member States have signed the CRPD, and therefore must

⁶⁵ *Id.*

refrain from acts which would defeat the object and purpose of the treaty.⁶⁶

Table 1. CRPD Status in ASEAN Member States

Country	Convention on the Rights of Persons with Disabilities	
	Convention signature date	Convention ratification date
Brunei Darussalam	18-Dec-2007	-
Cambodia	1-Oct-2007	-
Indonesia	30-Mar-2007	18-Oct-2011
Laos	15-Jan-2008	25-Sep-2009
Malaysia	8-Apr-2008	19-Jul-2010
Myanmar	-	-
Philippines	25-Sep-2007	15-Apr-2008
Singapore	-	-
Thailand	30-Mar-2007	29-Jul-2008
Vietnam	22-Oct-2007	-

ASEAN Instruments

The ASEAN Member States have taken a number of measures to promote the human rights of persons with disabilities in the region. As members of the UN Economic and Social Commission for Asia and the Pacific (UN ESCAP), ASEAN Member States have

⁶⁶ Vienna Convention on the Law of Treaties art. 32, May 23, 1969, 1155 U.N.T.S. 331. It should be noted that Vietnam is a signatory of the CRPD and recently enacted a national disability law that is in compliance with CRPD obligations. Furthermore, Myanmar is moving towards signing the CRPD in the near future and is currently drafting a domestic disability law that is in compliance with the CRPD.

participated in the two Asian and Pacific Decades of Disabled Persons.⁶⁷ Notably, the Biwako Millennium Framework for Action towards an Inclusive, Barrier-free and Rights- based Society in Asia and the Pacific (BMF), was adopted by the High-level Intergovernmental Meeting to Conclude the first Asian and Pacific Decade of Disabled Persons (1993-2002).⁶⁸ The BMF laid out the policy guidelines for the second decade and demonstrated a clear commitment on the part of ASEAN Member States to promote inclusion of persons with disabilities in society.⁶⁹ Although the BMF specifically addresses economic, social and cultural rights, it lays out important guidance to promote all human rights of persons with disabilities, including civil and political rights such as the right to participate in political and public life.

ASEAN Member States furthered their commitment to promoting the human rights of persons with disabilities at the ASEAN Summit in November 2011 by adopting the *Bali Declaration on the Enhancement of the Role and Participation of Persons with Disabilities in the ASEAN Community* and proclaiming the ASEAN Decade of Persons with Disabilities 2011-2020 (ASEAN Decade).⁷⁰ The *Bali Declaration* encourages “ASEAN Member States to sign and ratify the Convention on the Rights of Persons with Disabilities and foster its implementation in the communities.”⁷¹ *The Bali Declaration* specifically addresses political participation for persons with disabilities. It supports the participation of persons with disabilities “in all aspects of development including their

67 First Asian Pacific Decade of Disabled Persons (1993-2002); Second Asian Pacific Decade of Disabled Persons (2003-2012) *available at* <http://www.unescap.org/esid/psis/disability/decadenew/newdecade.asp>

68 Biwako Millennium Framework, UN ESCAP (2002), *available at* <http://www.unescap.org/esid/psis/disability/bmf/bmf.html>

69 *Id.*

70 Chair’s Statement of the 19th ASEAN Summit, para. 88, Bali, Nov. 17, 2011.

71 ASEAN, *Bali Declaration on the Enhancement of the Role and Participation of Persons with Disabilities in the ASEAN Community*, at para. 1, *available at* http://www.aseansec.org/documents/19th%20summit/Bali_Declaration_on_Disabled_Person.pdf (Nov. 17, 2011).

participation in political activities by providing them with equal political rights in the election of the leaders and parliamentarians, both at local and national levels.”⁷² The *Bali Declaration* also calls on AICHR to protect the rights of persons with disabilities through government and civil society organisations, including NGOs.⁷³ In addition, the ASEAN Decade represents an important regional commitment and has been proclaimed “to ensure effective participation of persons with disabilities in all relevant activities and mainstream disability perspectives in regional policies and programmes.”

Furthermore, there are many other ASEAN instruments that demonstrate ASEAN Member States’ commitment and civil society initiatives to promoting the human rights of persons with disabilities that should be considered by AICHR in drafting the AHRD. In addition to the regional instruments discussed in this section, AGENDA submits the following ASEAN instruments to support our recommendations to AICHR for the AHRD:

- ASEAN Socio-Cultural Community (ASCC) Plan of Action;⁷⁴
- The Joint Statement of the Second ASEAN Plus Three Ministerial Meeting for Social Welfare and Development, 7 December 2007;⁷⁵
- Jakarta Declaration on the Rights of Persons with

⁷² *Id.* at para. 7.

⁷³ *See id.* at para. 8

⁷⁴ ASEAN, *ASEAN Socio-Cultural Community (ASOC) Plan of Action*, available at <http://www.asean.org/16832.htm>.

⁷⁵ ASEAN, *The Joint Statement of the Second ASEAN Plus Three Ministerial Meeting for Social Welfare and Development*, available at <http://www.asean.org/21227.htm> (Dec. 7, 2007).

Disabilities 2010;⁷⁶

- Jakarta Declaration on South-East Asian Electoral Community 2011.⁷⁷

Member States' Constitutions

The ASEAN Member States have also made a clear commitment to the rights of persons with disabilities at the national level. Six ASEAN Member State Constitutions specifically set forth certain rights for persons with disabilities, while other ASEAN Member States Constitutions have equality provisions that have been interpreted to protect persons with disabilities.⁷⁸

76 Jakarta Declaration, *supra* note 1. The *Jakarta Declaration* was adopted in December 2010 at the Regional Conference on ASEAN and Disability. The Declaration notes the significance of ensuring the human rights of persons with disabilities and recognizes that the “ASEAN human rights mechanism should be encouraged to mainstream disability perspectives in its structure and activities in order to promote and protect the rights of persons with disabilities.” *Id.*

77 1st ASEAN Electoral Management Bodies’ Forum, *Jakarta Declaration on South-East Asian Electoral Community 2011*, Jakarta, Indonesia, (Oct. 3-5, 2011). “Voicing our willingness of fostering a regular exchange of ideas and experiences among an electoral community in South-East Asia to address issues related to elections and its role within the democratic framework, including electoral justice, election observation, gender equality and elections, citizen participation in elections, equal access for people with disabilities and other vulnerable sectors, party and campaign financing, election-related conflict and the use of technology in elections.” *Id.*

78 Articles 27 and 28 of Indonesia’s Constitution of 1945, for example, contain non-discrimination and equality provisions that protect persons with disabilities from disability discrimination and promote equal access to all realms of society for persons with disabilities. INDONESIA CONST. art. 27-28, *amended by* the First Amendment of 1999, the Second Amendment of 2000, the Third Amendment of 2001, and the Fourth Amendment of 2002, 1945.

Table 2. Persons with Disabilities in Member States' Constitutions

Country	Note
Cambodia	<p>Chapter VI Education, Culture, Social Affairs. Article 74: The State shall assist the disabled and the families of combatants who sacrificed their lives for the nation.</p>
Indonesia	<p>Amendment to Constitution 1945 Article 27 (1) Every citizen has the same status before the law and government, and that they are obliged to uphold the laws and the government without exception; Article 27 (2) Every citizen has equal rights to decent works and living Article 28 (h)(2) Every person is entitled to special treatment and facilities to obtain equal opportunities and benefits in order to achieve equality and justice. Article 28(l)(2) Every person is entitled to be free from discrimination of any reason and entitled to protection from discriminatory treatment.</p>
Laos	<p>Chapter 2 The Socio-Economic Regime. Article 28: The State and society attend to implementing policies on social security, especially towards national heroes, soldiers, retired civil servants, disabled people, [and the] families of those who have sacrificed their lives for the revolution and who have contributed extensively to the nation.</p> <p>Chapter 4 Fundamental Rights and Obligations of Citizens. Article 39: Lao citizens have the right to work and engage in occupations which are not contrary to the laws. Working people have the right to rest, to receive medical treatment in times of illness, [and] to receive assistance in the event of incapacity or disability, in old age, and in other cases as provided by the laws.</p>

Country	Note
Myanmar	Chapter I Basic Principles of the Union. Article 32(a): The Union shall care for mothers and children, orphans, fallen Defence Services personnel’s children, the aged and the disabled.
	Chapter I Basic Principles of the Union. Article 32(b): The Union shall ensure disabled ex-Defence Services personnel a decent living and free vocational training.
Philippines	Article XIII Social Justice and Human Rights. Section 11: The State shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health and other social services available to all the people at affordable cost. There shall be priority for the needs of the under-privileged sick, elderly, disabled, women, and children. The State shall endeavor to provide free medical care to paupers.
	Article XIII Social Justice and Human Rights. Section 13: The State shall establish a special agency for disabled person for their rehabilitation, self-development and self-reliance, and their integration into the mainstream of society.
	Article XIV Education. Section 2(e): The State shall provide adult citizens, the disabled, and out-of-school youth with training in civics, vocational efficiency, and other skills

Country	Note
Thailand	<p>Chapter III Rights and Liberties of the Thai People. Part 8 Rights and Liberties in Education. Section 40(6): A person shall have the rights to the process of justice as follows: Children, youth, females, the handicapped and permanently infirm shall be suitably protected during criminal procedure in case of sexual violent.</p>
	<p>Chapter III Rights and Liberties of the Thai People. Part 8 Rights and Liberties in Education. Section 49: A person shall enjoy an equal right to receive the education for the duration of not less than twelve years which shall be provided by the State thoroughly, up to the quality, and without charge. The deprived, the disabled or the permanently infirm, or those in difficult situations shall receive such rights as prescribed in paragraph one and the State support to ensure the education on equal footing as others. Education and training management by the professional organization or private section, alternative education, self-education, and life-long learning shall be protected and promoted by the State.</p>
	<p>Chapter III Rights and Liberties of the Thai People. Part 9 Rights to Receive Public Health Service and State Welfare. Section 54: The disabled or handicapped shall have the rights to access and make use of welfare, public facilitation, and appropriate aids from the State. A mentally-ill person shall have the rights to receive appropriate aids from the State.</p>

Chapter V Directive Principles of Fundamental State Policies. Part 4 Policy Directive on Religion, Social, Public Health, Education and Culture.

