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A REPORT ON THE ANNUAL PERFORMANCE OF THE ASEAN HUMAN RIGHTS MECHANISMS IN 2017

ASIAN FORUM FOR HUMAN RIGHTS AND DEVELOPMENT
SOLIDARITY FOR ASEAN PEOPLES' ADVOCACIES

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ACRONYMS AND ABBREVIATIONS

ACSC/APF	ASEAN Civil Society Conference/ ASEAN People's Forum
ACTIP	ASEAN Convention against Trafficking in Persons, Especially Women and Children
ACWC	ASEAN Commission on the Protection of the Rights of Women and Children
ADF	ASEAN Disability Forum
AHRD	ASEAN Human Rights Declaration
AICHR	ASEAN Intergovernmental Commission on Human Rights
AIM	Asian Institute of Management
AMM	ASEAN Ministerial Meeting/ ASEAN Foreign Ministers' Meeting
AMS	ASEAN Member States
AMMSWD	ASEAN Ministerial Meeting on Social Welfare and Development
APA	ASEAN Plan of Action against Trafficking in Persons, Especially Women and Children
APSC	ASEAN Political Security Community
APWLD	Asia Pacific Forum on Women, Law and Development
ASEAN	Association of Southeast Asian Nations
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
CRPD	UN Convention on the Rights of Person with Disabilities
CSO	Civil Society Organisation
CSR	Corporate Social Responsibility
EU	European Union
EVAW	End Violence Against Women
EVAC	End Violence Against Children
FORUM-ASIA	Asian Forum for Human Rights and Development
ICJ	International Commission of Jurists
KontraS	Commission for the Disappeared and Victims of Violence
LGBTIQ	Lesbian, Gay, Bisexual, Transgender, Intersex and Questioning
NHRI	National Human Rights Institution
OHCHR	Office of the UN High Commissioner for Human Rights
RPA on EVAC	ASEAN Regional Plan of Action on the Elimination of Violence Against Children
RPA on EVAW	ASEAN Regional Plan of Action on the Elimination of Violence Against Women
SAPA	Solidarity for ASEAN Peoples' Advocacies
SDGs	Sustainable Development Goals
SOMTC	ASEAN Senior Officials Meeting in Transnational Crime
ToR	Terms of Reference
UN	United Nations
OHCHR	Office of the High Commissioner for Human Rights

FOREWORD

The following report presents a review of the performance of the human rights mechanisms of the Association of Southeast Asian Nations (ASEAN) – the ASEAN Intergovernmental Commission on Human Rights (AICHR) and the ASEAN Commission on the Promotion and the Protection of the Rights of Women and Children (ACWC) – in 2017, a year which also marked the 50th anniversary of ASEAN. This eighth annual review is produced by the Asian Forum for Human Rights and Development (FORUM-ASIA) and the Solidarity for Asian Peoples' Advocacies (SAPA).

The report focuses on how both Commissions carried out their activities with respect to their mandates; their engagement with civil society organisations (CSOs); and their achievements and shortcomings with regards to international human rights law, and the standards set by regional human rights bodies in other parts of the world. It looks into how the AICHR and the ACWC have acted on the ASEAN Community Vision 2025, adopted by the ASEAN Leaders in 2015 at their 27th Summit in Kuala Lumpur, Malaysia with the tagline 'Forging Ahead Together'. The report also examines the role of civil society in promoting and protecting human rights in the ASEAN region, to what extent working with the AICHR and the ACWC enhanced this function during that year, and what lessons may be learned for the future.

The report concludes with key findings and recommendations for the AICHR, the ACWC, and ASEAN.

This review is based on primary and secondary sources, including: official information from the AICHR, the ACWC, the ASEAN Secretariat, and ASEAN Member States; publicly accessible reports; interviews with key individuals and organisations; and questionnaires. The first draft of this report was shared with key respondents for further input. At the same time, this performance review was designed not as an exhaustive audit of the ASEAN human rights mechanisms, but rather as a qualitative assessment from the viewpoint of civil society with the aim of contributing to the accountability and effectiveness of the AICHR and the ACWC, and for them to work properly in the service of human rights.

