

# **The Future of Human Rights in ASEAN Public Call for Independence and Protection Mandates**

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A Report on the Performance of the ASEAN Human Rights Mechanism in 2014

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



Asian Forum for Human Rights and Development

The Future of Human Rights in ASEAN - Public Call for Independence and Protection Mandates: A Report on the Performance of the ASEAN Human Rights Mechanism in 2014

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# Acronyms and Abbreviations

ACSC/APF	ASEAN Civil Society Conference/ASEAN Peoples' Forum
ACMW	ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers
ACW	ASEAN Committee on Women
ACWC	ASEAN Commission for the Protection of the Rights of Women and Children
AHRB	ASEAN Human Rights Body
AHRD	ASEAN Human Rights Declaration
AICHR	ASEAN Intergovernmental Commission on Human Rights
AIPA	ASEAN Inter-Parliamentary Assembly
AMM	ASEAN Ministerial Meeting or ASEAN Foreign Ministers Meeting
AMMSWD	ASEAN Ministerial Meeting on Social Welfare and Development
AMS	ASEAN Member States
ASEAN	Association of Southeast Asian Nations
ASEAN SOMTC	ASEAN Senior Officials Meeting in Transnational Crime
ASEAN SMSWD	ASEAN Senior Officials Meeting on Social Welfare and Development
CEDAW	UN Convention on the Elimination of All Forms of Discrimination Against Women
CPR	Committee of Permanent Representatives
CRC	UN Convention on the Rights of the Child

CRC Asia	Child Rights Coalition Asia
CSO	Civil Society Organization
CSR	Corporate Social Responsibility
FORUM-ASIA	Asian Forum for Human Rights and Development
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICJ	International Commission of Jurists
ILO	International Labor Organization
INGO	International Non-Governmental Organization
KOMNAS HAM	National Commission on Human Rights of Indonesia
KontraS	Commission for the Disappeared and Victims of Violence
MDGs	Millennium Development Goals
NGO	Non-Governmental Organization
NHRI	National Human Rights Institution
NOSSA	ASEAN Network of Social Service Agencies
OHCHR	Office of the UN High Commissioner for Human Rights
Pro-Ham	The Society for the Promotion of Human Rights
SAPA	Solidarity for Asian Peoples' Advocacies
SAPA TFAHR	SAPA Task Force on ASEAN and Human Rights
SDGs	Sustainable Development Goals
SEANF	South East Asia National Human Rights Institutions Forum
TOR	Terms of Reference
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund

UPR	Universal Periodic Review
USAID	United States Agency for International Development
VDPA	Vienna Declaration and Programme of Action (1993)
Women's Caucus	Southeast Asia Women's Caucus



# Foreword

This is the fifth report on the ASEAN Human Rights Mechanism since the establishment of the ASEAN Intergovernmental Commission on Human Rights (AICHR) in 2009 and the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) in 2010. It has been 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).

2014 was expected to be the year when ASEAN could give a stronger institutional mandate to the ASEAN human rights body through a review of the Terms of Reference (TOR) of the AICHR. A series of consultations has been conducted as part of this review. Unfortunately, this has seemingly borne no fruit as there is a lack of available and relevant information nor is there any sign from ASEAN member states on what change and improvement this review will effect in empowering this regional human rights body. This report provides a summary and assessment of general expectations arising from CSOs and other stakeholders through their participation in this 2014 consultation.

In general, both the AICHR and the ACWC focus their mandates on the promotion of human rights, but sadly fell far short of any expected goal. Their efforts to implement their mandates were overall lacking. What is needed is that both regional human rights bodies have greater independence. The reality is that they are held back by the 'non-inteference' and 'consensus' working

practices of ASEAN. Both bodies continue to suffer from a lack of adequate resources to ensure the implementation of their mandates and work plans. Basically, these human rights bodies demand greater commitment from ASEAN member states, which the CSOs strongly support.

While it is theoretically possible to engage these two institutions at the regional level, the lived practice has been different again. Both AICHR and ACWC need to be more engaged with stakeholders at country level, with only a few country representatives conducting consultations or meetings with CSOs and stakeholders during 2014.

This report presents a number of recommendations for both AICHR and ACWC, as well as ASEAN itself.

We acknowledge that this report is by no means exhaustive. It is only able to capture in broad terms a full understanding of publicly available information on AICHR and ACWC. The report has gathered information from both CSO and stakeholder forums which have been actively engaged with both bodies.

While not being able to name everyone, we would like to express our sincere gratitude to all who contributed – both individuals and organizations assisting us in producing this report. However, we would 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), IWRAW Asia Pacific, 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 Commission for the Disappeared and Victims of Violence (KontraS), Vietnam Peace and Development Foundation, Thai Civil Society Network on ASEAN, National Human Rights Commission of Indonesia – Komnasham, and International Commission of Jurists (ICJ).

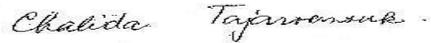
Our gratitude goes to the Swedish International Development Cooperation Agency (SIDA) and the Ford Foundation for their generous support to FORUM-ASIA in general and to our advocacy work in the ASEAN.

Finally, this report was prepared as part of our overall advocacy to strengthen the human rights mechanisms in ASEAN, as particularly possible through the work of the AICHR and the ACWC. Through consistent monitoring and critical assessment, we hope that this report, as in the past reports, makes a valuable contribution to realizing a stronger promotion and protection of human rights in the ASEAN region through the ultimate empowering of its existing regional human rights institutions.

On behalf of SAPA TFAHR,



**Evelyn Balais Serrano**  
Convenor  
Executive Director, FORUM-ASIA



**Chalida Tajaroensuk**  
Co-convenor  
Coordinator, People Empowerment Foundation



## *Chapter 1* **Introduction**

This report describes and assesses the performance of ASEAN's two main human rights mechanisms, 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) during 2014.

The report concludes that ASEAN's human rights mechanisms, in particular the AICHR, have continued in their policy of passivity and inaction on the actual human rights issues plaguing the region, preferring instead to bow to narrow state interests, in the guise of so-called principles of "non-intervention" and "decision making by consensus." As a result, the AICHR, in particular, has become even more marginal to the protection and promotion of human rights in ASEAN. For the ACWC, the opportunity presented by the ASEAN Declaration on the Elimination of Violence against Women and Violence against Children, which granted it a monitoring role, has yet to be fulfilled.

Since the establishment in 2009 of the AICHR, the first regional human rights institution by the Association of Southeast Asian Nations (ASEAN), the Asian Forum for Human Rights and Development (FORUM-ASIA), in collaboration with the Solidarity for Asian Peoples' Advocacies Task Force on ASEAN and Human Rights (SAPA TFAHR), have monitored the work of the AICHR, and regularly published an annual report describing and analysing its performance.

Released in 2014, the 2013 Annual Performance Report, for the first time, also included the yearly assessment of the performance

of the ACWC, which was established in 2010. The term “ASEAN Human Rights Mechanisms” is used here to refer specifically to the two ASEAN human rights institutions – the AICHR and the ACWC.

This 2014 Annual Report is thus the fifth and second assessment report of the AICHR and the ACWC, respectively. As this is still the second report that also assess the ACWC, the broader exposure towards the AICHR may still appear. The Report seeks to document and assess the performance of the AICHR and ACWC on the promotion and protection of human rights in the Southeast Asia region for the period of 1 January to 31 December 2014.

The assessment was prepared based on desk research on the work done by the AICHR and the ACWC in 2014, on public documents and press releases by the AICHR and the ACWC, on research articles on the AICHR and the ACWC, and interviews with stakeholders in the region. A consultation workshop was held on 27-28 May 2015 among members of FORUM-ASIA and SAPA TFAHR to gather inputs and discuss the performance of the AICHR and the ACWC.

One of the main challenges in conducting this assessment – as well as the previous ones – has been the ASEAN human rights mechanisms’ consistent policy of secrecy, denying the public substantive information and access to their documents, including the annual reports. Consequently, in writing this report, the researcher had to rely considerably on secondary sources and indirect sources of information.



*A dialogue between CSOs and Indonesia Representative to the AICHR, and Representatives to the ACWC at the launching of the 4<sup>th</sup> Report of SAPA TFAHR in Jakarta, 4 November 2014*

*Source: FORUM-ASIA*



## *Chapter 2*

# **The ASEAN Intergovernmental Commission on Human Rights**

The year 2014 is the fifth year since the establishment of the AICHR and thus, its work in 2014 was dominated by the review of its Terms of Reference (TOR) as required under Article 9.6 of the TOR, which stipulates:

The TOR shall be initially reviewed five years after its entry into force and this shall be undertaken by the ASEAN Foreign Ministers Meeting with a view to further enhancing the promotion and protection of human rights within ASEAN.

To the credit of the AICHR, it did not sit idly waiting for the ASEAN Foreign Ministers to review the TOR, but pro-actively discussed the revision, and conducted two consultation meetings with a wide range of stakeholders, including civil society organizations (CSO). In August 2014, the AICHR discussed its initial findings and recommendations on the review of its TOR with the ASEAN Foreign Ministers during the 47<sup>th</sup> ASEAN Foreign Ministers Meeting (AMM). Regrettably, the final report was not made public, nor was any information published as to how the ASEAN Foreign Ministers intended to move forward in reviewing the TOR.

One of the long standing issues that have plagued the AICHR is its relationship and engagement modalities with its stakeholders. Despite having a draft “Guidelines on the AICHR’s Relations with Civil Society Organizations” prepared by the previous AICHR representative from Thailand, Dr. Sriprapha Petcharamesree

as early as 2011, there was little progress in the finalization of this important document in the past years. In 2014, the AICHR appeared to resume its deliberations more extensively on the draft Guidelines, but again has yet to finalize it. The lack of consultation with civil society on the regional level remains a key concern, a matter that is directly relevant to mutual relations. On the national level, consultations on the draft Guidelines were held only in Thailand and Indonesia .

The main achievement of the work of the AICHR in 2014 would be the completion, after much delay, of its first ever thematic study-on Corporate Social Responsibility (CSR) and Human Rights. This thematic study has since been publicly accessible online. The thematic studies on migration and on the right to peace continue to be lagging behind. With such a slow rate of progress, one may safely consider that it is highly unlikely that the AICHR will be able to complete all of the 11 thematic studies that it listed in its Five Year Plan 2010 – 2015.

Activities by the AICHR in 2014 continued to be focused exclusively on the promotion of human rights, while human rights protection initiatives continued to be elusive despite the TOR of the AICHR placing equal importance on the two areas of work.<sup>1</sup> It is worth noting that the AICHR did contemplate developing a communication procedure as one of its key protection mandates in the review of its TOR<sup>2</sup>, but the idea appeared to have been dropped before the AICHR finalised its report to the ASEAN

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- 1 Article 4.1 of the TOR of the AICHR stipulates the first mandate and function of the AICHR is to “to develop strategies for the promotion and protection of human rights and fundamental freedoms to complement the building of the ASEAN Community”, [http://aichr.org/?dl\\_name=TOR-of-AICHR.pdf](http://aichr.org/?dl_name=TOR-of-AICHR.pdf), accessed 24 May 2015.
  - 2 See press release of the AICHR Workshop on Regional Mechanisms: Best Practices on Implementation of Human Rights, 21 November 2014, <http://aichr.org/report/press-release-the-aichr-workshop-on-regional-mechanisms-best-practices-on-implementation-of-human-rights-with-partial-support-from-un-women-and-regional-eu-asean-dialogue-instrument/>, accessed 24 May 2015

Foreign Ministers. Another development was the adoption of the concept note on the workshop for strengthening AICHR's protection mandate by exploring strategies to protect women and girls from violence.<sup>3</sup> Whether such attempts signal the beginning of the AICHR's willingness to look into developing its protection mandates remains to be seen.

## **2.1 Institutional Building**

The AICHR was established in 2009 in accordance with Article 14 of the ASEAN Charter. The body is composed of 10 representatives from each of the ASEAN Member States. They are appointed for a term of three years, which can be renewed only once. The AICHR representatives, although appointed by their respective governments and representing their respective countries, are required to act impartially in discharging their duties.<sup>4</sup> In other words, they should be independent from all parties, including the governments that appointed them.

### **Replacement of chairperson, changes in budget and secretariat support**

In 2014, the chairpersonship of the AICHR was taken over by the representative of Myanmar, Mr. U Kyaw Tint Swe from the representative of Brunei, Pehin Dato Dr. Awang Hj. Ahmad bin Hj. Jumat. There was no change of representatives within the Commission during the year.

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3 See AICHR press release, 16th Meeting of the ASEAN Intergovernmental Commission on Human Rights, 5 October 2014, <http://aichr.org/press-release/16th-meeting-of-the-asean-intergovernmental-commission-on-human-rights/#sthash.0lx2lL5X.dpuf>, accessed 10 June 2015.

4 Article 5.7 of the TOR of AICHR, [http://aichr.org/?dl\\_name=TOR-of-AICHR.pdf](http://aichr.org/?dl_name=TOR-of-AICHR.pdf), accessed 24 May 2015.

The annual budget of the AICHR is funded by contributions from ASEAN Member States on a cost sharing basis. AICHR may also receive funding from non-ASEAN sources but this is limited to activities of promotion of human rights, capacity building and education. Its secretariat support is provided by the ASEAN Inter-Parliamentary Assembly (AIPA), ASEAN Foundation, ASEAN Human Rights Body (AHRB) and other ASEAN Associated Entities Division, which is under the Community Affairs Development Directorate, that reports to the Community and Corporate Affairs Department of the ASEAN Secretariat. The staffs of the AIPA, ASEAN Foundation, AHRB and other ASEAN Associated Entities Division report to the Director of the Community Affairs Development Directorate instead of to the AICHR.

Although there are several staffs in the AIPA, ASEAN Foundation, AHRB and other ASEAN Associated Entities Division supporting the AICHR, this is only one of their tasks. Secretariat support for the AICHR is inadequate, in view of the role of the AICHR as an overarching human rights body in ASEAN and its increasing workload.

At its 15<sup>th</sup> Meeting in April 2014, the AICHR took the opportunity to exchange views with the ASEAN Secretary-General on possible interim measures that could be undertaken to strengthen the unit at the ASEAN Secretariat that supports the work of the AICHR. In the meeting with the ASEAN Foreign Ministers on the review of its TOR, the AICHR also requested for the establishment of a dedicated secretariat within the ASEAN Secretariat to support its work.

The AICHR's request for a dedicated secretariat with adequate staffing and resources should be considered by the ASEAN Secretary-General and Foreign Ministers, in line with the spirit of the Declaration on Strengthening the ASEAN Secretariat and

Reviewing the ASEAN Organs as adopted in 2014, which agreed among others, “to strengthen the capacity of and coordination among ASEAN organs” and “to ensure that the ASEAN Secretariat be provided with adequate financial resources and competent manpower”.<sup>5</sup> During the drafting of the AICHR’s TOR in 2008, civil society in ASEAN had already been advocating for an independent secretariat for the AICHR .

### **Website of AICHR Representatives**

The AICHR’s Fund has allocated USD 1,000 for each AICHR representative to develop a national website. As of this report’s writing, only three AICHR representatives, namely Indonesia, Malaysia and Thailand, have developed such websites.

**Table 1: Website addresses of the AICHR Representatives**

AICHR Indonesia	<a href="http://www.aichr.or.id">www.aichr.or.id</a>
AICHR Malaysia	<a href="http://www.aichr.kln.gov.my">www.aichr.kln.gov.my</a>
AICHR Thailand	<a href="http://www.aichr.or.th">www.aichr.or.th</a>

These national websites are useful in providing information, in the local languages, on the work of AICHR in particular, and on ASEAN in general. They should be publicized more regularly and widely.

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5 See “The Declaration on Strengthening the ASEAN Secretariat and Reviewing the ASEAN Organs” adopted in Nay Pyi Taw in 2014, accessed 23 May 2015, <http://www.mofa.gov.mm/wp-content/uploads/2014/11/Declaration-on-Strengthening-the-ASEAN-Sec-and-Reviewing-the-ASEAN-Organs.pdf>

## **AICHR regular meetings and special meetings**

The AICHR held three regular meetings and four special meetings in 2014 to coordinate and implement its work plan. The main topics in these meetings included the report on the review of Terms of Reference of AICHR, the AICHR Guidelines on the AICHR's Relations with Civil Society Organizations, an assessment of the work of the AICHR, Inputs to the Central Elements of the ASEAN Community's Post 2015 Vision, Annual Report of AICHR for 2013-2014, and Priority Programs/Activities and budget for 2015 as indicated in Table 2.

**Table 2: Regular and Special Meetings of AICHR in 2014\***

<b>Title</b>	<b>Date/Venue</b>	<b>Key Outputs</b>
14 <sup>th</sup> Meeting	8-11 February 2014, Yangon, Myanmar	<ul style="list-style-type: none"> <li>• Scheduled a series of consultations to assess the AICHR's work and gather inputs from stakeholders to help formulate the AICHR's recommendations for the consideration of the ASEAN Foreign Ministers during its TOR review;</li> <li>• Decided to organize an outcome workshop to present findings of the thematic study on Corporate Social Responsibility and Human Rights;</li> <li>• Agreed to conduct a Regional Workshop on Reporting Obligations;</li> <li>• Started discussions on the drafting of a Convention on the Prevention and Elimination of Violence against Women and Children;</li> <li>• Deliberated on the draft Guidelines on the AICHR's Relations with Civil Society Organizations.</li> </ul>
Special Meeting	8-9 March 2014, Jakarta, Indonesia	<ul style="list-style-type: none"> <li>• Discussed its contributions towards the review process of its TOR;</li> <li>• Commenced the assessment of its work</li> <li>• Worked on its Annual Report 2013-2014.</li> </ul>

Title	Date/Venue	Key Outputs
15 <sup>th</sup> Meeting	22-24 and 26-27 April 2014, Jakarta, Indonesia	<ul style="list-style-type: none"> <li>• Adopted Priority Programmes/Activities for 2015;</li> <li>• Adopted the concept paper and budget of the Regional Workshop on the Reporting Obligations: Experiences and Best Practices;</li> <li>• Adopted the concept paper on the Regional Consultation on the Review of the Terms of Reference of the AICHR for the regional consultation in Bangkok (June 2015);</li> <li>• Finalized its 2013-2014 Annual Report;</li> <li>• Agreed to formulate inputs to the efforts undertaken by the ASEAN Coordinating Council Working Group on the drafting of the ASEAN Post-2015 Vision.</li> </ul>
Special Meeting	10-11 July 2014, Singapore	<ul style="list-style-type: none"> <li>• Discussed inputs gathered from the two regional consultations with stakeholders on the review of its TOR and consolidated its own inputs;</li> <li>• Adopted its contribution to the development of the ASEAN Community's Post-2015 Vision.</li> </ul>
Special Meeting	6-9 August 2014, Nay Pyi Taw, Myanmar	<ul style="list-style-type: none"> <li>• Made preparations for its meeting with ASEAN Foreign Ministers;</li> <li>• Adopted concept papers for the Follow Up Workshop on the Post Millennium Development Goals (MDGs) 2015 and Human Rights; AICHR-Senior Officials Meeting on Transnational Crime (SOMTC) Joint Workshop on Human Rights Based Approach to Combat Trafficking in Persons, Especially Women and Children; Regional Workshop on Comparative Domestication of Human Rights Treaty Obligations with National Law in ASEAN; Workshop on Human Rights Regional Mechanisms; Workshop on the Universal Periodic Review (UPR); and, Training Course/Training of Trainers on ASEAN Human Rights Mechanism for ASEAN Member States Law Enforcement Officers;</li> <li>• Continued discussion of its contribution to the review of its TOR and agreed to a set of proposals on strengthening its work.</li> </ul>

## Calling for Independence and Human Rights Protection

Title	Date/Venue	Key Outputs
16 <sup>th</sup> Meeting	3-4 October 2014, Yangon, Myanmar	<ul style="list-style-type: none"> <li>• Finalized their report on the assessment of its work and recommendations on future efforts for the consideration of ASEAN Foreign Ministers;</li> <li>• Discussed inputs to the development of the Gender Sensitive Guidelines for Handling of Women Victims of Trafficking in Persons and the ASEAN-United Nations Development Programme (UNDP) Work Plan;</li> <li>• Adopted the concept note on the Workshop for Strengthening AICHR's Protection Mandate by Exploring Strategies to Protect Women and Girls from Violence;</li> <li>• Deliberated on its contribution to the commemoration of the establishment of the ASEAN Community in 2015, including the proposed initiative of the "ASEAN Peoples' Award".</li> </ul>
Special Meeting	14-16 November 2014, Bangkok	<ul style="list-style-type: none"> <li>• Discussed several concept papers for activities in 2015;</li> <li>• Deliberated on its activities in contribution to the development of the ASEAN Community celebrations</li> <li>• Discussed extensively the draft Guidelines on the AICHR's Relations with CSOs.</li> </ul>

\*This table is compiled based on the press releases of the AICHR in 2014

### **Review of AICHR's Terms of Reference (TOR)**

As noted, 2014 marked the fifth year of the TOR of the AICHR entering into force, and hence a review of its TOR was mandated under its TOR. Although the review was to be conducted by the ASEAN Foreign Ministers as stipulated in the TOR, the AICHR is to be commended for taking the pro-active initiative of conducting its own review and submitting their recommendations to the ASEAN Foreign Ministers.

