



Four Years On and Still Treading Water

A Report on the Performance of the ASEAN
Human Rights Mechanism in 2013

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

Four Years On and Still Treading Water: A Report on the Performance of the ASEAN Human Rights Mechanism in 2013

Copyrights © 2014 Asian Forum for Human Rights and Development

ISBN 978-616-7733-08-1

This book was written for the benefit of human rights defenders and may be quoted from or copied so long as the source and authors are acknowledged. This material may not be sold or used commercially. Reproduction for other purpose requires permission of Asian Forum for Human Rights and Development (FORUM-ASIA) through its regional office at:

66/2, Pan Road, Silom, Bang Rak, Bangkok 10500, Thailand Tel: +66 (0) 2 6379126 Fax: +66 (0) 2 6379128 info@forum-asia.org
www.forum-asia.org

Editorial Committee: Atnike Nova Sigiros, Edgardo Legaspi, Dr. Yuval Ginbar

Drafting team:

Nina Somera

Atnike Nova Sigiros

Melanie Ramos Llana (CRC Asia)

Rei Firdha Amalia (KontraS)

Edgardo Cabalitan, Jr (TFDP)

Cover design: Panel Barus and SERPICO

Layout: Panel Barus

Content

Content /iii

List of Annexes /iv

Acronyms and abbreviations /vi

Foreword /vii

Chapter 1: Introduction /1

Chapter 2: AICHR /3

- 2.1. AICHR Composition: New Roster, Old Practice Continued /3
 - Budget of AICHR - Greater External Funding Support /5
 - Limited Secretariat Support /6
- 2.2. Implementation of the Mandate and Work Plan of AICHR /7
 - Review of AICHR's Terms of Reference /7
 - Guidelines on Engagement with CSOs /8
 - Thematic Studies /9
 - Public Awareness on Human Rights: An indication of progress /11
 - Staying Silent on Human Rights Violations /13

Chapter 3 - ACWC /17

- 3.1. Institution Building of the ACWC /17
 - Institutional Gaps /19
- 3.2. Implementation of Mandate and Work Plan in 2013 /20
 - Declaration on VAW and VAC /20
 - Sharing and Mainstreaming Good Practices /22

Chapter 4: Relationship Between AICHR and ACWC And Their Engagement with Other Stakeholders /25

- 4.1. Alignment between AICHR and ACWC /25
- 4.2. Relationship with National Human Rights Institutions /26
- 4.3. The place of CSOs in the ASEAN human rights system /27

Chapter 5: Conclusions & Recommendation /31

Annexes /35

About SAPA TFAHR /107

List of Annexes

Annex No.

Civil Society Submissions to the AICHR

1. Laos: Open Letter – Request for AICHR to ensure the safety and wellbeing of disappeared development worker, Mr Sombath Somphone, 4 January 2013 /37
2. Laos: community leader Sombath Somphone must be found, 21 January 2013 /39
3. Request for AICHR to ensure the safety and wellbeing of Sombath Somphone, a disappeared social development worker, 21 January 2013 /41
4. Laos: Open letter – Follow-up on request for AICHR to ensure the safety and wellbeing of disappeared development worker, Mr Sombath Somphone, 1 February 2013 /43
5. AICHR must take a stand against enforced/involuntary disappearances in the region. 26 April 2013 /46
6. Request for An Urgent Pronouncement Concerning the August 1966 Murder of Fuad Muhammad Syafruddin (Also Known As “Udin”) in Dusun Gelangan Samalo, Parangtritis Road KM 15 Yogyakarta, Indonesia, July 2013 /48
7. Submission by Amnesty International-Thailand on AICHR Relations with Civil Society Organizations (CSOs), September 2013 /52
8. Civil Society Organizations demand meaningful engagement with ASEAN human rights bodies Statement issued by the 6th Regional Consultation on ASEAN and Human Rights, Jakarta, 1-2 October 2013 /62
9. Request For An Urgent Appeal Concerning the Assault On Ahmadiyya Muslim Community in South Sulawesi, 23 December 2013 /65

Civil Society Submissions to the ACWC

10. Amnesty International's Briefing to the Asean Commission For the Promotion and Protection of the Rights of Women and Children on the Draft ASEAN Declaration on the Elimination of Violence Against Women and Children, May 2013 /71

11. Statement submitted to the ACWC for Declaration on Violence Against Women and Children – Women’s Caucus, 13 June 2013 /79
12. SAPA TFAHR Letter to the ACWC Regarding the draft Declaration on the Elimination of Violence Against Women and Children in ASEAN, 24 July 2013 /82
13. Women’s Caucus Request for Finalized draft of DEVAW/VAC, 3 September 2013 /85

Information about AICHR and ACWC

14. Composition of the Representatives of AICHR in 2013 /89
15. List of AICHR Press Releases in 2013 /94
16. Composition of the Representatives of the ACWC in 2013 /98
17. List of ACWC Press Releases in 2013 /106

Acronyms and abbreviations

ACSC/ APF	ASEAN Civil Society Conference/ASEAN Peoples' Forum
ACW	ASEAN Committee on Women
ACWC	ASEAN Commission for the Protection of the Rights of Women and Children
ACPHR	African Commission on Human and Peoples' Rights
AHRD	ASEAN Human Rights Declaration
AICHR	ASEAN Intergovernmental Commission on Human Rights
AIPP	Asian Indigenous Peoples Pact
AMM	ASEAN Ministerial Meeting or ASEAN Foreign Ministers Meeting
ASEAN	Association of Southeast Asian Nations
CAT	UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	UN Convention on the Elimination of All Forms of Discrimination against Women
CRC	UN Convention on the Rights of the Child
CRC Asia	Child Rights Coalition Asia
CSO	Civil Society Organization
FORUM-ASIA	Asian Forum for Human Rights and Development
IACHR	Inter-American Commission on Human Rights
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICJ	International Commission of Jurists
INGO	International non-governmental organization
NGO	Non-Governmental Organization
NHRI	National Human Rights Institutions
OAS	Organization of American States
OHCHR	Office of the UN High Commissioner for Human Rights
SAPA TFAHR	Solidarity for Asian Peoples' Advocacy
SAPA TFAHR	SAPA Task Force on ASEAN and Human Rights
TOR	Term of Reference
Women's Caucus	Southeast Asia Women's Caucus
UDHR	Universal Declaration of Human Rights
UPR	Universal Periodic Review
VAP	Vientiane Action Programme
VDPA	Vienna Declaration and Programme of Action (1993)

Foreword

This is the fourth report on the ASEAN Human Rights Mechanism prepared by *the Asian Forum for Human Rights and Development (FORUM-ASIA)* and *the Solidarity for Asian People's Advocacy – Task Force on ASEAN and Human Rights (SAPA TFAHR)* since the establishment of the ASEAN Intergovernmental Commission on Human Rights (AICHR) in 2009.

This is the first report that also includes a performance assessment of the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC). We believe that in order to have an effective human rights mechanism in ASEAN, these two bodies have to coordinate their promotion and protection efforts.

In this respect and to reflect this additional focus, the subtitle of the present report has been changed from a report on the performance of the AICHR to the performance of the ASEAN Human Rights Mechanism.

This report is prepared as our contribution and effort to further strengthen the human rights mechanism in ASEAN, particularly through the work of the AICHR and the ACWC. We hope that by undertaking regular monitoring and - even from the constrained perspective allowed to civil society, the report can contribute not only towards the advancement of the AICHR and the ACWC, but also the strengthening of human rights advocacy in the ASEAN region.

This 2013 report is particularly important because in 2014, the AICHR Term of Reference (TOR) will be due for its first mandatory review. Similarly in 2015, the TOR of the ACWC in 2015 will also be subject to review. Therefore, the review of recent developments within these human rights bodies in 2013 is done with the view of proposing improvements of their respective TORs for increased effectiveness in performing their respective roles.

The report finds continuous gaps within the work of the AICHR and the ACWC in implementing their mandates and work plan, such as incomplete tasks, limited engagement with stakeholders - including civil society, and continuous silence on real human rights situations that have occurred in the region. Nevertheless, within the existing political structure of ASEAN of consensus and non-interference, as well as the inadequate institutional support for both bodies, the report also identifies the internal struggle within the Commissions in implementing their respective mandates, let alone in interpreting it more progressively. Therefore, the report also makes recommendations to ASEAN Member States, from whom the AICHR and the ACWC received their mandates - and with the expectation that more support and independence will be increased in the future.

Given the broad spectrum of human rights advocacy in the region, and also the limited available public information on the work of the AICHR and the ACWC, we acknowledge that the report is by no means exhaustive and other important issues and information have not been considered. Particularly in providing thorough assessment on human rights cases and thematic human rights issues.

We would like to express sincere gratitude to those the contributions from individuals and organizations who assisted in producing this report, who are far too numerous to be all listed here. We would, however, like to thank in particular the members of FORUM-ASIA, the FORUM-ASIA Secretariat, and SAPA TFAHR members. We also extend our thanks to the Child Rights Coalition Asia (CRC Asia), Task Force Detainees of the Philippines (TFDP), Commission for the Disappeared and Victims of Violence (KontraS), People's Empowerment Foundation (PEF), ASEAN SOGIE Caucus, Burma Partnership, Women's Caucus, and Amnesty International for their contributions to the report.

We also would like to thank and acknowledge the work and advocacy of different organizations, particularly those included in this report, the Legal Aid Centre for the Press (LBH Pers), Makassar Legal Aid Institute (LBH Makassar), International Commission of Jurist (ICJ), and Amnesty International – Thailand.

Our sincere thanks also to the generous support of the Swedish International Development Cooperation Agency (SIDA), Ford Foundation, Open Society Institute (OSI), and the American Bar Association – Rule of Law Initiative (ABA ROLI) in supporting our human rights advocacy in ASEAN, particularly in making the this report possible.

Finally, through this report, we want to reiterate FORUM-ASIA and SAPA TFAHR's commitment to continue our work in ensuring that the human rights mechanism in ASEAN will be progressively strengthened to become a truly independent and effective body that is both able and willing to help protect and realize all human rights for everyone in ASEAN.

On behalf of SAPA TFAHR,

Evelyn Balais Serrano

Convener of SAPA TFAHR
Executive Director of FORUM-ASIA

Chalida Tajaroensuk

Co-convener of SAPA TFAHR
Coordinator of PEF

Chapter 1: **INTRODUCTION**

The Association of Southeast Asian Nations (ASEAN) enters another historical juncture that further puts its new human rights regime to the test. The year 2013 came in the immediate aftermath of ASEAN leaders adopting the ASEAN Human Rights Declaration (AHRD), which is claimed to be a small step for ASEAN but much criticized for some features that fail to meet international human rights standards.

Against this backdrop AICHR and also ACWC are challenged to provide meaningful impact on the human rights of the people in ASEAN. In particular, ASEAN's human rights bodies must ensure that in the run-up to the 2015 launch of the ASEAN Community (AC), the Community does not end up serving only the interests of governments and corporations at the expense of the human rights of the ASEAN peoples.

Challenges remain in assessing the output and the development of the work of the AICHR and the ACWC in 2013, since most of the work undertaken this year was carried over from the previous year. Therefore it is difficult to assess the output of their work, let alone the outcome or its impact towards the lives of the people in ASEAN region. Moreover, transparency remains elusive from both AICHR and ACWC, albeit in different degrees.

This report aims to (1) assess the performance in 2013 of ASEAN's main human rights bodies, the ASEAN Intergovernmental Commission on Human Rights (AICHR) and the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC); (2) provide information for FORUM-ASIA members, partners and other CSOs who are engaging with these bodies and advocating human rights in ASEAN region; and (3) contribute to the review of AICHR's Terms of Reference (TOR), preparations for which began in 2013.

This report identifies and assesses the AICHR and the ACWC's main activities in 2013. For the AICHR, the report highlights their work on the thematic study on Corporate Social Responsibility (CSR), the drafting of AICHR draft Guideline on its Relationship with CSOs, and the beginning of a much-anticipated process of reviewing its Terms of Reference (TOR).

For the first time since FORUM-ASIA started undertaking annual performance reviews since 2010, this report will also assess another key human rights institution

Four Years On and Still Treading Water

in ASEAN—the ACWC. In 2013 the ACWC finalized drafting the ASEAN Declaration on the Elimination of Violence against Women and Elimination of Violence against Children (Declaration on EVAW and VAC), which was adopted during the ASEAN Summit in October.

For this report, FORUM-ASIA examines key documents of AICHR and ACWC: the TORs, work plans, press releases and other publicly available documents. It also collected secondary materials on AICHR and ACWC produced by other stakeholders.

FORUM-ASIA also organized a series of consultations with its members and partners who have followed and are invested in ASEAN processes. Interviews with relevant actors were also conducted to sharpen the report’s analysis and recommendations.

It is hoped that this Report would serve as an open and independent mechanism that monitors the performance of the AICHR and ACWC within ASEAN, and would contribute to making the bloc truly accountable and transparent to its people.

Chapter 2: AICHR

On its fifth year (2014), the ASEAN Intergovernmental Commission on Human Rights (AICHR) is set for a mandatory review of its Terms of Reference (TOR), taking stock of the Commission's successes and failures, plans and actual performance. This widely-anticipated process provides an opportunity for the new set of AICHR representatives to revise the commission's constitutive document. AICHR representatives may also want to leave a legacy by attempting to rectify the shortcomings of the AHRD, in particular its failure to provide human rights protection consistent with international human rights law and standards. They can also heed civil society's long standing call for meaningful participation in AICHR's work and open access to its reports and consultations.

Any review of the AICHR TOR will begin from activities proposed in its Five Year Work Plan.¹ But by the end of 2013, most of the tasks have yet to be completed, including those yet to be started. These include thematic studies on corporate social responsibility, peace, migration and maternal mortality. Meanwhile, there was hardly any progress in AICHR's conversation with regional stakeholders, especially with ACWC, national human rights institutions (NHRI), and civil society organizations (CSOs). Throughout its first five years, AICHR appears trapped in a long process of establishing mechanisms to engage these stakeholders as well as in trying to address some principled and practical housekeeping issues.

2.1 AICHR Composition: New Roster, Old Practice Continued

In line with the AICHR's TOR, each of the 10 ASEAN member states has one representative, each with a three-year term renewable for an additional term, and subject to the wishes of the member state.² In 2013, five AICHR representatives were granted a second term: Brunei, Indonesia, Malaysia, and the Philippines. Meanwhile the governments of Cambodia, Laos PDR, Myanmar, Singapore, Thailand and Vietnam appointed new representatives.³ Notably, Brunei Darussalam, Cambodia, and Vietnam replaced their representatives in the middle of their terms without any official explanation.⁴

1 The Work Plan consists of 14 areas reflecting the AICHR's mandate as provided in the AICHR TOR. See Five-Year Work Plan of The ASEAN Intergovernmental Commission on Human Rights (2010 – 2015), available at: <http://hrrca.org/system/files/AICHR%20Five-Year%20Work%20Plan%202012-2015.pdf>.

2 Art. 5.5, AICHR TOR, available at:

3 See AICHR Press Release: "The Appointment of New Representatives of Lao PDR, Thailand and Viet Nam and the Re-appointment of Representatives to the ASEAN Intergovernmental Commission on Human Rights (AICHR)", available at: <http://aichr.org/news/the-appointment-of-new-representatives-of-lao-pdr-thailand-and-viet-nam-and-the-re-appointment-of-representatives-to-the-asean-intergovernmental-commission-on-human-rights-aichr/#sthash.CLYS2a4I.dpuf>

4 See FORUM-ASIA and SAPA TFAHR, *Still Window Dressing: A Performance Report on the Third Year of the AICHR 2011-2012*, (pages 4-5).

Four Years On and Still Treading Water

The current roster of AICHR does not invite much optimism, as the selection process remained mostly in the hands of governments, with the notable exceptions of Indonesia and Thailand. Closed appointment processes ensure that representatives strictly work for the interests of their respective governments rather than as independent experts dedicated to human rights. However, AICHR is still predominantly composed of career government officials, with no specific experience or expertise on the fields of human rights. (See Annex 14)

Also worth noting is the presence of more women in the current roster, from the Philippines, Singapore, and Vietnam. However, we have yet to see if such presence would result in the mainstreaming of women's human rights perspectives. The AICHR TOR clearly provides that in the appointment of AICHR representatives "ASEAN Member States shall give due consideration to gender equality, integrity and competence in the field of human rights" (article 5.3).

The TOR also strongly encourages ASEAN member states to consult stakeholders when appointing their representatives to the AICHR (article 5.4). Regrettably, only Indonesia and Thailand complied with this option, conducting public consultations in the appointment of their AICHR representatives.⁵ The foreign ministry of Indonesia even encouraged and accepted public nominations letters. Both governments created selection committees composed of stakeholders from the academe, civil society, their national human rights institution and the media to oversee the process.

In a non-paper, the Office of the High Commissioner on Human Rights (OHCHR) recommended that regional human rights organizations adopt and implement a minimum set of standards detailed in the table below. When set against these standards, it is apparent that both AICHR and ACWC suffer from serious fundamental defects, including:

- Their nature as "consultative bodies";
- The non-interference principle within their TORs;
- The lack of independence of representatives, both with regard to the process of appointment (including lack of consultations with CSOs) and as to their powers as AICHR/ACWC members; and
- The absence of a dedicated secretariat, consisting of competent, impartial and independent members (See Table. 2).

5 Ministry of Foreign Affairs of the Kingdom of Thailand Press Releases: "Thailand appoints Representative to AICHR", available at: <http://www.mfa.go.th/main/en/media-center/14/32508-Thailand-appoints-Representative-to-AICHR.html>

Table 1. Minimum Standard on Composition and Support for a Regional Human Rights Body⁶

Composition and Support	The regional mechanism shall be composed of members who are independent from government, and are impartial persons of integrity with a recognised competence in the field of human rights;
	Members shall be nominated by each State Party following a fair and transparent selection process at the national level which includes close consultation with civil society, non-governmental organizations, and national human rights institutions (if applicable);
	If a member is alleged to be engaged in actions that are incompatible with service on the regional mechanism, at first instance the matter shall be decided by the mechanism itself and, in the second instance, by the Foreign Ministers Meeting;
	Membership of the mechanism will reflect representation of geographical areas and shall aim to achieve gender balance;
	Members shall be elected for a single, non-renewable term of five years. They shall be accorded necessary privileges and immunities by the States Parties in order to conduct their work;
	States Parties shall provide the mechanism with adequate resources, and the authority to use these resources freely and independently, to properly fulfill its mandate. In this regard, the work of the members shall be supported by a secretariat, with professional administrative staff appointed according to <i>criteria of competence, impartiality and independence</i> .

Budget of AICHR - Greater External Funding Support

Comparing the two main human rights institutions in ASEAN, the TOR of AICHR currently provides better security of fund sources than the ACWC. AICHR's TOR explicitly states that ASEAN member-states must contribute to its budget on an equal sharing basis, while the ACWC TOR only provides for cost-sharing and voluntary contributions from ASEAN member states.

In practice, AICHR, both as a body and through initiatives of individual representatives, have also been tapping other funding sources from donors and international organizations when needs and opportunities arise. The AICHR TOR (article 8.6) limits funding and other resources from non-ASEAN member states are to human rights promotion, capacity building and education.

In December 2013, AICHR's Regional Workshop on the Millennium Development

6 Source: OHCHR (nd). "Principles for Regional Human Rights Mechanisms", available at: <http://bangkok.ohchr.org/programme/asean/principles-regional-human-rights-mechanisms.aspx>

Four Years On and Still Treading Water

Goals Post-2015 and Human Rights was supported by the Regional EU-ASEAN Dialogue Instrument (READI).⁷ A month earlier, READI facilitated AICHR's training course on human rights⁸.

In November 2013, AICHR Indonesia held the Second Jakarta Human Rights Dialogue (JHRD), supported by the German and Swiss embassies in Jakarta, the regional office of the United Nations Office of the High Commissioner for Human Rights Regional Office (OHCHR), and the Geneva-based international human rights organization, the Association on the Prevention of Torture (APT).

Information about the Commission's financial status and its budget are inaccessible to the public, even though the body is a public institution and member states' contributions are in principle taxpayers' money. However, the main concern in assessing the impact of the increasing funding of AICHR is the extent to which it actually serves to promote and protect human rights on the ground and address human rights issues of importance.

Limited Secretariat Support

As of the end of 2013, the AICHR still does not have its own office within the ASEAN Secretariat. Secretariat support for AICHR is housed under the Community Affairs Development Directorate, which in turn is under the Corporate and Community Affairs Department of the ASEAN Secretariat. The report identified only three persons within that unit whose work includes support for AICHR. These persons report and are accountable to the Directorate, and not to AICHR. In effect, AICHR does not really have any staff it fully supervises to plan and conduct its budgeting and activities.

Meanwhile, individual AICHR representatives are typically supported by their respective country's foreign ministries. In Indonesia for example, the AICHR representative is supported by the Directorate General of ASEAN Cooperation. However, institutional support at the national level is not standardised and not always formalised across the 10 ASEAN countries, making it nearly impossible, and difficult to make comparisons about resourcing and staff support between AICHR representatives.

7 AICHR, Press Release: "AICHR Regional Workshop on Millennium Development Goals Post 2015 and Human Rights", available at <http://aichr.org/news/aichr-regional-workshop-on-millennium-development-goals-post-2015-and-human-rights/#sthash.i7mq2kH7.dpuf>

8 AICHR, Press Release: "AICHR Advanced Programme on Human Rights: Training of the Trainers", available at: <http://aichr.org/news/aichr-advanced-programme-on-human-rights-training-of-the-trainers/>

2.2 Implementation of the Mandate and Work Plan of AICHR

It is difficult to pinpoint a significant highlight in the work of AICHR in 2013, since many of its activities in 2013 were carried over from previous years, and would continue beyond the end of the year. Outstanding issues such as AICHR's relationship with ACWC and CSOs also remain unresolved. Two key issues in AICHR's work in 2013 - the review of AICHR's Terms of Reference (TOR) and drafting of procedures for civil society participation - extended into 2014 and possibly beyond.

Review of AICHR's Terms of Reference

The AICHR's TOR mandates a review every five years. Even during its drafting in 2008 by the High Level Panel on an ASEAN Human Rights Body, civil society groups, including the SAPA Task Force on ASEAN and Human Rights (SAPA TFAHR), formally submitted proposals to ensure that the TOR would provide for a strong, effective and independent body able to promote and protect human rights in ASEAN consistent with international human rights law and standards.⁹ However, the HLP produced a TOR that has limited the AICHR mandate by including several restrictions that have impaired the body's capability to function independently and effectively.¹⁰

The availability of official information about the review of TOR is limited. The AICHR's website contains only two articles about the TOR review. One concrete initiative was the effort led by Thailand's Representative to AICHR, Dr. Seree Nonthasoot who initiated an informal public discussion on this subject in November 2013.¹¹ The other article refers to a letter from Indonesia's Foreign Affairs Minister indicating that AICHR endorse a series of studies to review the AICHR's TOR in 2014. He added that he considers the Human Rights Dialogue between the Indonesian government and AICHR as an Indonesian initiative that can strengthen the mandate of the AICHR.¹²

Because of the paucity of information, it is still unclear how ASEAN would undertake the process, much less on whether the review will lead to an amendment or improvement to the TOR.