Section 80(1): The State shall carry out the Policy Directive on Social, Public Health, Education, and Culture as follows: (1) Protect and develop children and youth; support the rise up, care, and education at the primary level; promote the equality between women and men; create and develop the family institution's integrity and the strength of communities; provide aids and welfare to the elderly, the indigent, the disabled or handicapped and the underprivileged for their good quality of life and ability to depend on themselves.

Chapter VI The National Assembly. Part 7 Legislative Process. Section 152:

In considering a bill the substance of which is decided by the President of the House of Representatives to be concerned with children, youth, women, older persons, the disabled or handicapped, if the House of Representatives does not consider it by its full committee, the House of Representatives shall appoint an ad hoc committee consisting of representatives, from private organizations concerned with the respective types of persons, of not less than one-third of the total number of members of the committee, and with a close proportion of male and female members.

Country	Note
Vietnam	<p>Chapter V Basic Rights and Obligations of Citizens. Article 59: Education is a right and obligation of citizens. Primary education is to be compulsory and free of charge. Citizens have the right to general and vocational education in various forms. The State and society encourage gifted pupils and students in their studies with the view to develop their talents. The State is to adopt policies on tuition fees and scholarships. The State and society are to provide conditions for handicapped and other specially disadvantaged children to enjoy appropriate general and vocational education.</p>
	<p>Chapter V Basic Rights and Obligations of Citizens. Article 67: The State grants preferential treatment to war invalids, sick soldiers and families of fallen combatants, creates conditions for the rehabilitation of disabled soldiers' working ability, to help them find employment suited to their health conditions and lead a stable life. Persons or families who have rendered services to the country shall be commended and rewarded and shall receive proper attention. Old people, disabled persons and orphans with no family support are entitled to assistance from the State and society.</p>

General Principles in ASEAN Human Rights Declaration

AGENDA Recommendation: The Drafting Committee and AICHR should include general principles that apply to and inform all of the rights and obligations set forth in the AHRD. AGEND A recommends the following general principles that will inform the overall approach and apply across the AHRD:

Principle 1: Respect for inherent dignity and individual autonomy;

- ❖ The AHRD should have a general principle on inherent dignity and individual autonomy that clearly includes persons with disabilities. The principle of human dignity and individual autonomy are crucial and must be implemented in every aspect of society. The concept of individual autonomy provides for the right of all persons to make their own decisions and the AHRD should clearly state that the principle of human dignity and individual autonomy apply to persons with disabilities.

Principle 2: Non-discrimination;

- ❖ The AHRD should set out non-discrimination as a general principle that clearly includes persons with disabilities. Persons with disabilities should not be discriminated against because of their disability and AICHR should work to protect persons with disabilities from disability discrimination. Non-discrimination is an important general principle to apply to the right of political participation as there should be no excuses for election management bodies to discriminate the rights of the citizens to participate in elections.

Principle 3: Full and effective participation and inclusion in society;

- ❖ The AHRD should include a general principle on full and effective participation and inclusion of all people

in society. It is important for persons with disabilities to be able to fully and effectively participate in society, including in political and public life.

Principle 4: Equality of opportunity;

- ❖ The AHRD should include a general principle on equality of opportunity and it should clearly and unequivocally include persons with disabilities. The process and system that are designed and developed by the government, including electoral system, have to ensure that each individual can enjoy and exercise his rights, including his political rights.

Principle 5: Accessibility;

- ❖ The AHRD should have a general principle that clearly ensures accessibility for all persons with disabilities. Accessibility is an important principle and obligation that should be provided by the country to guarantee and to ensure that persons with disabilities can fully participate in all aspects of society, including education, work, access to justice, and political and public life. Accessibility is important for the promotion of a fully inclusive society as it ensures persons with disabilities and others can enjoy full and equal access to all human rights.

Principle 6: Equality between men and women;

- ❖ The ADHR should have a general principle on equality between men and women that clearly includes men and women with disabilities. Men and women with disabilities have the same rights and should be able to exercise their right on an equal basis.

The Right to Participate in Political and Public Life

AGENDA presents the following core recommendations to the

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Drafting Committee and AICHR that represent existing international law on the right of persons with disabilities to participate in political processes and should be included in the AHRD:

1. The right of persons with disabilities to access voting procedures and facilities;
2. The right of persons with disabilities to cast their ballot in secret;
3. The right of persons with disabilities to assistance in order to exercise their right to vote;
4. The right of persons with disabilities to be elected to public office;
5. The right of persons with disabilities to participate in the conduct of public administration, including the administration of political parties and civil society;
6. The right of persons with disabilities to participate in the work of international organizations, including serving as a representative of government in international organizations.

The AHRD should include an Article on The Right to Participate in Political and Public Life that clearly and unequivocally provides for equal access to persons with disabilities. The Drafting Committee and AICHR should include this recommendation in the AHRD to ensure that Member States take measures to guarantee that persons with disabilities have equal access to voting facilities, materials, and procedures. Further, the AHRD should specifically provide for the right of persons with disabilities to cast their ballot in secret and the right to assistance in order to exercise their right to vote. Beyond voting, the AHRD should include the right of persons with disabilities to be elected to public office and to participate in the administration of political parties.

LIST OF DPOs AND CSOs SUPPORTED

No	Disabled People's Organizations	Countries
1	CIQAL	Indonesia
2	DPD PPCI Nangroe Aceh Darussalam	Indonesia
3	DPD PPCI Nusa Tenggara Timur	Indonesia
4	DPD PPCI Sulawesi Selatan	Indonesia
5	FOSDIS Yogyakarta	Indonesia
6	HIPSDI (Himpunan Pelaku Seni Diferensia Indonesia)	Indonesia
7	PERTUNI Jawa Tengah	Indonesia
8	PORTURIN (Persatuan Olahraga Tunarungu Indonesia)	Indonesia
9	DPD PORTURIN DKI Jakarta	Indonesia
10	HWPCI (Himpunan Wanita Penyandang Cacat Indonesia)	Indonesia
11	AKAP-PINOY	Philippines
12	KAMPI	Philippines
13	BANI (Bhakti Nurani)	Indonesia
14	DPD HWPCI Kalimantan Barat	Indonesia
15	DPD PERTRI Jakarta Timur (Persatuan Tuna Rungu Indonesia)	Indonesia
16	DPD PERTUNi Sumatera Utara	Indonesia
17	DPD HWPCI Jambi	Indonesia
18	DPD PPCI Bengkulu	Indonesia
19	DPD PPCI Jambi	Indonesia
20	DPD PPCI Kepulauan Riau	Indonesia
21	DPD PERTRI Sumantera Utara	Indonesia

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22	DPD PPUA Penca Sumatera Utara	Indonesia
23	DPD PPCI Sumatera Utara	Indonesia
24	DPD HWPCI Sumatera Utara	Indonesia
25	DPC PPCI Kabupaten Ketapang	Indonesia
26	DPC PPCI Kabupaten Landak	Indonesia
27	DPC PPCI Kabupaten Sambas	Indonesia
28	DPD PPCI Kalimantan Barat	Indonesia
29	DPI-AP (Disabled Peoples' International-Asia Pacific)	Thailand
30	FKPCTI (Federasi Kesejahteraan Penyandang Cacat Tubuh Indonesia) Korwil Kalimantan Barat	Indonesia
31	(GPDLI) GERAKAN Peduli Disabilitas dan Lepra	Indonesia
32	GERKATIN (Gerakan Kesejahteraan Tuna Rungu Indonesia)	Indonesia
33	ISDI (Ikatan Syndrome Down Indonesia)	Indonesia
34	KAMPI (Katipunan ng Maykapansanan sa Pilipinas, Inc)	Philippines
35	Malaysian Confederation of The Disabled	Malaysia
36	PERPARI (Persatuan Paraplegia Indonesia)	Indonesia
37	PERTUNI (Persatuan Tuna Netra Indonesia) Sulawesi Selatan	Indonesia
38	Handicapped and Mentally Disabled Children Association	Malaysia
39	Yayasan Transformasi Lepra	Indonesia
Civil Society Organizations		
40	Khemer Institute of Democracy	Cambodia

41	KONTRAS (Komisi Orang Hilang dan Anti kekerasan)	Indonesia
42	Centre for Human Rights Studies (University of Surabaya)	Indonesia
43	Empower	Malaysia
44	(HRRC) Human Rights Resources Centre - Univ of Indonesia	Indonesia
45	(KYA) Khmer Youth Association	Cambodia
46	Mimi Institute	Indonesia
47	OFC. Of The Solicitor General	Philippines
48	PAVIC	Philippines
49	Positive Muslim Group	Myanmar
50	Redemptorist Foundation for PwDs	Thailand
51	Yayasan Balita Tuna Netra	Indonesia
52	Yayasan Mandiri Kreatif Indonesia	Indonesia
53	YLBHI (Yayasan Lembaga Bantuan Hukum Indonesia)	Indonesia
54	The Philippine Coalition on the United Nations Convention on The Rights of Persons with Disabilities (Philippine Coalition)	Philippines
55	VietNam National University	VietNam

Annex 16

**Submission of the Working Group for An
ASEAN Human Rights Mechanism to the
AICHR on the ASEAN Human Rights
Declaration, July 2011**

DRAFT OF THE ASEAN HUMAN RIGHTS DECLARATION

**Submitted by WORKING GROUP FOR AN ASEAN HUMAN
RIGHTS MECHANISM**

**Human Rights Declaration of the Association of Southeast
Asian Nations (ASEAN)**

(Draft)

Preamble

All humans are born free and in dignity, endowed with a spirit to develop to the fullest potential. They are vested with inalienable human rights - as entitlements to be enjoyed and respected, and for which the State has the primary responsibility to promote and protect. Those rights are guaranteed universally and interlink between civil, political, economic, social and cultural rights indivisibly.