In preparation for the review, AICHR decided to review its own work and organized two consultation meetings on the review of its TOR. During the special meeting of the AICHR on 3-4 October 2014, it finalized its report to the ASEAN Foreign Ministers, assessing the work of the AICHR and providing recommendations for the consideration of the ASEAN Foreign Ministers on the future efforts that could be undertaken in the promotion and protection of human rights in ASEAN. This report was, however, not made available to the public

The first consultation meeting on the review of the TOR of AICHR was held on 28-29 April 2014 in Jakarta, with the first day being devoted to consultation with the ASEAN sectoral bodies and the second, with civil society organizations and other stakeholders.<sup>6</sup> A subsequent regional consultation meeting was held on 27-28 June 2014 in Bangkok, Thailand, and according to AICHR was attended by approximately 115 participants including government officials from ASEAN Member States, ASEAN sectoral bodies, representatives of the United Nations (UN) regional offices based in Bangkok, representatives of national human rights institutions, representatives of national and regional civil society organizations and academics.<sup>7</sup>

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6 AICHR press release, 9 March 2014, <http://aichr.org/press-release/special-meeting-of-the-asean-intergovernmental-commission-on-human-rights/>, accessed 23 May 2015

7 AICHR press release, 30 June 2014, <http://aichr.org/report/second-regional-consultation-on-the-contribution-to-the-review-of-the-terms-of-reference-of-the-aichr-and-the-special-meeting-of-the-aichr/>, accessed 23 May 2015



*AICHR Consultation with Stakeholders on Contribution to the Review of Terms of Reference of the AICHR (Jakarta, 29 April 2014)*

*Source: CRC Asia*

These two relatively more open and transparent consultation meetings marked an improvement of engagement with its stakeholders in comparison with the AICHR's past practices. However, some national organizations, such as those from Cambodia were denied participation in the two consultation meetings, owing to the nomination of participants being made by each of the AICHR representatives. The situation was worse in other member states, where no independent civil society was allowed to participate.

The key issues of concern and recommendations made or submitted by the stakeholders, especially civil society organizations, in the two consultation meetings organized by the AICHR can be divided into three major categories-- firstly, on the process of the review of the TOR; secondly, on institutional building; and thirdly, on the mandates and functions of the AICHR.

### **Recommendations on Process of Review of the TOR**

On the process of the review of the TOR, the Southeast Asia Women's Caucus (Women's Caucus) revealed that the national processes of selection of CSO representatives for the consultation meetings itself were unclear in most countries. There were arbitrary selections of CSOs that were allied with ASEAN member governments, and there was also rejection of CSO selected representatives, like in the case of Cambodia. The Women's Caucus further pointed out that there was no timely information on representatives attending CSOs consultations and the processes were not transparent.<sup>8</sup> The SAPA-TFAHR recommended that for the review process to be successful, firstly, it must have meaningful participation of all stakeholders, including civil society; secondly, regular consultations must be held at the regional and national levels in all Member States based on genuine self-selection of representatives of civil society organizations and other stakeholders to the meetings; thirdly, sharing of draft revised texts of the TOR with all stakeholders in an open and timely manner; and fourthly, to have representatives of stakeholders represented in the body established to carry out the review of the TOR by the AICHR.<sup>9</sup>

In view of the consultation process organized by the AICHR in 2014, it appeared that the AICHR only met the first recommendation of SAPA-TFAHR and partially on the second recommendation as only a handful of AICHR representatives organized national consultations on the review of the TOR. Neither draft revised texts of the TOR were shared, nor a body established with representation of all stakeholders.

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8 See Women's Caucus in the 1<sup>st</sup> AICHR TOR Review CSO Consultation, <https://womenscaucusonasean.wordpress.com/2014/05/15/womens-caucus-in-aichrs-1st-tor-review-cso-consultation/>, accessed 23 May 2015.

9 See page 2, Submission to the AICHR Regional Consultation with Civil Society on the Review of the AICHR TOR by the Solidarity of Asian Peoples' Advocacies Task Force on ASEAN and Human Rights, <http://www.forum-asia.org/?p=16979>, accessed 23 May 2014.

## **Recommendations on Institutional Issues**

On institutional issues, many have highlighted the lack of independence and effectiveness of the AICHR. The International Commission of Jurists (ICJ) advocated the need for a set of tighter criteria of selection of AICHR representatives, and a transparent, consultative and participatory process in the nomination and appointment of the members of the Commission to ensure its independence and effectiveness. The ICJ recommended the AICHR to refer to the criteria used by the UN Human Rights Council in selecting mandate-holders of special procedures, which include expertise, experience in the field of the mandate, independence, impartiality, personal integrity and objectivity. It also urged the AICHR to refer to the Paris Principles, and the General Observation of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights' Sub-Committee on Accreditation, on establishing a transparent, consultative and participatory process of selection of members of the AICHR.<sup>10</sup> A group of CSOs from Thailand, by the name of Thai Civil Society Network on ASEAN, made a similar call for the selection process of the AICHR representatives to be more open, transparent, inclusive, and involving the active participation of all stakeholders in human rights.<sup>11</sup>

The principle of non-interference and consensus decision making of ASEAN, deemed as obstacles to the work of the AICHR, were the most debated issue in the two consultation meetings. The ICJ

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10 See Memorandum on the Terms of Reference of the ASEAN Intergovernmental Commission on Human Rights by International Commission of Jurist submitted to the AICHR during the AICHR's Regional Consultation on the Review of the Terms of Reference on 28-29 June 2014., <http://icj.wppengine.netdna-cdn.com/wp-content/uploads/2014/06/Memorandum-on-TOR-of-AICHR.pdf>, accessed 23 May 2015.

11 See The Review of the Term of Reference of the AICHR by the Thai Civil Society Network on ASEAN, <http://humanrightsinasean.info/system/files/documents/Thai%20CSO%20General%20Recommendation%20on%20the%20review%20of%20AICHR%20ToR.pdf?download=1>, accessed on 23 May 2015.

opined that “the principle of non-interference has been wielded as a political shield to avoid accountability for human rights violations and failure to fulfill human rights obligations.”<sup>12</sup> The SAPA TFAHR submitted that “the two principles have been used to diminish the ability of the AICHR to act effectively and independently in promoting and protecting human rights.”<sup>13</sup> Persatuan Promosi Hak Asasi Manusia (Pro-Ham), a Malaysian human rights organization, shared the view that “the principle of non-interference is a hindrance to protection of human rights in ASEAN which made the AICHR powerless and voiceless on critical human rights violations in ASEAN.”<sup>14</sup>

The ICJ argued in its submission that the way ASEAN interpreted the principle of non-interference is “wholly out of step with the now longstanding understanding of the principle within the international community” and “such restrictive view, if accepted, would mean that human rights issues could only be considered at an abstract level, rendering any efforts to address human rights concerns by ASEAN ineffective and futile.” Both the ICJ and Pro-Ham also further pointed out that there have been selective and inconsistent applications of the principle by ASEAN. Pro-Ham quoted examples of how ASEAN creatively addressed the issues of the Rohingyas in Myanmar, and human rights violations of minorities in Southern Thailand and Mindanao; while ICJ cited numerous ASEAN Joint Communiqués that intervened in human rights situations in the region, including the Joint Communiqué of the 36<sup>th</sup> ASEAN Ministerial Meeting expressing concern over the Depayin massacre in 2003 where 70 people associated with the national League for Democracy were killed by a government-

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12 See footnote 9.

13 See page 2 of footnote 8.

14 See Review of AICHR TOR – Some Pointers and Suggestions by Persatuan Promosi Hak Asasi Manusia (Pro-Ham), <http://proham.blogspot.com/2014/06/review-of-aichr-tor-some-pointers.html>, accessed 23 May 2015.

facilitated mob, the Chairman's Statement of the 13<sup>th</sup> ASEAN Summit in 2007 that recommended Myanmar to continue to work with the United Nations in order to initiate a meaningful dialogue with NLD leader Aung San Suu Kyi, lift restrictions on her, release all political detainees and to work towards a peaceful transition to democracy.<sup>15</sup>

The ICJ recommended to ASEAN to return to the well-established international principle that “protection and overall realization of human rights is not exclusively a matter of internal affairs of States, but the international community has an interest, including a legal interest in this realization.” It pointed out that “the United Nations Charter, under articles 55 and 56, makes it a core obligation of all States to engage in joint cooperation to ensure universal respect for and observance of human rights” and “the premise has long been accepted by the international community, including ASEAN Member States, notably in paragraph 4 of the 1993 Vienna Declaration and Programme of Action, which emphasizes the protection of all human rights as a legitimate concern of the international community.”<sup>16</sup>

Recommendations were also made by civil society organizations to do away with consensus decision making. The SAPA TFAHR suggested for the TOR to be amended to allow for decisions to be made by a majority, in situations where decision cannot be reached by consensus, especially to address or prevent serious human rights violations.<sup>17</sup> The ICJ recommended for the TOR of the AICHR to include a provision that “allows the AICHR to make a decision by majority vote, after all reasonable efforts have been exhausted to achieve consensus,”<sup>18</sup> while the Thai Civil Society

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15 See footnote 9 and footnote 13

16 See footnote 9.

17 See page 2, footnote 8.

18 See page 9, footnote 9.

Network on ASEAN argued “in certain cases when consensus could not be made, the majority vote approach or ASEAN plus X or ASEAN minus X approach should be taken into consideration.” The latter suggestion would allow Member States with the capacity to pursue particular initiatives or actions to start implementing decisions of the AICHR.<sup>19</sup>

Several civil society organizations, including the Asian Forum for Human Rights and Development (FORUM-ASIA), Thai Civil Society Network on ASEAN, and ICJ, also drew urgent attention to the need for the AICHR to have its own dedicated secretariat with adequate staffing and resources, that is independent from the ASEAN Secretariat.<sup>20</sup>

Another key issue raised by many civil society organizations was the challenge in engaging the AICHR and access to information. The Vietnam Peace and Development Foundation shared that the AICHR should promote the circulation of information to civil society organizations and the ASEAN people in general, through different channels, “in order to know what efforts have been made and what progress have been achieved by the AICHR.” It further called on the AICHR to enhance its interaction with civil society organizations in the region by having more “open dialogues” between the AICHR and civil society organizations at both national and regional levels.<sup>21</sup> The Women’s Caucus observed that in countries where civil society were part of nomination

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19 See page 2, footnote 10.

20 See oral intervention made by FORUM-ASIA in the consultation meeting on 28 June 2014, [http://humanrightsinasean.info/system/files/documents/FORUM-ASIA%20Oral%20Intervention%20to%20AICHR%202nd%20Regional%20Consultation\\_June\\_2014\\_Session\\_3.pdf?download=1](http://humanrightsinasean.info/system/files/documents/FORUM-ASIA%20Oral%20Intervention%20to%20AICHR%202nd%20Regional%20Consultation_June_2014_Session_3.pdf?download=1), accessed 23 May 2015, page 2 of footnote 10 and page 9 of footnote 9.

21 See annex 8, Contribution of the Vietnam Peace and Development Foundation to AICHR – AICHR Regional Consultation with Civil Society Organizations on the Review of the TOR of AICHR, 29 April 2014.

processes, the representatives to the AICHR have been more accessible and independent to conduct their mandates more effectively.<sup>22</sup> The SAPA TFAHR pointed out that “the absence of clear and comprehensive guidelines for engagement has prevented the AICHR from working in better cooperation with its stakeholders.”<sup>23</sup>

Perhaps the recommendations made by the Thai Civil Society Network on ASEAN summed up the aspiration of civil society organizations in the region. It recommended that the engagement with civil society organizations and other stakeholders should be more inclusive and broader than the organizations listed in Annex II of the ASEAN Charter; that the cooperation, in terms of dialogues, consultations, interface meetings, co-organized seminars, workshops, and specific thematic studies, should happen at both regional and national levels; and the draft of “the Guideline on Engagement with CSOs” should be shared and the AICHR should be open to meaningful involvement of other stakeholders in the drafting process.<sup>24</sup>

Meanwhile, a commissioner from the National Commission on Human Rights of Indonesia (KOMNAS HAM) expressed disappointment with the AICHR, lamenting that the working relationship and cooperation between the AICHR and the NHRIs in the past five years had been on a piecemeal and ad-hoc basis, despite the mandate “to consult, as may be appropriate, with other national...entities concerned with the promotion and protection of human rights”, as provided in Article 4.9 of the TOR of AICHR.<sup>25</sup>

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22 See footnote 7.

23 See page 3, footnote 8.

24 See page 2, footnote 10.

25 See Statement Delivered to the AICHR Regional Consultation on the Review of the AICHR TOR by the National Commission on Human Rights of Indonesia (KOMNAS HAM), <http://humanrightsinasean.info/system/files/documents/Indonesia%20NHRIs%20Statement%20to%20AICHR.pdf?download=1>, accessed 23 May 2015.

The ICJ submitted that “the NHRIs have been effectively excluded from the discussions of the AICHR, most notably during the process of development of the TOR and of the ASEAN Human Rights Declaration (AHRD). ASEAN NHRIs made efforts to engage in dialogue with AICHR, but were rejected by the latter, based on the ground that the AICHR had yet to develop its own Rules of Procedure prior to engaging with external parties.”<sup>26</sup>

KOMNAS HAM called for strengthening the platform of cooperation between the AICHR and other institutions such as national human rights institutions. The ICJ supported the call, and recommended that “it is not enough for the AICHR to merely “consult” NHRIs and the UN, but it should be clear that they should cooperate with and complement the work of these bodies.”<sup>27</sup>

On the other hand, the International Women’s Rights Action Watch Asia Pacific (IWRAP AP), UN Women and OHCHR have been working since 2012 to create the spaces for discussion about formalizing the linkages between NHRIs and AICHR and ACWC, and developed three separate dialogues with NHRIs and the women’s community for the implementation of the treaty obligations on the human rights of women and girls in 2012, 2013 and 2014. From the Dialogue in December 2014, the representatives from the national human rights institutions of Myanmar, Thailand, Malaysia, Timor Leste, Philippines and Indonesia shared that the lack of a formal mechanism of cooperation was a major gap, as many issues to be dealt with by the ASEAN human rights bodies had a transboundary element or was common to many ASEAN states and would benefit from a regional approach. Further, the CEDAW Committee also anticipated greater collaboration between the treaty body and the

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26 See page 7, footnote 9.

27 Ibid

work of regional human rights bodies, and it had formalized its internal Working Group on Regional Mechanisms. As such the ability of AICHR and ACWC to build formal linkages and working relationships to ensure greater capacity to support ASEAN states in implementing their CEDAW obligations should have been a key priority.

### **Recommendations on Mandates and Functions**

The weak and underdeveloped protection mandates and functions of the AICHR were highlighted by many civil society organizations in the two consultation meetings of AICHR on the review of its TOR. As pointed out by the SAPA TFAHR, the current TOR of AICHR provides a limited protection mandate and provisions for such mandate are very few and very general, namely “to develop strategies for the promotion and protection of human rights and fundamental freedoms to complement the building of the ASEAN Community” and “to obtain information from ASEAN Member States on the promotion and protection of human rights”. To make matters worse, it said that the AICHR failed to interpret these and other provisions progressively, and to use them to do human rights protection work.<sup>28</sup>

Clearly, most of the civil society organizations that attended the consultation meetings felt the urgent need for the AICHR to greatly expand and strengthen its protection mandates and functions. It was recommended that the TOR be amended to include explicit protection mandates to empower the AICHR, including:

- (i) to carry out a review of human rights records of ASEAN Member States,
- (ii) to conduct country/on-site visits,
- (iii) to receive, investigate and address complaints on human rights issues and violations,

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28 See page 2, footnote 8.

- (iv) to appoint independent experts to handle specific human rights issues similar to the Special Procedures mechanism of the UN Human Rights Council,
- (v) to develop an early warning system to prevent gross violations of human rights,
- (vi) to develop measures to protect individuals and groups from reprisals by Member States,
- (vii) to make recommendations to the Member State concerned, including recommendations of appropriate remedies where it finds that violations of human rights have been committed, and,
- (viii) to request Member States to adopt specific precautionary measures to prevent irreparable harm to persons in serious and urgent cases

During its special meeting held on 10-11 July 2014 in Singapore, the AICHR consolidated the inputs gathered in these two consultation meetings. In the special meeting held on 6-9 August 2014, the AICHR adopted a set of proposals on strengthening the work of promotion and protection of human rights. Those inputs and recommendations from the two consultations were later reported to the ASEAN Foreign Ministers during the meeting with the ASEAN Foreign Ministers Meeting (AMM) on 8 August 2014.

The little information that was made known to the public was that the AICHR informed the Foreign Ministers that there were numerous calls to enhance the balance between promotion and protection mandates, and to strengthen the AICHR's cooperation on human rights with all stakeholders including civil society organizations. In the same meeting, the AICHR reiterated its request for the establishment of a dedicated secretariat within the ASEAN Secretariat to support its work.<sup>29</sup>

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29 AICHR press release, 9 August 2014, <http://aichr.org/press-release/special-meeting-of-aichr-and-the-meeting-of-the-amm-with-the-aichr/>, accessed 23 May 2015

According to the AICHR, it considered the idea of developing and implementing communication procedures within the review of its TOR.<sup>30</sup> Nevertheless, it appears that this proposal was left out of the final report submitted to the ASEAN Foreign Ministers.