CHAPTER 1
INTRODUCTION

1. Context

ASEAN is one of the largest – and fastest growing – economic zones in the world. Experts predict that ASEAN, which has grown from five to 10 members since it was founded in 1967, will represent the fourth largest economy in the world by 2050.[1] Accompanying this growth is an increased demand for massive investment and extraction of natural resources. To meet this, ASEAN nations have increasingly focused on macro-economic development[2] and sidelined sustainable and people-oriented development. This has had a significant impact on inequality[3] and human rights violations within the region.

During 2017, systemic human rights violations perpetrated by state authorities and human rights abuses by non-state actors persisted in most ASEAN member states alongside wider threats against democracy, leaving the often-expressed idea of 'a people-centered ASEAN community' as little more than an empty slogan. In Southeast Asia, oppression was manifested through restrictions on a vast array of human rights, including the rights to life and to freedoms of expression, peaceful assembly and association; torture; and arbitrary arrest, detention, prosecution, and punishment. The region tended to have poor democratic institutions as the Democracy Index in 2017 counts most ASEAN countries in the Flawed democracy, Hybrid or Authoritarian regime categories.[4] Civil society voices, particularly those pertaining to human rights, were often silenced or remained unheard by the ASEAN leaders in decision-making processes.

ASEAN Member States have all ratified three international human rights treaties – the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC), and the Convention on the Rights of Persons with Disabilities (CRPD). ASEAN Member States have also, to varying degrees, ratified other human rights treaties.[5] They have also declared their commitments to various international human rights standards such as the Universal Declaration of Human Rights, the Vienna Declaration and Programme of Action (VDPA), and the Paris Principles.

As provided in Article 14 of the ASEAN Charter, ASEAN established the ASEAN Intergovernmental Commission on Human Rights (AICHR) in 2009, followed by the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) in 2010. Some progress has been made since then by these institutions in promoting human rights in the region. The ASEAN Human Rights Declaration was adopted in 2012 – although it has been criticised for watering down international human rights standards. The Declaration on the Elimination of Violence against Women in the ASEAN region and its ASEAN Regional Plan of Action on the Elimination of Violence against Women (EVAW) and the Elimination of Violence against Children (EVAC) were adopted in 2015, and the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers in 2016, as was the ASEAN Convention against Trafficking in Persons (ACTIP) in 2017. All of these represent attempts to set standards for human rights in ASEAN.

[1] McKinsey & Company, *Understanding ASEAN: Seven things you need to know* (2014), 7 September 2018, available at http://www.mckinsey.com/insights/public_sector/understanding_asean_seven_things_you_need_to_know.

[2] As evidenced by the establishment of the ASEAN Economic Community in 2015.

[3] The ASEAN post, Southeast-asia widening inequalities (2018), accessed on 7 September 2018, available at https://theaseanpost.com/article/southeast-asias-widening-inequalities.

[4] The Economist, *'Infographic on the Economist Intelligence Unit Democracy Index'* 167 countries scored on a scale of 0 to 10 based on 60 indicators, accessed on 7 September 2018, available at https://www.economist.com/graphic-detail/2018/01/31/democracy-continues-its-disturbing-retreathttps://infographics.economist.com/2018/DemocracyIndex/.

[5] http://indicators.ohchr.org/. accessed on 22 October 2018.

None of these measures, however, have succeeded in actually tackling human rights violations in the region. ASEAN – with its declared aims of promoting peace, stability, security, and prosperity – could be in a position to exert influence over member states on human rights standards, not least through its human rights institutions.[6] But these institutions have yet to show any impacts on the rising authoritarianism across the region, the dire human rights records of its member states, and the suppression of freedoms that should be universally enjoyed. Furthermore, despite the resurgence of ASEAN integration which could extend as far as regionalism, ASEAN's principle of non-interference – which applies also to its human rights institutions – remains an insurmountable obstacle to addressing human rights violations, and even major crises, in its member states.

Both the AICHR and the ACWC remain 'non-confrontational' on the affairs of ASEAN Member States – a severe limitation given that the ability to be critical and talk truth to power is essential for any human rights body to be effective. The doctrine of non-interference is embedded in the Terms of Reference (ToR) of both bodies and espoused by many, if not all, of their ASEAN member state representatives. Representatives to the AICHR and the ACWC are appointed directly by their own governments in most states without prior consultation with relevant stakeholders, including civil society: a fact that calls into question their independence, impartiality and ability to act as genuine human rights bodies.