As per the ASEAN Charter, the region is “united by a common desire and collective will to live in a region of lasting peace, security, stability, sustained economic growth, shared responsibility and social progress, and to promote our vital interests, ideals and aspirations”, and “adhering to the principles of democracy, the rule of law and good governance, respect for and protection of human rights and fundamental freedoms”.

The peoples of ASEAN have the right to live in peace, dignity and prosperity. This is anchored in the principle of respect for international human rights law, including universality, indivisibility, interdependence and interrelatedness of all human rights and

fundamental freedoms, as well as impartiality, objectivity, non-selectivity, non-discrimination, and avoidance of double standards and politicization.

The region is committed to the principle of respect for different cultures, languages and religions of the peoples of ASEAN, while emphasizing their common values in the spirit of unity in diversity. It has established mechanisms at the national and regional levels for the promotion and protection of human rights. Increasingly, States in the region are becoming parties to international human rights treaties as a testament to the universality of human rights.

As per the Terms of Reference of the ASEAN Intergovernmental Commission on Human Rights (AICHR), a key purpose is “to uphold international human rights standards as prescribed by the Universal Declaration of Human Rights, the Vienna Declaration and Programme of Action (of the 1993 World Conference on Human Rights), and international instruments to which ASEAN Member States are parties.”

To this end, there is connectivity with the region’s aspiration to implement human rights effectively, bearing in mind regional and national particularities within the framework of international law.

Rights and Duties/Responsibilities

Chapter 1: Rights

Article 1

Everyone is entitled to all the rights and freedoms set forth in this Declaration without discrimination. The State shall take action to eliminate both discrimination *de jure* (in law) and *de facto* (in fact).

Article 2

Everyone has the right to life, liberty and security of person. Everyone is entitled to be protected from violence. The death penalty shall not be imposed on persons under 18 years of age.

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Article 3

No one shall be held in slavery or servitude. Human trafficking is a (modern) form of slavery to be combated both nationally and internationally.

Article 4

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 5

Everyone has the right to recognition everywhere as a person before the law, equality before the law, and access to a fair, independent and impartial tribunal in the determination of his/her rights.

Article 6

Everyone has the right to an effective remedy for acts violating his/her rights, with due regard for victim responsive and gender sensitive measures of redress.

Article 7

No one shall be subjected to arbitrary arrest, detention or exile, or enforced disappearance.

Article 8

Everyone charged with a criminal offence has the right to be presumed innocent until proven guilty, based upon guarantees for due process of law.

No one shall be guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed.

Article 9

No one shall be subjected to arbitrary interference with his/her privacy, family, home or correspondence. Everyone has the right to be protected from incitement to hatred.

Article 10

Everyone has the right to freedom of movement and within the borders of each State.

Everyone has the right to leave any country, including his/her own, and to return thereto.

Aliens have the right to be treated humanely and to be protected from dangers, including forced return to a situation of persecution, serious human rights violation, armed conflict or violence.

Article 11

Everyone has the right to a nationality.

No one shall be arbitrarily deprived of his /her nationality nor denied the right to change such nationality.

Statelessness shall be overcome through national and international cooperation.

Article 12

Everyone has the right to have a family. Marriage shall be entered into only with the free and full consent of the intending spouses.

The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 13

Everyone has the right to own property alone and in association with others.

No one shall be arbitrarily deprived of his/her property.

Article 14

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his/her religion or belief and to manifest such religion or belief in teaching, practice, worship or observance.

Article 15

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 16

Everyone has the right to freedom of peaceful assembly and association

No one may be compelled to belong to an association.

Article 17

Everyone has the right to work, free choice of employment, to enjoy just and favourable conditions of work and to protection against unemployment on the basis of international standards.

Everyone, without discrimination, has the right to equal pay for equal work.

Everyone has right to form and to join trade unions for the protection of his/her interests.

Article 18

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Artistic and cultural activities shall be promoted as part of bridge building between different generations and communities.

Article 19

Everyone has the right to an adequate standard of living, including adequate food, clothing and housing, and to the continuous improvement of living conditions. This will be realized progressively to the maximum extent of the State's available resources, and through international assistance and cooperation.

Article 20

Everyone has the right to social security, including social insurance.

The State shall establish a social protection floor covering all persons under its jurisdiction, including access to emergency medical care for all.

Article 21

The human rights of women and of the girl child are of an inalienable, integral and indivisible part of universal human rights. The full and equal participation of women in political, civil, economic, social and cultural life, at the national, regional and international levels and the eradication of all forms of discrimination on grounds of sex are priority objective of ASEAN.

Article 22

Everyone has a right to education. Education on and for human rights shall also be promoted.

With a view to achieving this right progressively and on the basis of equal opportunity, the State shall:

- (a) Make primary education compulsory and available free to all;
- (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
- (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
- (d) Make educational and vocational information and guidance available and accessible to all children;
- (e) Take measures to encourage regular attendance at schools

and the reduction of drop-out rates.

All appropriate measures shall be taken to ensure that school discipline is administered in a manner consistent with the child's human dignity.

Article 23

Persons with disabilities shall enjoy fully their rights without discrimination.

The State shall take effective measures to enable them to access the physical environment, transportation, information and communications, and other facilities and services open to the public.

Article 24

Persons belonging to national, ethnic, religious and linguistic minorities have a right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

Article 25

The rights of indigenous peoples shall be respected. They have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized by international human rights law.

Article 26

All peoples have the right to self-determination. By virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development.

All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations out of international economic cooperation, based upon mutual benefit, and international law.

Article 27

Every person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development in which all human rights and fundamental freedoms can be fully realized as part of their right to development.

National and international development policies shall be formulated to reflect the right to development, and shall be implemented effectively, bearing in mind the need for equitable distribution of resources and the concerns of marginalized groups.

Article 28

The rights of communities, in particular in regard to resource management and environmental conservation, shall be respected. Public participation shall be promoted prior to the implementation of activities which may have negative impact on the environment and related communities, with a view to prevention and attenuation of harm.

Chapter 2: Duties/Responsibilities

Article 29

Every person shall have duties towards his/her family, community, State and the international community.

The rights and freedoms of each person shall be exercised with due regard to the rights of others, national security, human security, morality and common interest in conformity with international law.

In the exercise of rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

Article 30

No limitations or derogations are permitted in regard to those rights guaranteed absolutely in international law, in particular the right to life, freedom from slavery, prohibition of torture, prohibition of imprisonment for non-fulfillment of contractual obligation, no retroactive criminal law, recognition as a person before the law, freedom of thought, conscience and religion.

In other cases, limitations or derogations are permissible on the basis that they are in accordance with the law and not based on arbitrary action (“legality”), necessary in view of the risks (“necessity”), proportionate to the circumstances (“proportionality”), and in the pursuit of legitimate aims under a democratic society (“legitimacy”).

Article 31

Every person shall have the duty to respect his/her fellow beings without discrimination, and to maintain relations aimed at fostering and guaranteeing mutual respect and tolerance.

Article 32

It is the duty of every person to refrain from taking part in political activities that, according to law, are reserved exclusively to the citizens of the State in which he/she is an alien.

Every person shall have the duty to respect and preserve the values in the region which support the spirit of peace, non-violence, non-discrimination, dialogue, consultation and participation and which strengthen universal human rights standards and the international rule of law.

Article 33

Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity, including the prevention of such crimes, in particular their incitement.

Article 34

Nothing in this Declaration may be interpreted as implying for any State, non-State actor or person any right to engage in any activity aimed at undermining the purposes and principles of the United Nations or at the destruction of any of the rights and freedoms stipulated under this Declaration.

Article 35

ASEAN States have the responsibility to strengthen mechanisms for the protection and promotion of human rights to ensure access to justice for all.

Article 36

The international community has the responsibility to assist developing countries as part of international solidarity in the promotion and protection of human rights.

The international community, through the United Nations, also has the responsibility to use appropriate means under the UN Charter to help protect populations from serious human rights violations.

Annex 17

**Submission of the Asia Indigenous Peoples Pact
and Indigenous Peoples Task Force on ASEAN
to the AICHR on the ASEAN Human Rights
Declaration, 29 November 2011**

**Submitted to the AICHR by the Asia Indigenous Peoples Pact
(AIPP) and Indigenous Peoples Task Force on ASEAN on 29
November 2011**

**Submission for the Drafting of the
ASEAN HUMAN RIGHTS DECLARATION**

Under Article 4.2 of its Terms of Reference (ToR), the ASEAN Intergovernmental Commission on Human Rights (AICHR) has been mandated “to develop an ASEAN Human Rights Declaration (AHRD) with a view to establishing a framework for human rights cooperation through various ASEAN conventions and other instruments dealing with human rights”.⁷⁹

In addition, the ToR of the AICHR obliges it, including when drafting the AHRD, “to uphold international human rights standards as prescribed by the Universal Declaration of Human Rights, the Vienna Declaration and Programme of Action, and international human rights instruments to which ASEAN Member States are parties” (Article 1.6)

The Asia Indigenous Peoples Pact, a regional organization of indigenous peoples movements in Asia and the Indigenous Peoples Task Force on ASEAN, a network of indigenous peoples organizations in Southeast Asia welcome the drafting of the ASEAN

⁷⁹ Terms of Reference of the ASEAN Intergovernmental Commission on Human Rights (“ToR”), Article 4.2.