### **Guidelines on the AICHR's Relations with Civil Society Organizations**

The first draft of the Guidelines on the AICHR's Relations with Civil Society Organizations was prepared in 2011 by then AICHR representative from Thailand, Dr. Sriprapha Petcharamesree and tabled in an AICHR meeting during that year. However, the deliberation and adoption of this important document was either stalled or progressed very slowly thereafter. It was reported that the initial deliberation of the draft Guidelines took place during the special meeting of the AICHR in November 2013. Only in 2014, three years after the first draft was prepared, did the AICHR reportedly embark on the deliberation of the draft Guidelines at its 14<sup>th</sup> Meeting on 8-11 February 2014 and discussed it extensively in the special meeting of AICHR on 14-16 November 2014 in Bangkok.

It is indeed disappointing that five years after its establishment, the AICHR had yet to finalize its engagement modalities with civil society organizations. In the meantime, the absence of officially adopted Guidelines was often used as a reason to restrict engagement with civil society organizations and national human rights institutions.<sup>31</sup>

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30 AICHR press release, 21 November 2014, <http://aichr.org/report/press-release-the-aichr-workshop-on-regional-mechanisms-best-practices-on-implementation-of-human-rights-with-partial-support-from-un-women-and-regional-eu-asean-dialogue-instrument/>, accessed 24 May 2015.

31 See reply letter from the Chairperson of AICHR to FORUM-ASIA in 2013, page 8, *Four Years On and Still Treading Water*, Asian Forum for Human Rights and Development, 2014 and page 7 of the Memorandum on the Terms of Reference of the ASEAN Intergovernmental Commission on Human Rights by International Commission of Jurist, <http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2014/06/Memorandum-on-TOR-of-AICHR.pdf>, accessed 23 May 2015. .

Furthermore, although the draft Guidelines were meant for engagement with civil society organizations, it was not made available to civil society for their inputs.<sup>32</sup> Nevertheless, the AICHR's representative of Thailand and Indonesia should be commended for sharing the content of the draft Guidelines with their civil society organizations, and gathering their inputs for deliberation.

### **Inputs to the Central Elements of the ASEAN Community's Post 2015 Vision**

In its 15<sup>th</sup> Meeting in April 2014, the AICHR agreed to formulate its input to the efforts undertaken by the ASEAN Coordinating Council Working Group on the drafting of the ASEAN Post-2015 vision, which it finalized during its special meeting held on 10-11 July 2014. The AICHR submitted its input during its meeting with the ASEAN Foreign Ministers on 8 August 2014. It was reported that the ASEAN Foreign Ministers took note of AICHR's inputs, which recommended for ASEAN to make human rights a central element and incorporating them into the three ASEAN community pillars. No further public information could be found on the AICHR's input which, like the vast majority of documents it produced during 2014, was not made public.

### **Priority Programs/Activities and Budget for 2015**

The AICHR also submitted its Priority Programs/Activities and Annual Budget for 2015 to the ASEAN Foreign Ministers during the ASEAN Foreign Ministers Meeting on 8 August 2014. The Priority Programs/Activities 2015 were adopted in its 15<sup>th</sup> Meeting in April 2014. None of the above have been made public.

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32 At the writing of this report in 2015, the Guideline on the AICHR's Relations with Civil Society Organizations was officially adopted in the 17<sup>th</sup> Meeting of AICHR on 11 February 2015. The Guideline was only posted in the official website of the AICHR in May 2015.

## **Annual Report for 2013-2014**

As in previous years, and as stipulated in its TOR, the AICHR submitted its Annual Report for 2013-2014 to the ASEAN Foreign Ministers on 8 August 2014. The Annual Report was finalized in AICHR's 15<sup>th</sup> Meeting in April 2014. However, this report is also not publicly available.

### **2.2 Implementation of Mandates and Functions**

The mandates and functions of the AICHR are outlined in Article 4 of its TOR. The 14 mandates and functions are as follows:

1. To develop strategies for the promotion and protection of human rights and fundamental freedoms to complement the building of the ASEAN Community;
2. To develop an ASEAN Human Rights Declaration with a view to establishing a framework for human rights cooperation through various ASEAN conventions and other instruments dealing with human rights;
3. To enhance public awareness of human rights among the peoples of ASEAN through education, research and dissemination of information;
4. To promote capacity building for the effective implementation of international human rights treaty obligations undertaken by ASEAN Member States;
5. To encourage ASEAN Member States to consider acceding to and ratifying international human rights instruments;
6. To promote the full implementation of ASEAN instruments related to human rights;
7. To provide advisory services and technical assistance on human rights matters to ASEAN sectoral bodies upon request;
8. To engage in dialogue and consultation with other ASEAN bodies and entities associated with ASEAN, including civil society organisations and other stakeholders, as provided for in Chapter V of the ASEAN Charter;

9. To consult, as may be appropriate, with other national, regional and international institutions and entities concerned with the promotion and protection of human rights;
10. To obtain information from ASEAN Member States on the promotion and protection of human rights;
11. To develop common approaches and positions on human rights matters of interest to ASEAN;
12. To prepare studies on thematic issues of human rights in ASEAN;
13. To submit an annual report on its activities, or other reports if deemed necessary, to the ASEAN Foreign Ministers Meeting; and,
14. To perform any other tasks as may be assigned to it by the ASEAN Foreign Ministers Meeting.

In order to implement the above mandates and functions, AICHR adopted in 2010 a Five Year Work Plan 2010 - 2015. The Five Year Plan was developed based on its 14 mandates and functions, with 14 headlines and 52 broad lines of actions.

### **2.2.1 Thematic Studies**

The AICHR identified the following issues for thematic studies in its Five Year Work Plan 2010 - 2015, namely:

- Corporate social responsibility
- Migration
- Trafficking in persons, particularly women and children
- Child soldiers
- Women and children in conflicts and disasters
- Juvenile justice
- Right to information in criminal justice
- Right to health
- Right to education
- Right to life
- Right to peace

## Calling for Independence and Human Rights Protection

In 2011, the AICHR started discussion and work on three of these thematic issues, namely corporate social responsibility, migration, and the right to peace, deciding that they would be led by representatives from Singapore, Indonesia and Lao PDR, respectively.



*AICHR Workshop on Corporate Social Responsibility and Human Rights in ASEAN: Outcomes of the AICHR Thematic Study (Singapore, 13-14 June 2014)*

*(Source: Dr. Seree Nonthasoot<sup>33</sup>)*

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33 Link: [https://www.facebook.com/SereeASEAN/photos/ms.c.eJw9jskNwEAlAzKuAy m ~ ;8YSsUueI48NYGppUiEK7wfDUcMpl2H8HDO9nAh6sLC5DPf6kceVzWP24Ms 9Pv ~ \\_9cy ~ \\_2X3b ~ \\_wQscYCBN.bps.a.586171434834897.1073741898.3847680716 41902/586171654834875/?type=1&theater](https://www.facebook.com/SereeASEAN/photos/ms.c.eJw9jskNwEAlAzKuAy m ~ ;8YSsUueI48NYGppUiEK7wfDUcMpl2H8HDO9nAh6sLC5DPf6kceVzWP24Ms 9Pv ~ _9cy ~ _2X3b ~ _wQscYCBN.bps.a.586171434834897.1073741898.3847680716 41902/586171654834875/?type=1&theater)

## **Thematic Study on Corporate Social Responsibility and Human Rights**

In 2014, the AICHR completed its thematic study on CSR and human rights. This is the first and so far only thematic study completed by the AICHR. The thematic study report was submitted to the ASEAN Foreign Ministers on 8 August 2014. The report was made public and can be accessed at the official website of AICHR.<sup>34</sup>

This report aims to (1) identify state practices in facilitating or encouraging CSR, including business respect for human rights, in each of the ASEAN Member States (AMS), ranging from policies and processes to regulation and enforcement measures; (2) highlight CSR practices of ASEAN-based businesses as they relate to human rights; (3) explore the activities of various actors involved in the promotion of CSR, particularly with reference to human rights; (4) assess the level of engagement and dialogue between CSR promoters, AMS, and business entities, and identify areas where further engagement would be mutually beneficial, as well as tools and mechanisms that may help to facilitate such engagements; (5) identify various mechanisms, judicial and non-judicial, that would allow the victims of human rights abuses of corporate conduct to seek effective access to remedy; and, finally, (6) formulate initial recommendations to the region as a whole, including further works to be carried out, to develop a common framework to accelerate the promotion of CSR and human rights in the region.

Civil society organizations in the region welcomed the report as a good baseline study which provides an overview of the enabling environment and characteristics of the development of corporate

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34 See AICHR's thematic study on Corporate Social Responsibility and Human Rights in ASEAN, accessed 23 May 2015, [http://aichr.org/?dl\\_name=AICHRs\\_Thematic\\_Study\\_on\\_CSR\\_and\\_Human\\_Rights\\_in\\_ASEAN.pdf](http://aichr.org/?dl_name=AICHRs_Thematic_Study_on_CSR_and_Human_Rights_in_ASEAN.pdf)

social responsibility in three categories of countries in ASEAN, namely high income, middle income and low income countries and their commonalities and implications. The report found that philanthropy still forms a large part of the CSR practices in ASEAN. The report also cited that there is a greater need for collaboration between the public and private sectors, for the development of a CSR public policy framework for the region to ensure sustainable socio-economic development. The report also found that governments in the region are still figuring out how to take advantage of the concept of corporate social responsibility, which is relatively new to them. It observed that CSR advocates need to bridge the gap between top CSR performers and those lagging behind, and that non-businesses stakeholders need to be educated on CSR and sustainability issues too. It recommended that ASEAN should chart its own CSR course and agenda, and can learn from others' successes and mistakes.

The report concluded with eight recommendations for the consideration of ASEAN Member States and the AICHR. The key recommendations for ASEAN Member States included a) the acceleration and strengthening of the implementation and enforcement of the existing rules and regulations that deal directly with adverse impacts of business conducts; b) hastening efforts to socialize not only CSR, but also its linkages with human rights; and, c) development of a CSR strategy and an ASEAN-wide CSR-Human Rights Guideline.

The report places a lot of attention on the roles and practices of governments and corporations, and explores less vigorously the role of people, consumers, trade unions and civil society organizations in ensuring the effective realization of CSR. It would have also been helpful for the report to have looked into concrete examples of corporate conduct in the region that have had adverse socio-economic, environmental and human rights impacts in order to

contextualize and examine both the effectiveness and the flaws of how CSR is conceived and implemented in the region. This would have guided the study in terms of identifying the problems of implementing CSR on the ground and pointing to possible solutions.

The study recognized the fundamental problem of states relying on CSR alone or excessively, rather than imposing respect for the rights by corporations through laws, where necessary. As has been highlighted by many, including civil society organizations in the ASEAN region, CSR's nature as voluntary and non-binding on corporations, could be limiting. The report recommended that ASEAN Member States accelerate and strengthen the implementation and enforcement of the existing rules and regulations that deal directly with adverse impacts of business conduct. FORUM-ASIA and the SAPA TFAHR have called for a strong and binding corporate accountability legal instrument to be put in place in the region.<sup>35</sup>

To share the findings of its thematic study, the AICHR organized a workshop, entitled Workshop on Corporate Social Responsibility and Human Rights in ASEAN on 13-14 June 2014 in Singapore. The workshop was attended by 80 participants comprising of CSR and human rights practitioners, and other regional stakeholders from government, business and civil society, in addition to the AICHR representatives themselves. Participants agreed that governance was a key enabling factor for CSR to flourish and called on ASEAN Member States to continue the implementation and enforcement of existing rules and regulations on CSR.<sup>36</sup>

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35 See Asian Forum for Human Rights and Development (2013), *Corporate Accountability in ASEAN: A Human Rights-Based Approach*, page 80-83, <http://www.forum-asia.org/?p=16404>, accessed 23 May 2015

36 AICHR press release, 17 June 2014, <http://aichr.org/press-release/workshop-on-csr-and-human-rights-in-asean-outcomes-of-the-aichr-thematic-study/>, accessed on 23 May 2015.

How the AICHR is going to follow-up on its recommendations in this study remains to be seen in the coming years. While ASEAN accelerates its economic integration, it will be crucial to demonstrate whether the AICHR's thematic studies are tools for real change for human rights in the region or merely theoretical, academic exercises.

### **Thematic Study on Migration**

The concept paper and budget for the thematic study on migration was adopted by the AICHR in its 9<sup>th</sup> Meeting in May 2012. There appears to have been little progress since, except that the representative of Thailand held a national consultation on this study in October 2013, and appointed a researcher to prepare Thailand's national report for the study. Thailand's Representative to the AICHR was the first to submit its national report to the AICHR representative of Indonesia - as the leading representative in charge on this thematic study. Unfortunately, no information is available on the status of the thematic study from other member countries.

### **Thematic Study on the Right to Peace**

In 2014, the AICHR also started deliberations on the idea of having a thematic study on the right to peace, as agreed upon by the AICHR in its 9<sup>th</sup> Meeting in 2012. AICHR finally decided that this thematic study would go ahead in its 14<sup>th</sup> meeting in February 2014. This thematic study is led by the AICHR representative of Lao PDR. A first coordinating meeting on this thematic study was held on 18 July 2014 in Luang Prabang, in which the outline/framework of the national reports to be prepared by each National Focal Points (NFPs) was deliberated. It was planned that the national reports are to be submitted to a two-member Study Team that will prepare the overall regional report and analysis. A

second Coordination Meeting is expected to be held to discuss the findings from the study and make preparations for the final report.

With no consultation meetings held either at the regional or national level, civil society organizations in the region are concerned that behind this seemingly innocuous topic is the idea that human rights such as freedom of expression, association and peaceful assembly may be restricted for the sake of “peace”.

### **2.2.2 Raising public awareness and developing common positions on human rights**

Under its mandate to enhance public awareness of human rights among the peoples of ASEAN through education, research and dissemination of information, and to develop common approaches and positions on human rights matters of interest to ASEAN, the AICHR organized the following activities in 2014:

- Regional Workshop on the Promotion of Maternal Health & Reduction of Maternal Mortality, 28-29 March 2014, Manila, Philippines (no information has been made public on this workshop);
- Workshop on Human Rights, Environment, Climate Change, 13-15 September 2014, Yangon, Myanmar;
- Follow-up workshop on Post Millennium Development Goals 2015 and Human Rights, 15-16 October 2014, Jakarta, Indonesia.

The workshop on human rights, environment and climate change discussed the development of a regional strategy to mainstream a human rights based approach on environmental policymaking and protection. It was envisaged that this workshop would pave the way for the establishment of an ASEAN network linking human rights and environment, and human rights and climate change, and a regional approach to post-Millennium Development Goals (MDGs) on sustainable development. The

workshop concluded that there is a clear connection between human rights and environmental sustainability/climate change; highlighted the importance of a human rights based approach to environment policy making; and the critical need to ensure mechanisms for minimizing the negative environmental impact of development, as well as ensuring participation of the most vulnerable groups affected by development, by using tools such as the Environment and Social Impact Assessment, Trans-boundary Impact Assessment and Cumulative Assessment, as well as the establishment of new bodies at the national level specifically to handle environmental matters.<sup>37</sup>



*AICHR Follow-up Workshop on Post Millenium Development Goals 2015, 15-16 October 2014, Jakarta, Indonesia.*

*(Source: FORUM-ASIA)*

The Follow-Up Workshop on Post-MDGs 2015 and Human Rights was conducted as the follow-up to the first AICHR

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37 AICHR press release, 18 September 2014, <http://aichr.org/news/aichr-workshop-on-human-rights-environment-and-climate-change/>, accessed 24 May 2015.

Workshop on the subject, which was held in November 2013. The workshop discussed how to translate the 17 proposed Sustainable Development Goals (SDGs) in the ASEAN context, spell out relevant human rights principles and ensure justice and development in the new SDGs. It concluded with recommendations for anchoring the Post-2015 development agenda in human rights principles, ensuring transparency, accountability, monitoring and evaluation mechanisms at local, national and regional level; developing human rights indicators in measuring compliance with the SDGs; ensuring the new SDGs include a participatory mechanism or system to develop these indicators; recognizing the need to form closer collaboration between existing commissions and committees; and, the important role of civil society in developing a common position on human rights and Post-2015 Development Agenda to be submitted to ASEAN Foreign Ministers, ASEAN Geneva Committee and ASEAN New York Committee in shaping the Post-2015 Development Agenda.<sup>38</sup> The report of the workshop is yet to be made public by the AICHR.

### **2.2.3 Providing advisory services and technical assistance**

In implementing its mandate of providing advisory services and technical assistance on human rights matters to ASEAN sectoral bodies, the AICHR organized the following activities in 2014:

- Workshop on Reporting Obligations, 3-4 July 2014, Ha Noi, Viet Nam;
- Workshop on Sharing Experiences on Universal Periodic Review, 19 September 2014, Bangkok, Thailand;
- Workshop on Domestication of Human Rights Obligations, 17-18 December 2014, Luang Prabang, Lao PDR.

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38 AICHR press release, 22 October 2014, <http://aichr.org/press-release/press-release-the-aichr-follow-up-workshop-on-post-millennium-development-goals-2015-and-human-rights/>, accessed 24 May 2015.

The regional workshop on reporting obligations aimed at sharing experience and best practices among ASEAN Member States in drafting and presenting national reports to UN human rights mechanisms, especially the Human Rights Treaty Bodies and the Universal Periodic Review.<sup>39</sup> The workshop was reportedly attended by AICHR representatives, representatives of government agencies from ASEAN Member States, members of the UN Committee on the Rights of the Child, the UN Committee on Economic, Social and Cultural Rights, the UN Human Rights Committee, the ASEAN Secretariat, and international and local CSOs. The Workshop made recommendations to address the challenges faced by ASEAN Member States, and called on the AICHR to assist, where possible, in building their capacity to comply with their reporting obligations.

The Workshop on sharing experiences on Universal Periodic Review aimed to be a capacity-building, as well as a consultative and collaborative platform, on preparing for the mid-term review and Second Cycle of the UPR. Representatives from several countries, including Thailand, Switzerland, Viet Nam and Malaysia, shared their experiences. The workshop concluded with recommendations, including for the AICHR to participate in monitoring the implementation of UPR's recommendations, and addressing the capacity gaps among ASEAN Member States, as well as to organize "mock UPR exercises" for ASEAN Member States. The AICHR representative for Thailand summed up the workshop saying that AICHR's TOR may be open to creative interpretation to develop a regional plan of action, and organize activities to support the UPR processes of ASEAN Member States.<sup>40</sup>

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39 Press release of AICHR, 11 February 2014, accessed on 24 May 2015, <http://aichr.org/press-release/14th-meeting-of-the-asean-intergovernmental-commission-on-human-rights/>

40 Press release of AICHR, 20 September 2014, accessed on 24 May 2015, <http://aichr.org/news/aichr-workshop-on-the-sharing-of-experiences-on-universal-periodic-review-process-among-asean-member-states/>

The Regional Workshop on Domestication of Human Rights Obligations, held on 17-18 December 2014, provided a platform for participants to share experiences on the implementation of human rights treaty obligations of ASEAN Member States at the domestic level, with particular focus on the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC) which have been ratified by all ASEAN Member States.<sup>41</sup>

Such activities providing advisory services and technical assistance by the AICHR are indeed valuable for the ASEAN Member States. Nevertheless, in carrying them out, the AICHR should be careful to ensure that in reporting to UN human rights bodies, Member States are able to provide information, openly and candidly, on both their achievements and failures in complying with international human rights law and standards, instead of merely assisting them in defending their human rights records, and glossing over shortcomings and failures.