The AICHR has an explicit protection mandate, as provided in Articles 1.1, 1.5, 4.1, 4.9, and 4.10 of its ToR. The mandate as written could be stronger, but even as it is, the AICHR failed to implement it in 2017. Its mandate largely covers public-awareness raising, capacity building, promotion of human rights implementation, preparation of research studies, and encouraging ASEAN member states to ratify international human rights treaties: in other words, having a strong focus on the promotion rather than protection of human rights.[7]

2017 marked ASEAN's 50-year anniversary. With the Philippines as chair, the year also saw various AICHR and ACWC's activities promoting human rights. For example, the AICHR reviewed 'ASEAN's Implementation of the ASEAN Human Rights Declaration' in November; the ACWC published a report on its institutional strengthening; and progress was made on an ASEAN Enabling Masterplan on Mainstreaming the Rights of Persons with Disabilities. However, the ramification of the Philippines' diplomatic derailment againts human rights principles and practices, compounded by the ongoing obstacle of non-interference principles within the ASEAN human rights bodies, meant that issues relating to protecting human rights – such as establishing a correspondence and complaint mechanism, as repeatedly demanded by the civil society – remained ignored. On ASEAN's 50th anniversary, its commitment to alleviating human rights crises in the region is in serious doubt as its human rights bodies continue to inspire questions rather than confidence: will its human rights mechanisms finally show their claws in support of human rights? If so, when? How can the institutions show that they are capable of upholding their mandates as regional human rights bodies?

To become relevant in the current context, the AICHR and the ACWC need to become genuinely and actively involved in responding to human rights violations – whether on an individual level, addressing systemic human rights issues in its member states, or violations that occur across borders – and, in this way, advance the quality of life of ASEAN people.[8] If they are to achieve this vision, the ASEAN human rights commissions can no longer afford to be toothless.

[6] See Rappler, *The Deafening Silence of ASEAN on Human Rights Violations,* 2017, 15 August 2018, available at https://www.rappler.com/newsbreak/in-depth/187759-asean-2017-human-rights-violations-deafening-silence.

[7] European Parliament, *The Development of ASEAN Human Rights Mechanism*, 2012, 15 August 2018, available at http://www.europarl.europa.eu/RegData/etudes/note/join/2012/457120/EXPO-DROI_NT(2012)457120_EN.pdf, pp. 8-10.

[8] See FORUM-ASIA, *On the 50th Anniversary of ASEAN, civil society demands stronger and more forceful human rights mechanisms,* 2017, accessed on 15 August 2018, available at https://www.forum-asia.org/?p=24496.

2. Objectives

The aim of this report is to set out and analyse the work of the ASEAN human rights institutions, specifically the AICHR and the ACWC, between 1 January and 31 December 2017, and to offer constructive recommendations for the optimisation of their work and their institution-building. The analysis will focus on how the implementation of their mandates and annual work plan, activities, and engagements with CSOs and other stakeholders complied with international human rights law and standards, and whether their work had any impacts on the the current human rights situation in ASEAN.

3. Methodology

METHODOLOGY

This report used desk research and interviews with relevant stakeholders to obtain secondary and primary data.[9] The interview outlines were designed to identify targeted information, with opportunities to deviate should other issues emerge worth highlighting.

The desk research included relevant documents including but not limited to previous annual performance reports (2010-2016), the mandate and work plan of the ASEAN human rights commissions, press releases and statement, and relevant news from various sources. Interviews were conducted with relevant stakeholders, including the AICHR and the ACWC representatives and members of CSOs.

The qualitative research methodology is descriptive-analytical, and aims to provide a clear assessment of the performance of the AICHR and the ACWC in 2017.

RESPONDENTS

There were twenty interviewees who were selected from the representatives to the ACWC and the AICHR, as well as from CSOs.

SCOPE AND LIMITATIONS

The report describes and analyses the performance of the ASEAN human rights mechanisms in 2017. In accordance with available data and information, this report also provides a descriptive analysis of how the ASEAN human rights institutions work. It also aims to provide constructive recommendations for the improvement of the human rights institutions.

The main limiting factor of the report was time. The second limiting factor was the responsiveness of interviewees. The combination of these limitations affects the comprehensiveness of this report.