-
- 9 "Press Release by the chair of the High Level Panel (HLP) on an ASEAN Human Rights Body (AHRB) at the Conclusion of the 3rd Meeting of the HLP on the AHRB, 12 September 2008, Manila", available at <http://www.aseansec.org/wp-content/uploads/2013/07/PR-HLP-3.pdf> ; Also see "High Level Panel conducts second civil society consultation", available at: <http://www.aseanhrmech.org/news/high-level-panel-conducts-consultation.htm>
- 10 FORUM-ASIA and SAPA TFAHR, *Hiding Behind Its Limits: A Performance Report on the first year of the AICHR 2009-2010*, page 2 – 7.
- 11 AICHR, News: "Meeting with Representatives from the Thai Civil Society Organizations (CSOs) organized by the Ministry of Foreign Affairs of the Kingdom of Thailand", available at: <http://aichr.org/report/meeting-with-representatives-from-the-thai-civil-society-organisations-csos-organised-by-the-ministry-of-foreign-affairs-of-the-kingdom-of-thailand/>
- 12 Indonesia Ministry of Foreign Affairs, "Reply Letter From Indonesia MFA on Review of AICHR's TOR", available at: <http://www.hrwg.org/scope-of-works/asean/aichr/item/242-reply-letter-from-indonesia-mfa-on-review-aichr-s-tor>

Guidelines on Engagement with CSOs

Since its establishment in 2009, AICHR's formal interaction with CSOs in the region has been very limited. The body continues to cite the absence of guidelines as a reason to dodge engagement. For example, AICHR chairperson and Brunei's representative, Pehin Dato Dr Awang Haji Ahmad Haji Jumat, declined FORUM-ASIA's request for a meeting, stating in his letter that the Commission *"is in the process of developing the guidelines for engagement with civil society organizations."*¹³ He added that the Commission has to wait for the completion and approval of the guidelines before accepting such requests.

The task of drafting the AICHR's guidelines was the responsibility of the former Thai representative, Dr Sriprapha Petcharamesree. However, the draft was not finalized within her term. Her successor, Dr Seree Nonthasoot circulated the November 2012 draft of "Guidelines on Relations with Civil Society Organizations" in Thai language.¹⁴

During its special meeting in Makati, Philippines in December 2013, AICHR had a preliminary discussion on the draft.¹⁵ However, as of this writing, the draft guidelines have not been shared officially for public consultation, and nor has AICHR announced a plan and timeline on moving this discussion forward into the public realm. A guarantee for an institutionalized and inclusive platform for CSOs engagement with AICHR may then have to wait, even in the course of the TOR review in 2014.

13 Reply letter of the chair of the AICHR to FORUM-ASIA (dated 16 September 2013), emailed document.

14 AICHR, News: "A Consultation between Representative of Thailand to the AICHR and Representatives from CSOs on 'the Draft Guidelines of the AICHR's Relations with CSOs'", available at: <http://aichr.org/news/a-consultation-between-representative-of-thailand-to-the-aichr-and-representatives-from-csos-on-the-draft-guidelines-of-the-aichrs-relations-with-csos/>

15 AICHR, News: "Special Meeting of the ASEAN Intergovernmental Commission on Human Rights (AICHR)", available at: <http://aichr.org/news/special-meeting-of-the-asean-intergovernmental-commission-on-human-rights-aichr-2/>, November 2013



Launching of Civil Society Report - "Corporate Accountability in ASEAN: A Human Rights-Based Approach" in the 6th Regional Consultation on ASEAN and Human Rights, organized by FORUM-ASIA in Jakarta (October 2013) – source KontraS

Thematic Studies

Under its five-year Work Plan, the Commission is supposed to produce thematic studies on corporate social responsibility (CSR), migration, and peace, led by Singapore, Indonesia and the Lao PDR, respectively. The discussions and work on these studies started in 2011. But by the end of 2013, AICHR failed to complete any of these studies nor published any draft. The TORs for these studies have also been kept from the public, making it difficult for CSOs to engage the process or providing their own substantive inputs.

The press release from AICHR's 11th meeting in February 2013 contained only a vague update on this thematic study, merely saying that the Commission had discussed "*progress of the thematic studies in Corporate Social Responsibility (CSR) and Human Rights, and Migration and Human Rights*".¹⁶

¹⁶ AICHR, "Press Release of the 11th Meeting of the ASEAN Intergovernmental Commission on Human Rights (AICHR)", available at <http://aichr.org/press-release/press-release-of-the-11th-meeting-of-the-asean-intergovernmental-commission-on-human-rights-aichr/>

Table 2 : Status of Thematic Studies of AICHR as of December 2013

Thematic Studies	Latest Status
Corporate Social Responsibility and Human Rights in ASEAN (led by Singapore)	Initial findings – presented in the Regional Workshop and Consultation on Business and Human Rights in ASEAN (Singapore, 11-12 December 2012), organized by the Philippines Representative to the AICHR.
Migration (led by Indonesia)	<ul style="list-style-type: none"> - Concept paper and budget approved by the AICHR at its 9th Meeting (Bangkok, 6-10 May 2012) - Thailand Representative conducted a consultation on ‘the AICHR’s Thematic Study on Migration’ (Bangkok, 17 October 2013) - Thailand Representative appointed Ms. Nussara Meesen as the researcher for Thailand’s national report on migration
Peace (led by Lao PDR)	Preparatory Regional Workshop on the Right to Peace (Vientiane, 2 October 2012)

On the other hand, at least two organizations have taken the initiative to contribute to the thematic study on the issue of business and human rights in ASEAN. FORUM-ASIA submitted the report “Corporate Accountability in ASEAN: A Human Rights-Based Approach”¹⁷ to AICHR in October 2013, which calls for greater corporate accountability in the region, with a regulatory framework based on international human rights norms and standards. A think tank organization, Human Rights Resource Centre (HRRCC) also published a report, “Business and Human Rights in ASEAN: A Baseline Studies” in April 2013.¹⁸

There seems to have been little progress in the work on the AICHR thematic study on migration since the last update about its first roundtable discussion on the thematic study in November 2012. The plan was for a focal point from each member to submit a national report, which then be compiled and consolidated into a single output. At the moment, only the Thai Representative to the AICHR is known to have held a national consultation on 17 October 2013,¹⁹ attended by independent experts, government representatives, particularly from the Ministry of Labour, the Office of the National Security Council and the Immigration Bureau, academics and Thai CSOs.

17 FORUM_ASIA, *Corporate Accountability in ASEAN : A Human Rights-Based Approach*, This report is available online, link: <http://www.forum-asia.org/uploads/publications/2013/September/Corporate-Accountability-ASEAN-FINAL.pdf>

18 See: HRRCA, *Business and Human Rights in ASEAN: A Baseline Studies*, available at <http://hrrca.org/data/business-and-human-rights-asean-baseline-study>

19 AICHR, News: “A Consultation on ‘the AICHR’s Thematic Study on Migration’”, available at <http://aichr.org/news/a-consultation-on-the-aichrs-thematic-study-on-migration/>

Meanwhile, the last known activity on the thematic study on the right to peace was reported in October 2012 about a regional preparatory workshop in October 2012. Since no draft of any of these studies has been released, it is unclear what shape these will take, and most importantly how findings would be consistent with international human rights law and standards. Recommendations from these thematic studies should address key human rights situations in ASEAN region, such as the impact of business on human rights (in the case of the CSR study); the rights of migrant workers, both regular and irregular, and refugees (in the case of the migration study); and how conflicts affect the rights of people living in conflict areas (in the case of the right to peace study). Studies must not remain as purely academic exercises. The very slow pace at which the studies are carried out also needs to be immediately addressed.

Public Awareness on Human Rights: An indication of progress

AICHR most palpable accomplishments in 2013 are on its mandate of promoting public awareness of human rights, under article 4.3 of their TOR. The Commission conducted the following regional workshops listed in Table 3.

Table 3 : AICHR's Activities on Raising Public Awareness on Human Rights in 2013

Title	Date/ Venue	Output(s)
ASEAN Youth Debates on Human Rights (See Annex 25)	4 – 5 April 2013/ Manila	Aimed to raise greater awareness and appreciation of human rights, as well as to promote solidarity among the students and youth of ASEAN
Book Launch and Panel Discussion on the ASEAN Human Rights Declaration and the ASEAN Community Building (See Annex 33)	23 August 2013/ Jakarta	Translation of the AHRD into national languages of ASEAN Member States
AICHR Advanced Programme on Human Rights: Training of the Trainers (See Annex 39)	16 – 20 November 2013/ Vientiane	Training particularly focused on Criminal Justice and Human Rights issues

Four Years On and Still Treading Water

Title	Date/ Venue	Output(s)
Regional Workshop on the Human Rights-Based Approach to Combat Trafficking in Persons, Especially Women and Children (See Annex 46)	27 – 28 November 2013/ Makati City	Key recommendations included, among others: <ul style="list-style-type: none"> • Implementation of regional capacity-building programs and training of trainers on the human rights-based approach to combat trafficking in persons, in collaboration with international organizations and civil society; • Institutionalizing coordination and collaboration between AICHR and relevant ASEAN sectoral bodies, such as the ACWC and the ASEAN Senior Officials on Transnational Crime (SOMTC) on promoting the human rights-based approach to combat trafficking.
Regional Training Program on Promoting Access to Justice and Human Rights (See Annex 18)	3-6 December 2012/ Bangkok	Aimed to provide participants with an understanding of the concepts of access to justice and human rights, and administration of justice in ASEAN Member States
AICHR Regional Workshop on Millennium Development Goals Post 2015 and Human Rights, 19 December 2013 (See Annex 49)	11 – 12 December 2013/ Jakarta	Conclusions and recommendations included: <ul style="list-style-type: none"> • Encourage the AICHR to further engage in discussion with the relevant ASEAN Sectoral bodies regarding the existing ASEAN Roadmap on the attainment of MDG's till 2015, as well as commitment to participate in the global process in formulating the human rights principles and framework in the post 2015 development agenda. • Inclusion of a Human Rights based approach into the existing ASEAN Roadmap in the attainment of MDG's 2015 and post MDG's 2015.
AICHR Advanced Training Program on Human Rights: Training of the Trainers (See Annex 19)	13-18 December/ Bangkok	Aimed to strengthen human rights trainers, advocates and practitioners' knowledge, skills and tools required for advancing human rights in ASEAN.

Staying Silent on Human Rights Violations

Perhaps the most disappointing record of AICHR is its total silence on key incidents of human rights violations in region, failing a basic test of its integrity as a human rights body. In 2013, some petitions that were sent to AICHR were crafted in the context of domestic remedies being exhausted.

AICHR did not issue any public response to urgent calls from CSOs and ASEAN dialogue partners to surface the disappearance of a prominent activist from Lao PDR, Sombath Somphone in December 2012.²⁰

In July 2013, the Jakarta-based Legal Aid Centre for the Press (LBH PERS) requested AICHR to urge the government of Indonesia to exercise due diligence in handling the 1996 murder of journalist Fuad Muhammad Syafruddin (See Annex 6). The LBH PERS petition was based on information indicating irregularities in the investigation, including mishandling of evidence and in the process of obtaining testimonies; the government's insistence on pursuing illogical theories, which resulted in wrongful accusations; the arrest of an innocent taxi driver; and allegations of bribery among the authorities. AICHR also remained silent on the case.

AICHR had the same response to the December 2013 request of the Makassar Legal Aid Institute (LBH Makassar) to urge the Indonesian government to extend protection for the Ahmadiyya Muslim Community in South Sulawesi, following the violent incidents which targeted the religious minority community.²¹

20 See Annexes 1, 2, 3, 4 and 5.

21 See Annex 9 "Request for an urgent appeal concerning the assault on Ahmadiyya Muslim Community in South Sulawesi." Petition submitted to AICHR by LBH Makasar and Ahmadiyya Muslim Community South Sulawesi (23 December 2013).

Table 4 : Minimum Standard on Communications for a Regional Human Rights Body²²

Communications	Receives, investigates , analyses and decides on communications from any person, group of persons or non-governmental organisation alleging human rights violation(s) by a State Party;
	The communication must show that the victim has exhausted all means of remedying the situation at the national level.
	In the course of an investigation, the mechanism shall have the power to obtain all necessary information
	Recommendations shall be made in the form of specific findings to the State Party concerned and the recommendation of appropriate remedies;
	A secretariat shall be established to follow up on information pertaining to compliance and implementation of remedies and recommendations of the mechanism;
	Protection for complainants, witnesses, those conducting the investigation and others involved in investigations
	The mechanism may request that the State Party concerned adopt specific precautionary measures to prevent irreparable harm to persons;
	Any State Party may send a communication to the regional human rights mechanism alleging that another State Party has committed a violation of human rights.

The minimum standard for a regional human rights body developed by the OHCHR states that such body should be able to receive and address allegations of human rights violations (see Table 4). AICHR does not have a clear protection mandate, which is in stark contrast with other regional human rights bodies, like the Inter-American system that allows individuals and groups to complain before the Inter-American Commission on Human Rights (IACHR) Box 1 below.

²² Source: OHCHR (nd). "Principles for Regional Human Rights Mechanisms." URL: <http://bangkok.ohchr.org/programme/asean/principles-regional-human-rights-mechanisms.aspx>

Box 1**IACHR: When national remedies are deemed to have been exhausted²³**

As in any regional and international grievance mechanism, the Inter-American Convention on Human Rights requires that petitioners to the IACHR ensure that they exhaust domestic remedies first before filing a case in front of the human rights body. However, the Convention recognizes that there are instances when addressing national remedies is bound to fail and may even aggravate a human rights violation. As Article 46 of the Convention states, victims need not pursue national remedies when:

- a. *the domestic legislation of the state concerned does not afford due process of law for the protection of the right or rights that have allegedly been violated;*
- b. *the party alleging violation of his rights has been denied access to the remedies under domestic law or has been vented from exhausting them; or*
- c. *there has been unwarranted delay in rendering a final judgment under the aforementioned remedies.*

The inadequate protection mandate is further weakened by the principle of non-interference, which has served as an easy way out for representatives whenever confronted with human rights issues in their respective states. Similarly, ASEAN's principle of consensus tends to lead to stonewalling and unexplained decisions, since it only takes one member to block a decision.

Nevertheless, since there are many possibilities that can explain AICHR's failure to substantively respond to communications, it could at least provide an official acknowledgment that they received these communications.

In sum, AICHR's continued silence in 2013 on actual human rights violations in the region is being merely consistent with its non-response to the more serious violations in previous years.²⁴

23 *American Convention on Human Rights*, Article 46. ("Pact of San Jose") Document is available at: <http://www.refworld.org/docid/3ae6b36510.html>

24 See: "Still Window Dressing: A Performance Report on the Third Year of the AICHR 2011-2012" by FORUM-ASIA and SAPA TFAHR, pp. 49.

Chapter 3 : **ACWC**

The ASEAN Commission for the Promotion and Protection of the Rights of Women and Children (ACWC) capped 2013 with the finalization and adoption of the Declaration on the Elimination of Violence Against Women and Elimination of Violence Against Children, that broadens and strengthens the substance of similar declarations in the past. The Declaration sets out concrete measures to be undertaken by ASEAN and its member states to strengthen protection of women and children from various forms of violence. The ACWC conducted national consultations that were relatively more accessible to CSOs, compared with the AHRD drafting process of the AICHR.²⁵

The process of drafting the Declaration reignited lingering issues on the institutional relationship between ACWC and AICHR. While ACWC was drafting the Declaration, AICHR was aiming to develop another instrument on practically the same topic. At one point, AICHR even requested the AMMSWD through the AMM to suspend the drafting process, insisting that consultations must be expanded.²⁶

This example highlights concerns about how the two bodies relate to each other, which must be addressed by the review of their respective TORs in 2014 AND 2015. The revised TOR must reflect a clearer relationship framework on how the two bodies work together on common issues in the long run, including their work with stakeholders ranging from other ASEAN bodies to national human rights institutions, international and regional institutions and civil society.

3.1 Institution Building of the ACWC

ACWC's establishment was envisioned even before the ASEAN Charter was adopted in 2008, with the Vientiane Action Program 2004-2010. However, the ACWC was only formally established during the 16th ASEAN Summit in Vietnam in 2010.²⁷ With all ASEAN member states ratifying both the Convention on the

25 AICHR, "Seventh Press Release of the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children", available at <http://www.asean.org/news/asean-secretariat-news/item/seventh-press-release-of-the-asean-commission-on-the-promotion-and-protection-of-the-rights-of-women-and-children-acwc>

26 Kalyanamitra (2013), "The Role of the ASEAN Human Rights Mechanism in the Elimination of Violence against Women", available at: <http://www.kalyanamitra.or.id/en/2013/09/the-role-of-the-asean-human-rights-mechanism-in-elimination-of-violence-against-women/>

27 Article 2.1 of the TOR of ACWC, available at: <http://www.asean.org/resources/publications/asean-publications/item/the-asean-commission-on-the-promotion-and-protection-of-the-rights-of-women-and-children-acwc-work-plan-2012-2016-and-rules-of-procedures-rop>

Four Years On and Still Treading Water

Elimination of All Forms of Discrimination Against Women (CEDAW) and Convention on the Rights of the Child (CRC), the ACWC has a clearer mandate and framework.

The mandate and functions of ACWC include assisting member states' compliance with international and ASEAN instruments related to the rights of women and children; encouraging governments to conduct periodic reviews of national legislations, regulations and policies affecting women and children; capacity building of relevant stakeholders at all levels and enabling the participation of women and children in dialogues and consultations; conducting and sharing relevant research, and advocating on behalf of women and children²⁸.

ACWC is further guided by a work plan, adopted in 2012, that has 18 thematic areas and 23 specific activities which were informed by "relevance, the impact, and meaningful contribution to the promotion and protection of the rights of women and children in the region."²⁹ The work plan includes fund-raising to strengthen ACWC institutionally, conducting studies and campaigns on VAW and VAC, assessing service delivery for women and children with disabilities, developing guidelines on gender equality in education, conducting a study on women's economic rights, and conducting a high-level consultation on women migrant workers.³⁰

ACWC has 20 members, 10 representatives each for children's rights and women's rights, all appointed by member states for a three-year term that may only be renewed once.³¹ For the initial roster of ACWC, one of the two representatives from each Member State is asked to serve four and a half years to ensure continuity.³²

As in the case of AICHR, the TOR provides that ACWC representatives should have the competence to address issues and concerns around rights of women and children. It is worth noting that ACWC's membership during the period covered in this report includes some experienced experts and activists on children's rights and women's rights: two members once sat in the CEDAW Committee and another in the CRC Committee, and at least three had been with CSOs that advocate for children or women's human rights.

28 Chapter 5 of the TOR of ACWC

29 ACWC, "Fifth Press Release of the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children", available at <http://www.asean.org/news/asean-secretariat-news/item/fifth-press-release-of-the-asean-commission-on-the-promotion-and-protection-of-the-rights-of-women-and-children-acwc>

30 *The ACWC Work Plan (2012 – 2016)*, available at: <http://www.asean.org/resources/publications/asean-publications/item/the-asean-commission-on-the-promotion-and-protection-of-the-rights-of-women-and-children-acwc-work-plan-2012-2016-and-rules-of-procedures-rop>

31 Article 6.5 of the TOR of ACWC.

32 Article 6.6 of the TOR of ACWC.

Institutional Gaps

Unlike AICHR, whose funds from member states are secured based on equal mandatory contributions, the ACWC TOR does not contain similar provisions.³³ Some representatives disclosed that while some Member States are ready to provide funds, others are not. Some sources further disclosed that ACWC has proposed to the ASEAN Ministerial Meeting on Social Welfare and Development (AMMSWD) that a system similar to AICHR be adopted. The ACWC also received support from international donors and also technical expertise of some CSOs.

Similar to AICHR, the ACWC does not have a dedicated secretariat. Instead, it is supported only by staff from the Social Welfare, Women, Labour, and Migrant Workers Division of the Socio Cultural Cooperation Directorate under ASEAN Socio-Cultural Community Department. The six support staff for ACWC – twice the number for AICHR – are tasked with coordinating meetings and backstopping the more substantive requirements of representatives.

In September 2013, ACWC held a consultative meeting with CSOs to discuss ways of strengthening the Commission, including the creation and operationalization of a mechanism that would allow external support for ACWC as it implements its mandate. Representatives admitted gaps in their mandates and resources such as secretariat support. Among the issues raised were the need to have a regular dialogue with CSOs and children in national and regional settings, ways to develop communication and networking plans and the development of ACWC's own website.³⁴ Preparations for the review of ACWC's TOR in 2015 were also discussed in this meeting.

Beyond these are the larger issues, particularly ACWC's relationship with AICHR. Since ACWC's creation, it has yet to agree with AICHR on the modalities of cooperation in terms of procedures and substance.

The new set of Chair and Vice Chair 2013 is Datin Paduka Hajah Intan bte Haji Mohd Kassim, Brunei's representative for child rights and Long Sophally, Cambodia's representative for women's human rights. The year 2013 also saw two replacements: Amihan Abueva became the Philippines' representative for children's rights replacing Alicia Bala who assumed the role of Deputy Secretary-General of ASEAN. Hajah Mordiah Jackia was appointed as Brunei Darussalam's new ACWC representative for women's rights, replacing Datin Paduka Hajah Intan bte Haji Mohd Kassim, who took the position as the representative for children's rights.

33 Article 8.3 of the TOR of ACWC.

34 *Summary of outputs of the Consultative Meeting on the ACWC Institutional Strengthening Project* (September 24-25, 2013 Manila, Philippines)

Four Years On and Still Treading Water

Member States, usually through the foreign or social work ministries, appoint their ACWC representatives, but Indonesia, as it practiced in the AICHR, publicly announced an opening for the position and solicited nominations. Since 2012, CSOs have called for extending the call to open the ACWC selection processes in all Member States.³⁵

While there is generally confidence in several ACWC members among CSOs, ACWC has yet to mainstream within its ranks democratic measures that would ensure competence and commitment among the new representatives. Such measures would form the basis for institutional strengthening, prior to initiatives around capacity-building, learning exchanges and thematic studies.

3.2 Implementation of Mandate and Work Plan in 2013

The ACWC undertook a number of activities, including the drafting of the Declaration on VAW and VAC which was adopted by ASEAN leaders during the Summit in October 2013. The body also conducted several regional consultations on issues related to women and children, and conducted a study visit.

Declaration on VAW and VAC

The Declaration on the Elimination of Violence Against Women and the Elimination of Violence Against Children provides for measures including policy reform and practical services, systematic data collection and research, strategies against harmful emerging practices such as those perpetrated through the internet, and other regional responses such as networking.