This report found no information on activities by the AICHR in 2014 to encourage ASEAN Member States to consider acceding to and ratifying other international human rights instruments, which is one of the mandates of the AICHR, as described above. In view of the low level of ratification of human rights treaties by several Member States, including core ones, this failure to act is disappointing.

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41 Press release of AICHR, 23 December 2014, accessed on 24 May 2015, <http://aichr.org/press-release/sharing-national-experience-on-human-rights-implementation-in-asean/>

### **2.2.4 Capacity building**

During 2014, the AICHR organized two activities under the mandate of promoting capacity building for the effective implementation of international human rights treaty obligations undertaken by ASEAN Member States:

- Workshop on Regional Mechanisms, 17-18 November 2014, Bangkok, Thailand
- Training of trainers on ASEAN human rights mechanisms for ASEAN Member States Law Enforcement Officers, 27-30 November 2014, Bali, Indonesia

The two-day workshop on Regional Mechanisms: Best Practices on Implementation of Human Rights was aimed at creating a platform of exchanging and sharing experiences, best practices and lessons learned with experts of other regional human rights systems from Inter-America, Europe and Africa, representatives from government agencies, national human rights institutions/bodies and civil society organizations in ASEAN.<sup>42</sup>

The Training of Trainers on ASEAN human rights mechanisms for ASEAN Member States Law Enforcement Officers was designed to build the capacity of the police, immigration officers, judges and prosecutors from ASEAN Member States on ASEAN human rights mechanisms. The participants were law enforcement officers from Cambodia, Indonesia, Lao PDR, Myanmar, Thailand, Viet Nam, Singapore and Malaysia. According to the AICHR, participants were also taught the skills and techniques of delivering human rights training with the aim of enabling them to conduct and

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42 AICHR Press release, 21 November 2014, <http://aichr.org/report/press-release-the-aichr-workshop-on-regional-mechanisms-best-practices-on-implementation-of-human-rights-with-partial-support-from-un-women-and-regional-eu-asean-dialogue-instrument/>, accessed 24 May 2015.

deliver similar trainings in their respective countries. In addition, participants also visited a correctional facility in Bali.<sup>43</sup>

This was the second “training of trainers” workshop organized by the AICHR, the first one having been held in 2013. Such trainings are steps in the right direction and should continue, while at the same time the AICHR should also monitor and ensure those that have been trained actually conduct similar trainings after they return to their home country. Such commitment should be secured by having annual national human rights training plans by law enforcement agencies, with the necessary budget and resources allocated by the ASEAN Member States.

### **2.2.5 Standard Setting**

The AICHR is tasked to develop an ASEAN Human Rights Declaration with a view to establishing a framework for human rights cooperation through various ASEAN conventions and other instruments dealing with human rights.

With the adoption of the AHRD at the 21<sup>st</sup> ASEAN Summit in 2012, this first and primary mandate of standard setting has been completed by the AICHR, albeit with widespread criticism and concerns expressed by the international community, including civil society organizations in the region, on the Declaration falling far below international human rights laws and standards.<sup>44</sup>

At its 14<sup>th</sup> meeting in February 2014, the AICHR began discussion on drafting a convention on the prevention and elimination of violence against women and children in ASEAN as a follow-up

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43 AICHR Press release, 2 December 2014, <http://aichr.org/press-release/press-release-the-aichr-training-of-trainers-on-asean-human-rights-mechanisms-for-asean-member-states-law-enforcement-officers/>, accessed on 24 May 2015.

44 See Asia Forum for Human Rights and Development (2013), *Still Window Dressing*, page 37-39.

to the adoption of the ASEAN Human Rights Declaration.<sup>45</sup> We understand that this project was later abandoned. At its 16<sup>th</sup> meeting in October 2014, the AICHR provided its input to the ACWC on the Gender Sensitive Guidelines for Handling of Women Victims of Violence in Trafficking in Persons. At the same meeting, it adopted a concept note for the workshop on strengthening AICHR's protection mandate by exploring strategies to protect women and girls from violence.<sup>46</sup>

While women's and children's rights are of paramount concern to any human rights mechanism, it is unclear why the AICHR should focus on these topics, at the expense of a host of other rights which have not been addressed by the AICHR, and when the ASEAN already has an expert body devoted solely to the promotion and protection of the rights of women and children, namely, the ACWC. FORUM-ASIA and the SAPA TFAHR call on the AICHR, as the overarching human rights body to coordinate its work on women's and children's rights, with the ACWC, and allow the latter to take the lead on these issues.

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45 Press release of AICHR, 11 February 2014, accessed 23 May 2015, <http://aichr.org/press-release/14th-meeting-of-the-asean-intergovernmental-commission-on-human-rights/>

46 Press release of AICHR, 5 October 2014, accessed 23 May 2015, <http://aichr.org/press-release/16th-meeting-of-the-asean-intergovernmental-commission-on-human-rights/>

*Chapter 3*

**The ASEAN Commission on the Promotion  
and Protection of the Rights of  
Women and Children**

Building on the adoption of the Declaration on the Elimination of Violence Against Women and Elimination of Violence Against Children in ASEAN at the 23<sup>rd</sup> ASEAN Summit on 9 October 2013 in Bandar Seri Begawan, Brunei which provides it with a monitoring role, the work of the ACWC in 2014 throughout the year was much focused on the area of elimination of violence against women and children. Activities included a public campaign “Stop Violence Against Women” and a three-day training course for ASEAN social workers on assisting victims of violence against women and children.

2014 marks the third year of its Five Year Work Plan 2012 – 2016 and the ACWC appears to be on track in terms of implementing the Plan.

The ACWC made good progress on dialogue and development of collaboration with various stakeholders in 2014, including ASEAN sectoral bodies, the AICHR, senior officials meetings, ASEAN dialogue partners, UN agencies and civil society organizations. Examples are the successful Inter-Sectoral Meeting on the Implementation of the Declaration on the Elimination of Violence Against Women, and Elimination of Violence Against Children in ASEAN; the agreement on four joint projects with the ASEAN Committee on Women; and, one project on the public campaign for the elimination of violence against women with the Senior Officials Meeting Responsible for Information.

Another positive development during 2014 was the meeting between the ACWC and the AICHR, the second since 2011, to discuss the alignment issues between the two bodies, which was followed by a joint statement. The meeting achieved some agreements on functional cooperation and better coordination between the two institutions and identified four priority areas for future cooperation. While how such cooperation and coordination will develop in practice remains to be seen, it is nevertheless a step in the right direction.

### **3.1 Institutional Building**

The ACWC was inaugurated on 7 April 2010 as the second human rights institution of the ASEAN. It is comprised of 20 representatives, two from each Member State - 10 representatives for children's rights and 10 for women's rights. They are all appointed by Member States for a three-year term that may only be renewed once.

Similar to the provisions of the TOR of the AICHR, Article 6.9 of the TOR of ACWC requires all representatives of ACWC to act impartially in discharging their duties in accordance to ASEAN Charter and the TOR. This provides the basis for representatives of the ACWC to be independent from their appointing governments and all other parties, although, as is the case with the AICHR, is far from guaranteeing such independence.

#### **Changes of chairperson, budget and secretariat support**

The year 2014 marked the first year of the second term of the ACWC's representatives. There were some changes to the representatives of the Commission. The representative of Indonesia for women's rights, Ms. Rita Serena Kolibonso was replaced by Ms. Lily Purba. From Singapore, Dr. Alice Wong, who

was the representative for women's rights, left the ACWC at the end of her three-year term and was replaced by Ms. Laura Hwang. While the process of selecting Indonesia's representative to the ACWC was open, with nominations from the general public, as it was in the first term, there was also a positive development in Singapore, where the government followed an open nomination process this time. The announcement on the nomination process for the representative to the ACWC was made by the Ministry of Social and Family Development of Singapore in early September 2014 with a deadline of 15 September 2014. Nevertheless, the criteria published by the Ministry included requirements not in line with the TOR's insistence on representatives' impartiality, such as defending Singapore's position and interest on the issues of women's rights and child's rights.<sup>47</sup> Ms. Laura Hwang, who was selected, is a prominent figure in the financial sector, was President of the Singapore Council of Women's Organizations during 2010 – 2014, and formerly the 3<sup>rd</sup> director of the ASEAN Confederation of Women's Organisations.<sup>48</sup>

The annual budget for the operations of the ACWC comes from contributions by ASEAN Member States on cost sharing basis. Unlike in the case of the AICHR, contributions to the ACWC by ASEAN Member States are on a voluntary basis. As a result, some Member States may choose not to make any contribution to the ACWC.

In addition to contributions from the Member States, the ACWC may also receive funding from other sources, but subject to the approval of the ASEAN Ministerial Meeting on Social Welfare

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47 See "Wanted: Singapore's next representative for women's rights", <http://www.humanresourcesonline.net/wanted-singapores-representative-womens-rights/>, accessed 23 May 2015.

48 See resume of the ACWC representatives, [http://www.asean.org/images/Community/ASCC/ACWC/Resumes\\_of\\_the\\_ACWC\\_Representatives/LHwang\\_CV\\_Current\\_Sep\\_2014.pdf](http://www.asean.org/images/Community/ASCC/ACWC/Resumes_of_the_ACWC_Representatives/LHwang_CV_Current_Sep_2014.pdf), accessed 23 May 2015.

and Development (AMMSWD), upon the endorsement of the Committee of Permanent Representatives (CPR).

Secretariat support for the operations of the ACWC is provided by the ASEAN secretariat. This is facilitated through staff from the Social Welfare, Women, Labour and Migrant Workers Division of the Socio-Cultural Cooperation Directorate under the ASEAN Secretariat. Such arrangement restricts the operation of the ACWC as the Division has only a few staff members, and supporting the ACWC is only one of their many tasks. The staff report to the Director of the Socio-Cultural Cooperation Directorate instead of the ACWC, which further complicates the operation of the ACWC.

### **Regular meetings**

In 2014, the ACWC had two regular meetings and no special meeting, as illustrated in Table 3.

**Table 3: Meetings of the ACWC in 2014\***

<b>Title</b>	<b>Date/Venue</b>	<b>Key outputs</b>
8 <sup>th</sup> Meeting	17-18 February 2014, Jakarta, Indonesia	<ul style="list-style-type: none"> <li>Reviewed the progress of 24 projects and activities, including the draft Guidelines for Handling of Women Victims of Trafficking in Persons; the public campaign on “Stop Violence Against Women;” and, its campaign materials and website to commemorate the International Day for the Elimination of Violence Against Women on 25 November.</li> </ul>
9 <sup>th</sup> Meeting	13-14 October 2014, Yangon, Myanmar	<ul style="list-style-type: none"> <li>Reviewed and reported progress on the implementation of the Five Year Work Plan;</li> <li>Agreed to implement in collaboration with the ASEAN Committee on Women (ACW) four joint projects related to gender, and one project in collaboration with the Senior Officials Meeting responsible for information on a public campaign for the elimination of violence against women;</li> </ul>

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Title	Date/Venue	Key outputs
		<ul style="list-style-type: none"> <li>• Agreed on reciprocal invitations to respective activities between the ACWC and the AICHR, ASEAN Senior Officials Meeting for Social Welfare and Development (SOMSWD), and ASEAN Senior Officials Meeting on Transnational Crime (SOMTC);</li> <li>• Deliberated activities in realizing the Declaration on the Elimination of Violence Against Women and Elimination of Violence Against Children in ASEAN, including the establishment of a Network of Social Service Agencies and a three-day training course for 20 frontline ASEAN social workers who work with women and children victims of violence;</li> <li>• Made preparations for the ASEAN Regional Conference of Senior Officials on Strengthening the Protection and Empowerment of Women Migrant Workers and ASEAN Consultation on Cultural and Religious Practices Impacting on the Rights of Children.</li> </ul>

\*This table is compiled based on the press releases of the ACWC in 2014

Throughout 2014, the ACWC met much less frequently than the AICHR, with the ACWC complying only with the minimum requirements of its TOR in this respect. The reasons for this difference may be the ACWC's more limited financial resources and larger number of representatives.



*The 9<sup>th</sup> meeting of the ACWC in Yangon, 13-14 October 2014*

*(Source: [www.asean.org](http://www.asean.org))*

### **3.2 Implementation of Mandates and Functions**

The mandates and functions of the ACWC are stipulated in Article 5 of its TOR, as follows:

1. To promote the implementation of international instruments, ASEAN instruments and other instruments related to the rights of women and children;
2. To develop policies, programs and innovative strategies to promote and protect the rights of women and children to complement the building of the ASEAN Community;
3. To promote public awareness and education of the rights of women and children in ASEAN;
4. To advocate on behalf of women and children, especially the most vulnerable and marginalized, and encourage ASEAN Member States to improve their situation;
5. To build capacities of relevant stakeholders at all levels, e.g. administrative, legislative, judicial, civil society, community leaders, women and children machineries, through the provision of technical assistance, training and workshops, towards the realization of the rights of women and children;

6. To assist, upon request by ASEAN Member States, in preparing for CEDAW and CRC Periodic Reports, the Human Rights Council's Universal Periodic Review (UPR) and reports for other Treaty Bodies, with specific reference to the rights of women and children in ASEAN;
7. To assist, upon request by ASEAN Member States, in implementing the Concluding Observations of CEDAW and CRC and other Treaty Bodies related to the rights of women and children;
8. To encourage ASEAN Member States on the collection and analysis of disaggregated data by sex, age, etc., related to the promotion and protection of the rights of women and children;
9. To promote studies and research related to the situation and well-being of women and children with the view to fostering effective implementation of the rights of women and children in the region;
10. To encourage ASEAN Member States to undertake periodic reviews of national legislations, regulations, policies, and practices related to the rights of women and children;
11. To facilitate sharing of experiences and good practices, including thematic issues, between and among ASEAN Member States related to the situation and well-being of women and children and to enhance the effective implementation of CEDAW and CRC through, among others, exchange of visits, seminars and conferences;
12. To propose and promote appropriate measures, mechanisms and strategies for the prevention and elimination of all forms of violation of the rights of women and children, including the protection of victims;
13. To encourage ASEAN Member States to consider acceding to, and ratifying, international human rights instruments related to women and children;
14. To support the participation of ASEAN women and children

- in dialogue and consultation processes in ASEAN related to the promotion and protection of their rights;
15. To provide advisory services on matters pertaining to the promotion and protection of the rights of women and children to ASEAN sectoral bodies upon request;
  16. To perform any other tasks related to the rights of women and children as may be delegated by the ASEAN Leaders and Foreign Ministers.

The ACWC’s Work Plan for 2012-2016 includes 18 thematic areas with 23 specific activities under them. Guided by this Work Plan, the ACWC organized several regional conferences, workshops, a capacity building activity, and a series of consultations with various stakeholders in 2014, as illustrated in Table 4.

**Table 4: Activities Organized by the ACWC in 2014**

Activity	Date/Venue	Key outputs
Workshop on the Promotion of Access to Justice for Women Victims of Violence Against Women Trafficking Cases	3-5 February 2014, Bandar Seri Begawan, Brunei	• Produced a draft Guidelines for Handling Women Victims of Trafficking in Persons.
Public campaign on “Stop Violence Against Women”	Launched in 2013 and continuing in 2014	• Campaign posters, pamphlets, stickers, videos <sup>49</sup> and website.
Three day training course for 20 frontline ASEAN social workers who worked with women and children victims of violence	8-10 April 2014, Singapore	• 20 frontline ASEAN social workers who worked with women and children victims of violence were trained.

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49 See [http://www.asean.org/media-gallery/video/item/asean-without-violence-is-a-better-place-for-everyone?category\\_id=64](http://www.asean.org/media-gallery/video/item/asean-without-violence-is-a-better-place-for-everyone?category_id=64) and <https://www.youtube.com/watch?v=AMkJKFH42Yo&feature=youtu.be>

Activity	Date/Venue	Key outputs
ASEAN Regional Conference of Senior Officials on Strengthening the Protection and Empowerment of Women Migrant Workers	13-14 November 2014, Manila, Philippines	<ul style="list-style-type: none"> <li>Produced two sets of recommendations for the consideration of AMS and the ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers.</li> </ul>
ASEAN Consultation on Cultural & Religious Practices Impacting on the Rights of Children	18-20 November 2014, Jakarta, Indonesia	<ul style="list-style-type: none"> <li>Religious leaders, cultural leaders and government officials from the ASEAN Member States were engaged in the consultation.</li> </ul>

## Elimination of Violence Against Women and Children in ASEAN

The main focus of ACWC’s work in 2014 was on elimination of violence against women and children, as follow-up to the adoption of the Declaration on the Elimination of Violence Against Women and Elimination of Violence Against Children in ASEAN by the ASEAN Summit in 2013. It is worth noting that this Declaration explicitly provides a role for the ACWC in promoting its implementation and reviewing its progress.<sup>50</sup>

The follow-up work on the Declaration included a “Stop Violence Against Women” public campaign with various campaign materials, such as posters, pamphlets, stickers, videos and a website, (<http://aseanewaw.org/evawc-in-aseans/>) and a three-day training of 20 social workers who work with women and children survivors of violence.

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50 Declaration on the Elimination of Violence Against Women and Elimination of Violence Against Children in ASEAN, Article 8.

In addition, the ACWC engaged in preparations for the establishment of the ASEAN Network of Social Service Agencies (NOSSA). The NOSSA is expected to be launched in 2015 and it is envisioned as a regional network of social service agencies involved in preventing, protecting and helping victims of violence against women and violence against children in ASEAN, through measures such as capacity building and knowledge sharing.<sup>51</sup>

The various efforts of the ACWC in taking concrete steps to implement the Declaration on the Elimination of Violence Against Women and Elimination of Violence Against Children in ASEAN should be commended, although concerns expressed by civil society that the Declaration falls short of international human rights law and standards in some respects remain to be addressed. As recommended by the Southeast Asia Women's Caucus, the ACWC should implement the Declaration in accordance with the principles of CEDAW, and meaningful partnership with civil society.<sup>52</sup>

The report of Good Practices: Elimination of Violence Against Women and Children, launched on 12 December 2013 in Kuala Lumpur, Malaysia, is a compilation of brief and general overviews of legal frameworks, policies and measures put in place by each ASEAN Member State in addressing violence against women and violence against children. There is, however, uneven coverage by the different country reports. For instance, the report from Cambodia and Myanmar focused exclusively on violence against women. The quality of the reports also varies from

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51 ACWC press release, 16 October 2014, <http://www.asean.org/news/asean-secretariat-news/item/tenth-press-release-of-the-asean-commission-on-the-promotion-and-protection-of-the-rights-of-women-and-children-acwc>, accessed 23 May 2015.