[9] This report uses the standards of qualitative method, either in searching the data and information or in analysing the information. See Richard M. Frankel, *Standards of Qualitative Research* in Benjamim F. Crabtree and William L. Miller (ed), *Doing Qualitative Research: Second Edition,* London: Sage Publications, 1999, p. 333.

Emblematic Case 1

SERIOUS HUMAN RIGHTS VIOLATIONS IN ASEAN IN 2017:
RAKHINE STATE, MYANMAR

Early in the morning of 25 August 2017, a Rohingya armed group known as the Arakan Rohingya Salvation Army (ARSA) launched coordinated attacks on security force posts in northern Rakhine State, in western Myanmar. In response, the Myanmar security forces, led by the Myanmar Army, attacked the entire Rohingya population in villages across northern Rakhine State.

In the days and months after 25 August, the Myanmar military drove more than 700,000 women, men, and children into neighbouring Bangladesh. The ethnic cleansing of the Rohingya population was achieved by a well-planned, relentless and systematic campaign in which the Myanmar security forces murdered thousands of Rohingya, including young children, raped hundreds of Rohingya women and girls, tortured Rohingya men and boys in detention sites, pushed Rohingya communities toward starvation by burning markets and blocking access to farmland, and burned hundreds of Rohingya villages in a targeted and deliberate manner. This massive deportation, and the acts taken to bring it about, were described by legal experts as crimes against humanity and even genocide under international law.

CHAPTER 2
THE ASEAN INTERGOVERNMENTAL COMMISSION ON HUMAN RIGHTS (AICHR)

1. Mandate and ToR

The ASEAN Intergovernmental Commission on Human Rights (AICHR) was created in 2009 with the adoption of its Terms of Reference (ToR) at the 42nd ASEAN Ministerial Meeting. It is mandated with promoting and protecting human rights in ASEAN, and is comprised of representatives selected by each member state's President or Ministry of Foreign Affairs either through direct appointment or – in rare cases – open election. Representatives have come from different backgrounds and experiences, and are guided by 14 specific mandate and functions as set out in the ToR:

No	Mandate and functions
4.1.	To develop strategies for the promotion and protection of human rights and fundamental freedoms to complement the building of the ASEAN Community.
4.2.	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.
4.3.	To enhance public awareness of human rights among the peoples of ASEAN through education, research and dissemination of information.
4.4.	To promote capacity building for the effective implementation of international human rights treaty obligations undertaken by ASEAN Member States.
4.5.	To encourage ASEAN Member States to consider acceding to and ratifying international human rights instruments.
4.6.	To promote the full implementation of ASEAN instruments related to human rights.
4.7.	To provide advisory services and technical assistance on human rights matters to ASEAN sectoral bodies upon request.
4.8.	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.
4.9.	To consult, as may be appropriate, with other national, regional and international institutions and entities concerned with the promotion and protection of human rights,
4.10.	To obtain information from ASEAN Member States on the promotion and protection of human rights.
4.11.	To develop common approaches and positions on human rights matters of interest to ASEAN.
4.12.	To prepare studies on thematic issues of human rights in ASEAN.
4.13.	To submit an annual report on its activities, or other reports if deemed necessary, to the ASEAN Foreign Ministers Meeting.
4.14.	To perform any other tasks as may be assigned to it by the ASEAN Foreign Ministers Meeting.[10]

The ToR of the AICHR includes a mandate of promoting and protecting human rights at the individual member state level. However, the AICHR has so far limited its own role solely to promoting human

[10] See http://aichr.org/download/TOR-of-AICHR.pdf, accessed on 15 August 2018.

rights.[11] This total neglect of its protection mandate in the AICHR's activities is central to the Commission's limitations as a regional human rights institution. Operationalising the protection mandate within its ToR is key if the AICHR is to fulfill its existing mandate.[12]

The AICHR's mandate has been reviewed several times. The ToR itself calls for such a review 'five years after its entry into force' (Article 9.6). In October 2014, the AICHR duly submitted to the ASEAN Foreign Ministers' Meeting (AMM) its 'Assessment and Recommendations on the Review of the ToR.'[13] The Joint Communique issued by the AMM following its meeting in August 2015 'welcomed' the AICHR's submission and 'took note' of their assessment and recommendations. The Joint Communique also encouraged the AICHR 'to acquire a long-term perspective to planning and implementation which will help it realise its human rights protection mandate along with its promotion mandate, as provided for in its ToR.'[14]