The decision to draft this Declaration raised questions among CSOs given that ASEAN already had two prior instruments – the Declaration on the Commitments for Children in ASEAN (2001) and a Declaration on the Elimination of VAW (2004). Moreover, they raised concerns about having one instrument for both women and children's rights. As CSOs pointed out: "while the rights of women and children are often interrelated, specific characteristics, vulnerabilities and protection needs that women and children face must be genuinely and distinctively addressed."³⁶ Philippine-based children's rights advocates in particular called for a separate declaration for VAC.³⁷

35 *Recommendations during the 2nd Regional Civil Society Forum to the 5th Meeting of the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC)* in Jakarta, 2-3 July 2012

36 SAPA TFAHR letter to the Chairperson of ACWC, 24 July 2013, available at <http://www.forum-asia.org/?p=16327>

37 National Consultation on a Regional Declaration on the Elimination of Violence against Children, July 10-11, 2013, Philippines.

Although ACWC discussed the proposal to have two separate declarations, one each on VAW and VAC, it went on with its original plan as having two declarations would require two processes, taking up more time and resources.

ACWC reasoned that this Declaration adds value to existing declarations, adopts a life-cycle approach, and covers emerging issues. On its own, the Declaration is more potent than previous ones, mainly because of the existence of the ACWC to oversee its implementation. Previously, ASEAN only had the ASEAN Committee on Women (ACW).

Meanwhile, women's organizations and networks also criticized the Declaration, arguing that its framework on due diligence falls short of international standards. In addition, they pointed out that there is no explicit mention of sexual harassment as a form of VAW, nor is there mention of certain groups who encounter violence, including sexual minorities, and of violence due to land grabbing, forced eviction and environmental degradation.³⁸

The Declaration also contained the controversial phrase from the AHRD and the ASEAN Charter: "taking into consideration the different historical, political, socio-cultural, religious and economic contexts in the region" that reflects cultural relativism and may be used to reduce human rights protections.³⁹ However, not least because of CSO lobbying, the Declaration calls for the "elimination of prejudices and customary and all other practices which are based on the idea of inferiority or the superiority of either of the sexes or on stereotyped roles for men and women," thus eliminating any "context" that may be used to justify any type of violence.

It is also worth noting that the Declaration avoided the principles "balancing rights and duty" and "public morality" found in the AHRD, which fundamentally allows limitation of rights, and received significant criticism.

ACWC shared an early "zero draft" of the Declaration – with civil society in 2012, and another one in April 2013. However, it did not hold any regional consultations nor dialogues at the sidelines of its meetings as the document was drafted in 2013. The Women's Caucus, for instance, unsuccessfully requested a dialogue during ACWC's 7th meeting. Instead, ACWC opted for national consultations, which only took place in Indonesia, Philippines, Thailand and Vietnam. The ACWC did not share the near-final version despite formal requests by several groups.

38 Southeast Asia Women's Caucus on the ASEAN, *A Look at ASEAN Declaration on Violence Against Women and Violence Against Children*, available at <http://womenscaucusonasean.wordpress.com/2014/02/05/a-look-at-asean-declaration-on-violence-against-women-and-violence-against-children/>

39 *Declaration on the Elimination of Violence Against Women and Elimination of Violence Against Children in ASEAN*, para 7, available at: http://www.ohchr.org/Documents/Issues/Women/WG/ASEANdeclarationVaW_violenceagainstchildren.pdf

Four Years On and Still Treading Water

While ACWC was bold in pursuing the Declaration, such boldness is not reflected in pursuing proactive policies, such as field research, that would assist Member States in complying with CEDAW and CRC, and ensuring that the Declaration's framework on due diligence is indeed at par with international human rights standards.

Sharing and Mainstreaming Good Practices

ACWC held two back-to-back regional workshops on the convergence of CEDAW and CRC. The "Regional Workshop on Promoting the Right to Nationality for Women and Children in the Implementation of CEDAW and CRC in ASEAN" was sponsored by the UN High Commission on Refugees. The second one was the "Regional Workshop on Promoting the Rights of ASEAN Women and Children through Effective Implementation of the Common Issues in CEDAW and CRC Concluding Observations with Focus on Girl Child" which was supported by Vietnam's Ministry of Labour, Invalids and Social Affairs (MOLISA) and the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) in Da Nang, Viet Nam.

Table 5 : Regional Consultations/ Workshops of ACWC in 2013

Title	Date/ Venue	Output(s)
Expert meeting to develop a study framework on the economic rights of women to land and property	Jakarta, Indonesia (23 July 2013)	Study framework on Women's Economic Rights to Land and Property
Regional Workshop on Promoting the Right to Nationality for Women and Children in the Implementation of CEDAW and CRC in ASEAN	Da Nang, Vietnam (19 August 2013)	Commitment to develop partnerships with UN agencies, NHRIs and CSO in strengthening the implementation of CEDAW and CRC in the region
Regional Workshop on Promoting the Rights of ASEAN Women and Children through Effective Implementation of the Common Issues in CEDAW and CRC Concluding Observations with Focus on the Girl Child	Da Nang, Vietnam (20 – 22 August 2013)	

Both activities could potentially equip the ACWC and CSOs with an updated understanding on these issues and in turn help ACWC to assist Member States in their own appreciation of these otherwise thorny issues, hopefully leading to improved compliance with CEDAW and CRC in these fields.



Civil Society participating in the ACWC Regional Workshop on Promoting the Rights of ASEAN Women and Children through Effective Implementation of the Common Issues in CEDAW and CRC Concluding Observations with Focus on the Girl Child (Da Nang, Vietnam – August 2013) – source CRC Asia

The workshops enabled member states to discuss where they stood in implementing the concluding observations of CEDAW and CRC, share good practices in eliminating VAW and VAC, and strategies in strengthening inter-agency and multi-stakeholder collaboration. One commitment made at the end of the workshop was ACWC's promise to develop partnerships with UN agencies, national human rights institutions and CSOs in strengthening the implementation of CEDAW and CRC in the region. ACWC also held an expert meeting to develop a study framework on the economic rights of women to land and property in July 2013 in Jakarta, with women's rights activists in attendance.

Much earlier in February 2013, a delegation of ACWC representatives travelled to Brussels to visit the headquarters of the European Union to "explore areas of mutual interest".⁴⁰ ACWC also followed up the result of its previous study tour, which focused on the delivery of social work as it prepared for the establishment of a Network of Social Service Agencies (NOSSA) to assist women and children who have endured and survived violence. As an output, a conference of social service agencies is planned for April 2014 in Singapore.

Ideally, a national, regional, or international human rights institution should share information on its activities with the public. Dissemination of information increases

⁴⁰ "ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) concludes successful visit to the EU", available at: <http://www.asean.org/news/asean-secretariat-news/item/asean-commission-on-the-promotion-and-protection-of-the-rights-of-women-and-children-acwc-concludes-successful-visit-to-the-eu>

Four Years On and Still Treading Water

the public's human rights awareness (see Box 2) and ensures transparency, thus increasing public trust in the institution. Neither the ACWC nor the AICHR have ever released any of their annual reports to the public.

Box 2 **Public Reporting by the European Court**

Even with the abolition of European Commission on Human Rights in 1998, the European Court of Human Rights has made it a practice to publish an annual report on its implementation of the European Convention on Human Rights and Fundamental Freedoms.

The annual report features the Court's cases and their status as well as operational issues such as budget and expenditures. The report is publicly available through the Court's website, <http://www.echr.coe.int>

Through its Protocol 11, the Convention has come under the auspices of the Court and the Council of Europe.

Sources: The annual reports since 2001 can be accessed on this page: http://www.echr.coe.int/Pages/home.aspx?fullp=echrpublications&c=#newComponent_1345118680892_pointer

The full text on Protocol 11 can be downloaded from <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=155&CM=7&DF=09/05/2014&CL=ENG>

Chapter 4:
RELATIONSHIP BETWEEN AICHR and ACWC
and THEIR ENGAGEMENT with OTHER
STAKEHOLDERS

Confidence building and community building are still major challenges in ASEAN's human rights bodies. Both AICHR and ACWC have yet to institutionally address the issues around alignment and cooperation. Meanwhile, civil society continues to struggle in asserting their stake in the work of these bodies.

4.1 Alignment between AICHR and ACWC

AICHR's TOR explicitly states that it is the "overarching" human rights body in ASEAN. This provision has been interpreted by some to mean that AICHR is the leading human rights body, in particular in standard setting. However, the TOR also says that AICHR "shall work with all ASEAN sectoral bodies dealing with human rights to expeditiously determine the modalities for their ultimate alignment with the AICHR."⁴¹ Similarly, Article 7.7 of the TOR of ACWC provides that "*The ACWC shall coordinate with AICHR and other relevant ASEAN sectoral bodies dealing with issues pertaining to women and children including consultations on the ultimate alignment between the ACWC and the AICHR as the overarching human rights institution in ASEAN.*"

Even as the ASEAN Charter itself provides for the establishment of a "human rights body," which was the basis for the creation of AICHR, the Commission has failed to show leadership in advocating adherence to universal human rights principles, as reflected in the region's foundational human rights document. Neither was AICHR proactive in engaging with the ASEAN community in general and with CSOs in particular.

Moreover, AICHR has not been proactive in conducting dialogue with ACWC and other relevant ASEAN bodies towards institutionalizing modalities for working together. With its solid institutional standing and steady resources, AICHR is in a better position to reach out to ACWC and other bodies. Doing so could even have raised AICHR's credibility and respect within the ASEAN structure.

Certainly the absence of a modality that enhances complementarity results in ACWC and AICHR working in silos. While the former pursued the finalization of the Declaration, the latter set its sights on a convention.

41 Article 6.9, TOR of AICHR

Box 3
Alignment and Cooperation in ASEAN

Alignment is not something new in regional human rights bodies and their branches. Three times a year, the Inter-American Commission on Human Rights holds a dialogue with the Inter-American Court. In 2009, the two bodies developed a set of Rules of Procedures (ROP). Moreover, the process that led to this ROP involved soliciting opinion from civil society.

Alignment can be substantive, procedural or both. Substantive alignment deals with issues such as work plans, programs and activities based on the mandates of the respective human rights bodies. This included sharing information, having a space for regular dialogues and where appropriate issuing joint statements.

Procedural alignment relates to the rules of procedures or operating guidelines, which can, for instance, lead to standardized reporting. There is also a practical value in coordinating even common activities as this can potentially conserve ASEAN's budget.

As the non-paper explained, "Premised on the principles of equality among the human rights bodies, the most conducive modalities and common guidelines towards effective fulfilment of AICHR's overarching role as a leader among equals depends on open and continuous dialogue with and among the participating bodies".

Source: *Outcome Document on Expert Meeting on Effective Alignment among Human Rights Institutions and Mechanisms* (Convened by the Indonesian Representatives to AICHR and ACWC, and National Commission on Violence Against Women of Indonesia (Komnas Perempuan)).

The experience in the drafting processes of both the AHRD and the Declaration on EAW and VAC underlines the need for a serious discussion and clarity on alignment between AICHR and ACWC as well as other bodies that deal with human rights in ASEAN.

4.2 Relationship with National Human Rights Institutions

AICHR's article 4.9 stated that this body has mandate "to consult, as maybe appropriate, with other national, regional, and international institutions and entities concern with the promotion and protection of human rights". The term "as maybe appropriate" suggests a diminution of contributions of NHRIs, which are present in five ASEAN countries. In practice, this mandate "to consult" has been barely implemented in the work of the AICHR since the beginning, particularly for NHRIs.

Both AICHR and ACWC have engaged international institutions such as the UN and EU. On the other hand the NHRI's access to AICHR remains irregular and haphazard. In ASEAN region, the NHRIs work together through a network called the Southeast Asia NHRI Forum (SEANF). Members of this network consist of

established national human rights commissions in Indonesia, the Philippines, Thailand, Malaysia, and Myanmar.”⁴²

The SEANF has been “seeking a regular mode of engagement” with AICHR and ACWC. But so far, only the ACWC has expressed interest to institutionalize its relationship with NHRIs. The ACWC expressed this commitment in its Concluding Observations with Focus on Girl Child.⁴³

4.3 The place of CSOs in the ASEAN human rights system

In their engagement with AICHR and ACWC, CSOs share similar situation with the NHRIs. But between the two human rights bodies, AICHR has been less open to CSOs. In fact, it has been selective and arbitrary in its relations with CSOs.

Both AICHR and ACWC could recognize that CSOs – whether they are national, regional and/ or international organizations – have developed distinct human rights expertise and competencies based on actual political, legal and practical experience within the ASEAN region. In the development of ASEAN human rights mechanism, CSOs also have invested their own human and material resources to engage ASEAN, providing substantive interventions and organizing consultations whenever possible.

Both AICHR and ACWC could explore the important role of CSOs, as practiced by the African Commission below. In its work, the African Commission on Human and Peoples Rights welcomes and recognize substantive input from CSOs and stakeholders - for example when they drafted the protocol for the rights of person with disability. The African Commission also set up a committee of experts which work on specific focus or thematic issues on human rights.

42 See: About SEANF at <http://seanf.asia/index.php/about-us>

43 “Regional Workshop on Promoting the Rights of ASEAN Women and Children through Effective Implementation of the Common Issues in CEDAW and CRC – Concluding Observations with Focus on Girl Child”, available at: http://www.asean.org/images/2013/socio_cultural/acwc/Recommendations_Workshop%20on%20CEDAW%20CRC%20Common%20Issues_FINAL.pdf

Box 4

African Commission Casts a Wider Net for Participation

Whenever it is in need of substantive inputs and other resources, the African Commission on Human and Peoples Rights issues a call for submissions from different sectors and experts who could take part in more focused and formal discussions. In the first half of 2014, the Commission has publicly solicited submissions for its draft protocol on the rights of persons with disability. To further facilitate comments, the Commission has posted the draft on its website.

Similarly the Commission has made its call for experts on human rights and HIV, from nationals of the African Union. Once selected, they will be joining the Committee on the Protection of the Rights of People Living with HIV and those at Risk, Vulnerable to and Affected by HIV. The Committee is tasked to undertake fact-finding missions, engage state and non-state actors to ensure the rights of people living with HIV (PLHIV), mainstream a gender perspective especially in policies and practices towards women, children, sex workers, migrants, men who have sex with men, intravenous drug users and prisoners.

Sources: *African Commission on Human and Peoples Rights (2014). "Comments invited to draft protocol on the rights of persons with disability in Africa."* URL: <http://www.achpr.org/news/2014/04/d121>; __ (2014) "Call for nominations for expert members to serve on the Committee on the Protection of the Rights of People Living with HIV and those at Risk, Vulnerable to and Affected by HIV." URL: <http://www.achpr.org/news/2014/04/d128>

As for AICHR, the process for developing the guidelines on engagement with CSOs appears to have stalled, after initial discussions in 2012 indicated that the process would be fast tracked. In reality, guidelines drafting process appears to have been used by AICHR as a smokescreen to avoid engagement with CSOs.

The existence of such guidelines relations with CSOs could have served as a critical indicator of AICHR's accountability to the ASEAN community. At present however, AICHR's Guidelines for Operations only give a limited and arbitrary option to engage with CSOs and other entities: "The AICHR may engage in dialogue and consultation with entities associated with ASEAN, including accredited Civil Society Organisations and other stakeholders, as provided for in Chapter V of the ASEAN Charter, pursuant to Article 4.8 of the AICHR's TOR."⁴⁴

By contrast, ACWC appears to be moving in a better direction, even in simple gestures such as acknowledging formal communications. ACWC has been quite consistent in affirming its openness to CSOs. Indeed, this has produced tangible results for ACWC, as the Declaration drafting process illustrates. Most notably, the ACWC's 5th meeting in July 2012 in Jakarta included a dialogue with children and CSOs as part of the agenda, discussing the initial draft declaration on EVAW and

44 Art. 11.1 of AICHR's Guidelines for Operations

VAC and the AHRD. The dialogue resulted in the marked improvement of the draft declaration in the use of terminologies, and the aspired level of protection and the role of ACWC in its implementation.

The participation of CSOs is also increasingly becoming a regular practice in ACWC's regional workshops. The absence of any guidelines for engagement has not been a barrier to invite CSOs to regional meetings in order to address issues and concerns that they raised. The involvement of CSOs in regional activities is not translated into national consultations in all Member States, for instance in the drafting process of the Declaration.

Nevertheless, there still exists more potential for civil society engagement with the ACWC despite its institutional constraints, given the experience and competence of most of its members and the constant offers of support from CSOs.

Chapter 5: Conclusions & Recommendations

Conclusions

It is clear that AICHR and ACWC have been operating far below the minimum standards for regional human rights bodies set by the OHCHR, and in comparison with practice in other regional human rights systems. There are four main reasons this underperformance of the ASEAN human rights system.

1. Limitations in the Terms of Reference of AICHR and ACWC

The AICHR TOR does not equip this body with a sufficient protection mandate to address human rights violations. For the ACWC, a key problem within its TOR is the absence of sufficient commitment of resources from ASEAN Member States to sustain its work. The review processes of the TORs of AICHR and ACWC, due to start in 2014 and 2015 respectively, are a major opportunity to strengthen the ASEAN human rights system. The term 'overarching', which the AICHR uses to define its relationship with other human rights bodies, needs to be elaborated and clarified in order to ensure complementarity of roles and collaboration between the two bodies.

2. Lack of sufficient institutional support to the two bodies

A dedicated secretariat is necessary to ensure that both AICHR and ACWC are supported in their work with skilled, professional and knowledgeable staff. Being part-time commissioners/representatives, it becomes even more essential for the AICHR and the ACWC to have a permanent, dedicated secretariat.

3. The non-interference constraint on the two bodies' ability to protect human rights

AICHR and ACWC have never intervened nor reported on concrete national and regional human rights issues, which is a minimum role for compliance with international human rights law and standards.

4. Failure to implement their existing mandates for human rights protection

The question must be asked: Given their institutional shortcomings from ASEAN's own practice and traditions as a regional bloc, could AICHR and ACWC have done better? Both bodies could have creatively interpreted and implemented their mandates and work plan as follows:

Four Years On and Still Treading Water

- Their TORs do not prevent them from being open, accessible and responsive to civil society. In fact, despite caveats, these bodies are even encouraged to build relationships with CSOs.
- AICHR could have formally acknowledged the cases of human rights violations submitted by civil society. Such a simple gesture is more than one of courtesy - it is also an act of self-acknowledgement as a human rights body's basic response to issues brought before it. Formal requests for dialogue likewise deserve a proper response, for even rejection is better than not receiving any response.
- AICHR and ACWC could take a more substantive role beyond thematic studies that are actually commissioned to certain groups, and capacity-building activities. At five and four years old, respectively, AICHR and ACWC should already have rudimentary forms of institutional responses human rights issues raised about ASEAN member states. In practice, selected thematic studies were the least controversial rather than the most pervasive issues in the region. Moreover, these studies could have had greater impact if they were publicized, enabling civil society to contribute with suggestions on how to move forward, or to be guided on how to help in the responses. This would have also allowed the thematic study researchers to benefit from public feedback. More significantly, public release of these studies will contribute to the accountability of member states regarding their responses to any question raised.
- Mutual Communication and Cooperation - In many ways the ongoing uneasiness between AICHR and ACWC reflects the inability of the two bodies, especially AICHR, to ensure complementarity. The process around ACWC's Declaration on the Elimination of VAW and VAC demonstrates the inability of the bodies to work together in order to move forward positively and in cooperation.
- Public Information and Consultation – The clauses on public information in both TORs of the AICHR and the ACWC could be modified so as to provide transparency and accountability, for instance by enabling public access to official documents, including TORs of studies, protocols or substantive summaries of meetings, discussion papers and drafts of human rights standards, as well as planned activities. This way, CSOs could meaningfully and substantively participate in the process. At the moment, both bodies only issue press releases following official meetings, and these merely list activities or topics of discussion, rather provide meaningful details of the Commission's activities.

The limitations in their mandates notwithstanding, employing creative interpretations and practical initiatives could have strengthened the processes and procedures within and between the AICHR and the ACWC. Both bodies could have shown stronger political will and integrity in implementing the spirit of their mandate to emphasize protection of human rights.

Some five years after establishment, the inability of these bodies to perform up to par can no longer be rationalised as “teething problems.” A few years on, neither AICHR nor ACWC have actually addressed the most pervasive human rights violations in the region – or indeed any violation.

Recommendations

To the AICHR

- Ensure that the reviews of the TORs of AICHR and ACWC are conducted in consultation with relevant ASEAN sectoral bodies as well as NHRIs, CSOs, academics, human rights experts and the broader public in all Member States with a view to ensuring that the revised TORs enhance the capability of both Commissions to promote and protect human rights in ASEAN.
- Develop the role as an overarching human rights body in ASEAN by ensuring complementary roles and collaboration with ACWC and other sectoral bodies in ASEAN.
- Engage more extensively with human rights entities outside ASEAN such as NHRIs, CSOs, affected communities, and victims of human rights violations; and establish guidelines that will facilitate instead of limit access and engagement.
- Enable public access to documents, including reports to the ASEAN and drafts of thematic studies, and ensure inputs from and consultation with CSOs, affected communities/ victims, academics, NHRIs and other stakeholders.
- Work together with the ACWC in any discussion on and drafting of ASEAN human rights instruments to ensure coherence as well as ensure its adherence to international human rights law and standard.
- Consult all stakeholders, including NHRIs, CSOs, affected communities, and victims of human rights violations in any discussion or drafting of any ASEAN human rights instrument to ensure their concerns are reflected and to ensure its adherence to international human rights law and standard.

To the ACWC

- Ensure that the reviews of the TORs of AICHR and ACWC are conducted in consultation with relevant ASEAN sectoral bodies as well as NHRIs, CSOs, academics, human rights experts and the broader public in all Member States with a view to ensuring that the revised TORs enhance the capability of both Commissions to promote and protection of human rights in ASEAN.
- Continue and develop the initiative to define and enhance ACWC and AICHR's corresponding roles and collaboration with AICHR as well as with other ASEAN sectoral bodies.
- Continue and enhance engagement with NHRIs, CSOs, affected communities and victims of human rights violations;
- Enable public access to documents, and ensure inputs from and consultation

Four Years On and Still Treading Water

with CSOs, affected communities/ victims, academics, NHRIs and broader stakeholders.

- Work together with the AICHR in any discussion or drafting of ASEAN human rights instruments to ensure coherence and adherence to international human rights law and standard.
- Consult all stakeholders, such as NHRIs, CSOs, affected communities and victims of human rights violations in any discussion or drafting of any ASEAN human rights instruments to ensure that their concerns are reflected and to ensure its adherence to international human rights law and standard.

