

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)
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