During the formal meeting between the AMM and the AICHR on the 49th AMM held in Vientiane, Lao PDR, the AICHR submitted two recommendations for the AMM's consideration: (i) uploading the AICHR's Annual Report 2016 to the AICHR's website, and (ii) reviewing its ToR. The AMM agreed to upload the AICHR's Annual Report 2016 and instructed the AICHR to consult the AMM on future uploading of its annual reports; and took note of the recommendation related to the reviewing of the ToR of the AICHR. The AMM also requested that the AICHR continue strengthening its existing mandate and functions under its current ToR.[15]

The responses from various AMMs, internal AICHR's dynamics, and CSO analysis show polarised opinions on how to strengthen the AICHR's mandate, and indeed on whether it should be strengthened at all. For example, the current Thailand representative to the AICHR told the authors of this report he believes that the existing mandate is sufficient and strengthening the AICHR's impact is purely a matter of interpretation, while others believe that the current mandate needs to be expanded, especially with regards to the protection work.

In the words of another respondent: 'If you look at the ToR more deeply, the mandate and functions are actually very broad, making it easier for the AICHR to carry out its tasks. Especially if the AICHR really wants to do something more impactful at the regional level.' Unfortunately, so far the AICHR has shown little, if any, desire to realise its protection mandate and increase its impact.

If the AICHR's mandate was to be reviewed, it would be necessary to consider the risks: there are concerns that given the current political climate of the region, reopening negotiation of the mandate may in fact lead to weakening it. For instance, a suggestion from Singapore to add principles of 'efficiency' to the AICHR's mandate[16] is not clear and, as written, solely focuses on 'budget capping' AICHR's resources, which could reduce its already limited ability to address human rights issues. It could also be used to reduce the number of meetings, workshops, and other activities undertaken by the AICHR, which would narrow the opportunity for the AICHR to act and to engage with key stakeholders, such as CSOs.

Strengthening the AICHR's ability to protect human rights through review and revision of its mandate would require not only momentum from the AICHR itself but, more importantly, the political will of the ASEAN Member States – which is significantly lacking.

[11] See FORUM-ASIA, "Have They Passed the Litmus Test" A Report on the Performance of the ASEAN Human Rights Mechanisms in 2016, Chapter I. https://www.forum-asia.org/uploads/wp/2017/12/Performance-Report-AICHR-2016-FORUM-ASIA-2.pdf

[12] See http://www.asean.org/storage/images/archive/publications/TOR-of-AICHR.pdf, accessed 15 August 2018.

[13] See AICHR, AICHR Annual Report 2014/2015, http://www.aichr.or.th/file_content/article_doc_35.pdf, pp. 13-14 and the Asian Forum for Human Rights and Development, *Breaking the Silence and Unlocking Barriers for Human Rights Protection in ASEAN: A Report on the Performance of the ASEAN Human Rights Mechanism in 2015,* Bangkok: 2016.

[14] http://www.asean.org/storage/images/2015/August/48th_amm/JOINT%20COMMUNIQUE%20OF%20THE%2048TH%20AMM-FINAL.pdf., accessed on 15 August 2018.

[15] See http://asean.org/storage/2016/07/Joint-Communique-of-the-49th-AMM-ADOPTED.pdf., accessed 15 August 2018.

[16] Interview with one of the AICHR representatives.

Indeed, it is this lack of political will to fully implement even the existing mandate from which the AICHR's substantive problems stem. The AICHR has consistently been reluctant to address key human rights issues and has tended to cherrypick topics it works on to align with government interests[17]. 2017 proved no different, as evident in the lack of any official response from the AICHR to the Rakhine State crisis which erupted in August 2017.[18]

Despite strong calls from the international community for the AICHR to condemn the Myanmar military's human rights violations and crimes and demand justice for those affected, the AICHR remained silent on the crisis throughout 2017. The Rakhine State crisis fell well within the AICHR's remit; under its existing mandate, the AICHR could and should have done any and all of the following:

- Issued an immediate statement expressing concern about the situation and calling for human rights violations to end and for an independent inquiry (under Article 4.3. of the ToR);
- Urgently requested information from the Government of Myanmar on the human rights crisis and how the Member State is addressing it (under Article 4.10 of the ToR);
- Carried out its own investigations into the Rakhine State human rights crisis, as part of a thematic study (under Article 4.12 of the ToR);
- Urging ASEAN Member States to send an investigation team to Myanmar to investigate any human rights violations in the Rakhine state to provide clarity and to plan for further interventions to safeguard the rights of the victims and survivors (under Article 4.12 of the ToR);
- Consulted with the UN human rights bodies as to the best way to respond to the crisis (under Article 4.9 of the ToR);
- Developed strategies to protect vulnerable communities (under Article 4.1 of the ToR).