To ASEAN Member States

- Ensure that the reviews of the TORs of AICHR and ACWC are conducted in consultation with relevant ASEAN sectoral bodies as well as NHRIs, CSOs, academics, human rights experts and the broader public in all Member States with a view to ensuring that the revised TORs enhance the capability of both Commissions to promote and protection of human rights in ASEAN.
- Provide adequate institutional support to the AICHR and the ACWC in the form of dedicated budgets and a secretariat which will allow the bodies to work effectively.
- Allow and encourage the AICHR and the ACWC to work more independently and transparently to ensure the effectiveness of these bodies.
- Institutionalise the free flow of information within ASEAN, including allowing unhindered access to documents in order to facilitate public participation with all regional bodies, toward the protection and promotion of human rights.

CSO Submissions to AICHR

Annex 1
**Laos: Open Letter – Request for AICHR to
ensure the safety and wellbeing of disappeared
development worker, Mr. Sombath Somphone,
4 January 2013**

Your Excellency,

Asian Forum for Human Rights and Development (FORUM-ASIA), a regional human rights organization representing 47 non-governmental organizations across 16 countries in Asia, writes to you to express gravest concern on the disappearance of a prominent education and development worker in Laos, Mr. Sombath Somphone. He has been missing since 15 December 2012 and to this date, there has been little information regarding his safety or whereabouts. His wife, Ng Shui-Meng, last saw him at about 6.00pm that same day as they drove home separately from the office.

Sombath is the founder and retired director of the Participatory Development Training Centre (PADETC) in Laos, which promotes sustainable development. He is a highly respected educator who as a result of his work, received the Ramon Magsaysay Award for Community Leadership, one of Asia's top civil awards, in 2005. He was also an instrumental figure as a co-organizer of the highly-successful Asia-Europe People's Forum 9 (AEPF 9), held prior to the 9th Asia-Europe Summit Meeting (ASEM) in Vientiane, Laos last October 2012.

Available CCTV footage shows Sombath's vehicle was stopped on KM3 Thadeua Road in the vicinity of Watnak village, Sisattanak District, Vientiane on 15 December 2012. He was then seen entering the police post. Following which, his vehicle was taken away by an unidentified man who arrived on a motorcycle. The motorcycle remained parked there while the man drove Sombath's vehicle away. A white pick-up truck then arrived later flashing hazard lights at the police post. The footage showed that Sombath was escorted by two men who had arrived in the white truck and led him into the truck. He has since not been seen and we are deeply worried about his safety, physical and mental health and overall well-being.

There are many questions surrounding the troubling circumstances of his disappearance. For example, it is not known why Sombath was allowed to leave with the unidentified men in the white truck or why the police did not take any action regarding the alleged "kidnap" as highlighted in the government's official statement on 19 December 2012.

In view of the urgency for the protection of the physical and mental wellbeing of Mr. Sombath Somphone, we urgently request the ASEAN Intergovernmental

Four Years On and Still Treading Water

Commission on Human Rights (AICHR), as the overarching body responsible for the promotion and protection of human rights in ASEAN, to communicate with the Lao authorities immediately to expedite the investigation of the case, to find out the whereabouts of Mr. Sombath Somphone and to ensure the safe return of Sombath to his wife and family.

FORUM-ASIA is committed to assist and cooperate with the AICHR in this case. If you require more information on the case, please kindly contact Joses Kuan at tel: (66) 83544 5166 or email: joses@forum-asia.org.

We thank you for your kind attention and hope to receive a positive response from you.

Yours truly,

Sayeed Ahmad
Country Program Manager

4 January 2013

To:

H.E. Pehin Dato Dr. Awang Hj. Ahmad bin Hj. Jumat
Chairperson

ASEAN Intergovernmental Commission on Human Rights (AICHR)

Jalan Subok, Bandar Seri Begawan Brunei Darussalam BD 2710

Tel: (673) 226 1177, 226 1291-5

Fax: (673) 226 1709, 2904

Email: aseanbru@mfa.gov.bn, bruneirep.aichr@gmail.com

CC:

1. H.E. Le Loung Minh, Secretary-General of Association of Southeast Asian Nations (ASEAN)
2. H.E. Om Yentieng, Representative of Cambodia to AICHR
3. H.E. Mr. Rafendi Djamin, Representative of Indonesia to AICHR
4. H.E. Mr. Bounkeut Sangsomsak, Representative of Laos to AICHR
5. H.E. Dato' Sri Dr. Muhammad Shafee Abdullah, Representative of Malaysia to AICHR
6. H.E. Amb. Kyaw Tint Swe, Representative of Myanmar to AICHR
7. H.E. Amb. Rosario Gonzales Manalo, Representative of the Philippines to AICHR
8. H.E. Amb. Chan Heng Chee, Representative of Singapore to AICHR
9. H.E. Mr. Seree Nonthasoot, Representative of Thailand to AICHR
10. H.E. Amb. Nguyen Duy Hung, Representative of Vietnam to AICHR
11. Ms. Leena Ghosh, Assistant Director, AIPA, ASEAN Foundation, AICHR and Other ASEAN Associated Entities Division, ASEAN Secretariat

Annex 2
**Laos: community leader Sombath Somphone
must be found,
21 January 2013**

The International Commission of Jurists (ICJ) calls on the ASEAN Intergovernmental Commission on Human Rights (AICHR) to take an active role in determining the fate and whereabouts of Sombath Somphone, a community leader in Laos.

The ICJ also calls on the AICHR to fulfill its mandate under Article 4, paragraph 1.11 of its Terms of Reference, and develop a common position and strategy for tackling the serious problem of enforced and involuntary disappearances in the ASEAN region.

This position must aim towards hastening the resolution of cases of enforced and involuntary disappearances in the region, as well as effectively preventing these violations in the future.

Sombath Somphone is the founder and former director of the Participatory Development Training Center (PDTC) and 2005 recipient of the prestigious Ramon Magsaysay Award for Community Leadership.

He also led Laos' civil society groups in participating at the Asia-Europe People's Forum (AEPF) held in October 2012.

He was last seen being stopped by local police at the Thadeau police station on 15 December 2012, at around 5:00pm.

His family has no information on his fate or whereabouts to this day.

"It should be an urgent concern for the AICHR to give sustained priority to this case and it should vigorously encourage the government of Laos to make every effort to locate him," said Sam Zarifi, Regional Director of the ICJ for Asia and the Pacific.

"The AICHR should seize this case as a chance to address the issue of enforced and involuntary disappearances in the ASEAN," Zarifi added. "It should use its mandate to formulate a common position on this issue, to push governments to resolve cases of enforced and involuntary disappearances in the region."

Following his "disappearance", the AEPF requested ASEAN parliamentarians to conduct a mission to Laos to investigate the case.

Four Years On and Still Treading Water

To that end, three parliamentarians from the Philippines, Indonesia, and Malaysia traveled to Laos from 13 to 15 January 2013 and spoke to high-level representatives of government about the “disappearance” of Sombath Somphone.

One of the parliamentarians, Mr. Charles Santiago, observed that the government of Laos had evinced no political will to resolve this case.

He noted the half-hearted efforts of police in investigating this case, as illustrated by the fact that they had only called in twice Ng Shui Meng, Sombath Somphone’s wife, since her husband had been missing.

On both occasions, she was asked questions irrelevant to the case, such as how long they had been married, whether or not they had children, and where they reside.

The parliamentarians made it clear that finding Sombath Somphone, a well-known civil society leader, is crucial.

As pointed out in a public statement by Mr. Walden Bello, the parliamentarian from the Philippines, “the immediate surfacing of Mr. Sombath is in the interest of all parties, of Mr. Sombath and his family, of the Lao PDR, and of the ASEAN.”

The ICJ recalls that all States, including Laos, have an obligation to conduct a prompt, thorough and independent investigation wherever there are reasonable suspicions of enforced or involuntary disappearance.

The ICJ also emphasizes that resolving the case of Sombath Somphone is important not only for Laos, but also for the ASEAN as a region.

His citation for the Ramon Magsaysay Award for Community Leadership indicates he is recognized for “his hopeful efforts to promote sustainable development in Laos by training and motivating its young people to become a generation of leaders.”

His work not only benefits the people of Laos, but also contributes to the aspiration of ASEAN as expressed in its Charter, which is that of ensuring “sustainable development for the benefit of present and future generations and to place the well-being, livelihood and welfare of the peoples at the center of the ASEAN community building process.”

Sombath Somphone is the kind of leader integral to the realization of this vision of the ASEAN.

Annex 3

**Request for AICHR to ensure the safety and wellbeing of Sombath Somphone, a disappeared social development worker,
21 January 2013**

H.E. Pehin Dato Dr. Awang Hj. Ahmad bin Hj. Jumat

Chairperson of ASEAN Intergovernmental Commission on Human Rights (AICHR)
Jalan Subok, Bandar Seri Begawan Brunei Darussalam
BD 2710
Tel: (673) 226 1177, 226 1291-5
Fax: (673) 226 1709, 2904

Your Excellency,

I am writing on behalf of 2,889 individuals from the Avaaz Community Petition Site calling on you to act. On the evening of December 15, 2012, Mr. Sombath Somphone, founder of PADETC (Participatory Development Training Center), has been missing after being stopped by the local police at Thadeu police post.

Soon later he was taken into a white truck and driven away. His disappearance brings a deep concern among his family, friends and colleagues who know and have worked with him about his safety and well-being.

Up to this date, there has been no update regarding his safety or his whereabouts. Over the last 30 years he has worked tirelessly to promote sustainable development in Laos. He worked openly to support government's policy of enhancing food security and improved livelihoods in rural area, promoting appropriate technology in water and sanitation, improving teaching and learning in schools, supporting human resource capacities, especially for young people, and support the government's drug reduction/rehabilitation programs and care and support for HIV infected/affected people by training monks.

These works led him to receive the Ramon Magsaysay Award for community leadership in 2005. His works, depth knowledge and experience have inspired many people, especially the young generation. His works on education for sustainable development have also become a model for some countries in Asia and Europe.

We, the 2889 people undersigned here request ASEAN Intergovernmental Commission on Human Rights (AICHR), as the overarching body responsible for the promotion and protection of human rights in ASEAN, to urge the Lao government to:

Four Years On and Still Treading Water

1. undertake prompt, transparent and thorough investigation into Mr. Sombath disappearance and ensure his safe return to his family as soon as possible, and
2. give a full information about the progress of the investigations to his family and others with a legitimate interest.

Thank you very much for your consideration and we hope to hearing your intended course of action.

Sincerely,

Melva
Indonesia

CC:

H.E. Dr. Thongloun Sisoulith

Minister of Foreign Affairs, Lao PDR
23 Singha Road, Vientiane, Lao PDR
Email: ict@mofa.gov.la, cabinet@mofa.gov.la

H.E. Mr. Phasit Sayasith

Indonesia Embassy of the Lao PDR
Jl. Patra Kuningan XIV No. 1A Jakarta Selatan 12950
Indonesia
Email: laoembjktof@hotmail.com

H.E. Mr. Thoune Vorasane

Singapore Embassy of the Lao PDR
479-B Gold Hill Centre, Thomson Road, Singapore101
Thomson Road, #05-03A, United Square Singapore 307591
Tel: 2506044, 2506741 Fax: 2506014
E-mail: laoembsg@singnet.com.sg

H.E. Mr. Kouily A. Souphakhet

Myanmar Embassy of the Lao PDR
A1, Diplomatic Quarters, Tawwin Road, Dagon Township, Yangon, Myanmar
Email: Laoembcab@mptmail.net.mm

H.E. MR. Oun Phommachack

Thailand Embassy of the Lao PDR
520.502/1-3 Soi Ramkhamhaeng
39 Bangkapi, Bangkok 10310
520, 502/ 1-3 Soi Ramkhaheang 39 Bangkapi, Bangkok 10310
Email: banethok@loxinfo.co.th

Annex 4**Laos: Open letter – Follow-up on request for
AICHR to ensure the safety and wellbeing of
disappeared development worker, Mr. Sombath
Somphone,
1 February 2013**

Your Excellency,

We refer to our letter, “Request for AICHR to ensure the safety and wellbeing of disappeared development worker, Mr. Sombath Somphone”, dated 4 January 2013. We wish to inquire if AICHR has taken any actions or if there are any immediate plans to do so on this case. We are deeply concerned that it has been 6 weeks since Sombath “disappeared” and despite statements and expressions of concern by the diplomatic community and civil society, key questions regarding his fate and whereabouts remain unanswered.

In this regard, and against the backdrop of the first AICHR meeting in 2013 under the Chairmanship of Brunei Darussalam (29 January to 2 February 2013), we reiterate our request the AICHR to urgently take up the case, including by communicating with the Lao authorities immediately to ensure the full disclosure of information and the expedition of investigation with the view of ensuring the safe return of Sombath to his wife and family.

This request is made with much urgency because of the apparent lack of progress in the investigation by the Lao authorities despite it being 6 weeks since Sombath’s “disappearance”. On 26 December 2012, Sombath’s wife, Shui-Meng Ng, was questioned by police on basic information regarding his background and lifestyle during preliminary investigations. When she was called in again on 15 January 2013 to further assist in investigations, the police officers again queried her on similar procedural questions, such as when they got married and when they moved into their current home.

The apparent stagnation in the investigation by the Lao authorities warrants an urgent need for AICHR’s immediate action on this case. Key questions regarding whether Sombath’s jeep has been found, the identity of the motorcyclist who took Sombath’s jeep and whether the police personnel in the CCTV have been identified and investigated remain unanswered. We thus urge AICHR to communicate with the Lao authorities immediately on these points to ensure the full disclosure of information and expedition of investigation.

Four Years On and Still Treading Water

This will also set a precedent in addressing cases of involuntary/enforced disappearances in the region and send a strong signal against such occurrences in the future. Taking decisive and meaningful action will ensure the credibility of AICHR.

We wish to reiterate that Sombath's "disappearance" is indeed a matter of urgent concern for ASEAN, as his work has touched the lives of many people in ASEAN. We also wish to point out that an online petition letter signed by close to 3,000 individuals has also been sent (21 January 2013) to AICHR on this case .

Lastly, we wish to reiterate FORUM-ASIA's continued commitment to assist and cooperate with AICHR on this case.

If you require more information, please kindly contact Joses Kuan at tel: +66 83544 5166 or email: joses@forum-asia.org; or John Liu at tel: +66 80282 8610 or email: johnliu@forum-asia.org.

We thank you for your kind attention and hope to receive a reply from AICHR.
Yours truly,

Sayeed Ahmad
Country Program Manager

1 February 2013

To:

**H.E. Pehin Dato Dr. Awang Hj. Ahmad bin Hj. Jumat
Chairperson**

ASEAN Intergovernmental Commission on Human Rights (AICHR)

Jalan Subok, Bandar Seri Begawan

Brunei Darussalam BD 2710

Tel: (673) 226 1177, 226 1291-5

Fax: (673) 226 1709, 2904

Email: aseanbru@mfa.gov.bn, bruneirep.aichr@gmail.com

CC:

1. H.E. Le Loung Minh, Secretary-General of Association of Southeast Asian Nations (ASEAN)
2. H.E. Om Yentiang, Representative of Cambodia to AICHR
3. H.E. Mr. Rafendi Djamin, Representative of Indonesia to AICHR
4. H.E. Mr. Bounkeut Sangsomsak, Representative of Laos to AICHR5. H.E. Dato' Sri Dr.
5. Muhammad Shafee Abdullah, Representative of Malaysia to AICHR
6. H.E. Amb. Kyaw Tint Swe, Representative of Myanmar to AICHR
7. H.E. Amb. Rosario Gonzales Manalo, Representative of the Philippines to AICHR
8. H.E. Amb. Chan Heng Chee, Representative of Singapore to AICHR

9. H.E. Mr. Seree Nonthasoot, Representative of Thailand to AICHR
10. H.E. Amb. Nguyen Duy Hung, Representative of Vietnam to AICHR
11. Ms. Leena Ghosh, Assistant Director, AIPA, ASEAN Foundation, AICHR and Other ASEAN Associated Entities Division, ASEAN Secretariat

Annex 5

**AICHR must take a stand against enforced/
involuntary disappearances in the region.
26 April 2013**

The Solidarity for Asian Peoples' Advocacy – Task Force on ASEAN and Human Rights (SAPA TFAHR) writes to the ASEAN Intergovernmental Commission on Human Rights (AICHR) again to convey our disappointment and regret at the AICHR's continuing silence on the disappearance of prominent Laotian development worker and activist Sombath Somphone. SAPA TFAHR's co-convenor, FORUM-ASIA, had previously written to you, on 4 January 2013 and on 1 February 2013, on the same matter. Sombath's disappearance now extends into the fifth month and it is highly lamentable that the primary organ charged with the promotion and protection of human rights in the region has refused to take a stand or even expressed any concern and solidarity.

We stress that the issue of enforced/involuntary disappearance is a human rights violation that not only occurs in Lao PDR, but is a regional concern that is endemic to ASEAN. You must be well aware of similar cases in Thailand, Indonesia and Philippines, where accountability for victims of political violence and disappearances remain elusive even until today. In this context, any insistence of upholding the ASEAN principles of non-interference and territorial sovereignty over principles of human rights and accountability would be highly misplaced and unacceptable.

While the AICHR claims that it is not within its mandate to act on individual complaints, it can certainly at the very least develop a public position and plan of approach to address the issue of enforced/involuntary disappearances. Otherwise, it risks sending a message that such egregious human rights abuses are allowed to go on with impunity. Adopting a public position and plan of approach to address this issue is definitely well within the mandate and functions of the AICHR.

It is high time that AICHR responds to questions of its relevance for human rights in the region. Staying silent on Sombath's disappearance is a convenient but short-sighted approach because human rights violations related to land, natural resources and the environment are likely to increase as the region embarks on a zealous pursuit of economic development and integration towards 2015. The AICHR must stress to individual ASEAN member states on the urgent need for an enabling environment and democratic space for all human rights defenders, including development workers and civil society organizations, to do their legitimate work without fear of reprisals.

The AICHR's Terms of Reference is due for a review in 2014, but it must not delay any longer to rethink its lackluster position on human rights. The disappearance

of Sombath Somphone is not one that can be simply dismissed as yet another statistic because of the physical and mental anguish dealt to friends, family and the community at large. The basic and fundamental rights to life, liberty and security of the person must be upheld at all times.

If you require more information, please kindly contact Joses Kuan at tel: +66 83544 5166 or email: joses@forum-asia.org; or Atnike Sigiro at +62 8129401766 or email: atnike@forum-asia.org.

We thank you for your kind attention and hope to receive a reply from AICHR.
Yours truly,

Giyoun Kim
Acting Executive Director, FORUM-ASIA
Co-convenor of SAPA TFAHR

Chalida Tajaroensuk
Director, People's Empowerment Foundation
Co-convenor of SAPA TFAHR

CC:

12. H.E. Le Loung Minh, Secretary-General of Association of Southeast Asian Nations (ASEAN)
13. H.E. Om Yentieng, Representative of Cambodia to AICHR
14. H.E. Mr. Rafendi Djamin, Representative of Indonesia to AICHR
15. H.E. Mr. Bounkeut Sangsomsak, Representative of Laos to AICHR5. H.E. Dato' Sri Dr.
16. Muhammad Shafee Abdullah, Representative of Malaysia to AICHR
17. H.E. Amb. Kyaw Tint Swe, Representative of Myanmar to AICHR
18. H.E. Amb. Rosario Gonzales Manalo, Representative of the Philippines to AICHR
19. H.E. Amb. Chan Heng Chee, Representative of Singapore to AICHR
20. H.E. Mr. Seree Nonthasoot, Representative of Thailand to AICHR
21. H.E. Amb. Nguyen Duy Hung, Representative of Vietnam to AICHR
22. Ms. Leena Ghosh, Assistant Director, AIPA, ASEAN Foundation, AICHR and Other ASEAN Associated Entities Division, ASEAN Secretariat

Annex 6

**REQUEST FOR AN URGENT PRONOUNCEMENT
CONCERNING THE AUGUST 1996 MURDER OF FUAD
MUHAMMAD SYAFRUDDIN (ALSO KNOWN AS “UDIN”) IN
DUSUN GELANGAN SAMALO, PARANGTRITIS ROAD KM
13 YOGYAKARTA, INDONESIA**

**CALLING ON THE STATE OF INDONESIA TO ENSURE
THAT THE PERPETRATORS OF THIS HEINOUS HUMAN
RIGHTS VIOLATION ARE BROUGHT TO JUSTICE—TO
STOP THE CYCLE OF IMPUNITY AGAINST INDONESIAN
JOURNALISTS – AND THAT ADEQUATE REPARATIONS
AND SATISFACTION BE MADE TO THE HEIRS OF UDIN
UNDER APPLICABLE RULES OF INTERNATIONAL LAW¹**

July 2013

The ASEAN Intergovernmental Commission on Human Rights (AICHR)

c/of the ASEAN Secretariat

70A Jl. Sisingamangaraja

Jakarta 12110, Indonesia

Tel : (6221) 7262991, 7243372

Fax : (6221) 7398234, 7243504

I. PETITIONERS

1. This request is being filed on behalf of the following Petitioners:

- a. Marsiyem Udin- wife of the murdered Fuad Muhammad Syafruddin (also known as “Udin”); and
- b. Mujilah Udin- mother of the murdered Udin.

All the Petitioners can be contacted through:

LBH PERS (LEGAL AID CENTRE FOR THE PRESS)

Jl. Kalibata Timur IV G, No. 10,

Kalibata, Pancoran, Jakarta Selatan

Jakarta, Indonesia

¹ Source: <http://humanrightsinasean.info/document/cso-petition-aichr-representative-indonesia-case-udin.html>

Telp. +6221-79183485
BY:

NAWAWI BAHRUDIN
EXECUTIVE DIRECTOR LBH PERS
Email : nbahrudin@yahoo.com
lbhpers@yahoo.com

II. URGENT REQUEST TO THE COMMISSION

Petitioners hereby urgently request the Commission:

- (a) To make an urgent declaration calling on the State of Indonesia to ensure that the perpetrators of the August 1996 murder of Fuad Muhammad Syafruddin (also known as "Udin")– are brought to justice; and
- (b) To make an urgent declaration calling on the State of Indonesia to make adequate reparations to the Petitioners as heirs of Udin.

This urgent request is being made under Article 14 of the ASEAN Charter and pursuant to the relevant goals of the Commission, namely:

(1.1) To promote and protect human rights and fundamental freedoms of the peoples of ASEAN;

(1.2) To uphold the right of the peoples of ASEAN to live in peace, dignity and prosperity;

(1.3) To contribute to the realisation of the purposes of ASEAN as set out in the ASEAN Charter in order to promote stability and harmony in the region, friendship and cooperation among ASEAN Member States, as well as the wellbeing, livelihood, welfare and participation of ASEAN peoples in the ASEAN Community building process;

(1.4) to promote human rights within the regional context, bearing in mind national and regional particularities and mutual respect for different historical, cultural and religious backgrounds, and taking into account the balance between rights and responsibilities;

(1.5) to enhance regional cooperation with a view to complementing national and international efforts on the promotion and protection of human rights; and

(1.6) 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.²

Further, this urgent request is being made in accordance with Article 39 of the

² Terms of Reference of the ASEAN Inter-Governmental Human Rights Commission.