Human Rights Declaration as a step in the right direction. We are committed in providing assistance to the AICHR and the Drafting Team especially in incorporating our rights as indigenous peoples in the declaration. We are therefore, submitting this lobby paper for the consideration of the AICHR and the Drafting Team.

This submission presents our recommendations as to the rights of indigenous peoples that we deem, should be considered and enshrined in the ASEAN Human Rights Declaration.

As a guiding principle, the ASEAN Human Rights Declaration should not fall short of the Universal Declaration of Human Rights. As members of the United Nations (UN), it should likewise take into account the obligations of the ASEAN member states to promote universal respect for, and observance of, human rights and fundamental freedoms as stated in the UN Charter. Further, it should enshrine universal human rights principles and rules as provided in the International Bill of Human Rights⁸⁰ and other universal human rights treaties, declarations and standards. The AHRD should adhere and aspire to set higher standards of human rights beyond what has been set by these universal human rights instruments.

More importantly for indigenous peoples, the AHRD should take into account the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) of which all the ASEAN member states have voted in favor of. It sets the minimum standard for the protection of the collective rights of indigenous peoples. These collective rights are not new rights but are our inherent rights which are also contained in various other international instruments such as among others, the UDHR, the International Covenant on Civil and Political Rights, and the International Convention on the Elimination of all Forms of Racial Discrimination.

80 The International Bill of Human Rights consists of the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and its Optional Protocol, and the International Covenant on Civil and Political Rights (ICCPR) and its two Optional Protocols.

The collective rights we are putting forward in this submission for the ASEAN Human Rights Declaration constitute the key elements for indigenous peoples in Southeast Asia to take an active role in ASEAN's goal of building an ASEAN Community by 2015. Thus, the promotion and protection of the rights of indigenous peoples and their contributions to the culturally diverse ASEAN is of utmost importance.

Unless indigenous peoples are fully recognized as integral part of a culturally diverse ASEAN, and unless indigenous peoples' collective rights and identity are respected, ASEAN's goal of development with equity, democracy and respect for human rights will never be achieved.

Indigenous Peoples in Southeast Asia

Indigenous Peoples is a term that is now well established in international law. Today's meaning differs considerably from how it was used at the time it was coined in the late 19th century. Especially over the past decades, the concept of Indigenous Peoples has evolved beyond the original meaning still found in dictionaries and how it is understood by many Asian governments.

In Asia, governments use various names to refer to Indigenous Peoples collectively - like "ethnic minorities", "hill tribes", "native people", "national cultural communities". Many of the names given to Indigenous Peoples by outsiders imply notions of cultural inferiority, of being primitive or backward. Indigenous Peoples though prefer to use the names of their tribes passed on to them by their ancestors.

An estimated 2/3 of the total 300 million population of Indigenous Peoples worldwide live in Southeast Asia. Few states in Southeast Asia however recognize Indigenous Peoples, and even if they do, their identity has not been taken into account during preparations of national censuses. It is therefore very difficult to give accurate or even approximate figures for the populations of Indigenous Peoples in Southeast Asia.

While the debate is ongoing in academic circles and international avenues such as the UN and the ASEAN about which groups qualify as Indigenous Peoples, the reality on the ground for the peoples concerned is one of constant struggle for cultural and often even physical survival. The dire reality faced by Indigenous Peoples has been recognized by some ASEAN member governments, even though most may not use the term “Indigenous Peoples”.

While national legislations in some ASEAN countries provide some protection for the rights of Indigenous Peoples, they are either insufficient or only weakly implemented. As particularly vulnerable sectors of society that not only face poverty but also the threatened loss of culture and identity, it is urgent to recognize the collective – and not just the individual – rights of Indigenous Peoples. Thus, the recognition as Indigenous Peoples is indispensable.

RECOMMENDATIONS OF INDIGENOUS PEOPLES FOR THE DRAFTING OF THE ASEAN HUMAN RIGHTS DECLARATION (copied from asean publication)

We therefore call on the AICHR to address the issues and integrate the rights of indigenous peoples as embodied in the UN Declaration on the Rights of Indigenous Peoples when it drafts the ASEAN Human Rights Declaration.

A. Legal Recognition as Distinct Peoples with Collective Rights

Several Asian governments including those in the ASEAN still express their reservation in the application of the concept of indigenous peoples in their countries as enshrined in the UNDRIP. They posit that the lack of a clear definition of indigenous peoples prevents a clear understanding of who the Declaration applies to. As a result, indigenous peoples are denied the protection from the UNDRIP which governments have jointly developed with indigenous peoples to address the continuing discrimination and injustices against indigenous peoples. Their non-recognition as distinct peoples with collective rights marginalizes them as they are most often not counted in the social services provided by

governments.

B. The right to self-determination and self-government as embodied in Articles 3, 4 and 46 of the UNDRIP

Article 3 of the UNDRIP particularly states that, “Indigenous Peoples have the right to self determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.” And article 4 elaborates that “in exercising their right to self determination, have the right to self-government in matters relating to their internal and local affairs”. In article 46, the Declaration however stresses that nothing in the Declaration may be interpreted as implying for anybody the right to engage in activities which threaten the territorial integrity or political unity of States. By far most Indigenous Peoples are therefore in agreement that their self-determination is to be realized within the context of existing Nation States.

C. Free, Prior, Informed Consent as embodied in Articles 10,11,19,28,29,32 of the UNDRIP

FPIC means that Indigenous Peoples have the right to accept or reject a project or any other form of intervention in their communities and territories, or that they define the conditions for the intervention based on their collective decision making processes. This decision must be a consensus arrived at without coercion, intimidation or manipulation, in a time period that respects the pace of their decision-making processes and with full disclosure of information on the environmental, human rights, socio-cultural, economic and otherwise, comprehensive impacts of such an intervention.

The FPIC is an instrument, which enables the indigenous peoples to exercise their right to self-determination since they practice their right to participate in decision-making.

Of particular importance is Article 10, which states that “Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent and after agreement on just and fair compensation and, where possible, with the option of return”. The right to FPIC should

be recognized and implemented especially in relation to the planning and implementation of development projects that affect indigenous peoples.

D. Right to Land, Territory and Resources as embodied in Articles 25 and 26 of the UNDRIP

This right is stipulated in Articles 25 and 26 of the Declaration according to which “Indigenous peoples have the right to lands, territories and resources. States shall give legal recognition and protection to these lands, territories and resources with due respect to customs and traditions of Indigenous Peoples to land tenure systems”.

E. Cultural Rights as embodied in Articles 8, 11, 12, 13, 14, 15, 16 of the UNDRIP

This right is stipulated in Article 8 of the Declaration which states that, “Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture, and States shall provide effective mechanisms to prevent and provide redress to forced assimilation.”

F. Right to Development as embodied in Articles 3,20,21,23,29,32 of the UNDRIP

Several articles in the Declaration refer to development. In sum, these articles provide that Indigenous Peoples have the right to maintain and develop their political, economic and social systems and institutions and to secure their own means of subsistence and development, including the freedom to engage in traditional and other economic activities. Those deprived of such means are entitled to just and fair redress. They have the right to determine and develop priorities and strategies for their own development and to be actively involved in health, housing and other economic and social programs which, to the extent possible, they will administer through their own institutions.

G. Right to Education as embodied in Articles 13, 14, 15, 16, and 31 of the UNDRIP

The indigenous people have the right to establish and control their own educational and learning systems with the use of their own language, and through teaching and learning methods appropriate for them. They should be allowed to establish their own media as a means to propagate their diverse cultural traditions and knowledge, their science and technology and all other indigenous aspects and dimensions. In this, they have intellectual property rights over their heritage and traditional knowledge and practices.

H. Right to Health as embodied in Article 24 of the UNDRIP

Indigenous people have the right to maintain their traditional health and medical practices through the use of medicinal plants and animals. They shall not be discriminated against in their access to health services provided by the state for them to enjoy physical and mental health.

I. Right to peace and security as contained in Arts. 6 and 30 of the UNDRIP

Militarisation of indigenous territories are rife where mines, dams, plantations and other economic projects are being implemented or are planned to be implemented in several areas in the ASEAN Member States. Often, paramilitary forces are organized, condoned to protect these economic projects. This puts the lives of indigenous peoples at risk. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and the individual rights to life, physical and mental integrity, liberty and security of person. The UNDRIP requires that military activities can be undertaken in indigenous lands or territories only with the free prior and informed consent of the concerned indigenous peoples. This consent should have been arrived at through effective consultations, appropriate procedures and through their own representative institutions.

J. Right to a nationality

Many indigenous peoples face issues of citizenship and statelessness, including denial of citizenship, which place them in very vulnerable positions, especially women and children. Right to a nationality is fundamental to the full enjoyment of all human rights by all persons and allows them to live with dignity and imperative to their well-being and personal development. Procedures and requirements should be accessible and sensitive to the conditions of exclusion and marginalization of indigenous peoples.