Instead, the AICHR chose to do absolutely nothing. The Commission is clearly falling short on its implementation of its existing mandate. Nevertheless, should the opportunity arise to strengthen its mandate through reviewing its ToR, there are various ways by which this could be done.

Perhaps most importantly, a revision of the ToR should also include the creation of a complaints mechanism to enable people to report human rights violations and have them addressed. Complaints mechanisms are integral elements of other regional organisations, such as in the Organisation of American States and the African Union human rights systems. Within the AICHR, it could provide a collective collegial avenue to address cases of human rights violations through requests for information from and recommendations to governments. A complaints mechanism and related procedures could also provide ways to measure the AICHR's impact, for instance by documenting how many complaints the AICHR receives, how many of such complaints are followed up and how many are resolved in ways that conform to international human rights law and standards. In addition, an expanded mandate should include concrete areas of collaboration between CSOs and the AICHR.

One respondent emphasised on the importance of creating a mechanism of selecting representatives to the AICHR that is transparent and open, should the ToR be reviewed. This would be likely to generate more independent, impartial, and expert representatives, who would be prepared to represent the people rather than align to government interests.

To conclude, the AICHR does have the mandate to address human rights issues, crisis and violations under its current ToR, which provides space for flexibility and innovation – although it could still be significantly strengthened in tangible ways. The AICHR's shortcomings cannot be blamed solely on its ToR; rather, they stem from its politicised nature and its strict 'consultation and consensus' decision-making policies leading to passiveness and inaction, even in the face of serious human rights violations in the region.

[17] https://yaleglobal.yale.edu/content/rappler-aseans-deafening-silence-human-rights-violations, accessed on 21 October 2018.

[18] https://reliefweb.int/report/myanmar/open-letter-asean-must-address-human-rights-violations-around-myanmar-rakhine-crisis, accessed 15 August 2018.

2. The AICHR activities in 2017

The AICHR's programmes and activities implemented in 2017 are described in the following chart:

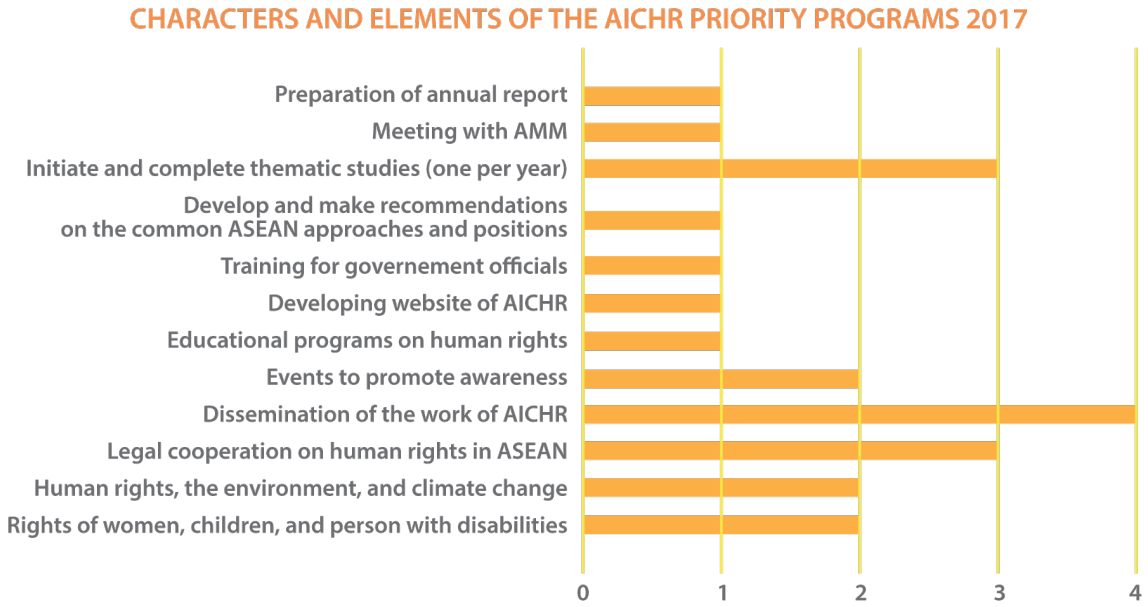

Diagram 1. Focuses of the AICHR priority programmes in 2017 taken from the priority programmes/activities of the AICHR in 2017 adopted by the AICHR on April 2016

It is clear from this chart that the vast majority of the AICHR's program priorities focused on dissemination and education activities, and on legal cooperation on human rights in ASEAN. Priority topics were human rights in the context of the environment and climate change, women's rights, children's rights, and rights of people with disabilities, as well as events to promote human rights awareness.

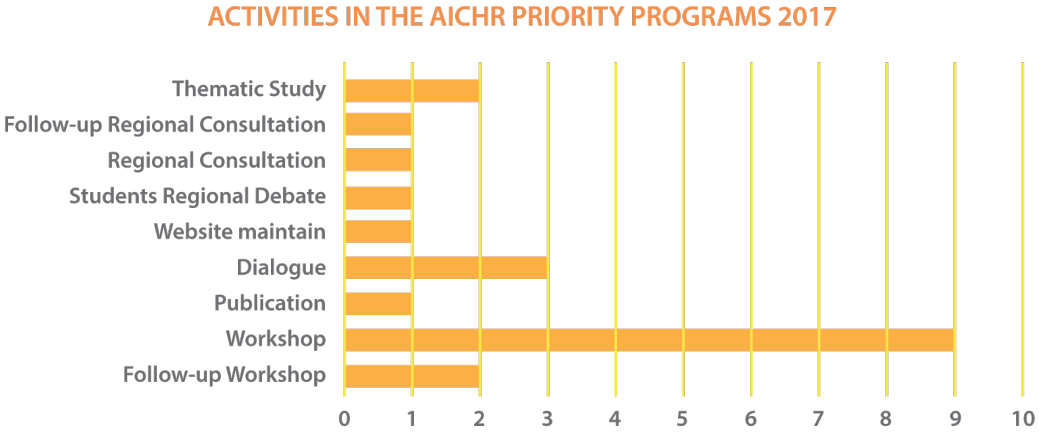

Diagram 2. AICHR priority programme activities in 2017 taken from the priority programmes/ activities of the AICHR in 2017 adopted by the AICHR on April 2016

The AICHR activities in 2017 were dominated by workshops, followed by regional dialogues. Over the one-year period, the AICHR convened 12 activities, which correspond to five mandates of the AICHR, namely those provided in Articles 4.1, 4.3, 4.4, 4.6, and 4.12 of the ToR.[19] These activities also contributed

[19] Article 4.1. To develop strategies for the promotion and protection of human rights and fundamental freedoms to complement the building of the ASEAN Community; Article 4.3. To enhance public awareness of human rights among the peoples of ASEAN through education, research and dissemination of information; Article 4.6. To promote the full implementation of ASEAN instruments related to human rights; Article 4.12. To prepare studies on thematic issues of human rights in ASEAN.

to the implementation of the ASEAN Community Vision 2025, specifically the ASEAN Political-Security Community (APSC) Blueprint 2025 key element A.2.5: 'Promote and protect human rights, fundamental freedoms and social justice to ensure our peoples live with dignity, in peace, harmony and prosperity'.[20] The activities were convened from August 2016, with some left pending until 2018.