52 See "A look at ASEAN Declaration on Violence against Women and Violence Against Children", ASEAN Women Caucus, <https://womenscaucusonasean.wordpress.com/2014/02/05/a-look-at-asean-declaration-on-violence-against-women-and-violence-against-children/>, accessed 23 May 2015.

one country to another, for instance the report from countries like the Philippines and Malaysia are more comprehensive and informative in comparison with the shorter reports from Brunei or Myanmar.<sup>53</sup>

As for the public campaign on stop violence against women, it unfortunately was not prominently visible either at national level or at regional level. This too may be attributable, at least in part, to the ACWC's limited financial and other resources.

### **Draft Guidelines for Handling of Women Victims of Trafficking in Persons**

The draft Guidelines for Handling of Women Victims of Trafficking in Persons was an outcome of the Workshop on the Promotion of Access to Justice for Women Victims of Violence in Trafficking Cases, held on 3-5 February 2014 in Bandar Seri Begawan, Brunei. The ACWC should be commended for continuing its good practice by sharing the draft Guidelines with its stakeholders, as it did in the process of drafting the Declaration on Elimination of Violence Against Women and Violence Against Children, and consulting with civil society organizations during the drafting of the Guidelines.

In addition to the declarations and guidelines adopted by ASEAN against trafficking in persons, violence against women and violence against children, the ACWC should ensure the Guidelines is consistent with the Recommended Principles and Guidelines on Human Rights and Human Trafficking by the OHCHR. Furthermore, the Southeast Asian National Human Rights Institutions Forum (SEANF) has adopted a Memorandum

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53 ASEAN, *Good Practices: Elimination of Violence Against Women and Children*, (2013), <http://www.asean.org/images/Community/ASCC/ACWC/Good%20Practices%20-EVAWC%20Publication.pdf>, accessed 23 May 2015.

of Understanding Against Trafficking of Women and Children in Manila in 2010, and the ACWC should take into consideration the said Memorandum of Understanding, and develop a closer collaboration with SEANF and NHRIs in the region in finalizing the Guidelines.

### **Strengthening the Protection and Empowerment of Women Migrant Workers**

The ASEAN Regional Conference of Senior Officials on Strengthening the Protection and Empowerment of Women Migrant Workers, held on 13-14 November 2014 in Manila, was a joint project of the ACWC and the ASEAN Committee on Women. It was convened as one of the priority activities of the ACWC Work Plan 2012-2016 and the ACW Work Plan 2011-2015. It was hosted by the Government of the Philippines, with technical and financial support from the International Labor Organization (ILO).

The conference facilitated discussions among representatives of the labor ministries of ASEAN Member States, the ACW and the ACWC, the ASEAN Confederation of Employers, ILO, UN Women, the International Organization for Migration, the ASEAN Secretariat, the Task Force on ASEAN Migrant Workers, civil society organizations working with migrants and women migrant workers, and focused on the protection and empowerment of women migrant workers, especially those in vulnerable situations, such as domestic workers, victims of forced labor and trafficking in persons, and female migrants in crisis situations.

The outcome of the conference were two sets of comprehensive recommendations on the protection of women migrant workers and the empowerment of women migrant workers, for the consideration of ASEAN Member States as well as the ASEAN Committee on the Implementation of the ASEAN Declaration on

the Protection and Promotion of the Rights of Migrant Workers (ACMW).<sup>54</sup>

The ACMW is drafting a regional instrument on the protection of migrant workers. No drafts have been published for this instrument, though some CSOs are apparently involved in drafting the instrument, albeit on condition of confidentiality, and it is unclear whether or not the instrument will be legally binding. The instrument will apparently cover only “legal” migrant workers and is scheduled to be completed in 2015, after much delay.

### **Consultation on Cultural and Religious Practices Impacting on the Rights of Children**

The ACWC organized the ASEAN Consultation on Cultural and Religious Practices Impacting on the Rights of Children on 18-20 November 2014 in Jakarta, with the support of United Nations Children’s Fund (UNICEF). The consultation was hosted by the Government of Indonesia. The meeting allowed religious leaders, cultural leaders, government officials as well as civil society organizations, using the UN Convention on the Rights of the Child, to analyze religious and traditional practices in South East Asia, that have implications for child rights.

The event aimed to build a network of child rights advocates among the various stakeholders. It produced a set of joint recommendations on promoting the rights of children, and protecting them from harmful practices. According to Mr. Taufan Damanik, the ACWC representative of Indonesia for child rights, the recommendations of the consultation were to be submitted

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54 See Conference Statement of The ASEAN Regional Conference of Senior Officials on Strengthening the Protection and Empowerment of Women Migrant Workers, 13-14 November 2014, Quezon City, Philippines, [http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/meetingdocument/wcms\\_331086.pdf](http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/meetingdocument/wcms_331086.pdf), accessed 23 May 2015.

to other ASEAN sectoral bodies and Member States, and all ASEAN Member States would be expected to organize national consultations to end any form of violence against children that would be linked to religious and cultural practices.<sup>55</sup>

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55 See ASEAN to consider impacts of religious and cultural practices on child rights, 18 November 2014, [http://www.unicef.org/eapro/media\\_23221.html](http://www.unicef.org/eapro/media_23221.html), accessed 23 May 2015.

*Chapter 4*  
**The AICHR and the ACWC**  
**Engagement with Stakeholders**

The TOR of both the AICHR and ACWC provide broad mandates for the two human rights bodies to engage and consult with stakeholders.

In the case of the AICHR, Article 4.8 of its TOR requires the AICHR to engage in dialogue and consultation with other ASEAN bodies and entities associated with ASEAN, including civil society organizations and other stakeholders, as provided in Chapter V of the ASEAN Charter. AICHR TOR Article 4.9 mandates the AICHR to consult, as may be appropriate, with other national, regional and international institutions and entities concerned with the promotion and protection of human rights. In other words, Article 4.9 allows the AICHR to consult civil society organizations and other stakeholders who are not listed in the Entities Associated with ASEAN as in Chapter V of the ASEAN Charter.

In the case of the ACWC, Article 7.7 of its TOR stipulates that the ACWC is to coordinate with the ASEAN Intergovernmental Commission on Human Rights (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. The ACWC TOR Article 7.8 requires the ACWC to engage in dialogue and consultation, as may be appropriate, with other national, regional and international institutions and entities concerning the promotion and protection of the rights of women and children.

Despite these explicit provisions, many stakeholders, including civil society organizations and national human rights institutions in ASEAN Member States, as in earlier years, faced challenges in accessing and engaging the AICHR and the ACWC in 2014 with the latter more open and accessible to CSOs than the former.

Meantime, the AICHR took a long time to finalize its Guidelines on the AICHR's Relations with Civil Society Organizations. The first draft of the Guidelines was presented in 2011, and for the period of 2014 covered by this report, the Guidelines were yet to be finalized and adopted.

### **4.1 The AICHR's engagement with stakeholders in 2014**

It appears that the AICHR had relatively intensive consultation with stakeholders during 2014. This was primarily due to the TOR of the AICHR being up for review.

The stakeholders that the AICHR engaged with in 2014 were quite diverse. It met with the Secretary-General of ASEAN, the CPR and the representatives of the SOMSWD during its 15<sup>th</sup> Meeting in April 2014.<sup>56</sup> This was followed by the annual meeting with ASEAN Foreign Ministers in August during the AMM. In November, the AICHR met with UN Women, and United States Agency for International Development (USAID) Asia to discuss their mutual cooperation.

The AICHR also had its second meeting with the ACWC in April 2014 to discuss the collaboration and alignment between the two human rights bodies.

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56 AICHR's press release, 30 April 2014, accessed 23 May 2015, <http://aichr.org/report/second-regional-consultation-on-the-contribution-to-the-review-of-the-terms-of-reference-of-the-aichr-and-the-special-meeting-of-the-aichr/>

Meanwhile, the AICHR held two consultation meetings in 2014 on the review of its TOR, in a relatively more open, consultative and participatory manner in comparison with its past practices. In the consultation meeting held in June, 115 participants were able to participate and contribute with quite a large number of civil society organizations represented. There were however still cases of CSO facing difficulties in accessing and joining the consultation meetings of AICHR. For instance, Reasey Seng, the representative of Cambodian women's rights organization Silaka, was rejected by the AICHR representative of Cambodia.

While there was no doubt that it is difficult to accommodate participation of all interested civil society organizations due to limited meeting space and time, another problems lies with the selection process of civil society organizations to fill the limited quota of seats allocated to ASEAN Member States. The decision was left to individual representatives of the AICHR to select their national civil society organizations to join the consultation meetings. This, by definition, undermines the independence of CSOs, who should have been allowed to nominate their own representatives.

Nevertheless, the consultation process on the review of the TOR proved that it is possible for the AICHR to engage with a large number of civil society organizations, with no untoward incidents. The overwhelming majority of these civil society organizations were not listed in Chapter V of the ASEAN Charter as Official Entities Associated with ASEAN, which further points to the fact that engagement of AICHR with its stakeholders need not be limited by Chapter V. Unfortunately, there is no way for us to assess the extent to which input by CSOs were reflected properly in the report, or influenced AICHR's recommendations to the Foreign Ministers since, disappointingly, neither body published the report and recommendations.

## Consultation at national level

Another important engagement process with civil society organizations and other stakeholders by the AICHR is that at the national levels. During 2014, some consultation meetings were held at national level by individual AICHR representatives, and their initiatives should be encouraged and followed by other representatives.

For example, Thailand's representative to the AICHR, Dr. Seree Nonthasoot, held the annual consultation with civil society in Bangkok on 4 February 2014, during which he briefed civil society organizations on the AICHR and its activities in 2013, as well as activities planned for 2014. Civil society organizations that attended the meeting provided input, which helped the representative of Thailand in carrying out his duty.



*Thailand Representative to the AICHR – Dr. Seree Nonthasoot, conducted national consultation with CSOs prior to the Bangkok Regional Consultation on the Review of the TOR of AICHR (Bangkok, 18 June 2014)*

*(Source: Dr. Seree Nonthasoot <sup>57</sup>)*

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57 Link: <https://www.facebook.com/SereeASEAN/photos/ms.c.eJwtytsJADAIA8CNitHE4P6L9UE~;D05TRABhu6eXnqOvHfiGiHNS35kmWcIGrUMpg~-~-b.p.s.a.593405760778131.1073741899.384768071641902/593410110777696/?type=1&theater>

**Table 5:**  
**Number of national consultation meetings held by the  
AICHR representatives in 2014\***

Country	Number of national consultation meetings
Brunei	n.a
Cambodia	n.a
Indonesia	3
Lao PDR	n.a
Malaysia	0
Myanmar	n.a
Philippines	n.a
Singapore	3
Thailand	3
Viet Nam	2

\* Information collected based on questionnaire sent to civil society organizations in the region.

Besides conducting regular national consultations on the work of the AICHR, representative of Indonesia, Mr. Rafendi Djamin, also took initiatives, organizing consultation meetings on key human rights issues in the region in his capacity as AICHR representative of Indonesia. He organized three such regional consultation events in 2014 in Jakarta, attended by AICHR representatives, civil society and Indonesia government representatives:

1. On Combating Discrimination, Promoting Equality and Social Cohesion, 15-17 January 2014, Jakarta;
2. On Promoting Freedom of Religion or Belief, 19-20 February 2014, Jakarta;
3. Third Jakarta Human Rights Dialogue On the Right to Life and Moratorium of the Death Penalty in the ASEAN region, 10-11 November 2014, Jakarta.

In addition, Thailand's Representative to the AICHR, Dr. Seree Nonthasoot initiated several regional activities:

1. Regional Workshop on the Promotion and Protection of Every Child's Right to be Registered at Birth ( in cooperation with UNHCR), 20 September 2014, Bangkok
2. The Human Rights Dialogue between Royal Thai Government and the AICHR on Migrant Workers, 18 September 2014, Bangkok. This Dialogue was followed with a field visit to migrant workers' sites in Samutsakhon province.



*The AICHR visiting a local (public) school (Wat Kamphra). Children of migrant workers are enrolled and receive basic education free of charge at the same school with Thai students.*

*(Source: Dr. Seree Nonthasoot<sup>58</sup>)*

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58 Link: [https://www.facebook.com/SereeASEAN/photos/ms.c.eJw9kcmNRUEIAzMa sS~;5Jzb~;Ae5jCdnYEGpcm4a0V1~;MWwcSaThx7~;hx0nLTvwjde2bd86cjk 30mwfn8eoFeoucfRTHOVx9rCWbh~\\_Hf6w8~;sfWH3iZiy~\\_W1mvwC1tg8mfB- bvUEv298Kfps36N3jU5PKeW5fQV~\\_W8RPodf1fv5Dxm0O~\\_GuZ3b997v742zNg XMvuZsW~;7Nfpazj9asW~;6~ww\\_utb6ycC~;eYT5PPcf13~;6jDbr6efW~;0DpiB wzQ~-~-bps.a.634183293367044.1073741906.384768071641902/63418362336701 1/?type=1&theater](https://www.facebook.com/SereeASEAN/photos/ms.c.eJw9kcmNRUEIAzMa sS~;5Jzb~;Ae5jCdnYEGpcm4a0V1~;MWwcSaThx7~;hx0nLTvwjde2bd86cjk 30mwfn8eoFeoucfRTHOVx9rCWbh~_Hf6w8~;sfWH3iZiy~_W1mvwC1tg8mfB- bvUEv298Kfps36N3jU5PKeW5fQV~_W8RPodf1fv5Dxm0O~_GuZ3b997v742zNg XMvuZsW~;7Nfpazj9asW~;6~ww_utb6ycC~;eYT5PPcf13~;6jDbr6efW~;0DpiB wzQ~-~-bps.a.634183293367044.1073741906.384768071641902/63418362336701 1/?type=1&theater)

Such events not only promote engagement with all stakeholders, but also create a new platform to discuss difficult issues which do not receive consensus, and therefore are barred from being discussed by the AICHR during its official meetings.

#### **4.2 The ACWC's engagement with stakeholders in 2014**

In 2014, the ACWC continued to engage with its stakeholders extensively, including civil society organizations, in line with its policy, as in previous years.

The ACWC held a consultation meeting with CSOs on 19 February 2014 on implementing the Declaration on the Elimination of Violence Against Women and Elimination of Violence Against Children, and possible joint collaboration.



*ACWC regional consultation with CSO at the ASEAN Secretariat Jakarta, 19 February 2014*

*(Source: FORUM-ASIA)*

With the participation of AICHR representatives, the ACWC also had a separate consultation meeting on 20 February 2014 with ASEAN sectoral bodies in charge of women's affairs, social welfare, rural development and poverty eradication, education, labor and migrant workers, as well as trafficking in persons on possible areas and mechanisms of cross sectoral cooperation and coordination, to jointly implement the Declaration on the Elimination of Violence Against Women and Elimination of Violence Against Children.

During its 9<sup>th</sup> Meeting in October 2014, the ACWC held a consultation meeting with the UN High Commissioner for Refugees, Human Rights Resource Center, United States Senior Advisor for Global Women Issues, and the UNICEF East Asia and Pacific Regional Office, to discuss possible collaboration. On 15 October 2014, the ACWC representatives had a joint consultation session with the ACW to strengthen the collaborative work to implement the Declaration on the Elimination of Violence Against Women and Elimination of Violence Against Children in ASEAN. Such active and open engagement and consultation with various stakeholders, especially with civil society organizations, should be continued, strengthened and expanded.

### **Consultation at national level**

Similar to some of the AICHR representatives, individual ACWC representatives conducted country consultations with civil society organizations in 2014. Responses to a questionnaire to civil society organizations indicated that at least both the ACWC representatives of Viet Nam and Indonesia have had two national consultation meetings with their civil society organizations in 2014.

**Table 6:**  
**Number of national consultation meetings held by the  
ACWC representatives in 2014\***

Country	Number of national consultation meetings
Brunei	n.a
Cambodia	n.a
Indonesia	2
Lao PDR	n.a
Malaysia	0
Myanmar	n.a
Philippines	n.a
Singapore	n.a
Thailand	2
Vietnam	2

\* Information collected based on questionnaire sent to civil society organizations in the region.

However, fewer of the ACWC representatives organized national consultation than those of the AICHR. The ACWC representatives from other countries should consider organizing national consultation meetings with civil society organizations in the future.

### **4.3 Alignment between the AICHR and the ACWC**

The AICHR is the overarching human rights institution in ASEAN, with overall responsibility for the promotion and protection of human rights in ASEAN. It is required to work with all ASEAN sectoral bodies dealing with human rights, to expeditiously determine the modalities for their ultimate alignment with the AICHR, and to closely consult, coordinate and collaborate with such bodies in order to promote synergy and coherence in ASEAN's promotion and protection of human rights.<sup>59</sup>

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59 Article 6.8 and 6.9 of the TOR of AICHR.

## Calling for Independence and Human Rights Protection

In its TOR, the ACWC is explicitly required to 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.



*The AICHR meeting with the ACWC at the 15<sup>th</sup> Meeting of AICHR (ASEAN Secretariat, Jakarta, 25 April 2014)*

*(Source: Dr. Seree Nonthasoot<sup>60</sup>)*

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60 Link: [https://www.facebook.com/SereeASEAN/photos/ms.c.eJw9ztsVwCAIA9CNe ngYCPsvVivSzyuJAARBwVpuJfbgc2Ycu17T91MYcpnxbjIulSoQbeo6eYs7r~\\_6v6 RfbNnntfI2z7dd27iM7H1Db~\\_8j4LTsPuIzX8d2~;nW2~;tu7Dfn~;~;K~;ECt-zI30A~--.bps.a.556857041099670.1073741894.384768071641902/5568652210988 52/?type=1&theater](https://www.facebook.com/SereeASEAN/photos/ms.c.eJw9ztsVwCAIA9CNe ngYCPsvVivSzyuJAARBwVpuJfbgc2Ycu17T91MYcpnxbjIulSoQbeo6eYs7r~_6v6 RfbNnntfI2z7dd27iM7H1Db~_8j4LTsPuIzX8d2~;nW2~;tu7Dfn~;~;K~;ECt-zI30A~--.bps.a.556857041099670.1073741894.384768071641902/5568652210988 52/?type=1&theater)

The AICHR and the ACWC only met once in 2011 prior to 2014. The second meeting took place on 25 April 2014. The fact that the two main human rights bodies of ASEAN only met for the second time after three years speaks volumes about the nature of their relationship and the extent of collaboration. Clearly, such state of affairs has impacted on the coordination of the two bodies and created confusion for many.

In the meeting between the AICHR and ACWC on 25 April 2014, the two ASEAN human rights institutions identified four priority areas for cooperation, namely trafficking in persons especially women and children; disability; education; and gender, peace and security. The two bodies also agreed to functional cooperation and better coordination to move forward towards strategic partnership, including joint activities and information sharing on human rights.<sup>61</sup>

Such collaboration started to take actual shape when the AICHR discussed in its meeting the draft Guidelines for Handling Women Victims of Trafficking in Persons prepared by the ACWC, and provided its input for the consideration of the ACWC. This is indeed a positive development.