K. Rights of indigenous women

Indigenous women suffer from multiple forms of discrimination both within their societies and from the wider society – due to their gender, ethnicity or race, economic status, sexual orientation or gender identity, national origin, lack of citizenship, and other such features. On the other hand, their being culturally different is used for tourism purposes leading to commercialization and manipulation of their cultures. This increases their vulnerability and hampers their full enjoyment of their human rights.

Annex 18

**Submission of Amnesty International to
the AICHR on the ASEAN Human Rights
Declaration, February 2011**

**Submission of Amnesty International-Thailand on the
rights to be included in the ASEAN Declaration on
Human Rights**

**Submitted by Amnesty International – Thailand (February
2011)**

Introduction

Below is a list of those human rights which Amnesty International-Thailand believes must form the skeleton of the ASEAN Declaration on Human Rights (ADHR). In view of the early stage in the drafting process at which this submission is made, rights are listed in their bare form, without the substantive content which the final Declaration itself will contain.

The list is based on the rights enshrined in the Universal Declaration of Human Rights (UDHR). The Declaration, adopted in 1948, has since become the universally accepted foundation of all subsequent international and regional human rights standards, as well as domestic human rights legislation, and AICHR is obliged under Article 1.6. of its Terms of Reference to uphold the standards it prescribes. Moreover, many of the UDHR's provisions are considered either to have been declaratory of customary international rules at the time it was made or to have matured into such rules since. The UDHR's provisions must therefore form an irreducible minimum for the rights to be provided for in the ADHR. The list below also builds on some later developments which have elaborated on the UDHR's provisions.

The list of rights is organized by categories. This, however, is for ease of reference only and must not be understood as in any way indicating priorities or prejudicing the universality, indivisibility and interdependence and interrelatedness of all human rights. The list is annotated by references, regarding each right, to the relevant provision in the UDHR, as well as to provisions in the two human rights Covenants (and to a lesser extent in other key international (UN) treaties and declarations), as well as in regional treaties and in the Constitutions of ASEAN member states. The list of sources is indicative rather than exhaustive of provisions for human rights in international and regional instruments, and does not extend to provisions for human rights in the domestic legislation of ASEAN member states beyond Constitutional ones.

It should be noted that whereas Amnesty International has consistently called on all states worldwide to incorporate the provisions of the UDHR and other international human rights instruments into their law and implement them in policy and practice, reference here to human rights provided for in regional instruments and state Constitutions does not imply that Amnesty International necessarily endorses the particular substantive content given to these rights within the instruments and Constitutions cited, or that they fully accord with international standards.

Amnesty International calls on AICHR members and any others tasked with drafting the ADHR to give careful and thorough consideration to this list when carrying out that task. In doing so, they should take into account the fact that the rights listed here are accepted universally, and feature in existing regional human rights protection systems as well as in Constitutions of ASEAN member states. The people of ASEAN, and human beings everywhere in the world, inherently hold the same rights and therefore deserve the same level of respect for, protection of and fulfilment of their rights. An ASEAN Declaration of Human Rights enshrining all these rights will be a crucial step towards ensuring that the people of ASEAN do indeed enjoy their human rights to the full.

1. General provisions

SOURCES

- “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood”;
International: UDHR Art. 1.
- Freedom from discrimination in the enjoyment of rights;
International: UDHR Art. 2; ICCPR Art. 2(1); ICESCR Art. 2(2).
Regional: Af. Charter Art. 2; Am. Convention Art. 1; Arab Charter Art. 3; Eur. Convention Art. 14; Eur. Prot 12, Art. 1.
Constitutions: Cambodia Art. 31; Indonesia Art. 28(i)(2); Malaysia Arts. 8(2), (3), (4), 12(1); Myanmar Art. 348; Singapore Art. 12(2).
- Equal rights for men and women.
International: UDHR, Preamble; ICCPR Art. 3; ICESCR Art. 3; CEDAW.
Regional: Af. Charter Art. 18(3); Arab Charter Art. 3(3).
Constitutions: Cambodia Art. 45; Lao PDR Art. 37; Philippines Art. II(14); Thailand Art. 30; Viet Nam Art. 63.

- Right to a social and international order in which rights and freedoms can be fully realized;
International: UDHR Art. 28.
- Right to an effective remedy for acts violating human rights.
International: UDHR Art. 8; ICCPR Art. 2(3).
Regional: Am. Convention Arts. 10, 25; Arab Charter Art. 23; Eur. Convention Art. 13.
Constitutions: Cambodia Art. 39; Lao PDR Art. 41; Philippines Arts. III(4), III(12)(4); Thailand Arts. 28, 59, 60; Viet Nam Art. 74.

2. Civil and political rights

- Right to life;

SOURCES

International: UDHR Art. 3; ICCPR Art. 6.
Regional: Af. Charter Art. 4; Am. Convention Art. 4; Arab Charter Art. 5; Eur. Convention Art. 2.
Constitutions: Cambodia Arts. 32, 38; Indonesia Art. 28(a); Lao PDR Art. 6; Malaysia Art. 5; Myanmar Art. 353; Philippines Art. III(1); Singapore Art. 9(1); Thailand Art. 32; Viet Nam Art. 71.

A COMMISSION SHROUDED IN SECRECY

- Right to liberty and security of person;
International: UDHR Art. 3; ICCPR Art. 9.
Regional: Af. Charter Art. 6; Am. Convention Art. 7; Arab Charter Art. 14; Eur. Convention Art. 5.
Constitutions: Cambodia Art. 32; Lao PDR Art. 42; Malaysia Art. 5; Myanmar Art. 353; Philippines Art. III(1).
- Prohibition of slavery and forced labour;
International: UDHR Art. 4; ICCPR Art. 8.
Regional: Af. Charter Art. 5; Am. Convention Art. 6; Arab Charter Art. 10; Eur. Convention Art. 4.
Constitutions: Indonesia Art. 28(i); Malaysia Art. 6; Myanmar Art. 358; Philippines Art. III(18)(2); Singapore Art. 10; Thailand Art. 38.
- Prohibition of torture or other cruel, inhuman or degrading treatment or punishment;
International: UDHR Art. 5; ICCPR Art. 7; UNCAT.
Regional: Af. Charter Art. 5; Am. Convention Art. 5; Arab Charter Arts. 8, 9, 20; Eur. Convention Art. 3.
Constitutions: Cambodia Art. 38; Indonesia Art. 28(g)(2); Philippines Art. III(12)(2), III(19)(1),(2); Thailand Art. 32; Viet Nam Art. 71.

- Right to recognition everywhere as a person before the law;

International: UDHR Art. 6; ICCPR, Art. 16.

Regional: Am. Convention Art. 24; Arab Charter Art. 22.

Constitutions: Cambodia Art. 31; Indonesia, Art. 27; Indonesia Art. 28(d)(1); Malaysia Art. 8(1); Myanmar Art. 347; Singapore Art. 12(1); Thailand Art. 30.
- Right to equality of protection before the law;

International: UDHR Art. 7; ICCPR Art 26.

Regional: Af. Charter Art. 3; Arab Charter Art. 11.

Constitutions: Indonesia, Art. 27; Indonesia Art. 28(d)(1); Lao PDR Art. 35; Malaysia Art. 8(1); Myanmar Art. 347; Philippines Art. III(1); Singapore Art. 12(1); Thailand Art. 30; Viet Nam Art. 52.
- Right to protection against incitement to discrimination;

International: UDHR Art. 7; ICCPR Art. 20(2); ICERD Art. 4.

- Prohibition of arbitrary arrest and detention (including arrest only on ground and by procedures established by law, right to be informed of reasons for arrest, right to challenge lawfulness of detention in front of a court without delay, right of those charged with a criminal offence to be promptly brought before a court); prohibition of arbitrary exile;

International: UDHR Art. 9; ICCPR Arts. 9, 12(4).
Regional: Af. Charter Art. 6; Am. Convention Art. 7; Arab Charter Arts. 14, 20; Eur. Convention Art. 5.
Constitutions: Cambodia Art. 38; Malaysia Art. 9(1); Myanmar Art. 378(a)(1), (2); Philippines Arts. III(12)(1), (2), III(14), III(15); Singapore Arts. 9(2), (3), (4), 13(1); Thailand Arts. 32, 34; Viet Nam Arts. 71, 72.

- Fair trial rights (including a fair and public hearing by an independent and impartial tribunal, presumption of innocence until proved guilty, guarantees for defence, principle of non-retroactivity (*nullum crimen sine lege*), right of appeal, no heavier penalty than at time of commission);

International: UDHR Arts. 10, 11; ICCPR Arts. 14, 15.
Regional: Af. Charter Arts. 7, 26; Am. Convention Arts. 8, 9; Arab Charter Arts. 12, 13, 15, 16, 19; Eur. Convention Arts. 6, 7.
Constitutions: Cambodia Arts. 38, 128, 129; Indonesia, Art. 24(1); Lao PDR Arts. 82, 83; Malaysia Art. 7; Myanmar Art. 373-5; Philippines Arts. III(12)(3), III(13), (14), (16), (17), (21), (22); Singapore Art. 11; Thailand Arts. 40, 197; Viet Nam Arts. 72, 130-3.

Right to privacy;

International: UDHR Art. 12;
ICCPR Art. 17.

Regional: Am. Convention
Art. 11; Arab Charter Art. 21;
Eur. Convention Art. 8.

Constitutions: Cambodia
Art. 40; Lao PDR Art.
42; Myanmar Art. 357;
Philippines Arts. III(2),
III(3)(1); Thailand Arts. 33,
35; Viet Nam Art. 73.