Four Years On and Still Treading Water

ASEAN Human Rights Declaration:

39. ASEAN Member States share a common interest in and commitment to the promotion and protection of human rights and fundamental freedoms which shall be achieved through, inter alia, cooperation with one another as well as with relevant national, regional and international institutions/organisations, in accordance with the ASEAN Charter.

CONCLUSION

Consequently, in accordance with Article 14 of the ASEAN Charter, and with Article 39 of the ASEAN Human Rights Declaration, Petitioners hereby reiterate their urgent request for the Commission:

- (a) To make an urgent declaration calling on the State of Indonesia to ensure that the perpetrators of the August 1996 murder of Fuad Muhammad Syafruddin (also known as “Udin”)– are brought to justice; and
- (b) To make an urgent declaration calling on the State of Indonesia to make adequate reparations to the Petitioners as heirs of Udin.

Petitioners' signatures:

Marsiyem Mujilah

In support of the Petitioners:

MEDIA DEFENCE SOUTHEAST ASIA

By:

ASEP KOMARUDIN

MD-SEA COUNTRY REPRESENTATIVE FOR INDONESIA

Email : a.asepkomarudin@gmail.com

suara_hati99@yahoo.com

Mobile Phone : +628159081438

MEDIA DEFENCE SOUTHEAST ASIA

1904 Antel 2000 Corporate Center

121 Valero Street, Salcedo Village,

1227 Makati City, the Philippines

Emails:mediadefencesea@gmail.com

Tel. Nos:(+63)(2)887-4445 / (+63)(2)887-3894

Fax No: (+63)(2)887-3893

Or at 48-2 Jalan Medan Setia 2

Plaza Damansara

Bukit Damansara

50490 Kuala Lumpur, Malaysia

Tel: +603 2095 6505

Fax: +603 2095 7505

MEDIA LEGAL DEFENCE I NITIATIVE (MLDI)

2nd Floor
Grayston Centre
28 Charles Square
London N1 6HT
United Kingdom
Email: info@mediadefence.org
Skype: mldi.law
Phone: +44 (0) 207 324 4760

By:

NANI JANSEN

MLDI SENIOR LEGAL COUNSEL

direct line +44 207 324 4675
mobile +44 780 540 4089
email nani.jansen@mediadefence.org
skype [nani.jansen.mldi](https://www.skype.com/people/nani.jansen.mldi)

Annex 7

Submission by Amnesty International-Thailand on AICHR Relations with Civil Society Organisations (CSOs), September 2013

Part I: Guiding principles

Amnesty International Thailand strongly recommends that any AICHR regulations governing relations with CSOs be guided by the following principles:

1. Commitment to universal human rights standards:

Relations between the AICHR and CSOs, as reflected in and regulated by the Guidelines, should be guided by the knowledge that while working from different angles and at times espousing different approaches and adopting differing positions, the AICHR and ASEAN human right CSOs share the same commitment to working for the ensuring protection, respect, fulfilment and promotion of universal human rights.

This shared commitment should provide for more trust and less need for stringent provisions in the Guidelines in comparison with similar regulations governing the relations between intergovernmental bodies and organisations neither of which are concerned solely with human rights.

2. Mutual respect:

The AICHR and CSOs must interact in the spirit of mutual respect. Respect must be paid to the similarities but also the differences in each one's mandate, remit and modes of operation. Human right CSOs have a role to play in providing their expertise, experience and field presence in direct support of specific AICHR studies. At the same time, CSOs would also often question and criticise not only the human right policies of states but also the decisions, positions, work plans and documents of the AICHR itself as well as make recommendations for changes to each of those. It is of vital importance that the Guidelines encourage rather than hinder the full range of such activities by human right CSOs, not least because through them human rights NGOs have for many decades informed, enriched and improved the work of inter-governmental human rights bodies, both regionally and internationally. Thus Professor Sir Nigel Rodley, who has worked both in an NGO and as an expert on the UN human rights system, writes:

To sum up, NGOs have been an engine, perhaps the engine, in the development of human rights as an international concern, in the evolution of laws, norms and standards in the field of human rights and in the establishment and subsequent functioning of IGO human rights machinery.

They have breathed air into the vacuum that was human rights in the field of international law and organization.³

While the Guidelines should, in Amnesty International Thailand's view, reflect the need for CSOs to respect the fact that the AICHR works under a specific mandate and subject to specific internal and ASEAN-wide rules, they should also reflect AICHR's respect of the fact that, but equally that human right CSOs' fundamental commitment is to universally-accepted human rights as enshrined and stipulated in international human right treaties and other instruments.

3. Safeguarding Independence:

The defining characteristic of CSOs is their strict independence from governments – indeed CSOs' alternative name, Nongovernmental Organisations (NGOs) reflects this characteristic explicitly.

Because human rights law and standards primarily govern the treatment of individuals and groups by the state, for a CSO to represent the state or otherwise act on its behalf, be funded by it or be influenced by it would both undermine its principled *raison d'être*, and in practice severely hamper its ability to research and report professionally and objectively on human rights situations, receive complaints from and support victims and survivors of human rights violations and provide recommendations for change.

This principle of independence has similarly governed CSOs' relations with IGOs, both regionally and globally, both as regards bodies comprised of states representatives and those comprised of independent experts. It must apply also to the AICHR relations with CSOs, as it is this independence, this distancing, that enables CSOs to make their unique contribution to the work of IGOs in protecting and promoting human rights.

The Guidelines must therefore safeguard CSOs' freedom to choose when to be critical and challenging (while respectful) and when to be actively supportive, guided solely by human rights principles and the specific CSO's mandates and priorities. Were such choices to be, instead, determined by considerations such as the provision or withdrawal of funding, the availability or otherwise of opportunities for work or indeed on whether or not the AICHR will grant, maintain or terminate the CSO's consultative status, this would hinder the CSO's work, depreciate the quality of its contribution, and consequently be detrimental both to the CSO and to the work of AICHR in promoting and protecting human rights. The Guidelines must ensure that CSOs' consultative status with the AICHR must never be used to produce unquestioning support from CSOs nor to deter them from or punishing them for expressing criticism.

4. Facilitating meaningful consultations:

In order for relations to be mutually beneficial, it is important that the Guidelines ensure that frequent, meaningful consultations can take place between the AICHR and human rights CSOs. This requires, among other things, that the Guidelines

3 See Nigel S. Rodley, "Human Rights NGOs: Rights and Obligations, Present Status and Perspectives," in *The Legitimacy of the United Nations: Towards an Enhanced Legal Status of Non-State Actors*, *SIM Special No. 19*, (1997), p. 45.

Four Years On and Still Treading Water

put in place provisions facilitating and governing consultations, as well as channels for smooth and efficient mutual communications and access, while refraining from placing unnecessary bureaucratic or other obstacles to consultations.

In our view, the implementation of this principle in practice warrants the appointment of a member or a group of members within AICHR (possibly also including a Secretariat representative) that would act as focal point and facilitator for AICHR's relations with human rights CSOs, and would among other things be responsible for communications between the AICHR and CSOs. One possibility is for the Advisory Panel envisaged in current Article 9 of the Draft Guides to assume this capacity as well.

It is in the spirit of these four principles that Amnesty International Thailand is suggesting the following changes to the Draft Guidelines.

Part II: Amnesty International Thailand's suggested changes to the draft Guidelines

This part consists of the full text of the 15 November 2012 draft of the "Guidelines on Relations with Civil Society (CSOs)", with Amnesty International's suggested changes. Rationale will not be provided for those changes which are self-explanatory.

N.B. text that we suggest deleting is presented in ~~strike through~~; text that we suggest adding is in ***boldface and italics***.

Article numbers are presented as they were in the Draft Guidelines (please note that there are two articles bearing the number 10).

(Draft)

GUIDELINES ON RELATIONS WITH CIVIL SOCIETY ORGANISATIONS (as of 15 November 2012)

I. Introduction

1. One of the purposes of ASEAN as set out in the ASEAN Charter is to promote a people-orientated ASEAN in which all sectors of society are encouraged to participate in, ~~and~~ benefit from ***and contribute to*** the process of ASEAN's integration and community building.
2. The Cha-Am Hua Hin declaration on the inauguration of the AICHR acknowledges the contribution of stakeholders in the promotion and protection of human rights in ASEAN and encourages their continuing engagement and dialogue with the AICHR.
3. These Guidelines are in pursuant to Article 4.9 of the Terms of Reference of AICHR, which states that AICHR has the mandate to "consult, as may be appropriate, with other national, regional and international institutions and entities concerned with the promotion and protection of human rights."
4. Recognizing that CSOs play an important role in supporting the AICHR to develop strategies for the promotion and protection of human rights and

fundamental freedoms, the following are intended guidelines for AICHR's engagement with CSOs:

II. Definitions

The following definitions shall be applicable:

"Civil Society Organisations (CSOs)" are defined as the association of persons, natural or juridical, that is non-profit and non-governmental in nature, which are organized voluntarily to promote, strengthen and help realise the aims and objectives of ASEAN **activities and** cooperation in the promotion and protection of human rights. CSOs advocating the use of violence or any other issue incompatible with the objectives of ASEAN Charter, or which **operate under instructions from** are emanations of political parties should be excluded.

5. "Institutions" are institutions or networks of institutions, which can be national, regional or international stature, dedicated to the promotion and protection of human rights.
6. These guidelines shall be also applied to think-tanks and institutes of learning, trade unions and religious bodies, as well as private and public foundations. Political parties are not included.

III. Eligibility – The Principles to be applied to receive Consultation Status.

7. AICHR may have consultative relationships with national, regional, sub-regional and international CSOs, institutions, entities and or voluntary organisations who are actively involved in the advancement, promotion and protection of human rights and fundamental freedoms.
8. For the assessment of their eligibility, these CSOs, institutions, entities and or voluntary organisations will need to:
 - a. Abide **by** and respect the principles and purposes of the ASEAN Charter, ASEAN's rules and regulations governing ASEAN's engagement with CSOs and the Terms of Reference of AICHR. **This does not preclude human rights based comments on or criticism of these or any other ASEAN instruments.**
 - b. Have specific expertise, proven experience and capacity **in** with regards to the promotion and protection of human rights and fundamental freedoms.
 - c. Provide documents supporting or demonstrate that their programme of work is of relevance to the principles and purposes of **promotion and protection of human rights in** ASEAN and to AICHR's mandates, functions and Work Plans.
 - d. Have been in existence for at least two (2) years with an established headquarters, a democratically adopted constitution, a representative structure, appropriate mechanisms of accountability and democratic and transparent decision-making processes.

Four Years On and Still Treading Water

- e. Inform on existing engagement with ASEAN Sectoral Bodies.
 - f. Provide copies of their constitution/charter and statutes/by-laws to the ASEAN Secretariat including a copy of their registration papers/or proof of existence.
 - g. Provide a list of members of the governing bodies and their nationalities.
 - h. Provide a copy of the most recent financial statement and annual report. It will have to openly state if it receives financial support, direct or indirect from a Government.
 - i. Provide copy of publications and recent articles or statements.
 - j. Provide a paper identifying the areas in which the organisation proposes to ~~support~~ **contribute to** AICHR's work in the **promotion and protection of human rights in ASEAN**. ~~fulfilment of its mandates, priorities and Work Plans.~~
9. AICHR will establish an Advisory Panel which will assess the suitability of the CSOs, institutions, entities and or voluntary organisations for consultation **as well as consider the suspension or withdrawal of CSOs' consultative status**. The Advisory Panel will be composed of three (3) members chaired by an appointed AICHR Representative with two other members, one of whom is from the ASEAN Secretariat. The Advisory Panel will screen all applications and submit their recommendations to AICHR for formal endorsement. The process for endorsement should not exceed 10 weeks.

9 (bis) A CSO applying for consultative status shall have the opportunity to respond to any objections being raised in the Advisory Panel before the AICHR takes its decision.

10. CSOs, institutions, entities and or voluntary organisations which are endorsed by AICHR will be informed of their eligibility for consultations with AICHR. Their eligibility for consultations is for a period of 3 years.

IV. Obligations Following Confirmation of Consultative Status

10. Those CSOs, institutions, entities and or voluntary organisations which have been confirmed to have "consultative status" shall abide with **by** the following:
- a. To commit themselves to respecting all human rights and fundamental freedoms **and their universality, indivisibility, interdependency and interrelatedness**.
 - b. Refrain from any conduct going against the human rights of any person or group of persons; ~~as recognized by the AICHR.~~
 - c. Refrain from any kind of conduct endangering the "structured and fruitful dialogue" within the AICHR.
 - d. Refrain from any kind of illegal activities.
 - e. Undertake to support the work of the AICHR **in protecting and promoting human rights** ~~and to promote knowledge of its principles and activities;~~ in accordance with its own aims and purposes and the nature and scope of its competence and activities.

- f. It shall submit, ~~annually~~ **every fourth year**, a written summary of its activities and completed list of funding sources to the AICHR;
- g. Inform the AICHR of changes in its **senior** officials and **governing body** memberships (if any), as well as changes of address; and
- h. It shall respect and comply with the prevailing national laws and regulations of the concerned ASEAN Member State where its activities/programmes take place.

V. Suspension and Revocation of Consultative Status

11. The consultative status may be suspended or withdrawn by AICHR on the following grounds:

- a. If the CSOs, institutions, entities and or voluntary organisations either directly or through its affiliates or representatives acting on its behalf, clearly abuses its status by engaging in a pattern of acts contrary to the purposes and principles of the ASEAN Charter and or AICHR's mandates and purposes relevant to the protection and promotion of universal human rights, including acts which are either manifestly unsubstantiated or ~~politically motivated acts~~ clearly motivated by narrow political interests against any ASEAN Member States.
- b. If there exists substantiated evidence of influence from proceeds resulting from internationally recognised criminal activities such as the illicit drugs trade, money-laundering or illegal arms trade;
- c. If, within the preceding three years, it did not make any ~~positive or effective~~ meaningful engagement with ~~contribution to the work of AICHR in promoting and protecting human rights and ASEAN Community building processes.~~

12. The ~~withdrawal~~ suspension of consultation status will be decided by the AICHR following a recommendation from Advisory Panel, and will take effect immediately upon notification of withdrawal and ~~will not be eligible for re-consideration for three years after notification of withdrawal.~~

12[bis]. In cases where the Advisory Panel has decided to recommend that the consultative status of a CSO be suspended or withdrawn, the CSO concerned shall be given written reasons for that decision and shall have an opportunity to present its response for appropriate consideration by the AICHR as expeditiously as possible.

The withdrawal of consultative status will be decided by the AICHR plenary on the basis of the recommendation of the Advisory Panel and response by the concerned CSO. A CSO whose consultative status was withdrawn will not be eligible for re-consideration for three years after notification of withdrawal.

VI. Types of Consultative Relations

13. AICHR may seek to consult with the eligible CSOs, institutions, entities and or voluntary organisations through the following ways:

- a. Dialogue - an exchange of ideas and opinions

Four Years On and Still Treading Water

- b. Consultations - meeting to seek views and advice on something that is being decided. The consulted parties should be given adequate information and study the matter to be discussed prior to the meeting. While the response from consulted parties should be noted, it does not necessarily imply any commitment by AICHR ~~for the consulting parties to do anything about the response~~ adopt suggestions brought up during consultations.
 - c. Interface - meeting and communication between different subjects, at a common point or shared boundary, or to prepare either party for that purpose.
 - d. Seminar - meeting to provide information on one of or more subject matter, primarily via lecture and discussion.
 - e. Workshop - a meeting of a group of people, to engage in intensive discussion and activity focusing especially on methods, techniques and skills in a particular field.
 - f. Regular or specific reporting/briefing to AICHR on its activities and concerns, which may include policy recommendations and feedback on various initiatives undertaken at national and regional levels in line with AICHR's mandate to protect and promote human rights ~~Work Plans~~.
 - g. Forums
 - h. Experts Meeting
 - i. Carry out any specific studies Upon request of AICHR, any organization with consultative status may, subject to approval through its own decision-making process, carry out specific studies or prepare specific papers, ~~subject to the relevant financial regulations~~ with due regard to the CSO's independence.
 - j. Project implementers of AICHR ~~Work Plans~~
14. CSOs, institutions, entities and or voluntary organisations with consultative status may put in a request to the Chair of AICHR to consult through the above modalities.
15. Official transmission of documents from CSOs, institutions, entities and or voluntary organisations shall be submitted to the ASEAN Secretariat who will circulate to the AICHR Representatives.

VII.(bis) Consultation with the AICHR

- a. The provisional agenda of the AICHR shall be communicated to CSOs with consultative status in ample time ahead of each regular meeting. They may propose to the Advisory Panel that it request the AICHR Chair to place items of special interest to the CSOs in the provisional agenda of the AICHR;
- b. CSOs with consultative status may designate authorised representatives to sit as observers at public meetings of the AICHR. Attendance arrangements may be supplemented to include other modalities of participation;
- c. CSOs with consultative status may submit written statements relevant to the work of the AICHR on subjects in which they have a particular

- expertise. Such statements shall be circulated by the Secretariat to the members of the AICHR. Statements must be written in English; be submitted in sufficient time for appropriate consultation to take place between the AICHR Chair and the CSO before circulation and give due consideration to his or her comments; must not exceed 2,000 words, unless otherwise approved by the AICHR Chair;
- d. The Advisory Panel/members in charge of relations with CSOs shall make recommendations to AICHR as to which CSOs with consultative status should make an oral presentation to the AICHR and on which items they should be heard. Such organizations shall be entitled to make at least one statement to the AICHR, subject to the approval of the Chair;
 - e. Whenever the AICHR discusses the substance of an item proposed by a CSO with consultative status and included in the agenda of the AICHR, this CSO shall be entitled to present orally to the AICHR, as appropriate, an introductory statement of an expository nature. The CSO may be invited by the AICHR Chair, with the consent of the AICHR, to make, in the course of the discussion of the item before the AICHR, at least one additional statement for purposes of clarification.

VII. Final Clauses

16. The consultative status provided herein to CSOs, institutions, entities and or voluntary organisations does not provide them with any special status with ASEAN. They are not deemed to be accredited CSOs under Annex 2 of the ASEAN Charter and are not entities associated with ASEAN. Similarly, Entities Associated with ASEAN under Annex 2 are not considered as having any consultation status with AICHR.
17. The Guidelines are subject to revision and amendment. Any AICHR Representative may propose amendments to the Guidelines which shall be decided by consensus.
18. These Guidelines is are subject to review after 3 years or when AICHR deems necessary to revise.

Part III: Rationale for proposed changes

N.B. References to Guiding Principles indicate those principles listed and elaborated in Part I.

Definitions – “Civil Society Organisations” (currently not numbered):

The proposed changes seek to create clarity and stricture where the current language may be interpreted over-broadly to include any ties, however loose and insubstantial, between a CSO and a political party.

Article 8(a):

The proposed changes seek to prevent a narrow and restrictive interpretation of this provision. See Guiding Principle 3.

Article 8(b):

The proposed changes seek to ensure that CSOs do not face vague and excessive demands, in particular to show “specific” expertise or “prove” experience and capacity.

Article 8(c):

The proposed changes seek,

1. To avoid CSOs facing an over-broad requirement, bearing in mind that the “principles and purposes of ASEAN” go far beyond human rights concerns, and thus a human rights CSO cannot show that its work is fully of relevance to them;
2. To ensure that where the work of a human rights CSO covers issues that are outside of the AICHR’s Work Plans, or even outside its current mandate and functions, it may nevertheless engage with the AICHR, for instance to encourage it to expand its mandate and functions, or Work Plan to cover additional functions or topics.

Article 8(j):

The rationale is similar to that of the changes proposed to Article 8(c).

Article 9 and 9 (bis) [added]:

The addition to the text are designed to ensure that there is scope for dialogue within the approval process. Cf. the UN Economic and Social Council Resolution 1996/31, Consultative relationship between the United Nations and non-governmental organizations, 25 July 1996 (ECOSOC res. 1996/31), Article 15.

Article 10 (following Art. 9):

The proposed change is designed to accord with our proposed change to Article 10 (sic)(f), q.v.

Article 10(sic – following Art. 10) (a):

The proposed addition reflects the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights on 25 June 1993, A/CONF.157/23, Article 5. See Guiding Principle 1.

Article 10(b):

The proposed deletion seeks to ensure that this obligation is not confined to any specific interpretation (or recognition) of human rights. See Guiding Principle 1.

Article 10(c):

The proposed deletion is due to the provision’s broad and sweeping language, that makes it open for restrictive interpretations of CSOs’ conduct, which risk excluding CSOs engaged in legitimate activities in defence of human rights. See Guiding Principles 2 and 3.

Article 10(e):

The proposed deletion reflects the fact that, unlike protecting and promoting human rights, promoting knowledge of the AICHR is not a task intrinsic to the work of human rights CSOs, therefore should not be a an obligation for CSOs with consultative status. Instead, each CSO should therefore be free to decide whether or not to engage in such promotion.

Article 10(f):

The proposed change reflects our concern that the obligation to submit such information annually is unnecessary and burdensome. Moreover, it would require the allocation of resources by CSOs, thus may discourage smaller and less well-resourced CSOs from applying for a consultative status. It would also require resource allocation from the ASEAN Secretariat. Our suggested alternative is identical to ECOSOC res. 1996/31, Article 61(c). See Guiding Principle 4.

Article 10(g):

The rationale for the proposed changes to this provision is similar to that of the changes proposed to Article 19(f). Refraining from requiring information on the full membership would also help create and maintain an atmosphere of trust.

Article 11:

The proposed changes seek to:

1. Avoid abuse. The Guidelines should be drafted bearing in mind the possibility that a Member State, motivated by narrow political interests rather than concern for human rights, for instance being unhappy about a specific CSO's reporting of human rights violation within its territory, may seek to deny, suspend or revoke a CSO's consultative status. The Guidelines should not provide any opportunities to exploit provisions that are broadly-worded or vague to effect such unwarranted exclusion of CSOs, hence the stricter language that we propose. See Guiding Principles 2 and 3;
2. To ensure the acceptability, for the purposes of the Guidelines, of CSO human rights work that is not necessarily within the confines of the work of AICHR. See rationale for changes to Article 8(c) above.

Article 12:

The proposed changes seek to ensure fair procedures for suspension and revocation of the consultative status, in particular by creating a two-layer system and providing for dialogue with the CSOs concerned. Cf. ECOSOC res. 1996/31, Article, para. 56. See Guiding Principle 2.

Article 13(b):

The proposed changes stem from our concern that the original language is too sweeping, excluding things such as basic courtesy and consideration.

Article 13(i,j):

The proposed changes stem from our concern that the original language imply subordination of CSOs to the AICHR. See Guide Principle 3.

Sec. VII (bis) [added]:

Amnesty International Thailand is proposing to add this section in view of the fact that the current draft does not have any provisions governing consultations (which the list of the "types of consultative relations" does not cover). The proposal generally follows ECOSOC Res. 1996/31, Arts. 27-32.