Nevertheless, in the absence of written guidelines of alignment modalities that is agreed by the two bodies, questions remain on how the two bodies will avoid continued work in silos on issues outside of the four agreed priority areas of cooperation, and how the two bodies will be able to avoid duplication of work within those priority areas.

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61 Joint press release of the AICHR and ACWC, 27 April 2014, <http://aichr.org/press-release/joint-press-release-the-aichr-and-acwc-consultation-meeting/>, accessed 23 May 2015.

For instance, after the four priority areas of cooperation had been agreed in April, the AICHR adopted the concept paper for an AICHR-SOMTC Joint Workshop on Human Rights Based Approach to Combat Trafficking in Persons, Especially Women and Children, at its August meeting. The AICHR must have been fully aware that the ACWC had already conducted a Workshop on the Promotion of Access to Justice for Women Victims of Violence Against Women in Trafficking Cases, which produced the draft Guidelines for Handling Women Victims of Trafficking in Persons in February.

Doubts could therefore be raised as to whether the AICHR-SOMTC Joint Workshop on Human Rights Based Approach to Combat Trafficking in Persons, Especially Women and Children, is designed as complementary to the Workshop on the Promotion of Access to Justice for Women Victims of Violence Against Women in Trafficking Cases of the ACWC, or a duplicate of it. The two bodies are utilizing tax payers' money from the region, when there are still so many other important human right issues in the region to be dealt with, such as refugees and asylum seekers, enforced disappearances, torture, freedom of expression, death penalty and many more.

Clearly, for the benefit of the peoples in the region that they serve, there is an urgent need for the AICHR and the ACWC to sit down again, iron out any differences, and define clearly the role of each other when it comes to the human rights of women and children. The ACWC as a specialized institution on women and children should play the lead role in promoting and protecting women's and child's rights in the region; while the AICHR, as an overarching human rights body, should focus primarily on other regional human rights issues, in order to ensure that all human rights issues are given the necessary attention, and the resources of the two bodies are maximized.

## *Chapter 5*

# **Conclusions and Recommendations**

In this report we have surveyed the activities of two main ASEAN human rights mechanisms. Both are still at the early stages of their existence and activities, but after five and four years, respectively, one can no longer speak of teething problems. The overall picture remains deeply disappointing.

It is not that these activities have no merit. Activities such as consultations, meetings, researches and trainings –which are essentially what the two bodies have been engaged in during 2014—are valuable; they can help inform and educate officials and the wider public about human rights, and popularize the human rights discourse across the region. Studies, workshops, and training sessions are also, in fact, carried equally well by universities, research institutions and CSOs. But these are not what the people of ASEAN urgently need from a human rights body. What they need is a regional recourse for victims of human rights violations to turn to when their own state has failed them. What they need is a champion for their cause, a body that will investigate violations, seek the truth and then talk truth to power, and insist that governments cannot get away with violations, and see to it that all human rights are enjoyed by all. This is what a regional human rights mechanism should be, and do. This is how human rights mechanisms in other regions of the world do. The people of Southeast Asia deserve no less.

But after five years of consistent refusal to challenge any ongoing human rights violations in the region—not even one, single violation--victims and CSOs have to a large extent given up, preferring instead to work against violations either domestically,

or else approach international human rights mechanisms. This is a sad testimony to AICHR's failure to have real impact.

In order to change this, the AICHR need to improve its TOR. But, the AICHR also needs to change its very approach to human rights, to the governments of ASEAN Member States, and most importantly, to its own mission. The AICHR must learn to prioritise the protection of human rights over the protection of narrow state interests; to prioritise promoting regional cooperation to apply universal principles of human rights, over the protection and promotion of so-called ASEAN principles. These principles have been used as excuses for inaction--the very excuses that governments use: "non-interference," "decision by consensus," "regional and national contexts," etc.

The ACWC has a narrower mandate and, it appears, a greater willingness to be inclusive, to be active and to adhere to universal human rights law and standards. But here too, the shadows of consensus and politicisation are threatening. We have yet to see concrete action at the ACWC, against the myriad violations of the human rights of women, girls and boys throughout the region.

In short, several key trends may be observed from developments during 2014:

- The uneven focus and implementation between the human rights promotion mandate on the one hand, and the human rights protection mandate on the other, continued to characterize the work of both the AICHR and the ACWC. They worked exclusively on the promotion of human rights; and the human rights protection mandates and functions were severely underdeveloped, if not totally neglected, despite the fact that the TORs of both bodies attach equal importance to both promotion and protection of human rights. No mechanism to receive human rights complaints

was established; no investigation was conducted on actual human rights violation cases; and, no redress was made available to victims of human rights violations. Nevertheless, it is encouraging that the AICHR has begun discussions on the possible development of communication procedure, and will be having a workshop to explore the development of its protection mandates.

- The principle of non-interference and consensus decision making of ASEAN continued to restrict the development of the ASEAN human rights mechanism, as well as to undermine its effectiveness. The principle of non-interference on domestic affairs severely hampered the possible development of human rights protection strategies and measures, such as human rights violations complaint mechanisms, on-site visits and investigations, prison visits, and, public inquiry by the two bodies. The consensus decision making mechanism allows each and every representative of the AICHR and ACWC the power to veto decisions supported by the majority--from simple decisions pertaining to the release of a particular document, allowing participation of a particular civil society organization, to important decisions such as approval of events, actions or issues to be taken up by the two bodies.
- There has been little improvement in terms of transparency and public participation in the selection of new representatives in the AICHR and ACWC, except in the case of the new ACWC representative of Singapore for women's rights, who was selected after an open call for nomination. The continued presence of government officials as representatives in the AICHR and ACWC remains a serious concern, especially when representatives are required to act impartially in discharging their duties as mandated in the TOR of both bodies.
- Access to information of the work, procedures, discussions and decisions of the AICHR and ACWC continued to be

challenging for many stakeholders, especially civil society organizations in the region. Many documents, reports, guidelines were not made public, although the ACWC appeared to be more willing to share information with its stakeholders in comparison with the AICHR.

- Both the AICHR and the ACWC continued to suffer from the lack of a dedicated secretariat and adequate resources to function effectively and efficiently, although the AICHR has made repeated appeals in 2014 to the ASEAN Foreign Ministers for a dedicated secretariat.
- Civil society engagement with the AICHR and the ACWC at national and regional level were better in some countries such as Thailand, Indonesia, and relatively difficult in other countries such as Malaysia, Laos PDR or Cambodia. Both bodies have yet to adopt written guidelines of engagement with their stakeholders, especially civil society organizations. The ACWC appeared to be more ready and open to engage with civil society organizations in comparison with the AICHR. Nevertheless, the AICHR has shown improvement of engagement with civil society in its TOR review process. That the AICHR's representative of Singapore started to engage with Singapore civil society organizations in three consultation meetings in 2014 is another notable positive development.
- The gap on the alignment and coordination between the AICHR and the ACWC appeared to be widening over the last few years, since there were no regular meetings from 2010 to 2014 between the two bodies, and there was no mutually agreed guidelines of alignment during this period. This has impacted the work of both institutions, especially on the issue of violence against women and violence against children, and trafficking in persons. It created confusion and difficulties on the part of the stakeholders, and raised pertinent questions on whether resources are maximized by the two bodies to attend to as many urgent human rights issues as possible in the region.

## **Recommendations to the AICHR**

- Accelerate the development of human rights protection strategies and measures in the coming years, such as communication procedures on complaints and other reports of human rights violations, investigations into violations—both specific ones and systematic ones, on-site visits, public inquiries, and ensure that balanced attention and resources are allocated between promotion of human rights and protection of human rights.
- Establish a registry database of complaints and other reports of human rights violations received in order to document them systematically for reference and action.
- Follow up the thematic study on CSR and Human Rights by ensuring that corporations are encouraged to exercise CSR, and that individual states and ASEAN as a whole take measures, including through legislation, to ensure that corporations are prevented from committing or taking part in human rights abuses, and are held to account if they commit such abuses;
- Accelerate the completion of the thematic study on migration in view of the Rohingya crisis in the region, and of the targeted completion of the drafting of an ASEAN regional instrument on the promotion and protection of the rights of migrant workers in 2015.
- Enhance efforts in encouraging ASEAN Member States to ratify international human rights treaties in view of the extremely low ratification record in the region;
- Organise consultation meetings with all stakeholders on the next five year work plan of AICHR for 2016-2020, especially civil society organizations at national and regional levels.
- Agree that the ACWC take the lead role in issues related to the rights of women and children, and that the AICHR focus instead on other pressing human rights issues and

marginalized communities in the region, such as enforced disappearances, torture, freedom of expression, death penalty, indigenous peoples, migrant workers, LGBTI communities, while supporting the ACWC in mainstreaming women's and children's rights in other human rights issues and communities.

- Hold consultation meetings with the ACWC, at least once annually, to coordinate the activities of both bodies in order to maximize resources and impact.
- Make public official documents, especially the Annual Report together with the Financial Statement; the draft Guidelines on the AICHR's Relations with Civil Society Organizations; the final report of its TOR Review; the input to the Central Elements of the ASEAN Community's Post-2015 Vision; Guidelines on the Conduct of Thematic Studies; and, reports of its conferences, workshops and trainings.
- Make public the provisional agenda of all meetings on its official website at least a week prior to the meeting.
- Make meetings open to observers from civil society and the public and livestream them online, unless there are specific, pertinent reasons to meet behind closed doors.
- Hold an annual regional planning meeting with civil society organizations to share and consult its work in the year before and the plan for the coming year.
- Hold frequently, and no less than once, at least twice annually, consultation meetings with civil society organizations at national level in each and every Member State.
- Continue to pursue the request for a dedicated secretariat and adequate funding from ASEAN Member States and other sources.
- Accelerate engagement, consultation and collaboration with national human rights institutions in the region.

## **Recommendations to the ACWC**

- Develop extensive human rights protection strategies and measures, such as communication procedures on complaints and other reports of human rights violations; investigations into violations, both specific and systematic; on-site visits and public inquiries; and, ensure that balanced attention and resources are allocated between promotion of human rights and protection of human rights.
- Establish a registry database of complaints and other reports of relevant human rights violations against women and children received, in order to document them systematically for reference and action.
- Hold consultation meetings with the AICHR, at least once annually, to coordinate the activities of both bodies, in order to maximize resources and impact.
- Make public official documents, especially the Annual Report, together with the Annual Financial Statement; the draft Guidelines for Handling Women Victims of Trafficking in Persons; and the reports of its conferences, workshops and trainings.
- Translate the ASEAN Declaration on the Elimination of Violence Against Women and Violence Against Children into different national and indigenous languages of ASEAN Member States.
- Develop its own official dedicated website for sharing of information and keeping the public up to date with its work.
- Make public the provisional agenda of all ACWC meetings on its official website at least a week prior to the meeting.
- Make meetings open to observers from civil society and the public, and livestream them online, unless there are specific, pertinent reasons to meet behind closed doors.
- Hold annual regional consultation meetings with civil society organizations to share and consult its work in the year before, and the plan for the coming year.

- Hold frequent consultation meetings—and no less than two a year—with civil society organizations at national level in each and every Member State.
- Pursue the request for a dedicated secretariat and mandatory funding contribution on cost sharing basis by ASEAN Member States for the effective operation of the ACWC.
- Accelerate engagement, consultation and collaboration with national human rights institutions in the region.

### **Recommendations to ASEAN**

- Revise the TOR of AICHR so as to make it truly independent, applying universal standards, with a mandate to investigate and report human rights violations, and with mechanisms to make decisions by majority where a consensus cannot be reached.
- Make public the deliberations and decisions of the ASEAN Foreign Ministers on the review of the TOR of the AICHR, in order for the public to be informed of the possible amendments to the TOR of the AICHR.
- Consult further all stakeholders on the review of the TOR of the AICHR, especially civil society organizations, taking into consideration recommendations made by the AICHR.
- Ensure that the review process of the ACWC's TOR in 2015 is transparent, consultative and participatory for all stakeholders, especially civil society organizations and national human rights institutions.
- Treat the AICHR and ACWC equally in terms of the requirement of mandatory financial contributions by all ASEAN Member States for both. This should be one of the amendments made in the review of the TOR of ACWC in 2016.
- Allow the AICHR and ACWC to have their own independent and dedicated secretariats in order to support their work more effectively.

- Consider increasing the financial contribution of Member States for the operation of the secretariat of the AICHR and ACWC, in order for the two bodies to acquire more human resources for its increasing workload.
- Institutionalize a transparent, participatory and consultative selection process of representatives to both the AICHR and ACWC in all ASEAN Member States, as already practiced by the governments of Indonesia, Thailand, and recently, Singapore.

-END-

**Annex 1:**  
**Composition of the AICHR in 2014**

Country	Name of Representative	Term in Office	Background/Expertise
<b>Brunei Darussalam</b>	<b>HE. Pehin Dato Dr. Awang Hj. Ahmad bin Hj Jumat</b> (second term)	Appointed in 2011 – present	Last position before joining AICHR/other current positions: Minister of Culture, Youth and Sport Brunei Darussalam 2008-2010 Educational background: - BA from the University of Malaya, Malaysia - M. Ed from the University of Alberta, Edmonton, Canada - D. Ed from the University of South California Experience in human rights: No information
<b>Cambodia</b>	<b>HE. Mr. Srun Thirith</b> (first term)	Appointed in 2013	Last position before joining AICHR/other current positions: Member of the Cambodian Human Rights Committee 2013-present. Educational background: - BA in Law degree from the University of Law, Phnom Penh - MA in Public Policy from Flinders University, Australia. Experience in human rights: - 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

Country	Name of Representative	Term in Office	Background/Expertise
<b>Indonesia</b>	<b>HE. Mr. Rafendi Djamin</b> (second term)	Appointed in 2009; reappointed in 2013 – present	Last position before joining AICHR / other current positions: Director of Human Rights Working Group (HRWG) Educational background: - BA in Sociology from the University of Indonesia - MA in Development Studies, Institute of Social Studies, The Hague, Netherlands. Experience in human rights: Director of Human Rights Working Group (HRWG)
<b>Lao PDR</b>	<b>HE. Mr Phoukhong Sisoulath</b> (first term)	Appointed in 2013 - present	Last position before joining AICHR / other current positions: Member of Pillar IV, Legal Sector Master Plan on the Rule of Law (LSMP), Ministry of Justice. Educational background: - 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). Experience in human rights: - 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)

## Calling for Independence and Human Rights Protection

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

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

## Calling for Independence and Human Rights Protection

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

***Annex 2:***  
**List of press releases of the AICHR in 2014**

1. 14<sup>th</sup> Meeting of the ASEAN Intergovernmental Commission on Human Rights, 11 February 2014
2. Annual Consultation between Representative of Thailand to the AICHR and Representatives of Civil Society Organizations (CSOs), 19 February 2014
3. Special Meeting of the ASEAN Intergovernmental Commission on Human Rights, 9 March 2014
4. 15<sup>th</sup> Meeting of the ASEAN Intergovernmental Commission on Human Rights, 27 April 2014
5. Joint Press Release – The ASEAN Intergovernmental Commission on Human Rights and the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children, 27 April 2014
6. Workshop on CSR and Human Rights in ASEAN: Outcomes of the ASEAN Intergovernmental Commission on Human Rights Thematic Study, 17 June 2014
7. Second Regional Consultation on the Contribution to the Review of the Terms of Reference of the ASEAN Intergovernmental Commission on Human Rights and the Special Meeting of the ASEAN Intergovernmental Commission on Human Rights, 30 June 2014
8. ASEAN Intergovernmental Commission on Human Rights Regional Workshop on the Reporting Obligations: Sharing Experience and Best Practices, 4 July 2014
9. Special Meeting of the ASEAN Intergovernmental Commission on Human Rights on the Review of the Terms of Reference, 11 July 2014
10. Special Meeting of the ASEAN Intergovernmental Commission on Human Rights and the Meeting of the

- ASEAN Foreign Ministers Meeting with the ASEAN Intergovernmental Commission on Human Rights, 9 August 2014
11. ASEAN Intergovernmental Commission on Human Rights Workshop on Human Rights, Environment and Climate Change, 18 September 2014
  12. ASEAN Intergovernmental Commission on Human Rights Workshop on the Sharing of Experiences on Universal Periodic Review Process among ASEAN Member States, 20 September 2014
  13. 16<sup>th</sup> Meeting of the ASEAN Intergovernmental Commission on Human Rights, 5 October 2014
  14. The ASEAN Intergovernmental Commission on Human Rights Follow-Up Workshop on Post Millennium Goals 2015 and Human Rights, 22 October 2014
  15. Special Meeting of the ASEAN Intergovernmental Commission on Human Rights, 16 November 2014
  16. The ASEAN Intergovernmental Commission on Human Rights Workshop on Regional Mechanisms: Best Practices on Implementation of Human Rights, 21 November 2014
  17. The ASEAN Intergovernmental Commission on Human Rights Training of Trainers on ASEAN Human Rights Mechanisms for ASEAN Member States Law Enforcement Officers, 2 December 2014
  18. Sharing National Experience on Human Rights Implementation in ASEAN, 23 December 2014

**Annex 3:**  
**Composition of the ACWC in 2014**

Country	Women's Rights	Child's Rights
<b>Brunei Darussalam</b>	<p><b>Dayang Hajah Mordiah Jackia</b> (First term, appointed in 2013) Last position before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> <li>· Headed the Family Development Section of the then Social Welfare Department</li> <li>· Advisory Board of the Juvenile Court in Brunei Darussalam</li> <li>· First woman Chief Drug Rehabilitation Officer in Brunei Darussalam</li> </ul> <p>Educational Background:</p> <ul style="list-style-type: none"> <li>· Degree in Social Science with options on Law at Hull College of Higher Education in the UK;</li> <li>· Diploma in Public Administration; Diploma in counseling from the University of Brunei Darussalam</li> </ul> <p>Experience in human rights:</p> <ul style="list-style-type: none"> <li>· Presented Brunei's first CRC report on the UNCRC in Geneva</li> </ul>	<p><b>Datin Paduka Hajah Intan bte Haji Mohd. Kassim</b> (First term, appointed in 2013, currently Chair of the ACWC) Last position before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> <li>· Former head the anti-corruption Bureau of Brunei Darussalam</li> <li>· Served in the Brunei government for more than 29 years</li> <li>· Lectured law at the University Sultan Shariff Ali</li> <li>· Vice-President of the Brunei Welfare Council</li> </ul> <p>Educational background:</p> <ul style="list-style-type: none"> <li>· Bachelor' Degree in Law</li> <li>· MA in Criminal Justice</li> </ul> <p>Experience in human rights:</p> <p>No information</p>
<b>Cambodia</b>	<p><b>H.E. Long Sophally</b> (second term, appointed in 2010, currently Vice Chair of the ACWC) Last positions before joining ACWC/ other current positions:</p>	<p><b>H.E. Mrs. Khiev Bory</b> (second term, appointed in 2010) Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> <li>· Secretary General of Cambodia National Council for Children (CNC)</li> </ul>