- Freedom of movement and residence within the country; right to leave any country and to return to one's own country;

International: UDHR Art. 13;
ICCPR Art. 12.

Regional: Af. Charter Art.
12; Am. Convention Art. 22;
Arab Charter Art. 26(1), 27;
Eur. Convention, Prot. 4,
Arts. 2, 3.

Constitutions: Cambodia Art.
40; Indonesia Art. 28(e)(1);
Lao PDR Art. 40; Malaysia
Art. 9; Philippines Art. III(6);
Singapore Art. 13; Thailand
Art. 34; Viet Nam Art. 68.

- Right to seek and to enjoy in other countries asylum from persecution (including not to be returned to face torture, arbitrary loss of life or freedom *et al.*);

International: UDHR Art.
14; 1951 Geneva Refugees
Convention Art. 33; UNCAT
Art. 3.

Regional: Af. Charter Art.
12; Arab Charter Art. 28.

Constitutions: Indonesia Art.
28(g)(2); Viet Nam Art. 82.

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- Right to a nationality (including not to be deprived of one's nationality arbitrarily);
International: UDHR Art. 15.
Regional: Am. Convention Art. 20; Arab Charter Art. 29.
Constitutions: Cambodia Art. 33.
- Right of adults to marry with free and full consent and found a family; equal rights to marriage, during marriage and at its dissolution;
International: UDHR Art. 16; ICCPR Art. 23; ICESCR Art. 10(1), CEDAW Art. 16.
Regional: Am. Convention Art. 17(3); Arab Charter Art. 33(1); Eur. Convention Art. 12; Eur. Convention Prot. 7 Art. 5.
Constitutions: Cambodia Art. 45; Indonesia Art. 28(b); Viet Nam Art. 64.
- Right of the family to protection;
International: UDHR Art. 16; ICCPR Art. 23(1), ICESCR Art. 10.
Regional: Af. Charter Art. 18(1), (2); Am. Convention Art. 17(1); Arab Charter Art. 33(2); Eur. Social Charter, Art. 16.
Constitutions: Indonesia Art. 28(g)(1); Philippines Art. II(12); Thailand Art. 52; Viet Nam Art. 64.

- Right to freedom of thought, conscience and religion;
- International: UDHR Art. 18; ICCPR Art. 18.
Regional: Af. Charter Art. 8; Am. Convention Art. 12; Arab Charter Art. 30; Eur. Convention Art. 9.
Constitutions: Brunei Darussalam Art. 3(1); Cambodia Art. 43; Indonesia Art 28(e)(1), (2); Lao PDR Art. 43; Malaysia Art. 11; Myanmar Art. 34; Philippines Art. III(5); Singapore Art. 15(1); Thailand Art. 37; Viet Nam Art. 70.
- Right to freedom of opinion and expression (including right to seek, receive, and impart information and ideas;
- International: UDHR Art. 19; ICCPR Art. 19.
Regional: Af. Charter Art. 9; Am. Convention Arts. 13, 14; Arab Charter Art. 32; Eur. Convention Art. 10.
Constitutions: Cambodia Art. 41; Indonesia Art. 28(e)(2), (3), 28(f); Lao PDR Art. 44; Malaysia Art.10(1)(a); Myanmar Art. 354(a); Philippines Arts. III(4), III(7); Singapore Art. 14(a); Thailand Arts. 36, 45, 46, 56, 57; Viet Nam Art. 69.

- Right to freedom of peaceful assembly and association; no compulsion to belong to an association;

International: UDHR Art. 20; ICCPR Arts. 21, 22.
Regional: Af. Charter Arts. 10, 11; Am. Convention Art. 15, 16; Arab Charter Art. 24(5), (6); Eur. Convention Art. 11.
Constitutions: Cambodia Arts. 37, 41; Indonesia Art. 28; Lao PDR Art. 44; Malaysia Art. 10(1)(b), (c); Myanmar Art. 354(b), (c); Philippines Arts. III(4), III(8); Singapore Art. 14(b), (c); Thailand Arts. 63, 64, 65; Viet Nam Art. 69.
- Right to take part in the in the government of one's country, directly or through freely chosen representatives (including right to take part in the conduct of public affairs, equal access to public service, universal and equal suffrage, the will of the people, expressed in periodic and genuine elections, as the basis of the authority of government).

International: UDHR Art. 21; ICCPR Art. 25.
Regional: Af. Charter Art. 13; Arab Charter Art. 24; Am. Convention Art. 23; Eur. Prot. 1 Art. 3.
Constitutions: Cambodia Art. 34, 35; Indonesia Art. 22(e), Lao PDR Arts. 4, 36; Myanmar Arts. 38, 369; Philippines Arts. V, XII(16); Thailand Arts. 58, 87(5); Viet Nam Arts. 7, 53, 54.

3. *Economic, social and cultural rights*

SOURCES

- Right to property;

International: UDHR Art. 17.
Regional: Af. Charter Art. 14; Am. Convention Art. 21; Arab Charter Art. 31; Eur Prot. 1 Art. 1.
Constitutions: Cambodia Art. 44; Indonesia Art. 28(g)(1); Indonesia Art. 28(h)(4); Lao PDR Arts. 16, 17; Malaysia Art. 13; Myanmar Art. 372; Philippines Art. III(1); Thailand Art. 41, 42; Viet Nam Arts. 23, 58.
- Right to social security;

International: UDHR Art. 22; ICESCR Art. 9.
Regional: Am. Charter Art. 45(h); Arab Charter Art. 36; Eur. Social Charter Part II Art. 12.
Constitutions: Cambodia Art. 36; Indonesia Art. 28(h)(3), 34(2); Philippines Art. XIII(1).
- Entitlement to realization of economic, social and cultural rights;

International: UDHR Art. 22; ICESCR Art. 2(1).
Regional: Am. Charter Art. 45(a).
Constitutions: Philippines Art. XIII(1).

- Right to work (including free choice of work, just and favourable work conditions, protection against unemployment, equal pay for equal work, remuneration ensuring for themselves and their families an existence worthy of human life with dignity, safe and healthy working conditions, social protection, trade unions, rest and leisure, and the right to form and join trade unions);

International: UDHR Arts. 23, 24; ICESCR Arts. 6, 7, 8.
Regional: Af. Charter Art. 15; Am. Charter Arts. 45(b),(c); Arab Charter Arts. 34, 37; Eur. Social Charter, *passim*.
Constitutions: Cambodia Arts. 36, 37; Indonesia Arts. 27, 28(d)(2); Lao PDR Art. 39; Philippines Art. II(18); Thailand Art. 43, 44; Viet Nam Art. 55.
- Right to an adequate standard of living (including food, clothing, housing, water, necessary social services, right to security in the event of lack or loss of livelihood in circumstances beyond one's control);

International: UDHR Art. 25; ICESCR Art. 11.
Regional: Arab Charter Art. 38; Eur. Social Charter, Part II Art. 31 (housing).
Constitutions: Indonesia Art. 28(h)(1).
- Right to the enjoyment of the highest attainable standard of physical and mental health;

International: UDHR Art. 25(1); ICESCR Art. 12.
Regional: Af. Charter Art. 16; Arab Charter Art. 39; Eur. Social Charter Part II Arts. 11, 13(1).
Constitutions: Cambodia Art. 72; Indonesia Art. 28(h)(1), 34(3); Myanmar Art. 367; Philippines Art. II(15) ; Thailand Art. 51; Viet Nam Art. 61.

- Entitlement of motherhood and childhood to special care and assistance, right of all children, whether born in or out of wedlock to enjoy same social protection;

International: UDHR Art. 25(2); ICESCR Arts. 10(2), 10(3); CRC, *passim*.
Regional: Am. Convention Art. 17(5); Arab Charter Art. 34(3).
Constitutions: Indonesia Art. 28(b)(2); Thailand Art. 52; Viet Nam Art. 40.
- Right to education (free, at least in the elementary and fundamental stages, compulsory elementary education, including education directed to the full development of the human personality and strengthening respect for human rights, promote understanding, tolerance and friendship among all nations, racial or religious groups, right of parents to choose children's education);

International: UDHR Art. 26; ICESCR Arts. 13, 14.
Regional: Af. Charter Art. 17; Am. Charter Art. 49; Arab Charter Art. 41; Eur. Prot. 1, Art. 2.
Constitutions: Cambodia Arts. 65-8; Indonesia Art. 28(c)(1), 31(1); Lao PDR Art. 38; Myanmar Art. 366; Thailand Art. 49; Viet Nam Art. 59.
- Right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits; right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which one is the author.

International: UDHR Art. 27; ICESCR Art. 15.
Regional: Arab Charter Arts. 32(2), 42.
Constitutions: Cambodia Art. 35; Indonesia Art. 28(c)(1); Lao PDR Art. 45; Myanmar Art. 366(c); Viet Nam Art. 60.