Annex 8

Civil Society Organisations demand meaningful engagement with ASEAN human rights bodies Statement issued by the 6th Regional Consultation on ASEAN and Human Rights Jakarta, 1-2 October 2013

**Co-organized by
The Asian Forum for Human Rights and Development (FORUM-ASIA) The Commission for the Disappeared and Victims of Violence (KontraS) SAPA Task Force on ASEAN and Human Rights (SAPA TFAHR)**

As ASEAN's human rights bodies approach their second term, the 59 national, regional and international civil society organisations met for the 6th Regional CSO Consultation on ASEAN and Human Rights in Jakarta on 1-2 October 2013.

Discussions covered a range of issues, including strategies for bringing about meaningful engagement with ASEAN human rights mechanisms. These include enhancing solidarity and coordination among CSOs, working together on the regional level and reaching out to actors outside the human rights CSO environment, such as youth and children groups, academic institutions, grassroots movements and parliamentarians. CSOs will seek different and innovative entry points for engagement, such as art and cultural events, and integrate media strategies within campaigning plans.

So far during their first term, both the AICHR (2009-2012) and ACWC (2010-2013) have adopted a narrow interpretation of their protection mandates. Even though the existing TORs of both commissions already provide a range of opportunities for protection work, the AICHR has not seized these opportunities to protect people from human rights violations. Even pending the revision, the AICHR should broaden its understanding of its protection mandate, as well as fully implement its current mandate including in fields such as encouraging ratification of human rights treaties and obtaining information on human rights from Member States and conducting human rights promotion activities.

In reviewing the TOR, improvements should be made in particular on the following issues:

- Ensuring transparency and inclusiveness in the selection and appointment of the AICHR representatives;
- Ensuring that the AICHR representatives have sufficient human rights experience and expertise and function independently of the appointing governments;

- Cooperation with other human rights bodies, at the national, regional and international levels;
- Engagement with civil society, including regular and meaningful consultations;
- Ensuring that individual representatives and the AICHR as a whole are accessible and accountable to the public;
- Setting up of a complaints mechanism to address human rights violations;
- Developing precautionary measures as a means of protecting against human rights violations;
- Creating an alternative decision making mechanism that would be invoked whenever the AICHR is unable to reach a consensus.

For the AICHR and ACWC representatives to effectively fulfil their mandates, governments and ASEAN as a whole should provide them with sufficient human and financial resource and independent secretariats. Civil society will support the work of the AICHR and ACWC to the extent that they actively promote and protect universal human rights.

CSOs encourage the AICHR and ACWC to work in cooperation and coordination, bearing in mind the mandate and expertise of each commission.

We welcome the AICHR's effort to finalize the Guidelines on Relations with Civil Society Organizations and call on it to ensure that the Guidelines facilitate meaningful and mutually beneficial engagement while respecting the independence of CSOs.

In discussing business and human rights in ASEAN, the Consultation took note of the following

- Compliance of businesses with international human right law and standards must be enforced by ASEAN Member States through legal and other mechanisms that ensure corporate accountability. Corporate Social Responsibility, which is voluntary and unregulated, should only complement these mechanisms;
- Irrespective of the level of human rights protections within ASEAN Member States, businesses must comply with international human rights standards;
- The need to ensure that transnational and national legal frameworks are revised, so that businesses are no longer beyond the reach of laws which protect human rights;
- The need to change ASEAN investment regimes, which currently reflects a profit over people mentality, putting people and environment second to economic growth, to one in which human and environmental rights, community consultation, Free, Prior and Informed Consent and transparency are prioritized over narrow business interests;
- The reality that indigenous peoples, women and children are among those most affected by corporate and state development activities.

The Consultation urged ASEAN to enhance its regulatory role on human rights aspect of corporate behaviour, and stressed the need for governments to adopt a human rights-based approach, providing full redress mechanisms for victims of

Four Years On and Still Treading Water

human rights violations. We stress that as corporations gain further influence and power in the region, ASEAN and its Member States have an increasing obligation to protect the human rights of their people and the environment.

Jakarta, 2 October 2013

Annex 9

REQUEST FOR AN URGENT APPEAL CONCERNING THE ASSAULT ON AHMADIYYA MUSLIM COMMUNITY IN SOUTH SULAWESI

CALLING ON THE INDONESIAN GOVERNMENT TO ENSURE THE PROTECTION OF RELIGIOUS FREEDOM IN INDONESIA⁴

23 December 2013

The ASEAN Intergovernmental Commission on Human Rights (AICHR)

c/of the ASEAN Secretariat 70A

Jl. Sisingamangaraja Jakarta 12110, Indonesia

Phone : (6221) 7262991, 7243372

Fax : (6221) 7398234, 7243504

I. PETITIONERS

a. Ahmadiyya Muslim Community South Sulawesi, Indonesia

The Ahmadiyya Muslim Community in Makassar, South Sulawesi, was established in 1972. Around 40 Makassar citizens who joined the community went on to establish several Ahmadiyya community branches in South Sulawesi, including in Makassar City, Takalar Regency, Jeneponto Regency, Bulukumba Regency, Luwu Regency, Wajo Regency, Bone Regency, Administrative City of Pare-Pare, and Mamuju Regency. The Ahmadiyya Muslim Community (Jamaah Ahmadiyah Indonesia - JAI) in South Sulawesi is registered as a legal entity pursuant to the Registration Letter issued by Kesbangpol (Office of National and Political Unity) of South Sulawesi Province Number: 220/264-I/BKB-SS dated 11 February 2005).

b. Makassar Legal Aid Institute (LBH Makassar)

LBH Makassar has been appointed as the legal representative of JAI South Sulawesi pursuant to the Special Power of Attorney dated 31 January 2011 to represent the JAI South Sulawesi's legal interest as victims of alleged criminal acts in the forms of threats, destruction, and theft allegedly committed by a group of people wearing Islamic Defender Front (Front Pembela Islam - FPI) attributes and the Special Power of Attorney dated 7 February 2011 to represent JAI South Sulawesi's legal interests as claimants against the South and West Sulawesi Regional Police's omission and violation of the police disciplinary code in failing to protect JAI South Sulawesi's activity on Jl. Anuang No 112, Makassar, dated 29 January 2011.

4 Source: <http://humanrightsinasean.info/document/cso-petition-aichr-assault-ahmadiyya-community-south-sulawesi.html>

II. URGENT REQUEST TO THE ASEAN INTERGOVERNMENTAL COMMISSION ON HUMAN RIGHTS (AICHR)

The petitioners hereby urgently request the Commission:

- a. To urge the Government of Indonesia as an ASEAN Member State, a State Party to the International Covenant on Civil and Political Rights (ICCPR) and a signatory to the ASEAN Human Rights Declaration (AHRD) to ensure the protection and security of the Ahmadiyah Muslim Community and other religious minorities in South Sulawesi and the rest of Indonesia. The Commission should also call on the Government of Indonesia to ensure the protection of freedom of assembly and expression on the grounds of religion for religious communities.
- b. To call on the Government of Indonesia as an ASEAN Member State, a State Party to the ICCPR and a signatory to the AHRD to review and/or revoke the Joint Decree of the Minister of Religious Affairs, the Attorney General, and the Minister of the Interior of the Republic of Indonesia No. 3 Year 2008, No. KEP-033/A/JA/6/2008, No. 199 Year 2008 which warns and orders the followers and leaders of JAI, for as long as they continue to claim to be Muslims, to halt the dissemination of religious interpretations and activities that deviate from the basic religious teachings of Islam, and the Circular Letter of Governor Syahrul Yasin Limpo Number: 223.2/803/Kesbang dated 10 February 2011 concerning the Prohibition of JAI's activities in South Sulawesi.
- c. To urge the Government of Indonesia as an ASEAN Member State, a State Party to the ICCPR and a signatory to the AHRD to bring justice to the victims (Ahmadiyah Muslim Community) by conducting a fair and just legal process to prosecute and punish the perpetrators and to ensure non-recurrence of similar violations. The Commission should also call on the Government of Indonesia to stop all forms of intimidation, coercion, and criminalization against the victims as well as acts of omission.

This urgent request is made under **Article 14 of the ASEAN Charter** and pursuant to the relevant goals of the Commission, namely:

- (1.1) To promote and protect human rights and fundamental freedoms of the peoples of ASEAN;*
- (1.2) To uphold the right of the peoples of ASEAN to live in peace, dignity and prosperity;*
- (1.3) To contribute to the realisation of the purposes of ASEAN as set out in the ASEAN Charter in order to promote stability and harmony in the region, friendship and cooperation among ASEAN Member States, as well as the wellbeing, livelihood, welfare and participation of ASEAN peoples in the ASEAN Community building process;*

(1.4) *To promote human rights within the regional context, bearing in mind national and regional particularities and mutual respect for different historical, cultural and religious backgrounds, and taking into account the balance between rights and responsibilities;*

(1.5) *To enhance regional cooperation with a view to complementing national and international efforts on the promotion and protection of human rights; and*

(1.6) *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.*

Further, this urgent request is made in accordance with AICHR's Terms of Reference (ToR), notably **Principles 2.1(e) & (d)**:

- e) "Respect for fundamental freedoms, the promotion and protection of human rights, and the promotion of social justice;"
- d) "Adherence to the rule of law, good governance, the principles of democracy and constitutional government;"

Principle 2.3 of AICHR's ToR also provides that:

"Recognition that the primary responsibility to promote and protect human rights and fundamental freedoms rests with each Member State;"

In addition, this urgent request is also in line with the mandate and functions of AICHR as stipulated in AICHR's ToR, notably **Points 4.6 and 4.10**:

4.6 *"To promote the full implementation of ASEAN instruments related to human rights;"*

4.10 *"To obtain information from ASEAN Member States on the promotion and protection of human rights;"*

In this regard, the related ASEAN human rights instrument is the ASEAN Human Rights Declaration, notably **Article 22**, which states:

"Every person has the right to freedom of thought, conscience and religion. All forms of intolerance, discrimination and incitement of hatred based on religion and beliefs shall be eliminated."

III. CONCLUSION

Indonesia has not taken sufficient measures to ensure the protection of the JAI community's right to freedom of religion or belief. Indonesia, through the South

Four Years On and Still Treading Water

Sulawesi police, has failed to prevent violence against the JAI, and actively participating in that violence. The State, through the Ministry of Religion and South Sulawesi Provincial Government has also adopted discriminatory policies and laws against the JAI. Accordingly, the Petitioners reiterated their request that the Commission:

- 1. Make an urgent declaration calling on the Government of Indonesia to ensure the protection and security of person for the Ahmadiyya Muslim Community in South Sulawesi as Indonesian citizens and other religious minorities, particularly in South Sulawesi and generally in Indonesia. The Commission should also call on the Government of Indonesia to ensure the protection of freedom of assembly and expression on the ground of religion for religious communities.**
- 2. Make an urgent declaration calling on the Government of Indonesia to review and/or revoke the Joint Decree of the Minister of Religious Affairs, the Attorney General, and the Minister of the Interior of the Republic of Indonesia No. 3 Year 2008, No. KEP-033/A/JA/6/2008, No. 199 Year 2008 which warns and orders the members and/or leaders of JAI, for as long as they continue to claim to be Muslims, to stop the dissemination of religious interpretations and activities that deviate from the basic teachings of Islam, and the Circular Letter of Governor Syahrul Yasin Limpo Number: 223.2/803/Kesbang dated 10 February 2011 concerning the Prohibition of JAI's activities in South Sulawesi.**

CSO Submissions to ACWC

Annex 10

Amnesty International's Briefing to the Asean Commission For the Promotion and Protection of the Rights of Women and Children on the Draft ASEAN Declaration on the Elimination of Violence Against Women and Children, May 2013

Part I: Amnesty International's suggested changes

N.B. text that we suggest deleting is presented in ~~strike through~~; text that we suggest adding is in ***boldface and italics***.

Article numbers are presented as they would appear if the text was to be changed in accordance with our suggestions.

Zero Draft as of 2 April 2013

THE DECLARATION ON THE ELIMINATION OF VIOLENCE AGAINST WOMEN AND CHILDREN IN ASEAN

WE, the Heads of State or Government of the Association of Southeast Asian Nations (hereinafter referred to as "ASEAN"), namely Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic, Malaysia, the Republic of the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Viet Nam, on the occasion of the ___ ASEAN Summit;

UPHOLDING the goals, purposes and principles of ASEAN as enshrined in the ASEAN Charter and Cha-am Hua Hin Declaration on the Roadmap for the ASEAN Community (2009-2015);

REAFFIRMING the goals and commitments of ASEAN to eliminating violence against women and monitor their progress as reflected in the Declaration on the Elimination of Violence Against Women in the ASEAN Region adopted at the 37th ASEAN Ministerial Meeting (AMM) on 30 June 2004;

FURTHER REAFFIRMING the commitments of ASEAN as reflected in the ASEAN Human Rights Declaration adopted at the 21st ASEAN Summit on 18 November 2012; the ASEAN Leaders' Joint Statement in Enhancing Cooperation Against Trafficking in Persons in Southeast Asia adopted at the 18th ASEAN Summit on 8 May 2011; the Ha Noi Declaration on the Enhancement of Welfare and Development of ASEAN Women and Children adopted at the 17th ASEAN Summit on 28 October 2010; the ASEAN Declaration Against Trafficking in Persons Particularly Women and Children adopted at the 10th ASEAN Summit on 29 November 2004; the Declaration on the Commitments for Children in ASEAN adopted at the 4th Meeting of the ASEAN Ministers Responsible for Social Welfare (AMRSW) on 2 August 2001; the Resolution on the ASEAN Plan of Action for Children adopted at the 3rd

Four Years On and Still Treading Water

AMRSW Meeting on 2 December 1993; and the Declaration on the Advancement of Women in the ASEAN Region adopted at the 21st AMM on 5 July 1988;

ACKNOWLEDGING the commitments of individual ASEAN Member States to the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC) that have been ratified by all ASEAN Member States; ***ILO Conventions 138 and 182***, the Declaration on the Elimination of Violence Against Women (Vienna Declaration); the Beijing Declaration and Platform for Action (BPFA), BPFA+5 Outcome Document; ***UN GA Resolution 52/86 on Crime Prevention and Criminal Justice Measures to Eliminate Violence against Women: Model Strategies and Practical Measures***; the World Declaration on the Survival, Protection and Development of Children and Plan of Action for Child Survival, Protection and Development; A World Fit For Children Declaration; and the Millennium Development Goals (MDGs); as well as the UN Security Council Resolutions 1325 (2000), 1820 (2008), 1888 (2009), and 1889 (2009) on Women, Peace and Security;

WELCOMING the adoption of the Terms of Reference and Work Plan (2012-2016) of the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children to promote and protect the human rights and fundamental freedoms of women and children in ASEAN, ~~taking into consideration the different historical, political, sociocultural, religious and economic context in the region and the balances between rights and responsibilities;~~

ACKNOWLEDGING the importance of intensifying efforts of ASEAN Member States to promote and protect the rights of women and children from all forms of violence particularly those who are in vulnerable situations, including discrimination against women and children in mass and social media, discrimination against women and children living with and affected by HIV and AIDS, women and children in conflict with laws, women and children in armed conflict, ***migrant women and children***, cyber pornography and cyber prostitution, trafficking in women and children, domestic violence, corporal punishment of children, bullying, and others;

EMPHASISING that violence against men is equally abhorrent in all its forms and calling on ASEAN Member States to implement the provisions of this Declaration, where applicable, to combat violence against men as well;

RECOGNISING that violence against women and children occurs throughout their life cycle as a result of discriminatory practices and shall be eliminated as it impairs human rights and fundamental freedoms of women and children to live in peace, equality, justice, dignity and prosperity, as well as deprives their access to opportunities and rights to achieve their full potential;

DO HEREBY DECLARE THAT:

ASEAN Member States, individually and/or collectively, shall promote and protect the rights of women and children **to freedom** from all forms of violence in the region through the following measures:

1. Enact and, where necessary, reinforce or amend national legislations to eliminating violence against women and children **through:**
 - **Ensuring that no person is subjected to sentence of death or to life imprisonment without possibility of release for crimes committed below age 18, and that no pregnant woman or new mother shall be executed;**
 - **Prohibiting all forms of violence against children. Violence against children shall be understood to encompass, but is not limited to, all forms of physical or mental violence, injury and abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse. Such forms include all corporal punishment (including forms of corporal punishment imposed in the justice system and in schools and other educational settings) and all harmful traditional practices, including early or forced marriage;**
 - **Prohibiting all forms of violence against women, and developing penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subject to violence. Violence against women shall be understood to encompass, but is not limited to, the following:**
 - (a) **Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;**
 - (b) **Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;**
 - (c) **Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.**

2. Enhance the protection, services, rehabilitation, recovery and reintegration of victims, **including through the following:**
 - **Design and implement child-rights training within police forces that includes information on appropriate ways to deal with all children, particularly those from marginalized groups and those subject to discrimination;**
 - **Where children are working illegally, ensure the availability of recovery and integration programmes that focus on assisting under-age children and those in “worst forms” of labour to leave work, receive education and training, and improve their life chances without further victimization;**
 - **Provide accessible, child-sensitive and universal health and**

- social services, including pre-hospital and emergency care, legal assistance to children and, where appropriate, their families when violence is detected or disclosed;*
- *Ensure that trafficked women and children are provided with protection, access to health care, adequate assistance and social reintegration services when they are involved in criminal investigations and the justice process, including ensuring that trafficked women and children victims are issued residence permits where their personal situation or criminal proceedings so require;*
 - *Ensure affordable and accessible health and social care services that address the physical, psychological and sexual and reproductive health consequences of violence against women;*
 - *Develop investigative techniques that do not degrade women subjected to violence and minimize intrusion, while maintaining standards for the collection of the best evidence;*
 - *Take all necessary steps to ensure at all stages of the proceedings, women survivors' physical and psychological state is taken into account and they may receive medical and psychological care;*
 - *Institute special conditions for hearing victims or witnesses of violence in order to avoid the repetition of testimony and to lessen the traumatic impact of proceedings.*
3. Integrate legislations, policies and measures, **including national plans of action with realistic, time-bound targets**, to prevent and eliminate violence against women and children, **promote non-violent values** and to protect and assist the victims/survivors in the national development plans and programmes; **and systematically evaluate compliance with legislation and implementation of plans, policies, and other measures;**
4. Strengthen a holistic, rights-based, and gender responsive **and age-responsive** approach to eliminate violence against women and children in the region which includes effective legislations, policies and measures to:
- Investigate, prosecute, punish and, where appropriate, rehabilitate perpetrators;
 - Protect women and children victims/survivors and witness;
 - Provide victims/survivors with access to justice, legal assistance, protection, social and health services, rehabilitation, recovery, and reintegration;
 - Prevent re-victimization of women and children from any form of violence in their home, workplace, schools, and/or communities through various programmes including economic empowerment of women victims/survivors; and
 - Promote education and public awareness of the nature and causes of violence against women and children towards active public participation in its prevention and elimination; **and:**
 - **Encourage regional cooperation in these efforts.**
5. Develop appropriate mechanisms to assist, upon request by ASEAN Member

States, in implementing, monitoring and reporting the implementation of the Concluding Observations and recommendations of CEDAW, and CRC and other-Treaty human rights bBodies related to the elimination of all forms of violence against women and children;

6. Strengthen the capacity of law enforcement officers, policy makers, social workers, health personnel, and other stakeholders to develop, implement, monitor and evaluate gender responsive and age responsive preventive and protective legislations, policies and measures for women and children victims of violence;
7. Promote research and data collection and analysis concerning all forms of violence against women and children, both at national and regional levels, to support the formulation and effective implementation of laws, policies and programmes to eliminate violence against women and children and for better protection of the victims/survivors in the region, in particular:
 - The adoption of national indicators based on internationally agreed standards;
 - Compiling, analysing and disseminating this data to monitor progress over time;
 - Where not currently in place, birth, death and marriage data registries with full national coverage should be created and maintained. States should also create and maintain data on children without parental care and children in the criminal justice system;
 - Data should be disaggregated by sex, age, urban/rural, household and family characteristics, education and ethnicity, also the relationship (if any) between the victim and the perpetrator;
 - States should also develop a national research agenda on violence against women and violence against children across settings where violence occurs, including through interview studies with women survivors, children and parents, with particular attention to vulnerable groups of women, girls and boys.
8. Strengthen the provision of support social services to women and children victims of violence in ASEAN through the establishment of an ACWC ASEAN? network of social services to facilitate the promotion of best practices, sharing of information, exchange of experts and social work professionals, and training of staff and volunteers among ASEAN Member States, as well as through the work of the ASEAN Social Work Consortium;
9. Strengthen partnerships with external parties at international, regional, national and local levels, including with ASEAN Dialogue Partners, UN Agencies, civil society, community-based organisations, academia, philanthropists and private entities, in the work for the elimination of violence against women and children in ASEAN and to mobilise resources to assist the victims;

WE TASK the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) to promote the implementation of this Declaration,

Four Years On and Still Treading Water

review its progress, and mobilise resources required for the implementation. The ACWC shall submit and publish an annual report on the implementation of this Declaration.

WE ENCOURAGE ASEAN Member States and relevant ASEAN sectoral bodies to support, through appropriate instruments and actions, the accomplishment of this Declaration.

Adopted in __, this __ of __ in the Year Two Thousand and __, in a single original copy, in the English Language.

Part II: Rationale and sources for suggested changes

N.B. rationale and sources are only provided where suggested changes are not self-explanatory.

Preamble, 6th paragraph:

- While the text we recommend deleting does reflect the Terms of Reference of the Commission, Amnesty International is concerned that in the context of this Declaration its inclusion could be interpreted as suggesting that there may be “historical, political sociocultural, religious and economic context in the region” which would justify resort to violence against women, children or both, or that such violence may be justified on grounds of “balanc[ing] between rights and responsibilities”.
- This clearly would be contrary to international human rights standards, including those which are legally binding on ASEAN member states. In fact, these standards call for working in the opposite direction, namely rooting out “historical” practices that allow for violence and other types of discrimination against women and children. Thus Article 5 of the UN Convention on the Elimination of All forms of Discrimination against Women⁵ provides inter alia that “States Parties shall take all appropriate measures:
(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women”.
- While we are convinced that providing an opening for “justified” violence was not the intention, the best way to avoid any suggestions of equivocation would be to remove this passage.