## Calling for Independence and Human Rights Protection

Country	Women's Rights	Child's Rights
	<ul style="list-style-type: none"> <li>· Deputy Director for International Cooperation Department of Ministry of Women's Affairs</li> <li>· Secretary General of Cambodia National Council for Children</li> </ul> <p>Educational background:</p> <ul style="list-style-type: none"> <li>· Post graduate degree in International Studies of Women and Development from Ewha Women's University in Seoul, Republic of Korea</li> <li>· Bachelor's Degree on Law and Economic and a post graduate degree in Public Administration</li> </ul> <p>Experience in human rights: No information</p>	<p>Educational background:</p> <ul style="list-style-type: none"> <li>· Bachelor's Degree in Law and Economic and a post graduate degree in Public Administration</li> </ul> <p>Experience in human rights: No information</p>
<b>Indonesia</b>	<p><b>H.E. Lily Dorianty Purba</b> (first term, appointed in 2014, replacing <b>H.E. Rita Serena Kolibonso</b>)</p> <p>Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> <li>· Gender advisor for Canada International Development Agency and other International Organization in Indonesia</li> <li>· Former deputy director of Asian Migrant Center</li> <li>· Program Coordinator of Urban Community Mission, specializing on labor issues</li> <li>· Established Center for Indonesia Migrant Workers (CIMW) focusing the plight of migrant workers</li> </ul>	<p><b>H.E. Ahmad Taufan Damanik</b> (second term, appointed in 2010)</p> <p>Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> <li>· Lecturer at the Faculty of Social and Political Sciences North Sumatera University, Medan</li> <li>· Director of KKSP Foundation, an NGO specializing in addressing issues of children's rights.</li> </ul> <p>Educational background:</p> <ul style="list-style-type: none"> <li>· Master's degree in Political Theory from the University of Essex, UK</li> </ul> <p>Experience in human rights:</p> <ul style="list-style-type: none"> <li>· Established KKSP Foundation, an NGO specializing in addressing issues of children's</li> </ul>

Country	Women's Rights	Child's Rights
	<p>Educational background:</p> <ul style="list-style-type: none"> <li>· Graduated from the Faculty of Social Political Science of the University of Indonesia, Jakarta;</li> <li>· Holds a Master's Degree in Development and Gender from of University of East Anglia, UK</li> </ul> <p>Experience in human rights:</p> <ul style="list-style-type: none"> <li>· former national commissioner of the National Commission on Anti-Violence Against Women, Indonesia</li> <li>· former director of Asian Migrant Center, Hong Kong</li> <li>· worked with Urban Community Mission</li> </ul>	<p>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>
<b>Lao PDR</b>	<p><b>H.E. Ms. Siamphone Sirattanakoul</b> (second term, appointed in 2010)</p> <p>Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> <li>· Director of the International Relations Division of Lao Women's Union</li> <li>· Former President of the Lao Women's Union, District Level at the Hatsayphong district (1999-2002)</li> <li>· Manager of Vientiane Youth Center for Health and Development (2003-2009)</li> </ul> <p>Educational background: No information</p> <p>Experience in human rights: No information</p>	<p><b>H.E. Ms. Congchith Chantharanonh</b> (second term, appointed in 2010)</p> <p>Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> <li>· Former Acting Secretary General of the National Commission for Mothers and Children Secretariat in 2011.</li> </ul> <p>Educational background:</p> <ul style="list-style-type: none"> <li>· 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</li> </ul> <p>Experience in human rights: No information</p>

## Calling for Independence and Human Rights Protection

Country	Women's Rights	Child's Rights
<p><b>Malaysia</b></p>	<p><b>H.E. Dato' Dr. Noorul Ainur Mohd. Nur</b> (second term, appointed in 2010) Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> <li>· Presently the Secretary General of the Ministry of Women, Family and Community Development</li> <li>· More than 25 years of experience in the public sector across different key ministries</li> <li>· Served as Senior Advisor in the Southeast Asia Group for the World Bank (2006-2008)</li> </ul> <p>Educational background:</p> <ul style="list-style-type: none"> <li>· Doctorate in Political Sciences with a specialization in the effects of privatization in Malaysia</li> </ul> <p>Experience in human rights: No information</p>	<p><b>H.E. Prof. Datuk. Dr. Chiam Heng Keng</b> (second term, appointed in 2010) Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> <li>· Former Professor of Social Psychology at University of Malaya</li> </ul> <p>Educational background:</p> <ul style="list-style-type: none"> <li>· Doctorate in Education and has authored several books, with an expertise on child and adolescent psychology and early childhood education</li> </ul> <p>Experience in human rights:</p> <ul style="list-style-type: none"> <li>· One of the three longest serving commissioners in the Human Rights Commission of Malaysia (SUHAKAM)</li> </ul>
<p><b>Myanmar</b></p>	<p><b>H.E. Daw Mya Mya</b> (first term, appointed in 2013) Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> <li>· Appointed as President of Myanmar Women's Affairs Federation in 2012</li> <li>· Served in various positions of Myanmar Women Affairs Federation</li> <li>· Served as Deputy Leader of Information Group of Myanmar National Committee for Women's Affairs</li> </ul> <p>Educational background:</p> <ul style="list-style-type: none"> <li>· Bachelor's Degree of Commerce degree and Diploma in Management and Administration from the Institute of Economics Yangon (1963, 1965)</li> </ul> <p>Experience in human rights: No information</p>	<p><b>H.E. Ms. Rupar Mya</b> (Second term) Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> <li>· Deputy Director of the Department of Social Welfare at the Ministry of Social Welfare, Relief and Resettlement of Myanmar.</li> </ul> <p>Educational background:</p> <ul style="list-style-type: none"> <li>· Bachelor's Degree of Commerce degree and Diploma in Management and Administration from the Institute of Economics Yangon (1963, 1965)</li> </ul> <p>Experience in human rights:</p> <p>Actively engaged in various activities related to children, namely awareness raising work-shops on CRC and child protection.</p>

Country	Women's Rights	Child's Rights
<p><b>Philippines</b></p>	<p><b>H.E. Prof. Aurora Javate-De Dios</b> (second term, appointed in 2010)</p> <p>Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> <li>· Professor in International and Migration Studies at Miriam College</li> <li>· Executive Director of the Women and Gender Institute at Miriam College</li> <li>· 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)</li> <li>· Member of the External Advisory Board of the Asian Development Bank</li> </ul> <p>Educational background:</p> <ul style="list-style-type: none"> <li>· Took up foreign service at the University of the Philippines, Diliman</li> </ul> <p>Experience in human rights:</p> <ul style="list-style-type: none"> <li>· One of the experts in the UN Committee on CEDAW</li> <li>· 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)</li> </ul>	<p><b>H.E. Amihan Abueva</b> (first term, appointed in 2012)</p> <p>Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> <li>· Former Regional Coordinator of Asia Against Child Trafficking (Asia ACTs)</li> <li>· Worked as Executive Secretary of End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes International (ECPAT International)</li> <li>· Project Director, ECPAT International Young People's Participation Project (ECPAT-IYPP) involving children and youth in more than 20 countries</li> <li>· Secretary-General, SALINLAHI Alliance for Children's Concerns</li> </ul> <p>Educational background:</p> <ul style="list-style-type: none"> <li>· Bachelor of Arts in Public Administration, University of the Philippines</li> </ul> <p>Experience in human rights:</p> <ul style="list-style-type: none"> <li>· NGO representative of the children sector to the Philippines Inter-Agency Council Against Trafficking (IACAT)</li> <li>· Represented the Philippine NGO Coalition on the CRC to present the Alternative Report on the CRC Optional Protocol on the Sale of Children and the first Alternative Report on the Philippines to the UN CRC Committee</li> </ul>

## Calling for Independence and Human Rights Protection

Country	Women's Rights	Child's Rights
	<ul style="list-style-type: none"> <li>· Involved in Movement of Concerned Citizens for Civil Liberties in opposing the martial law in 1970</li> </ul>	<ul style="list-style-type: none"> <li>· Founding member of ECPAT International, Philippine Alliance for Youth Offenders (PAYO), Philippine NGO Coalition on the CRC, network for Amerasian Children</li> <li>· President of ECPAT International 2005-2008, current President of ECPAT Philippines</li> <li>· Awarded the 2008 William Wilberforce Award by the Free the Slaves</li> </ul>
<p><b>Singapore</b></p>	<p><b>H.E. Ms. Laura Hwang Cheng Lim</b>                      (first term, appointed in 2014, replacing H.E. Dr. Aline K. Wong)</p> <p>Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> <li>· Co-Chair of BoardAgender</li> <li>· Chairperson, Audit Committee, KKHospital Endowment Fund</li> <li>· Chairperson, Finance and Establishment Committee, CFF</li> <li>· Chairperson, Arts Consultative Panel, Ministry of Information, Communication and the Arts</li> </ul> <p>Educational background:</p> <ul style="list-style-type: none"> <li>· No information</li> </ul> <p>Experience in human rights:</p> <ul style="list-style-type: none"> <li>· 3rd director of ASEAN Confederation of Women's Organizations</li> <li>· Former president of Singapore Council of Women's Organizations</li> </ul>	<p><b>H.E. Mr. Koh Choon Hui</b>                      (second term, appointed in 2010)</p> <p>Last positions before joining ACWC/ other current positions:</p> <ul style="list-style-type: none"> <li>· Board Member of Roche Singapore Pte Ltd, where she served as Managing Director (1999-2012)</li> </ul> <p>Educational background:                      No information</p> <p>Experience in human rights:</p> <ul style="list-style-type: none"> <li>· Chair of the Singapore Children's Society since 1978 and served on numerous other charitable/ service organizations</li> <li>· Appointed as Justice of Peace in 1998 and currently also serves on 6 different public affairs boards</li> </ul>

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

## Calling for Independence and Human Rights Protection

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

***Annex 4:***  
**List of Press Releases of the ACWC in 2014**

1. 9<sup>th</sup> Press Release of the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children, 26 February 2014
2. Joint Press Release – The ASEAN Intergovernmental Commission on Human Rights and the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children, 27 April 2014
3. 10<sup>th</sup> Press Release of the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children, 16 October 2014

*Annex 5:*

**Complaint of Human Rights Violations  
to the AICHR – Government of Thailand  
Should Immediately End the Crackdown  
on Academic Freedom and Free Speech  
(KontraS, 23 September 2014)**

No: 700/SK-KontraS/IX/2014

Subject: Government of Thailand Should Immediately End the Crackdown on Academic Freedom and Free Speech

To: ASEAN Intergovernmental Commission on Human Rights (AICHR)

70A, Jl.Sisingamangaraja, Jakarta 12110 - Indonesia

Phone: +62 21 7262991

Fax: +62 21 7398234 / 7243504

Dear ASEAN Intergovernmental Commission on Human Rights (AICHR),

The Commission for the Disappeared and Victims of Violence (KontraS) – a human rights non-governmental organization based in Jakarta – strongly condemn the Thai authorities’ action and calling on the junta to stop harassing academics and students who wished to exercise freedom of expression. The police detained four prominent academics — Nidhi Eoseewong, Prajak Kongkirati, Chaowarit Chaowsangrat, and Janjira Sombutpoonsiri — together with three student activists for several hours for organizing the “Democracy Classroom” seminar at Thammasat University about the end of dictatorial regimes in foreign countries and ordered the seminar to shut down.

Although they were released without charges after a few hours, they have been told to report to the military before holding any

public events from now on. The military also said such activities should not be open to the public in future for fear that they could turn into a political gathering, and there is no academic seminar on democracy and political issues can be conducted without prior approval.

The military authorities apparently perceives any type of differences in political opinions as a threat to stability and national security, Human Rights Watch said. On September 19, Prime Minister Prayuth Chan-ocha, in answer to media inquiries about the action at Thammasat University, said: “We are working on reconciliation.... This is not a time for them to talk.... They did not get permission to talk. And what did they want talk about? They talked about democracy at Thammasat University. They talked about political issues that we told them not to talk about.”

We believe that the actions carried out by Thai military Junta have violated international obligations comprised in the Convention Thailand has acceded, which are:

Article 19 of International Covenant on Civil and Political Rights (ICCPR):

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

Article 21 of International Covenant on Civil and Political Rights (ICCPR):

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a

democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.

Therefore, The UN committee that oversees compliance with the International Covenant on Economic Social and Cultural Rights (ICESCR), to which Thailand is also a party, has advised governments that academic freedom, as an element of the right to education, includes: “The liberty of individuals to express freely opinions about the institution or system in which they work, to fulfil their functions without discrimination or fear of repression by the State or any other actor, to participate in professional or representative academic bodies, and to enjoy all the internationally recognized human rights applicable to other individuals in the same jurisdiction.”

Also bearing in mind Thailand is the respective member of Association of South-East Asia Nations (ASEAN) who is obliged under Article 23 of ASEAN Human Rights Declaration; to assure its people has the right to freedom of opinion and expression, including freedom to hold opinions without interference and to seek, receive and impart information, whether orally, in writing or through any other medium of that person’s choice.

Therefore, by sending this letter, we would like to demand and urge your Government to abide international obligations and assure the restoration of a democratic government based on human rights.

Jakarta, September 23, 2014

Sincerely,

**Haris Azhar**

Executive Coordinator of KontraS

\* For further information please contact Ms.Ninies ([niniesgreeners@gmail.com](mailto:niniesgreeners@gmail.com)) or through KontraS Secretariat ([kontras.1998@kontras.org](mailto:kontras.1998@kontras.org))

***Annex 6:***  
**Submission to the AICHR Regional  
Consultation with Civil Society on the  
Review of the AICHR TOR (the Vietnam  
Peace and Development Foundation)**

CONTRIBUTIONS OF THE VIETNAM PEACE AND  
DEVELOPMENT FOUNDATION TO THE AICHR

AICHR Regional Consultation with Civil Society Organizations  
on the Review of the Terms of Reference (TOR) of the AICHR

Jakarta, 29 April 2014

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Distinguished Chairperson,  
Dear friends,  
Ladies and gentlemen,

I am representing the Vietnam Peace and Development Foundation – a Vietnamese NGO in consultative status with the UN ECOSOC, working on peace- and development-related issues at national, regional and international levels.

First of all, I have the honour to express our sincere thanks to the AICHR for inviting us to this consultation meeting, as this is a precious chance for civil society organizations (CSOs) to make contributions to the TOR AICHR in particular and to the human rights promotion and protection in the region in general.

This regional consultation with the participation of ASEAN CSOs representatives, considering this a good step towards building a people-oriented ASEAN community.

In preparation for this meeting, Vietnamese people's organizations held a national consultation on April 17, in the presence of the

AICHR representative of Vietnam.

Please allow me to share some comments of Vietnamese people's organizations as well as those of VPDF as follows:

First, we are of the view that human rights promotion and protection need to be approached in a comprehensive manner, not limited to any particular right.

Second, we would propose AICHR promote the circulation of information to CSOs and ASEAN people in general through different channels. We really need to know what efforts have been made and what progress has been achieved in the promotion and protection of human rights within ASEAN.

Third, AICHR should enhance its interaction with CSOs in the region by having more "open dialogues" between AICHR and CSOs at both national and regional levels. It is also a good way to build mutual trust and understanding between AICHR and the civil society.

Fourth, we look forward to contributing more to the promotion and protection of human rights. However, the working mechanism of AICHR has yet to involve much participation of CSOs. We propose that effective cooperation mechanisms between AICHR and CSOs be established so that CSOs can commit their engagement from the first step, thus making greater contributions to the promotion and protection of human rights all ASEAN countries.

Last but not least, we would like to call upon ASEAN through AICHR to attach greater importance to the promotion and protection of the rights of vulnerable groups, including women, children, people with disabilities, ethnic minorities, victims of wars and natural calamities and so on.

We wish our comments and proposals will be taken into account by AICHR in order to make its work more effective.

Thank you for your attention.

*Annex 7:*  
**Submission to the AICHR Regional  
Consultation with Civil Society on the  
Review of the AICHR TOR (the Thai Civil  
Society Network on ASEAN)**

Submitted by the Thai Civil Society Network on ASEAN to the ASEAN Intergovernmental Commission on Human Rights (AICHR)

**The Review of the Terms of Reference of the AICHR**

2014 is the year in which the first revision of the AICHR's terms of reference shall be done according to its article 9.6 which states that "This TOR shall be initially reviewed five years after its entry into force". With observed obstacles that the AICHR has been facing in fulfilling its mandate in promoting and protecting human rights and fundamental freedom of the peoples of ASEAN, civil society has come up with recommendations to enhance the capacity of the AICHR and to strengthen its meaningful engagement with the body. It is hoped that the AICHR will be a vital mechanism in promoting a people-oriented ASEAN in which all sectors of society are encouraged to participate in, and benefit from, the process of ASEAN integration and community building as enshrined in the ASEAN Charter.

This submission is the contribution from the Thai civil society in the review of the terms of reference of the AICHR. The followings are the eight elements which will enhance the capacity of the AICHR in advancing human rights standard in the region.

**1. Strengthening protection mandate**

Every human rights mechanisms in this world has protection

mandate in their terms of reference to fulfil their human rights work. It is high time that the AICHR should evolve from promotion to the protection of human rights.

- 1.1 The AICHR should set up a complaints mechanism and its investigation mandate.
- 1.2 The AICHR should organize biennially a regional human right report to assess the overall human rights situation in the region, peer review method with the involvement of CSOs in the process.
- 1.3 The AICHR should develop and strengthen culture of protection and express their standpoint on human rights issues occurred in the region.
- 1.4 The AICHR should view human rights issues as a universal issue as providing assistance to the victims does not conflict with the principle of non-interference that the AICHR is upholding.
- 1.5 The AICHR should uphold international human rights standards in dealing with human rights issues and meaningfully engage with its stakeholders. This includes improving its public communication.

## **2. Selection process and independence of the AICHR members**

The key to the success in working on human rights is the independence of the human rights body. Therefore, the following recommendations are essential in acquiring the independence of the AICHR.

- 2.1 The selection process of the AICHR representatives should be more open, transparent, and inclusive and involves active participation of all stakeholders in human rights.
- 2.2 Representatives of the AICHR should be working for the benefit of the people in ASEAN and not only their respective governments.

### **3. Transparency and engagement with the civil society organizations and other stakeholders** (including political institutions such as parliaments and national human rights institutions)

As human rights work is the responsibility of everyone, the AICHR should cooperate with all human rights organizations to improve their efficiency in human rights work. The development of the AICHR should go in parallel with the development of human rights of ASEAN people.

- 3.1 Engagement with civil society organizations and other stakeholders should be substantive and meaningful through partnership for coordination. The cooperation in terms of dialogues, consultations, interface meetings, co-organized seminars, workshops, and specific thematic studies should happen at both regional and national levels.
- 3.2 The engagement with civil society organizations and other stakeholders should be more inclusive and broader than the organizations listed in Annex II of the ASEAN Charter.
- 3.3 The AICHR should develop a communication strategy and mechanism to share information with the public and media both at national and regional level. The AICHR should be friendly with media to promote the awareness of their human rights work.
- 3.4 We encourage the AICHR to share draft of “the Guideline on Engagement with CSOs” and open for a meaningful involvement of other stakeholders in the drafting process

### **4. Decision Making**

It is understandable that the AICHR needs to uphold the principle of consensus as it is the principle of ASEAN. However, most of the time human rights protection requires immediate action. Therefore, decision making is a crucial in improving the AICHR’s work on the protection of human rights.