4. Rights of specific categories of individuals, groups or peoples; new formulations of rights

In addition to the rights listed about, the ADHR should include provisions for the protection, respect and fulfilment of the rights of categories of individuals, groups or peoples who are inherently vulnerable, and/or are likely to suffer discrimination on grounds of belonging to these categories, such as children,⁸¹ women,⁸² asylum-seekers and refugees,⁸³ the elderly,⁸⁴ internally displaced persons,⁸⁵ Indigenous Peoples,⁸⁶ minorities,⁸⁷ migrant workers,⁸⁸ persons

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- 81 International: ICCPR Art. 24, ICESCR Art. 10(3), CRC.
Regional: Af. Charter Art. 18(3); Af. Children's Charter; Am. Convention Art. 19; Arab Charter Art. 17; Eur. Social Charter Part II Art. 17.
Constitutions: Cambodia Art. 48; Indonesia Art 28(b)(2); Lao PDR Art. 29; Myanmar Art. 351; Thailand Art. 52.
- 82 International: UDHR Preamble; ICCPR Art. 3; ICESCR Art. 3; CEDAW.
Regional: Af. Charter Art. 18(3); Af. Prot. on women's rights; Arab Charter Art. 3(3).
Regional: Inter-Am. Convention against VAW.
Constitutions: Cambodia Art. 45; Lao PDR Arts. 29, 37; Philippines Art. II(14); Thailand Art. 30; Viet Nam Art. 63.
- 83 International: UDHR Art. 14; 1951 Geneva Refugees Convention and its 1967 Protocol.
Regional: Af. Charter Art. 12; Arab Charter Art. 28.
Constitutions: Indonesia Art. 28(g)(2); Viet Nam Art. 82.
- 84 Regional: Af. Charter Art. 18(4); Eur. Social Charter, Part II, Art. 23.
- 85 International: UN Guiding Principles on Internal Displacement.
Regional: Af. IDP Convention.
- 86 International: UN Declaration on the Rights of Indigenous Peoples.
Constitutions: Philippines Art. II(22).
- 87 International: ICCPR Art. 27; UN Minorities Declaration.
Regional: Arab Charter Art. 25; Eur. Minorities Convention.
Constitutions: Viet Nam Art. 5.
- 88 International: Migrant Workers Convention.
Regional: ASEAN Declaration on Migrant Workers.

deprived of liberty,⁸⁹ and persons with disabilities⁹⁰ – the list is not exhaustive.

Further, the ADHR should include more recent formulations of rights which are enshrined in the principles of the UDHR whilst addressing specific human rights or their violations, such as the prohibition of enforced disappearances⁹¹ and trafficking in persons.⁹² Here too the list is not exhaustive.

89 International: UDHR Art. 5; ICCPR Arts. 7, 10; UNCAT, *passim*, UN Standard Minimum Rules, UN Body of Principles, UN Basic Principles. Regional: Af. Charter Art. 5; Am. Convention Art. 5; Arab Charter Arts. 8, 9, 20; Eur. Convention Art. 3.

Constitutions: Cambodia Art. 38; Indonesia Art. 28(g)(2); Philippines Art. III(12)(2), III(19)(1),(2); Thailand Art. 32; Viet Nam Art. 71.

90 International: UN Convention on the Rights of Persons with Disabilities.

Regional: Arab Charter Art. 40; Eur. Social Charter Part II Art. 15.

Constitutions: Thailand Art. 54; Viet Nam Art. 67.

91 International: Enforced Disappearance Convention.

Regional: Inter-American Enforced Disappearance Convention.

92 Regional: Arab Charter Art. 10; ASEAN Declaration Against Trafficking; Eur Trafficking Convention.

Constitutions: Myanmar Art. 358.

5. List of Instruments used in this submission (abbreviations)

5(1) International

N.B.: arranged chronologically (after the Bill of Rights)

Universal Declaration of Human Rights, UNGA res. 217 A(III).

Adopted 10 December 1948 (UDHR);

International Covenant on Civil and Political Rights. Adopted by General Assembly resolution 2200A (XXI) of 16 December 1966, entered into force 23 March 1976 (ICCPR);

International Covenant on Economic, Social and Cultural Rights, adopted by General Assembly resolution 2200A (XXI) of 16 December 1966, entered into force 3 January 1976 (ICESCR);

Convention relating to the Status of Refugees, done at Geneva on 28 July 1951, entered into force 22 April 1954 and the 1967 Protocol relating to the Status of Refugees (1951 Geneva Refugees Convention and its 1967 Protocol);

UN Standard Minimum Rules for the Treatment of Prisoners. Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977 (UN Standard Minimum Rules);

International Convention on the Elimination of All Forms of Racial Discrimination. Adopted by General Assembly resolution 2106 (XX) of 21 December 1965, entry into force 4 January 1969 (ICERD);

Convention on the Elimination of All Forms of Discrimination against Women. Adopted by General Assembly resolution 34/180 of 18 December 1979, entered into force 3 September 1981 (CEDAW);

UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, UNGA res. 39/46. Adopted 10 December 1984, entered in to force 26 June 1987

(UNCAT);

UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by General Assembly resolution 43/173 of 9 December 1988 (UN Body of Principles);

UN Convention on the Rights of the Child. Adopted by UN General Assembly resolution 44/25 of 20 November 1989, entered into force 2 September 1990 (CRC);

UN Basic Principles for the Treatment of Prisoners. Adopted and proclaimed by General Assembly resolution 45/111 of 14 December 1990 (UN Basic Principles)

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Adopted by UN General Assembly resolution 45/158 of 19 December 1990; entered into force 1 July 2003 (Migrant Workers Convention);

UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. Adopted by General Assembly resolution 47/135 of 18 December 1992 (UN Minorities Declaration);

Guiding Principles on Internal Displacement, UN Doc. E/CN.4/1998/53/Add.2 (1998);

UN Convention on the Rights of Persons with Disabilities. Adopted by the General Assembly resolution 61/106 on 13 December 2006, entered into force 3 May 2008;

International Convention for the Protection of All Persons from Enforced Disappearance, adopted by UN General Assembly resolution 61/177 on 20 December 2006, entered into force 23 December 2010 (Enforced Disappearance Convention);

UN Declaration on the Rights of Indigenous Peoples. Adopted by General Assembly Resolution 61/295 on 13 September 2007.

5(2) Regional treaties

N.B. arrange by region (alphabetically), and chronologically within

each region

African Charter on Human and Peoples' Rights, OAU Doc. CAB/LEG/67/3 rev. 5 adopted 27 June 1981, entered into force 21 October 1986 (Af. Charter)

African Charter on the Rights and Welfare of the Child, OAU Doc. CAB/LEG/24.9/49 (1990), entered into force 29 November 1999 (Af. Children's Charter);

Protocol to the African Charter on the Rights of Women in Africa. Adopted in Maputo – Mozambique on 11 July 2003, entered into force 25 November 2005 (Af. Prot. on women's rights);

African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), adopted by the special summit of the Union held in Kampala, Uganda, 22 October 2009, as yet to enter into force (Af. IDP Convention);

Charter of the Organization of American States (as amended), OAS Treaty Series No. 1-A. Adopted 27 February 1967, entered into force March 12, 1970 (Am. Charter);

American Convention on Human Rights, O.A.S. Treaty Series No. 36, 1144. Adopted at San Jose, Costa Rica, on 22 November 1969, entered into force 18 July 1978 (Am. Convention);

The Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women. Adopted in Belém do Pará, Brasil on 9 June 1994, entered into force 5 March 1995 (Inter-Am. Convention on VAW);

Inter-American Convention on Forced Disappearance of Persons. Adopted by Resolution AG/RES. 1256 (XXIV-O/94) on June 9, 1994, entered into force on 28 March 1996 (Inter-American Enforced Disappearances Convention);

League of Arab States, Arab Charter on Human Rights. Adopted 22 May 2004, entered into force 15 March 2008 (Arab Charter);

ASEAN Declaration Against Trafficking in Persons Particularly

Women and Children. Adopted by the ASEAN Summit in Vientiane, 29 November 2004 (ASEAN Declaration Against Trafficking);

ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, adopted by the ASEAN Summit in Cebu, Philippines, 13 January 2007 (ASEAN Declaration on Migrant Workers);

European Convention for the Protection of Human Rights and Fundamental Freedoms, ETS No. 5 (as amended). Adopted 4 November 1950, entered into force 3 September 1953 (Eur. Convention) and its protocols (Eur. Prot.);

Council of Europe Framework Convention for the Protection of National Minorities, ETS No. 157. Adopted 1 February 1995, entered into force 1 February 1998 (Eur. Minorities Convention);

European Social Charter (Revised), ETS No. 163. Adopted 3 May 1996, entered into force 1 July 1997 (Eur. Social Charter);

Council of Europe Convention on Action against Trafficking in Human Beings. ETS No. 197. Done at Warsaw 16 May 2005, entered into force 1 February 2008 (Eur Trafficking Convention).

5(3) ASEAN member states' Constitutions

N.B. arranged alphabetically.

- The Constitution of Brunei Darussalam (1959);
- The Constitution of the Kingdom of Cambodia (1993);
- The Constitution of the Republic of Indonesia (1945, as amended);
- The Constitution of the Lao People's Democratic Republic (1991, as amended);
- The Federal Constitution of Malaysia (1957, as amended);
- The Constitution of the Republic of the Union of Myanmar

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- (2008);
- The Constitution of the Republic of the Philippines (1987);
- The Constitution of the Republic of Singapore (1965, as amended);
- The Constitution of the Kingdom of Thailand (2007);
- The Constitution of the Socialist Republic of Viet Nam (1992, as amended).

Annex 19

**Submission of the Southeast Asian National
Human Rights Institutions Forum (SEANF)
to the AICHR on the ASEAN Human Rights
Declaration, October and November 2011**

**SEANF'S POSITION ON THE ASEAN HUMAN RIGHTS
DECLARATION**

**Submitted by the chair of SEANF to the chair of the AICHR
and ASEAN Secretariat in October and November 2011**

The South East Asia NHRIs Forum (SEANF), as independent sub-regional human rights mechanism, comprised of NHRIs of Indonesia, Malaysia, Thailand, Timor Leste and the Philippines, sees its vital role to engage with regional human rights issues and mechanisms as well as its potential contribution to the drafting of the ASEAN Human Rights Declaration (AHRD), which will serve as the basis for the establishment of a framework for human rights cooperation as enshrined in Article 4.2 of the ASEAN Intergovernmental Commission on Human Rights' (AICHR) Terms of Reference.