Preamble, added paragraph 7 bis:

- The Declaration would, at least in theory, provide a higher level of protection from violence to women and children in ASEAN than it would to men. While this may be justified broadly by the fact that as things stand, men are much more often perpetrators of violence, women and children much more often victims thereof, we believe it would be useful to ensure that the Declaration acknowledges that men too can be victims of violence. A provision in the same

5 Adopted by UN General Assembly resolution 34/180 of 18 December 1979, entered into force 3 September 1981. Cf. Article 3 of the 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.

spirit was included in the UN Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (“Bangkok Rules”).⁶

Article 1:

- As noted, Amnesty International believes that the Declaration should be more detailed in certain aspects to increase its effectiveness and clarity. This is particularly true of provisions guiding implementation.
- The first added bullet point reflects international law and standards, in particular those pertaining to states which still have the death penalty.⁷ Amnesty International opposes the death penalty in all cases and for all offenders;
- The second added bullet point would ensure that in implementing the Declaration, Member States do not apply a narrow or restrictive view of what constitutes violence against children but rather reflect the internationally agreed definitions of such violence;⁸
- The third added bullet point would ensure that in implementing the Declaration, Member States do not apply a narrow or restrictive view of what constitutes violence against women, but rather reflect the internationally agreed definitions of these forms of violence.⁹

Article 1 bis

- We suggest breaking Article 1 into two, in view of the added detail that we propose for both parts of the original Article 1. The suggested additions to what would become Article 2 provide guidance for addressing situations where women and children are most prone to human rights abuses:
- The first, second and third added bullet points would guide Member States in training police who come in contact with children and in addressing cases of children engaged in hazardous work or subject to exploitation, and victims of violence more generally, reflecting expert UN opinion;¹⁰
- The fourth added bullet point addresses the treatment of women and children who are victims of trafficking, reflecting international and regional treaty law;¹¹

6 Adopted by UN General Assembly Resolution A/RES/65/229, 21 December 2010, Annex, Rule 12.

7 The International Covenant on Civil and Political Rights, International Covenant on Civil and Political Rights. Adopted by General Assembly resolution 2200A (XXI) of 16 December 1966. Entered into force 23 March 1976, Art. 6(5); UN Convention on the Rights of the Child, Art. 37(a); UN Safeguards guaranteeing protection of the rights of those facing the death penalty. Approved by Economic and Social Council resolution 1984/50 of 25 May 1984 and endorsed by UN General Assembly resolution A/RES/39/118, Safeguard 3.

8 See Article 19 of the UN Convention on the Rights of the Child; Report of the Independent Expert for the United Nations: study on violence against children, UN Doc. A/61/299, 29 August 2006, para. 98; Committee on the Rights of the Child, General Comment No. 8 (2006): The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (arts. 19; 28, para. 2; and 37, *inter alia*), UN Doc. CRC/C/GC/8, 2 March 2007, esp. paras. 16-29. On forced marriage see in addition, for instance, Forced marriage of the girl child – Report of the Secretary-General, UN Doc. E/CN.6/2008/4, 5 December 2007.

9 See UN Declaration on the Elimination of Violence against Women, UN General Assembly resolution A/RES/48/104, 23 February 1994, Articles 4(d) and 2.

10 Report of the Independent Expert for the United Nation, *op cit.*, paras. 114(c) 113(c) and 102, respectively.

11 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime (“Palermo Protocol”). Adopted by the UN General Assembly resolution 55/25 on 15 November 2000, entered into force on 25 December 2003, Art. 7; Council of Europe Convention on Action against Trafficking in Human Beings, Council of Europe Treaty Series - No. 197, 16 May 2006, Art. 14.

Four Years On and Still Treading Water

- The fifth added bullet point addresses specifically the provision of care in all its required forms to women who are survivors of violence, reflecting internationally-agreed standards as well as regional treaty law;¹²
- The sixth, seventh and eighth added bullet points focus on the specific needs of women survivors of violence and best practices in addressing them during investigations and subsequent criminal proceedings, reflecting progressive international and regional standards.¹³

Article 5 (4 in the original Draft):

- The suggested change is aimed at ensuring that this provision encompasses the findings and recommendations of non-treaty human rights bodies, in particular Special Procedures such as the UN Special Rapporteur on violence against women, its causes and consequences and the Special Representative of the Secretary-General on violence against children.

Article 7 (6 in the original Draft):

- The suggested addition would give focus, clarity and direction to Member States implementing this important provision. Here too we believe that stating the principle must be accompanied by some detailed guidance for implementation to be effective. All additions are based on a UN expert opinion,¹⁴ with some adjustments to ensure the provision addresses both forms of violence.

First Final Provision:

- The suggested addition aims at concretising the role of the Commission in encouraging, monitoring and reporting on the Declaration's implementation. While we appreciate that the Declaration does not carry the binding force of a treaty, it would be of little value if it remains purely rhetoric. The Commission is the obvious body to carry out this monitoring and reporting role.

12 See UN Commission on the Status of Women, Agreed conclusions on the elimination and prevention of all forms of violence against women and girls, UN Doc. E/CN.6/2013/L.5, 19 March 2013, para. C(iii). See similarly Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, Adopted by the 2nd Ordinary Session of the Assembly of the African Union, Maputo, 11 July 2003, Articles 4, 14.

13 Crime prevention and criminal justice: measures to eliminate violence against women, UN General Assembly resolution Res 52/86, 12 December 1997, Annex: Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice, para. 8; Council of Europe, Committee of Ministers Rec(2002)5 on the protection of women and girls against violence, Recommendations 41, 42.

14 All taken from Report of the Independent Expert for the United Nations, *op cit.* para. 107.

Annex 11
**Statement submitted to the ASEAN Commission
for the Promotion and Protection of Rights of
Women and Children¹⁵**

13 June 2013

Hon. Datin Paduka Hajah Intan bte Haji Mohd Kassim
Chair ASEAN Commission for the Promotion and
Protection of Rights of Women and Children (ACWC)
cced to ACWC representatives

Sub: Your attention for Declaration on Violence against Women and Children

Dear Excellency,

Warmest greetings from the Southeast Asia Women's Caucus on ASEAN.

Firstly, we would like to extend our gratefulness for opportunities provided to us in the past and for our continued engagement to contribute to the work of ACWC in promoting, protecting and fulfilling women's rights in our region.

We write to you regarding the new ASEAN Declaration on Elimination of Violence against Women and Children (VAWC) that is being drafted. Through our participation in ASEAN Meeting organized the Working Group for ASEAN Human Rights Mechanisms this June 10-11, we received few updates from respected ACWC representatives. We are very delighted to know that two different declarations on women and children are being considered by ACWC.

However, we would like to reiterate our recommendations:

1. Two different declarations reflecting the specific and varied perspectives and contexts of VAW and VAC. Otherwise, the title of the Declaration must reflect the specific and varied perspectives and contexts of VAW and VAC and instead of using the term "VAWC," we propose to use term "VAW and VAC".
2. The Declaration must be free from any reference to the "balancing between rights and responsibilities". We reiterate that the state is the primary duty bearer and that individual rights can only be limited to prevent transgression of the rights of others.

¹⁵ Source: <http://womenscaucusonasean.wordpress.com/2013/09/02/wc-reiteration-letter-on-devawvac-to-acwc/>

Four Years On and Still Treading Water

3. We ask ACWC to recognize and address the emerging forms of violence such as in the use of new information and communication technologies to perpetuate violence in cyberspace as well as economic violence women experience including violence against women migrant workers.

Furthermore:

4. The Declaration must be a foundational document which reaffirms the rights, principles and standards enshrined in the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Convention on the Rights of the Child and other international human rights treaties that provide an international legal framework along with accountability measures as integral towards the elimination of all forms of violence against women and rise above mere rhetoric.
5. The Declaration must adopt and advance the definition of VAW of the UN Declaration on violence against women (1993) and recognize VAW is a manifestation of historically unequal power relations between men and women.
6. The Declaration must affirm that any custom, tradition, religious considerations or public morality must not be invoked by states to avoid their obligations with respect to its elimination of VAW or to justify VAW.
7. The Declaration must address multiple forms of violence women experience resulting from intersections of various systems of inequality and domination.
8. States must exercise Due diligence to prevent, investigate and punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. States must take necessary steps to remove barriers to access to justice by women and children victims and survivors of violence and other human rights violations.
9. The current Draft uses both the term “victims” and “survivors.” While we appreciate our recommendation has been taken up by the ACWC, we would like to reiterate that to address and respond to the root causes of VAW women need to be empowered and enabled to resist oppression; to develop their capabilities as autonomous beings and constantly negotiate the terms of their existence in the public and private sphere, through interventions ranging from education, capacity and skills development training, legal literacy, access to and control over resources, among others. We recommend ACWC to adopt this empowerment approach that will build women’s capacities to facilitate full realization of women’s rights.

The opportunity of the Declaration drafting should demonstrate the ACWC’s commitments to implementing CEDAW and CRC in the Southeast Asia region. Therefore, we recommend ACWC to urge ASEAN Member States to ratify and implement the Optional Protocol to the CEDAW and three Optional Protocols to the CRC.

We also attach herewith this letter, the 'Due Diligence and Violence against Women: Enhancing Accountability to ASEAN Women and Girls' for your kind perusal produced by Women's Caucus and the Report of Special Rapporteur on VAW that covers Due Diligence as a Tool for Elimination of VAW.

We wish to reiterate Women's Caucus commitment in supporting the work of the ACWC and constructively engaging with the different ASEAN structures and mechanisms in protecting and promoting the human rights of women in the region.

We also would like to put our humble request for your kind response. Should you require additional information, please do remember me.

Respectfully yours,

Sunee Singh
Secretariat
Women's Caucus

Annex 12

**SAPA TFAHR Letter to the ACWC Regarding the
draft Declaration on the Elimination of Violence
Against Women and Children in ASEAN,
24 July 2013**

**Re: Civil society's recommendation to the draft Declaration on the
Elimination of Violence Against Women & Children in ASEAN**

Your Excellency,

We write on behalf of the Solidarity of Asian People's Advocacy – Task Force on ASEAN and Human Rights (SAPA TFAHR), a network of more than 70 civil society organizations in Southeast Asia.

We welcome the initiative of the ACWC to enhance its efforts to promote and protect the rights of women and children by drafting the ASEAN Declaration on the Elimination of Violence against Women and Children (EVAWC), which would be vital to the facilitation of systematic and long-term policy and program commitments from the ASEAN governments and therefore must be fully in line with international human rights norms and standards. For this reason and in the spirit of constructive participation and shared commitment to the advancement of women's and children's rights, we strongly put forward the following recommendations:

1. There is a need for separate Declarations on the rights of women and of children respectively:
 - While the rights of women and children are often interrelated, specific characteristics, vulnerabilities and protection needs that women and children face must be genuinely and distinctively addressed. In particular, the principles enshrined in the Universal Declaration of Human Rights (UDHR) and the Convention on the Rights of the Child (CRC) that children are entitled to special care and assistance and must be provided with special safeguards, including legal protection, must be upheld.
2. The phrases, "taking into consideration the different historical, political, socio-cultural, religious and economic context in the region" and "balances between rights and responsibilities", in paragraph 6 of the Zero Draft (April 2013), must be removed.
 - The prohibition on violence against women and children is absolute and non-derogable. There are no historical, political, socio-cultural, religious and economic contexts that can ever justify such violence. Any traditional or

other practices that allow violence against women and children must be uprooted.

- Similarly, the idea that violence can be inflicted on women or children in the name of “balances between rights and responsibilities” is unacceptable and must be rejected. Children and women must never be subject to violence because they have supposedly failed to exercise their responsibilities. Just like the rights to freedom from torture and from slavery (both of which involve violence against women and children), freedom from violence must never be conditioned on “contexts” or “balances.”
- Further, responsibilities of women are often anchored on gender-stereotyped roles which are rooted in historical and structural inequalities of power between women and men. [1]
- The phrase “balances between rights and responsibilities” is not in line with the spirit of this draft Declaration which aims to eliminate violence against women and children. The conditions imposed on the exercise of human rights contradict the principle of universality as affirmed in the Vienna Declaration and Programme of Action (VDPA) which specified that the “promotion and protection of human rights and fundamental freedoms at the national and international levels should be universal and conducted without conditions attached.” [2]

We are hopeful that before presenting the draft Declaration to the 23rd ASEAN Summit in October 2013, the ACWC would still consider the above recommendations and are open to further discussions in the course of drafting the Declaration.

Should you have further queries, we can be reached through email: atnike@forum-asia.org ; asean@forum-asia.org or mobile: +62 81 2940 1766.

Thank you.

Sincerely,

Giyoun Kim

Convenor of SAPA TFAHR

Acting Executive Director

FORUM-ASIA

Chalida Tajaroensuk

Co-Convenor of SAPA TFAHR Child's Rights Focal Point

Executive Director

PEF-Thailand

Melanie Ramos-Llana

Regional Coordinator

CRC-Asia

Cc:

ACWC Representatives of:

Four Years On and Still Treading Water

Brunei

Datin Paduka Hajah Intan bte Haji Mohd Kassim (Chair) – Children
Dayang Hajah Mordiah bte Haji Jackia – Women

Cambodia

Ms Long Sophally – Women
Mrs. Khiev Bory – Children

Indonesia

Ms. Rita Serena Kolibonso – Women
Mr. Ahmad Taufan Damanik – Children

Lao PDR

Ms. Siamphone Sirattanakoul – Women
Ms. Chongchith Chantharanonh – Children

Malaysia

Dato Sri Dr. Noorul Ainur Mohd Nur – Women
Datuk Dr. Chiam Heng Keng – Children

Myanmar

Mrs. Daw Mya Mya – Women
Ms. Rupal Mya – Children

Philippines

Prof. Aurora Javate – De Dios – Women
Ms. Amihan Abueva – Children

Singapore

Dr. Aline Wong – Women
Mr. Koh Choon Hui – Children

Thailand

Madam Kanda Vajrabhaya – Women
Dr. Saisuree Chutikul – Children

Vietnam

Ms. Cao Thi Thanh Thuy – Women
c/o Nguyen Ngoc Anh (assistant)
Mr Dang Hoa Nam – Children

ASEAN Secretariat
Ms. Mega Irena

Annex 13
**Women Caucus' Request for Finalized draft of
DEVAW/VAC¹⁶**

3 September 2013

Hon. Datin Paduka Hajah Intan bte Haji Mohd Kassim

Chair

ASEAN Commission for the Promotion and Protection of
Rights of Women and Children (ACWC)
cced to ASEAN Secretariat

Sub: Request for Finalized draft of DEVAW/VAC

Dear Excellency,

Warmest greetings from the Southeast Asia Women's Caucus on ASEAN.

It came into our notice that the Declaration on the Elimination of Violence against Women and Violence against Children has been finalised and is due for its submission to the ASEAN Senior Officials Meeting on Social Welfare and Development (SOMSWD) and ASEAN Ministers Meeting on Social Welfare and Development (AMMSWD) in early September, and subsequently for its adoption in the next ASEAN Summit in October 2013. We appreciate the commitment and practice of ACWC engaging with civil society based on the principles of transparency, effective and meaningful dialogue as stated in its rules of procedures. However, as of recent, we would like to express our disappointment on the lack of information particularly on the ongoing finalization process of the Declaration. Referring to ACWC's Terms of Reference (TOR) to adopt collaborative and consultative approach with civil society (3.9) and on engagement with dialogue and consultation with civil society (7.8), Women's Caucus would like to stress that the significant document like the finalized draft of the Declaration must be shared with civil society. Access to information and significant documents such as the Declaration is the cornerstone to the meaningful participation of peoples of ASEAN as decision makers.

Hereby Women's Caucus, on behalf of its network of over 100 women's groups in Southeast Asia, would like to put its humble request for the copy of Finalized Draft be made available to civil society immediately. Subsequently, on the basis of finalized draft, Women's Caucus wishes to submit its feedback as well.

16 Source: <http://womenscaucusonasean.wordpress.com/2013/09/04/women-caucus-appeals-acwc-to-share-finalized-devawevac-draft/>

Four Years On and Still Treading Water

We sincerely hope our request comes under your immediate consideration. We would highly appreciate if the requested is made available to Sunee Singh at: sunee@apwld.org.

Sincerely,

Sunee Singh
APWLD
Secretariat for the Women's Caucus

Information About ACWC

Annex 14
**Composition of the Representatives of
 the AICHR in 2013¹⁷**

Country	Name of Representative(s)	Term in office	Background/Expertise
Brunei Darussalam	H.E. Mr. Pehin Dato Dr. Awang Hj. Ahmad bin Hj Jumat (second term)	Appointed in 2011 – present	<p>Last position before joining AICHR/other current positions:</p> <p>Minister of Culture, Youth and Sport Brunei Darussalam 2008-2010</p> <p>Educational background:</p> <ul style="list-style-type: none"> - BA from the University of Malaya, Malaysia - M. Ed from the University of Alberta, Edmonton, Canada - D. Ed from the University of South California <p>Experience in human rights:</p> <p>No information</p>
Cambodia	H.E. Mr. Srun Thirith (first term) replacing H.E. Om Yentieng	Appointed in 2013.	<p>Last position before joining AICHR/other current positions:</p> <p>Member of the Cambodian Human Rights Committee 2013-present.</p> <p>Educational background:</p> <ul style="list-style-type: none"> - BA in Law degree from the University of Law, Phnom Penh - MA in Public Policy from Flinders University, Australia. <p>Experience in human rights:</p> <ul style="list-style-type: none"> - Member of the Cambodian Human Rights Committee - The Cambodian Government Jurists Council, in charge of drafting and reviewing laws and policies and providing legal expertise to public institutions.

¹⁷ Source: official website of AICHR (www.aichr.org)

Four Years On and Still Treading Water

Country	Name of Representative(s)	Term in office	Background/Expertise
Indonesia	H.E Mr. Rafendi Djamin (second term)	Appointed in 2009; reappointed in 2013	<p>Last position before joining AICHR / other current positions:</p> <p>Director of Human Rights Working Group (HRWG) years?.</p> <p>Educational background:</p> <ul style="list-style-type: none"> - BA in Sociology from the University of Indonesia - MA in Development Studies, Institute of Social Studies, The Hague, Netherlands. <p>Experience in human rights:</p> <p>Director of Human Rights Working Group (HRWG).</p>
Lao PDR	H.E Mr Phoukhong Sisoulath (first term) replacing H. E Bounkeut Sangsomsak	Appointed in 2013	<p>Last position before joining AICHR / other current positions:</p> <p>Member of Pillar IV, Legal Sector Master Plan on the Rule of Law (LSMP), Ministry of Justice.</p> <p>Educational background:</p> <ul style="list-style-type: none"> - MA in International Law from Moscow State Institute of International Relations (MGIMO-University) - Postgraduate Diploma in International Law, Nottingham University (School of Law and Human Rights Law Center). <p>Experience in human rights:</p> <ul style="list-style-type: none"> - Guest speaker on UN Human Rights Treaties for the Annual Training Course, Lao Bar Association (LBA) - Judicial Training on International Criminal law and International Human Rights Law, Hague - Forum for Judicial Expertise, T.M.C. Asser Institute, The Hague (2010)

Country	Name of Representative(s)	Term in office	Background/Expertise
Malaysia	H.E. Mr. Dato' Sri Muhammad Shafee Abdullah (second term)	Appointed in 2009; reappointed in 2013	<p>Last position before joining AICHR / other current positions:</p> <p>Board Member of the University of Malaya (2009 – present)</p> <p>Educational background:</p> <ul style="list-style-type: none"> - Royal Military College - LLB (Hons), University of Malaya - LLM, London School of Economics (LSE) - Honorary LLD, University of East London (UEL) <p>Experience on human rights:</p> <ul style="list-style-type: none"> - A council Member to the Malaysian Bar, Member of Human Rights Committee, Bar Council, Malaysia (2006-2009) - Former Chairman of SUHAKAM (The Human Rights Commission of Malaysia) - Chaired the Law Reform and International Treaties Working Group.
Myanmar	H.E. Mr. U Kyaw Tint Swe (second term)	Appointed in 2009; reappointed in 2013	<p>Last position before joining AICHR / other current positions:</p> <p>Vice Chair, Myanmar National Human Rights Commission, 2011-2013</p> <p>Educational background:</p> <ul style="list-style-type: none"> - BA from the University of Yangon, Myanmar - Post-graduate diploma in international relations and development from the Institute of Social Studies, The Hague. <p>Experience in human rights:</p> <p>Member of Myanmar National Human Rights Commission (NHRC).</p>

Four Years On and Still Treading Water

Country	Name of Representative(s)	Term in office	Background/Expertise
Philippines	H.E. Amb. Rosario Gonzales Manalo (second term)	Appointed 2009; reappointed 2013	<p>Last position before joining AICHR / other current positions:</p> <ul style="list-style-type: none"> - Philippine Commissioner to the Shanghai Expo, 2009-2010 - Teaching at the College of International, Humanitarian, and Development Studies, Miriam College - Philippines years <p>Educational background:</p> <ul style="list-style-type: none"> - BSc in Foreign Service from the University of the Philippines. - Bachelor of Science and Jurisprudence from the University of the Philippines. - LLB from the University of the Philippines. - MA in Public Administration from the University of the Philippines. - MA in International Studies and Diplomacy from the Long Island University – NY, USA. <p>Experience in human rights:</p> <p>Expert on Implementation of CEDAW of the Philippines (1992-2002)</p>
Singapore	H.E. Amb. Chan Heng Chee (first term) replacing H.E. Richard Magnus	Appointed in 2013	<p>Last position before joining AICHR / other current positions:</p> <p>Singapore's Ambassador to the United States, 1996-2012</p> <p>Educational background:</p> <ul style="list-style-type: none"> - BA and MA in Political Science from the National University of Singapore (NUS) - MA from Cornell University - PhD in Political Science at NUS in 1974. <p>Experience in human rights:</p> <p>No information</p>

Country	Name of Representative(s)	Term in office	Background/Expertise
Thailand	Dr. Seree Nonthasoot (first term) replacing Dr. Sriprapha Petcharamesree	Appointed in 2013	<p>Last position before joining AICHR / other current positions:</p> <ul style="list-style-type: none"> - Director, KTB Law Co., Ltd. 2012-present - Senior Executive Vice President, Institute of Research and Development for Public Enterprises, 2012-present <p>Educational background:</p> <ul style="list-style-type: none"> - Barrister-at-Law, BAR Association of Thailand LLB, Thammasat University, Bangkok, Thailand - LLM in European and Comparative Law from the University of Oxford - LLM in International Trade Law, Columbia University School of Law, New York, USA - PhD from the University of Oxford, United Kingdom <p>Experience in human rights:</p> <ul style="list-style-type: none"> - Member of the Drafting Group for the ASEAN Human Rights Declaration (2011) - Lecturer on International Human Rights Law of Mahidol University, 1999-present
Vietnam	H.E Mrs. Le Thi Thu (first term) Replacing H.E. Mr Nguyen Duy Hung	Appointed in 2013	<p>Last position before joining AICHR / other current positions:</p> <p>Assistant of the former Vietnam AICHR Representative, 2010-2012 H.E. Mr Nguyen Duy Hung.</p> <p>Educational background:</p> <p>No information</p> <p>Experience on human rights:</p> <p>No information</p>