- 4.1 In certain cases when consensus cannot be made, the majority vote approach or ASEAN+ /ASEAN- should be taken into consideration. The state members which have capacity to pursue such initiatives or actions, which are not conflicting with the mandate of the AICHR, should be able to start the implementation with the acknowledgement of the AICHR.
- 4.2 As the work of the AICHR is always concerned with the rights and benefit of the people in ASEAN, the AICHR should organize public hearing on important issues which will affect the life of the people in the region before they make any final decisions.

## **5. Continuity and strengthening of the AICHR works**

As it is impossible for the AICHR as an overarching human rights institution in ASEAN (article 6.8 of the AICHR's TOR) to handle all human rights works without a strong support from a secretariat. This is high time that the AICHR should establish its own secretariat to carry out expanding protection mandate.

- 5.1 For the AICHR's efficiency and the fulfilment of its expanding mandate and workload, a secretariat office both at the national and regional level specifically dedicated to assist the work of the AICHR should be established.
- 5.2 The AICHR should be able to seek external funding to support their work.
- 5.3 To conform to the duration of its financial and work plan, the AICHR should serve a non-renewable term of 5 years.

## **6. Establishment of sub-committees and special rapporteurs**

As the AICHR's mandate and workload are expanding, it requires new working procedures to assist and enhance its efficiency.

- 6.1 The AICHR should establish different thematic working groups and special rapporteurs to assist it in fulfilling their mandate of protection and promotion of human rights.

## **7. Engagement with international community on human rights movements:**

The AICHR, as part of the International human rights community, should express its standpoint on human rights in solidarity with the global community on International human rights events. This also serves as a way for the AICHR to promote human rights through raising awareness of the people on human rights issues.

- 7.1 The AICHR should facilitate and play a vital role in recognizing international human rights events such as Human Rights Day, International Day to End Impunity and International Day of the Victims of Enforced Disappearances etc.

## **8. The Review of term of references**

The fast changing in technology and international and regional politics has brought change to ASEAN and the world. The review of TOR of the AICHR will enable the AICHR to always keep its work up to date to the evolving situation of human rights.

- 8.1 Every 5 years, the review process of the terms of reference of the AICHR should be done in a transparent manner with broad and meaningful consultations with civil society and other stakeholders involved. This will enable the AICHR to strengthen its own capacity and that of the people whose rights are protected by them.

End

Endorsed by

1. ASEAN Watch
2. Community Resource Centre (CRC)
3. Cross Cultural Foundation (CrCF)
4. Foundation for AIDS Rights
5. Foundation for Women
6. Human Rights and Development Foundation (HRDF)

## Calling for Independence and Human Rights Protection

7. Human Rights Lawyers Association
8. HOMENET
9. Justice for Peace Foundation
10. Labour Rights Promotion Network Foundation (LPN)
11. Migrants Working Group (MWG)
12. NGO Coordination Committee on Development (NGO-COD)
13. People's Empowerment Foundation
14. Prorights Foundation
15. Togetherness for Equality and Action (TEA) Group
16. Thai DHRRA
17. Thai Volunteer Service Foundation
18. Union for Civil Liberty (UCL)
19. Cross-Ethnic Integration in Adaman Project
20. ASEAN People's Media Council

*Annex 8:*

**Statement Delivered to the AICHR  
Regional Consultation on the Review of  
the AICHR TOR (The Indonesian National  
Commission on Human Rights/Komnas HAM  
- Commissioner Roichatul Aswidah, MA)**

Thank you Madam Chair,

On behalf of the Indonesian National Commission on Human Rights – (Komnas HAM), please accept our sincere appreciation to the AICHR for conducting this important consultation with various actors who work on human rights in ASEAN, particularly the National Human Rights Institutions (NHRIs). This consultation is important as one of the means to improve human rights situation in ASEAN region, particularly through the work of ASEAN Human Rights mechanism, the AICHR.

One particularly issue that we want to highlight today is the cooperation of the AICHR with national human rights institutions. In the past five years of the work of the AICHR, the NHRIs have been waiting to work together with AICHR in addressing human rights situation in our region. Although the current AICHR TOR provide in the article 4.9 that AICHR has mandate “to consult, as may be appropriate, with other national...entities concerned with the promotion and protection of human rights”, we observe that this mandate are not yet fully implemented, especially in the existence of national human rights institutions in some of ASEAN countries.

The NHRIs, particularly KOMNASHAM, have a quite long history and experience in promoting and protecting human rights

in ASEAN countries, which could be used as a rich source of knowledge and practices for the institution building of the AICHR. The NHRIs have been at the forefront of institutions which deal with the actual human rights situation on the ground, dealing with victims and affected communities. We have also contributing to the development of national law relevant to human rights in our countries and an active agency in the international human rights mechanism such as the UN mechanism.

We view that the current relationship and cooperation between the AICHR and the NHRIs are on piecemeal basis and ad hoc. We hope to see that in the review of the AICHR TOR, the AICHR will consider to strengthen the platform for cooperation with other institutions like the national human rights institutions.

We also convey our support to the review process of the AICHR TOR towards “enhancing the promotion and protection of human rights in ASEAN. We will also hold consultation with national actors on the review of the AICHR TOR in our country.

**Annex 9:**  
**Summary of Recommendations Made by CSOs  
 and NHRIs to the AICHR on its TOR Review**

ORGANIZATIONS	RECOMMENDATIONS
<b>On process of TOR review</b>	
<p>SAPA Task Force on ASEAN and Human Rights (Submission to the AICHR Regional Consultation with Civil Society on the Review of the AICHR TOR, 29 April 2014)</p>	<ul style="list-style-type: none"> <li>• Meaningful participation of all stakeholders including civil society, other sectoral bodies, experts from the region and internationally, human rights bodies from other regions and more;</li> <li>• Frequent, detailed and inclusive consultations with stakeholders, both regionally and nationally in all Member States, based on true self-selection of representatives of CSOs and other stakeholders;</li> <li>• Sharing drafts of revised texts of the TOR with stakeholders in an open and timely fashion to enable meaningful discussions;</li> <li>• Participation of stakeholders in the composition and mandate of any bodies, such as a High Level Panel, appointed to carry out the review and revision of the TOR.</li> </ul>
<b>On institutional issues</b>	
<p>Thai Civil Society Network on ASEAN</p>	<ul style="list-style-type: none"> <li>• View human rights issues as a universal issue as providing assistance to the victims does not conflict with the principle of non-interference that the AICHR is upholding;</li> <li>• Uphold international human rights standards in dealing with human rights issues and meaningfully engage with its stakeholders. This includes improving its public communication;</li> <li>• The selection process of the AICHR representatives should be more open, transparent, and inclusive and involves active participation of all stakeholders in human rights;</li> <li>• Representatives of the AICHR should be working for the benefit of the people in ASEAN and not only their respective governments;</li> <li>• Develop a communication strategy and mechanism to share information with the public and media both at national and regional level. The AICHR should be friendly with media to promote the awareness of their human rights work;</li> </ul>

## Calling for Independence and Human Rights Protection

ORGANIZATIONS	RECOMMENDATIONS
	<ul style="list-style-type: none"> <li>• In certain cases when consensus cannot be reached, the majority vote approach or ASEAN+x /ASEAN-x should be taken into consideration. The state members which have the capacity to pursue such initiatives or actions, which are not in conflict with the mandate of the AICHR, should be able to start the implementation with the acknowledgement of the AICHR;</li> <li>• Organize public hearing on important issues which will affect the life of the people in the region before making any final decision;</li> <li>• A secretariat office both at the national and regional level specifically dedicated to assist the work of the AICHR should be established;</li> <li>• The AICHR should be able to seek external funding to support their work;</li> <li>• To conform to the duration of its financial and work plan, the AICHR should serve a non-renewable term of 5 years;</li> <li>• Every 5 years, the review process of the terms of reference of the AICHR should be done in a transparent manner, with broad and meaningful consultations with civil society and other stakeholders involved.</li> </ul>
<p>Viet Nam Peace and Development Foundation (Contributions during AICHR Regional Consultation with Civil Society Organizations on the Review of the Terms of Reference (TOR) of the AICHR, 29 April 2014)</p>	<ul style="list-style-type: none"> <li>• To promote the circulation of information to CSOs and ASEAN people in general through different channels.</li> </ul>
<p>SAPA Task Force on ASEAN and Human Rights (Submission to the AICHR Regional Consultation with Civil Society on the Review of the AICHR TOR, 29 April 2014)</p>	<ul style="list-style-type: none"> <li>• Allow for decisions to be reached by a majority, in situations where decision cannot be reached by consensus, especially to address or prevent serious human rights violations;</li> <li>• Ensure that the principle of non-interference cannot be used as a barrier against the AICHR acting to protect people from human rights violations, which by definition are mostly acts of states against people within their borders.</li> </ul>

<b>ORGANIZATIONS</b>	<b>RECOMMENDATIONS</b>
Asian Forum for Human Rights and Development (Oral intervention during the Bangkok Regional Consultation on Contribution to the Review of the AICHR's TOR, 28 June 2014)	<ul style="list-style-type: none"> <li>• To create dedicated secretariat support for the AICHR.</li> </ul>
Asian Forum for Human Rights and Development (Oral intervention during the Bangkok Regional Consultation on Contribution to the Review of the AICHR's TOR, 28 June 2014)	<ul style="list-style-type: none"> <li>• To discuss the possible measures in which the principle of consensus and non-interference can be addressed prudently for example through a voluntary pledge or commitment by relevant member state(s).</li> </ul>
International Commission of Jurists (Submission during the Bangkok Regional Consultation on Contribution to the Review of the AICHR's TOR, 28-29 June 2014)	<ul style="list-style-type: none"> <li>• Individuals and groups should be able to access information from the AICHR on how human rights and fundamental freedoms are given effect in ASEAN Member States;</li> <li>• To enhance the selection of AICHR representatives beyond the criteria of “integrity and competence in the field of human rights” to include criteria of “expertise”, “experience in the field of mandate”, “independence”, “impartiality”, “personal integrity” and “objectivity”;</li> <li>• Consultation with a broad variety of stakeholders in ensuring the selection of the best candidates as AICHR representative;</li> <li>• Establish a procedure to allow for the receipt of nominations for Representatives. These nominations may be received from the government itself, CSOs, and individuals, NHRI may also nominate candidates;</li> <li>• Ensure a transparent process of selection; broad advertisement of vacancies; and maximizing the number of potential candidates from a wide range of societal groups in the selection of candidates for AICHR representative;</li> <li>• Removal of members of human rights bodies must be “in strict conformity with all the substantive and procedural requirements as prescribed by law” and “should not be allowed based on solely the discretion of appointing authorities”;</li> </ul>

## Calling for Independence and Human Rights Protection

ORGANIZATIONS	RECOMMENDATIONS
	<ul style="list-style-type: none"> <li>• Allow the AICHR to make a decision by majority vote, after all reasonable efforts have been exhausted to achieve consensus;</li> <li>• The AICHR should have its own Secretariat that is independent from the ASEAN Secretariat.</li> <li>• The staff of the secretariat should be adequately resourced not only by persons competent to carry out strictly administrative functions, but also by professionals who are experts in the substantive areas of human rights, including international human rights law.</li> <li>• The Secretariat of the AICHR should have adequate funding for the effective implementation of its activities so that it can hire its own staff and premises.</li> <li>• The Secretariat of the AICHR should be headed by an Executive Director, who shall be of high moral character, and has recognized competence in the field of human rights</li> <li>• The Secretariat should be empowered to employ its own staff.</li> <li>• Funding from external sources, such as development partners, might be allowed for the Secretariat. However, this shall not compose the core funding of the Secretariat. It should be emphasized that Member States still have the responsibility to ensure the AICHR Secretariat's minimum activity budget so that it may be able to operate smoothly and fulfill its mandate.</li> </ul>
<b>On Functions and Mandates</b>	
<p>Thai Civil Society Network on ASEAN</p>	<ul style="list-style-type: none"> <li>• Set up a complaints mechanism and its investigation mandate;</li> <li>• Organize biennially a regional human right report to assess the overall human rights situation in the region, using the peer review method with the involvement of CSOs in the process;</li> <li>• Develop and strengthen the culture of protection, and express their standpoint on human rights issues occurring in the region;</li> <li>• Engagement with civil society organizations and other stakeholders should be substantive and meaningful through partnership for coordination.</li> </ul>

ORGANIZATIONS	RECOMMENDATIONS
	<p>The cooperation in terms of dialogues, consultations, interface meetings, co-organized seminars, workshops, and specific thematic studies should happen at both regional and national levels;</p> <ul style="list-style-type: none"> <li>• The engagement with civil society organizations and other stakeholders should be more inclusive and broader than the organizations listed in Annex II of the ASEAN Charter;</li> <li>• Encourage the AICHR to share the draft of “the Guideline on Engagement with CSOs” and open for a meaningful involvement of other stakeholders in the drafting process;</li> <li>• Establish different thematic working groups and special rapporteurs to assist it in fulfilling their mandate of protection and promotion of human rights;</li> <li>• Express its standpoint on human rights in solidarity with the global community on International human rights events;</li> <li>• Facilitate and play a vital role in recognizing international human rights events such as Human Rights Day, International Day to End Impunity, and International Day of the Victims of Enforced Disappearances etc.</li> </ul>
<p>Viet Nam Peace and Development Foundation (Contributions during AICHR Regional Consultation with Civil Society Organizations on the Review of the Terms of Reference (TOR) of the AICHR, 29 April 2014)</p>	<ul style="list-style-type: none"> <li>• To enhance its interaction with CSOs in the region by having more “open dialogues” between AICHR and CSOs at both national and regional levels;</li> <li>• To establish effective cooperation mechanisms between AICHR and CSOs;</li> <li>• To attach greater importance to the promotion and protection of the rights of vulnerable groups, including women, children, people with disabilities, ethnic minorities, victims of wars and natural calamities, and so on.</li> </ul>
<p>SAPA Task Force on ASEAN and Human Rights (Submission to the AICHR Regional Consultation with Civil Society on the Review of the AICHR TOR, 29 April 2014)</p>	<ul style="list-style-type: none"> <li>• Authorize the AICHR to carry out a review of the human rights records of ASEAN Member States;</li> <li>• Enable the AICHR to conduct country/on-site visits;</li> <li>• Enable the AICHR to receive, investigate and address complaints on human rights issues and violations;</li> </ul>

## Calling for Independence and Human Rights Protection

ORGANIZATIONS	RECOMMENDATIONS
	<ul style="list-style-type: none"> <li>• Enable the AICHR to appoint independent experts (Special Procedures, including Special Rapporteurs) – similar to the Special Procedures mechanism of the UN Human Rights Council and other regional mechanisms. These experts must be independent and not be bound by the consensus and non-interference rules, so that they can effectively implement actual human rights protection work;</li> <li>• Address the absence of clear and comprehensive guidelines of engagement with stakeholders in implementing its mandates and work plan.</li> </ul>
<p>Asian Forum for Human Rights and Development (Oral intervention during the Bangkok Regional Consultation on Contribution to the Review of the AICHR’s TOR, 28 June 2014)</p>	<ul style="list-style-type: none"> <li>• Explore a “precautionary measure” as practiced in the Inter American system of human rights;</li> <li>• Develop a communication procedure that allow human rights defenders, victims or affected communities to report or submit the cases for the consideration of AICHR. An acknowledgement of receipt of the submission/ communication ideally should be included in the annual report of the AICHR to the ASEAN Ministerial Meeting (AMM) and therefore ASEAN Member States might consider the weight or outstanding communication that were reported to the AICHR for further strengthening the mandates of the AICHR.</li> </ul>
<p>International Commission of Jurists (Submission during the Bangkok Regional Consultation on Contribution to the Review of the AICHR’s TOR, 28-29 June 2014)</p>	<ul style="list-style-type: none"> <li>• All of the mandates and functions listed in the TOR must be maintained, with certain modifications;</li> <li>• To amend the AHRD and to bring it in line with international human rights law and standards;</li> <li>• Paragraph 4.8 of the TOR should be amended to reflect the importance of the role of a wide range of CSOs in supporting the work of the AICHR;</li> <li>• To observe the general human rights situation in each country and when necessary, request further information on the promotion and protection of human rights from each Member State;</li> <li>• To undertake on-site visits to investigate specific human rights concerns, publish reports and recommendations following these visits, including progress reports issued on a periodic basis, which shall be publicly circulated;</li> <li>• To develop an early warning system to prevent gross violations of human rights;</li> </ul>

ORGANIZATIONS	RECOMMENDATIONS
	<ul style="list-style-type: none"> <li>• To receive and investigate communications from individuals or groups, alleging human rights violations committed by Member States;</li> <li>• To develop measures to protect individuals and groups from reprisals by Member States; where it finds that violations of human rights have been committed, to make recommendations to the Member State concerned, including recommendations of appropriate remedies;</li> <li>• To request Member States to adopt specific precautionary measures to prevent irreparable harm to persons in serious and urgent cases;</li> <li>• Be given the mandate to appoint independent experts or special rapporteurs for key thematic concerns such as freedom of expression; freedom of assembly and association; the situation of human rights defenders; economic, social and cultural rights; the rights of the child; women’s human rights; torture; enforced disappearances; and business and human rights. Reports of these independent experts or special rapporteurs shall feed into discussions of the AICHR so that it will be able to fulfill its mandate “to develop common approaches and positions on human rights matters of interest to ASEAN”;</li> <li>• Vigorously engage with appropriate national human rights institutions (NHRIs) and the UN, and this must be clearly reflected in its mandate. It should be clear that the AICHR should cooperate with and complement the work of these bodies, provided that those NHRIs comply with the Principles Relating to the Status of National Institutions (Paris Principles).</li> </ul>



## **About SAPA Task Force on ASEAN and Human Rights (SAPA TFAHR)**

**SAPA TFAHR** is short for the ***SAPA Task Force on ASEAN and Human Rights***, within the Solidarity for Asian Peoples' Advocacies' (SAPA's) Working Group on ASEAN<sup>1</sup>, which promotes civil society engagement with ASEAN, as a regional intergovernmental organization. SAPA TFAHR was created in 2007 to engage the ASEAN in the latter's creation of a human rights body as stated in the ASEAN Charter. These human rights bodies are now known as 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 2014**

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

### **Country Focal Points**

- Cambodia – Cambodian Human Rights and Development Association (ADHOC)
- Indonesia – The Commission for the Disappeared and Victims of Violence (KontraS)
- Myanmar – Human Rights Education Institute of Burma (HREIB), and Task Force on ASEAN Burma (TFAB)

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1 SAPA, short for Solidarity for Asian Peoples' Advocacies, is a 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.

## Calling for Independence and Human Rights Protection

- Malaysia – Suara Rakyat Malaysia (SUARAM), and Pusat KOMAS (Pusat Komunikasi Masyarakat)
- 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)
- Indigenous Peoples –Asia Indigenous Peoples Pact (AIPP)
- Migrant Workers –Task Force on ASEAN Migrant Workers (TFAMW)
- Refugees – Asia Pacific Refugees Rights Network (APPRN)
- Persons with Disability – Disabled Peoples’ International Asia – Pacific (DPI-AP)
- SOGIE – ASEAN SOGIE Caucus