SEANF's position on the AHRD is guided by the following international human rights standards and principles:

**I. Principles of universality, indivisibility, interdependence
and interrelatedness of human rights**

Article 2.2 of the ToR of AICHR states the need for AICHR to "Respect for international human rights principles, including universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms, as well as impartiality, objectivity, non-selectivity, non-discrimination, and avoidance of double standards and politicization."

The Declaration shall be founded on the aforesaid principles towards ensuring that all ASEAN Member States are committed to promote universal respect for, and observance of, human rights and fundamental freedoms as proclaimed in the United Nations Charter.

It is important for the Member States to recognize the universality of human rights and their obligations to uphold this common standard of human rights for all peoples and nations, without distinction of any kind such as race, ethnic, color, sex, language, religion, political or any other opinion, national and social origin, disabilities, birth or other status.

II. Balance of rights, freedoms and responsibilities

The Declaration shall take into account of the recognition of the rights, responsibilities and freedom of individuals, the State and other legally recognized communities and the international community. In this regard, it may be useful for AICHR to look into the African Charter on Human and Peoples' Rights.

The Declaration shall flag the responsibilities of the individual, the State and other entities towards their family, society and nation. The rights and freedoms of each of them shall be exercised with due regard to the rights of others to maintain relations aimed at promoting, safeguarding and reinforcing mutual respect and tolerance.

The Declaration shall, in this regard, call upon States to perform its duty by undertaking appropriate legislation and /or measures to give effect to these principles in ensuring the balance between enjoyment of rights and freedoms including the right to development vis-à-vis the exercise of responsibilities.

III. Applicable human rights principles and standards

Article 2(f) of the ASEAN Charter enshrines the need for ASEAN Member States to uphold the Charter of the United Nations and international law, including international humanitarian law, subscribed to by ASEAN Member States. The importance of these

international standards and instruments are further reaffirmed in Article 1.6 of the ToR of AICHR requires that AICHR “*uphold international human rights standards as prescribed by the Universal Declaration of Human Rights, the Vienna Declaration and Programme of Action, and international human rights instruments to which ASEAN Member States are parties*”.

The aforesaid principles have reflected ASEAN Member States’ recognition and positive assertion towards international human rights principles. Hence, the Declaration shall continue drawing inspirations from the existing human rights principles and standards including, among others, the following:

- Universal Declaration of Human Rights;
- UN Charter;
- ASEAN Charter;
- International human rights laws and non-treaty documents subscribed by ASEAN Member States;
- The 1993 Vienna Declaration and Programme of Action;
- Terms of Reference of the ASEAN Intergovernmental Commission on Human Rights;
- Provisions of various ASEAN instruments that are of relevance to human rights;
- Charters/ declarations on human rights from various regions.

To ensure that these norms and standards and principles are not rendered naught by other principles invoked in the AICHR’s TOR, such as “non-interference in the internal affairs of ASEAN Member States”, the primacy of human rights must be clearly asserted.

IV. Reference to ASEAN particularities

Mindful of the ASEAN particularities, it is important for the Drafting Group and AICHR to make reference to the Vienna Declaration which provides, “*while the significance of national*

and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.”

In this relation, the Declaration shall encourage ASEAN Member States to draw on compatible values and cultures shared by ASEAN communities to reinforce and even enhance the application and relevance of universal human rights.

V. The role of NHRIs and other stakeholders

On 20 December 1993, the UN General Assembly adopted a Resolution 48/134, namely “Principles relating to the Status of National Institutions” (The Paris Principles) which recognizes the significant role of national institutions on promoting and protecting human rights and fundamental freedoms as well as enhancing public awareness of those rights and freedoms.

Article 1.14 of the ASEAN Charter states the aspiration of ASEAN to promote a people-oriented ASEAN in which all sectors of society are encouraged to participate in, and benefit from, the process of ASEAN integration and community building.

Article 4.9 of the AICHR’s ToR further encourages that AICHR consult, *“as may be appropriate, with other national, regional and international institutions and entities concerned with the promotion and protection of human rights”*.

Drawing from these principles, it is a pivotal need for the Declaration to provide formal recognition of the role of NHRIs and other stakeholders in enhancing ASEAN’s efforts to advance human rights in the region.

In addition, the relationship between AICHR and SEANF must be clearly defined, as well as the engagement with and participation of civil society organizations in the development and functioning of AICHR.

VI. Evolution of the Declaration

Since AICHR's ToR adopts the principle of *“an evolutionary approach that would contribute to the development of human rights norms and standards in ASEAN, and the mandate function “(1) to develop an ASEAN Human Rights Declaration with a view to establishment a framework of human rights cooperation through various ASEAN Conventions and other instruments dealing with human rights”*, there should be a provision for the evolution of the Declaration to be adopted as a legally binding convention. In this respect, the Declaration should also serve as a road-map towards the full development of an ASEAN human rights mechanism, similar to those in the other regions, aside from being a normative document.

The Declaration should contain a provision that will ensure respect, protection and fulfillment of rights, to include the right to a remedy through appropriate national, regional and international mechanisms.

Done this 19th day of October 2011, Quezon City, Philippines.

- HON. IFDHAL KASIM (Chairperson, Komisi Nasional Hak Asasi Manusia Indonesia/ KOMNASHAM)
- HON. TAN SRI HASMY AGAM (Chairperson, Suruhanjaya Hak Asasi Manusia/ SUHAKAM)
- HON. LORETTA ANN P. ROSALES (Chairperson, Commission on Human Rights of The Philippines/ CHRP)
- HON. AMARA PONGSAPICH (Chairperson, National Human Rights Commission of Thailand/ NHRCT)
- HON. SEBASTIAO DIAS XIMENES (Ombudsman, Provedor for Human Rights and Justice of Timor Leste/ PDHJ)

Annex 20

Convenors, National Focal Points and Thematic Focal Points of the SAPA Task Force on ASEAN and Human Rights

About SAPA TFAHR

SAPA, short for Solidarity for Asian People's Advocacy, is a loose, horizontal forum and platform for information and resource sharing among Asian civil society advocates who are engaging intergovernmental processes, as well as alternative processes/ spaces at sub-regional, regional, and global arenas. SAPA's members are organized around Working Groups on the following issues/ themes/ groupings:

- Association of South East Asian Nations (ASEAN)
- United Nations human rights mechanism
- South Asia
- Northeast Asia
- Rural Development
- Labour and migration

TFAHR is short for the Task Force on ASEAN and Human Rights within SAPA's Working Group on ASEAN, which promotes civil society engagement of ASEAN, as a regional intergovernmental organization. SAPA TFAHR was created in 2007 to engage ASEAN in the latter's creation of a human rights body as stated in the ASEAN Charter.

SAPA TFAHR Convenors

- Mr. Yap Swee Seng – Executive Director of FORUM-ASIA
- Mr. Haris Azhar – Coordinator of KontraS

Country Focal Points

- **Burma** – MS. Khin Ohmar, Task Force on ASEAN Burma and MS. Anelyn De Luna, Alternative ASEAN Network on Burma (ALTSEAN Burma)
- **Cambodia** – Mr. Nay vanda, Cambodian Human Rights and Development Association (ADHOC)
- **Indonesia** – Mr. Haris Azhar, Komisi untuk Orang Hilang dan Korban Tindak Kekerasan (KontraS)
- **Malaysia** – MS. Enalini Elumalai, Suara Rakyat Malaysia (SUARAM) and MS. Honey Tan, Persatuan Kesedaran Komuniti, Selangor (PKKS Empower)
- **The Philippines** – Sister Crescencia Lucero, Task Force Detainees of the Philippines (TFDP)
- **Singapore** – Mr. Tan Kong Soon (Think Centre)
- **Thailand** – MS. Chalida Tajaroensuk, People's Empowerment Foundation (PEF)

Thematic Focal Points

- **Children** – Mr. Ryan Silverio, Child Rights Coalition Asia (CRC Asia), and MS. Irene V. Fonacier – Felizar
- **Persons with Disability** – MS. Saowalak Thongkuay, Disable Peoples' International – Asia Pacific (DPI-AP)
- **Indigenous Peoples** – Mr. Richard Gadit and MS. Bernice A. See, Asia Indigenous Peoples Pact (AIPP)
- **Migrant Workers** – Mr. Sinapan Samyodorai, Task Force on ASEAN Migrant Worker (TF-AMW)
- **Refugees** – Mr. Anoop Sukumaran, Asia Pacific Refugee Rights Network (APRRN)
- **Housing rights** – Mr. Sammy Gamboa, Center on Housing Rights and Evictions (COHRE)

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(Footnotes)

- * This thematic study on the right to peace has not been announced previously by AICHR.
- ** Press Release of the Fourth Meeting of the ASEAN Intergovernmental Commission on Human Rights, Solo, Indonesia, 10-13 February 2011, <http://www.asean.org/25872.htm>.
- *** Press Release of the Fourth Meeting of the ASEAN Intergovernmental Commission on Human Rights, Solo, Indonesia, 10-13 February 2011, <http://www.asean.org/25872.htm>.
- **** This was the second meeting between the AICHR and the WG, the first one held in September 2010 in Kuala Lumpur during the Third Meeting of the AICHR.

“At the end of the day, AICHR Commissioners and the governments they represent, will be judged by what they achieve, how their work compares with regional bodies elsewhere in the world and whether or not it is in line with international standards.”

Navi Pillay, United Nations High Commissioner for Human Rights

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