Annex 15

List of AICHR Press Releases in 2013¹⁸

1. Re – Appointment of Mr. Rafendi Djamin as Indonesian Representative for the ASEAN Intergovernmental Commission on Human Rights (AICHR), 4 January 2013, available at: <http://aichr.org/press-release/re-appointment-of-mr-rafendi-djamin-as-indonesian-representative-for-the-asean-intergovernmental-commission-on-human-rights-aichr/>
2. Regional Workshop and Consultation on Business and Human Rights in ASEAN, 18 January 2013, available at: <http://aichr.org/activities/regional-workshop-and-consultation-on-business-and-human-rights-in-asean/>
3. Joint ASEAN Intergovernmental Commission on Human Rights (AICHR) – Australian Human Rights Commission (AHRC) Workshop on Corporate Social Responsibility (CSR), 18 January 2013, available at: <http://aichr.org/activities/joint-asean-intergovernmental-commission-on-human-rights-aichr-australian-human-rights-commission-ahrc-workshop-on-corporate-social-responsibility-csr/>
4. Regional Training Program on Promoting Access to Justice and Human Rights, 23 January 2013, available at: <http://aichr.org/activities/regional-training-program-on-promoting-access-to-justice-and-human-rights/>
5. AICHR Advanced Training Program on Human Rights: Training of the Trainers, 23 January 2013, available at: <http://aichr.org/activities/aichr-advanced-training-program-on-human-rights-training-of-the-trainers/>
6. Press Release of the 11th Meeting of the ASEAN Intergovernmental Commission on Human Rights (AICHR), 2 February 2013, available at: <http://aichr.org/press-release/press-release-of-the-11th-meeting-of-the-asean-intergovernmental-commission-on-human-rights-aichr/>
7. The Appointment of New Representatives of Lao PDR, Thailand and Viet Nam and the Re – appointment of Representatives to the ASEAN Intergovernmental Commission on Human Rights (AICHR), 13 February 2013, available at: <http://aichr.org/news/the-appointment-of-new-representatives-of-lao-pdr-thailand-and-viet-nam-and-the-re-appointment-of-representatives-to-the-asean-intergovernmental-commission-on-human-rights-aichr/>
8. Press Release – Public Forum with and Reception in honour of the Representatives of Thailand to the ASEAN Intergovernmental on Human Rights (AICHR), 1 March 2013, available at: <http://aichr.org/press-release/press-release-public-forum-with-and-reception-in-honour-of-the->

¹⁸ Note: Updates on AICHR's activities and press releases can be found at <http://aichr.org/category/news/> and at <http://aichr.org/category/press-release/>

- representatives-of-thailand-to-the-asean-intergovernmental-commission-on-human-rights-aichr/
9. Press Release of the Special Meeting of the ASEAN Intergovernmental Commission on Human Rights (AICHR) 2013, 10 March 2013, available at: <http://aichr.org/press-release/press-release-of-the-special-meeting-of-the-asean-intergovernmental-commission-on-human-rights-aichr-2013/>
 10. Press Release: Intensive Learning Workshop on Women's Human Rights for the Regional and National Secretariats to ASEAN Human Rights' Bodies, 22 March 2013, available at: <http://aichr.org/report/press-release-intensive-learning-workshop-on-womens-human-rights-for-the-regional-and-national-secretariats-to-asean-human-rights-bodies/>
 11. Press Release: ASEAN Youth Debates on Human Rights, 5 April 2013, available at: <http://aichr.org/article/press-release-asean-youth-debates-on-human-rights/>
 12. The ASEAN Intergovernmental Commission on Human Rights Meets with the European Union Special Representative for Human Rights, 10 May 2013, available at: <http://aichr.org/press-release/the-asean-intergovernmental-commission-on-human-rights-meets-with-the-european-union-special-representative-for-human-rights/>
 13. Twelfth Meeting of the ASEAN Intergovernmental Commission on Human Rights, 10 May 2013, available at: <http://aichr.org/press-release/twelfth-meeting-of-the-asean-intergovernmental-commission-on-human-rights/>
 14. Cambodia appoints new Representative to the AICHR, 20 May 2013, available at: <http://aichr.org/news/cambodia-appoints-new-representative-to-the-aichr/>
 15. AICHR Representatives on Social Media, 20 May 2013, available at: <http://aichr.org/news/aichr-representatives-on-social-media/>
 16. ASEAN Human Rights Dialogue with the Government of Indonesia, 25 June 2013, available at: <http://aichr.org/news/asean-human-rights-dialogue-with-the-government-of-indonesia/>
 17. ASEAN Foreign Ministers to Meet in Brunei Darussalam, 26 June 2013, available at: <http://aichr.org/news/asean-foreign-ministers-to-meet-in-brunei-darussalam/>
 18. Press Release – Special Meeting of the ASEAN Intergovernmental Commission on Human Rights 2013, 16 August 2013, available at: <http://aichr.org/press-release/press-release-special-meeting-of-the-asean-intergovernmental-commission-on-human-rights-2013/>
 19. Press Release – Book Launch and Panel Discussion on the ASEAN Human Rights Declaration and the ASEAN Community Building, 23 August 2013, available at: <http://aichr.org/report/press-release-book-launch-and-panel-discussion-on-the-asean-human-rights-declaration-and-the-asean-community-building/>

Four Years On and Still Treading Water

20. The Representative of Singapore to the AICHR at the Model ASEAN Plus Summit 2013, 11 October 2013, available at: <http://aichr.org/news/the-representative-of-singapore-to-the-aichr-at-the-model-asean-plus-summit-2013/>
21. Dissemination/Training on Human Rights and ASEAN Human Rights Declaration (AHRD) to Selected High School Students and Selected Government Officials, 18 October 2013, available at: <http://aichr.org/news/disseminationtraining-on-human-rights-and-asean-human-rights-declaration-ahrd-to-selected-high-school-students-and-selected-government-officials/>
22. Voluntary Competition on Understanding of Human Rights for High School Students in Cambodia, 18 October 2013, available at: <http://aichr.org/news/voluntary-competition-on-understanding-of-human-rights-for-high-school-students-in-cambodia/>
23. Presentation and discussion on human rights obligations and commitments of Lao PDR with local NPAs, 22 October 2013, available at: <http://aichr.org/news/presentation-and-discussion-on-human-rights-obligations-and-commitments-of-lao-pdr-with-local-npas/>
24. Singapore's Representative to the AICHR at the 2013 Centre for International Law (CIL) Fireside Chat Series: ASEAN and Human Rights, 22 October 2013, available at: <http://aichr.org/news/singapores-representative-to-the-aichr-at-the-2013-centre-for-international-law-cil-fireside-chat-series-asean-and-human-rights/>
25. AICHR Advanced Programme on Human Rights: Training of the Trainers, 24 November 2013, available at: <http://aichr.org/news/aichr-advanced-programme-on-human-rights-training-of-the-trainers/>
26. Meeting with representatives from the Thai Civil Society Organizations (CSOs) organized by the Ministry of Foreign Affairs of the Kingdom of Thailand, 24 November 2013, available at: <http://aichr.org/report/meeting-with-representatives-from-the-thai-civil-society-organisations-csos-organised-by-the-ministry-of-foreign-affairs-of-the-kingdom-of-thailand/>
27. A consultation between H.E. Dr. Seree Nonthasoot, Thailand representative to the AICHR, and representatives from CSOs on "the ASEAN Convention on the Elimination of Violence against Women, 24 November 2013, available at: <http://aichr.org/report/a-consultation-between-h-e-dr-seree-nonthasoot-thailand-representative-to-the-aichr-and-representatives-from-csos-on-the-asean-convention-on-the-elimination-of-violence-against-women/>
28. Special Meeting of the ASEAN Intergovernmental Commission on Human Rights (AICHR), 26 November 2013, available at: <http://aichr.org/news/special-meeting-of-the-asean-intergovernmental-commission-on-human-rights-aichr-2/>

29. A Consultation on 'the AICHR's Thematic Study on Migration, 28 November 2013, available at: <http://aichr.org/news/a-consultation-on-the-aichrs-thematic-study-on-migration/>
30. A Consultation between Representative of Thailand to the AICHR and Representatives from CSOs on 'the Draft Guidelines of the AICHR's Relations with CSOs', 28 November 2013, available at: : <http://aichr.org/news/a-consultation-between-representative-of-thailand-to-the-aichr-and-representatives-from-csos-on-the-draft-guidelines-of-the-aichrs-relations-with-csos/>
31. Myanmar Youth Forum, 28 November 2013, available at: <http://aichr.org/news/myanmar-youth-forum/>
32. Philippines Promotes Human Rights-Based Approach to Combat Trafficking in Persons, Especially Women and Children, in ASEAN, 6 December 2013, available at: <http://aichr.org/news/philippines-promotes-human-rights-based-approach-to-combat-trafficking-in-persons-especially-women-and-children-in-asean/>
33. Lao PDR Prepares an Initial Report under ICCPR, 15 December 2013, available at: <http://aichr.org/news/lao-pdr-prepares-an-initial-report-under-iccpr/>
34. 13th Meeting of the ASEAN Intergovernmental Commission on Human Rights (AICHR), 18 December 2013, available at: <http://aichr.org/press-release/13th-meeting-of-the-asean-intergovernmental-commission-on-human-rights-aichr/>
35. AICHR Regional Workshop on Millennium Development Goals Post 2015 and Human Rights, 19 December 2013, available at: <http://aichr.org/press-release/13th-meeting-of-the-asean-intergovernmental-commission-on-human-rights-aichr/>

Annex 16

Composition of the Representatives of the ACWC in 2013

Country	Women's Rights	Children's Rights
Brunei Darussalam	<p>Dayang Hajah Mordiah Jackia Last position before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> • Headed the Family Development Section of the then Social Welfare Department • Advisory Board of the Juvenile Court in Brunei Darussalam • First woman Chief Drug Rehabilitation Officer in Brunei Darussalam <p>Educational Background:</p> <ul style="list-style-type: none"> • Degree in Social Science with options on Law at Hull College of Higher Education in the UK; • Diploma in Public Administration; Diploma in counseling from the University of Brunei Darussalam <p>Experience in human rights:</p> <ul style="list-style-type: none"> • Presented Brunei's first CRC report on the UNCRC in Geneva <p>Appointed in 2013 - 2016, replaced Datin Intan</p>	<p>Datin Paduka Hajah Intan bte Haji Mohd. Kassim (current chair of the ACWC)</p> <ul style="list-style-type: none"> • Former head the anti-corruption Bureau of Brunei Darussalam • Served in the Brunei government for more than 29 years • Lectured law at the University Sultan Shariff Ali • Vice-President of the Brunei Welfare Council <p>Last position before joining ACWC/ other current positions:</p> <p>Educational background:</p> <ul style="list-style-type: none"> • Bachelor' Degree in Law • MA in Criminal Justice <p>Experience in human rights:</p> <p>No information Appointed in 2013 - 2016, replaced Datin Appiah</p>

Country	Women's Rights	Children's Rights
Cambodia	<p>H.E. Long Sophally (current vice chair of the ACWC) Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> • Deputy Director for International Cooperation Department of Ministry of Women's Affairs • Secretary General of Cambodia National Council for Children <p>Educational background:</p> <ul style="list-style-type: none"> • Post graduate degree in International Studies of Women and Development from Ewha Women's University in Seoul, Republic of Korea • Bachelor's Degree on Law and Economic and a post graduate degree in Public Administration <p>Experience in human rights:</p> <p>No information Appointed in 2010-2016</p>	<p>H.E. Mrs. Khiev Bory Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> • Secretary General of Cambodia National Council for Children (CNC) <p>Educational background:</p> <ul style="list-style-type: none"> • Bachelor's Degree in Law and Economic and a post graduate degree in Public Administration <p>Experience in human rights:</p> <p>No information Appointed in 2010-2016</p>
Indonesia	<p>H.E. Rita Serena Kolibonso Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> • Director of Mitra Perempuan, an NGO specializing in addressing issues of women's rights. <p>Educational background:</p> <ul style="list-style-type: none"> • Graduated from the Faculty of Law of the University of Indonesia, Jakarta; • Holds a Master's Degree in International Law from Faculty of Law of Sheffield University, UK <p>Experience in human rights:</p> <ul style="list-style-type: none"> • human rights lawyer, trainer and resource person on gender <p>Appointed in 2010 -2014</p>	<p>H.E. Ahmad Taufan Damanik Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> • Lecturer at the Faculty of Social and Political Sciences North Sumatera University, Medan • Director of KKSP Foundation, an NGO specializing in addressing issues of children's rights. <p>Educational background:</p> <ul style="list-style-type: none"> • Master's degree in Political Theory from the University of Essex, UK <p>Experience in human rights:</p> <ul style="list-style-type: none"> • Established KKSP Foundation, an NGO specializing in addressing issues of children's rights. Successfully won the case through ILO Mechanism in 1998 which resulted in the banning of child labour on fishing platforms by the Indonesian government. <p>Appointed in 2010, and reappointed in 2013 until 2016</p>

Country	Women's Rights	Children's Rights
Lao PDR	<p>H.E. Ms. Siamphone Sirattanakoul Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> • Director of the International Relations Division of Lao Women's Union • Former President of the Lao Women's Union, District Level at the Hatsayphong district (1999-2002) • Manager of Vientiane Youth Center for Health and Development (2003-2009) <p>Educational background: No information</p> <p>Experience in human rights: No information</p> <p>Appointed in 2010-2016</p>	<p>H.E. Ms. Congchith Chantharanonh Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> • Former Acting Secretary General of the National Commission for Mothers and Children Secretariat in 2011. <p>Educational background:</p> <ul style="list-style-type: none"> • Diploma in Civil Engineering from the College of Communication and Transport and a Master's degree on Regional and Rural Development Planning, Asian Institute of Technology Thailand <p>Experience in human rights: No information</p> <p>Appointed in 2010-2016</p>
Malaysia	<p>H.E. Dato' Dr. Noorul Ainur Mohd. Nur Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> • Presently the Secretary-General of the Ministry of Women, Family and Community Development • More than 25 years of experience in the public sector across different key ministries • Served as Senior Advisor in the Southeast Asia Group for the World Bank (2006-2008) <p>Educational background:</p> <ul style="list-style-type: none"> • Doctorate in Political Sciences with a specialization in the effects of privatization in Malaysia <p>Experience in human rights: No information</p> <p>Appointed in 2010-2016</p>	<p>H.E. Prof. Datuk. Dr. Chiam Heng Keng Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> • Former Professor of Social Psychology at University of Malaya <p>Educational background:</p> <ul style="list-style-type: none"> • Doctorate in Education and has authored several books, with an expertise on child and adolescent psychology and early childhood education <p>Experience in human rights:</p> <ul style="list-style-type: none"> • One of the three longest serving commissioners in the Human Rights Commission of Malaysia (SUHAKAM) <p>Appointed in 2010 – 2016</p>

Country	Women's Rights	Children's Rights
Myanmar	<p>H.E. Daw Mya Mya Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> • Appointed as President of Myanmar Women's Affairs Federation in 2012 • Served in various positions of Myanmar Women Affairs Federation • Served as Deputy Leader of Information Group of Myanmar National Committee for Women's Affairs <p>Educational background:</p> <ul style="list-style-type: none"> • Bachelor's Degree of Commerce degree and Diploma in Management and Administration from the Institute of Economics Yangon (1963, 1965) <p>Experience in human rights:</p> <p>No information Appointed in 2013 – 2016</p>	<p>H.E. Ms. Rupar Mya Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> • Deputy Director on Social Welfare at the Ministry of Social Welfare, Relief and Resettlement • Served as assistant lecturer to the Social Welfare Training School <p>Educational background:</p> <p>No information</p> <p>Experience in human rights:</p> <p>No information Appointed in 2011 – 2016</p>

Country	Women's Rights	Children's Rights
Philippines	<p>H.E. Prof. Aurora Javate-De Dios Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> • Professor in International and Migration Studies at Miriam College • Executive Director of the Women and Gender Institute at Miriam College • Appointed chairperson of the Board of the Commissioners of the National Commission on the Role of Filipino Women (now known as Philippine Commission of Women) • Member of the External Advisory Board of the Asian Development Bank <p>Educational background: No information</p> <p>Experience in human rights:</p> <ul style="list-style-type: none"> • One of the experts in the UN Committee on CEDAW • Represented the Philippines during the negotiations of the UN Optional Protocol on Trafficking in Persons (1998-2000) and the UN Optional Protocol to the CEDAW (2000) <p>Appointed in 2010 – 2016</p>	<p>H.E. Amihan Abueva Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> • Former Regional Coordinator of Asia Against Child Trafficking (Asia ACTs) • Worked as Executive Secretary of End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes International (ECPAT International) <p>Educational background: No information</p> <p>Experience in human rights:</p> <ul style="list-style-type: none"> • NGO representative of the children sector to the Philippines Inter-Agency Council Against Trafficking (IACAT) <p>Appointed in 2012-2016, replacing Alicia Bala</p>

Country	Women's Rights	Children's Rights
Singapore	<p>H.E. Dr. Aline K. Wong, Ph.D Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> • Former Senior Minister of State for Education • Founded the Women's Wing of the People's Action Party and remained its Chair until her retirement from politics in 2001 • Elected a Member of Parliament in 1984 and served for several terms as member • Appointed Minister of State for Health and was made Senior Minister of State (1995-1999) • Served as Chair of the Housing and Development Board (2003-2007) <p>Educational background:</p> <ul style="list-style-type: none"> • PhD in Sociology <p>Experience in human rights:</p> <p>No information Appointed in 2010-2016</p>	<p>H.E. Mr. Koh Choon Hui Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> • Board Member of Roche Singapore Pte Ltd, where she served as Managing Director (1999-2012) <p>Educational background:</p> <p>No information</p> <p>Experience in human rights:</p> <ul style="list-style-type: none"> • Chair of the Singapore Children's Society since 1978 and served on numerous other charitable/ service organizations • Appointed as Justice of Peace in 1998 and currently also serves on 6 different public affairs boards <p>Appointed in 2010-2016</p>

Country	Women's Rights	Children's Rights
Thailand	<p>H.E. Mrs. Kanda Vajrabhaya Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> • Former Deputy Permanent Secretary of the Ministry of Social Development and Human Security • Director at the Office of the Civil Service Commission and at the Ministry Social Development and Human Security • Chief Gender Equality Officer, the Ministry of Social Development and Human Security <p>Educational background:</p> <ul style="list-style-type: none"> • Undertook post-graduate study at the University of Cambridge, UK <p>Experience in human rights:</p> <ul style="list-style-type: none"> • Expert in the field of international negotiation, human resources management, social development and human security <p>Appointed in 2010-2016</p>	<p>H.E. Dr. Saisuree Chutikul Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> • Former cabinet minister responsible for women's affairs, children and youth and social development • Former senator, chairing the Senate Committee on Women, Children and Youth (1996-2000) • Taught in various universities in Bangkok <p>Educational background:</p> <p>No information</p> <p>Experience in human rights:</p> <ul style="list-style-type: none"> • Former member of the UN CEDAW (2007-2010) • Former Vice-Chair of the UN CRC (2001-2005) and represented Thailand for 12 years in the UN CSW • Serves on various National Committees: Combatting Human Trafficking, Women's Affairs, Children's and Youth's Affairs • Member of the Board of Trustees for the UN Voluntary Trust Fund for Victims of Trafficking • Received 5 national awards for distinguished contributions to Thailand in the areas of education, children's rights, women's rights, anti-trafficking initiatives and legal reform • Was awarded the Global Women Leaders Award from Vital Voices <p>Appointed in 2010 – 2013</p>

Country	Women's Rights	Children's Rights
Vietnam	<p>H.E. Ms. Cao Thi Thanh Thuy Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> • Deputy Director General, International Cooperation Department at the Ministry of Labour, Invalids and Social Affairs of Vietnam • Headed the Compiling Team for National Reports on the Implementation of CRC • National Focal Points for SOMSWD (ASEAN Senior Official Meeting on Social Welfare and Development) and National Focal Points of ACW (ASEAN Committee on Women). <p>Educational background: No information</p> <p>Experience in human rights: No information Appointed in 2010-2016</p>	<p>H.E. Mr. Dang Hoa Nam Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> • No information <p>Educational background:</p> <ul style="list-style-type: none"> • MA in literature from Ha Noi University • Deputy General Director of Child Protection and Care Department at the Ministry of Labour, Invalids and Social Affairs (MOLISA) of Vietnam <p>Experience in human rights:</p> <ul style="list-style-type: none"> • Worked in the field of children's rights, communication, social marketing and public relations for over 20 years • Specialist in Communication Process of the Vietnam Committee for Protection and Care of Children (VNCPC) • Founded the "All for Children" TV program • Founded Vietnam Child Helpline, a hotline service providing counselling and connecting services for children and families • Active member of the Vietnam Steering Committee for the Coordinated Mekong Ministerial Initiative against Human Trafficking (COMMIT) <p>Appointed in 2010-2016</p>

Annex 17

List of ACWC Press Releases in 2013

1. Sixth Press Release of the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC), 3 April 2013, available at: <http://www.asean.org/news/asean-secretariat-news/item/sixth-press-release-of-the-asean-commission-on-the-promotion-and-protection-of-the-rights-of-women-and-children-acwc>
2. Seventh Press Release of the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC), 24 July 2013, available at: <http://www.asean.org/component/zoo/item/seventh-press-release-of-the-asean-commission-on-the-promotion-and-protection-of-the-rights-of-women-and-children-acwc?Itemid=101>
3. Effective Implementation of the Common Issues in CEDAW and CRC with Focus on Girl Child and Right to Nationality, 22 August 2013, available at: http://www.asean.org/images/2013/socio_cultural/acwc/effective%20implementation%20of%20the%20common%20issues%20in%20cedaw%20and%20crc%20with%20focus%20on%20girl%20child%20and%20right%20to%20nationality.pdf
4. Eighth Press Release of the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC), 27 November 2013, available at: http://www.asean.org/images/2013/socio_cultural/acwc/8th%20acwc%20press%20release_final.pdf

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 Southeast 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 state in the ASEAN Charter – now the ASEAN Intergovernmental Commission on Human Rights (AICHR), and also the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC).

SAPA TFAHR Convenors 2013

- Asian Forum for Human Rights and Development (FORUM-ASIA)
- People's Empowerment Foundation (PEF)

Country Focal Points

- Burma/Myanmar – Human Rights Education Insitutet of Burma (HREIB) and Task Force on ASEAN Burma (TFAB)
- Cambodia – Cambodian Human Rights and Development Association (ADHOC)
- Indonesia – The Comission for the Disappeared and Victims of Violence (KontraS)
- Malaysia – Suara Rakyat Malaysia (SUARAM) and Persatuan Kesadaran Komuniti Selangor (PKKS Empower)
- The Philippines –Task Force Detainees of the Philippines (TFDP) and Philippines Alliance of Human Rights Advocates (PAHRA)
- Singapore – Think Centre
- Thailand – People's Empowerment Foundation (PEF)

Thematic Focal Points

- Children – Child Rights Coalition Asia (CRC Asia)
- Persons with Disability – Disabled Peoples' International Asia – Pacific (DPI-AP)
- Indigenous Peoples –Asia Indigenous Peoples Pact (AIPP)
- Migrant Workers –Task Force on ASEAN Migrant Workers (TFAMW)
- Refugees – Asia Pacific Refugees Rights Network (APPRN)