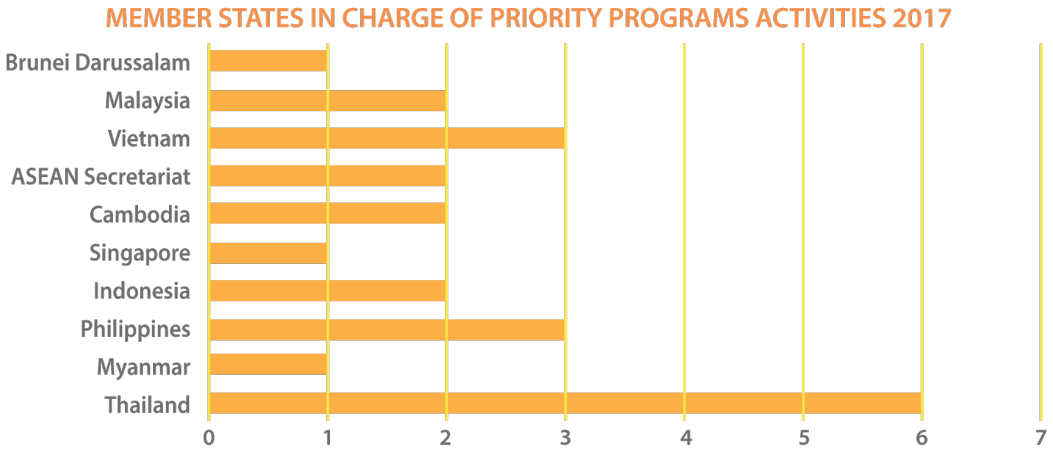

Diagram 3. Members states in charge of AICHR priority programmes in 2017 taken from the priority programmes/ activities of the AICHR in 2017 adopted by the AICHR on April 2016

Of ASEAN Member States, Thailand coordinated the largest number of the AICHR's activities in 2017, followed by Malaysia, Indonesia, and Cambodia.

Dinna Wisnu, PhD., Indonesia's Representative to the AICHR stated that almost all activities in the 2017 priority programme were successfully implemented. She further listed several AICHR's activities implemented in 2017 such as the ASEAN Youth Debate, a Regional Dialogue on Disabilities, and the Journalists' Training on Human Rights.[21]

Dr. Seree Nonthasoot, Thailand's Representative to the AICHR, argued that 2017 was a successful year for the AICHR in disseminating human rights issues and linking the responsibility of ASEAN Member States with regards to human rights with politics and security, which together form one of the three pillars of the ASEAN community.[22] He also said that the year showcased the equal contribution by all representatives to actively initiate and lead activities, and that the AICHR engaged with other sectoral bodies and ASEAN Senior Officials Meetings (SOMs).[23] For instance, the Thailand AICHR Representative led on implementing activities at the economics SOM, while Malaysia initiated and hosted the AICHR's Judicial Colloquium on the Sharing of Good Practices Regarding International Human Rights Law – which proved a useful event given the diversity of ASEAN legal systems. The AICHR Malaysia representative, Edmund Bon, led a session on the establishment and use of a regional court in Africa within the Colloquium.

Dinna Wisnu reported that the AICHR has begun to dive deeper into trafficking in persons issues to follow up on the ASEAN Convention against Trafficking in Persons, Especially Women and Children (ACTIP), and that Indonesia successfully encouraged other ASEAN Member States to ratify the ACTIP. Again in this thematic area, the AICHR convened an ASEAN Senior Officials Meeting in Transnational Crime (SOMTC) in combatting trafficking.

She also said that in 2017, the AICHR engaged in more collaborative initiatives with dialogue partners such as with the European Union (EU) delegates to ASEAN, and the AICHR's visit to Australia.

[20] See AICHR, *AICHR Annual Report 2017,* available at http://aichr.org/documents/, 2017, p. 10, accessed on 15 August 2018.

[21] Interview with Dinna Wisnu, PhD.

[22] The three pillars comprise of the ASEAN Political-Security Community (APSC), the ASEAN Economic Community (AEC) and the ASEAN Socio-Cultural Community (ASCC).

[23] Interview with Dr. Seree Nonthasoot.

The AICHR engaged in various activities to boost its visibility and public engagement, including the AICHR Youth Debate on Human Rights, which has become an annual AICHR activity since it was first organised by the Philippines in 2013 to engage ASEAN youth and students in human rights discussions,[24] and the ASEAN Youth Video Competition. The AICHR Representative from Indonesia delivered and convened public lectures in Indonesian universities on ASEAN human rights mechanisms.

The AICHR's work should not be measured solely by the number of activities it has conducted in implementing its mandate. It also needs to be measured with regards to what it has failed to do. As mentioned above, the AICHR's utter silence and zero action in the face of atrocities that shook the world – both in the Rakhine State and in the 'war on drugs' in the Philippines - dwarfs any achievement the Commission may boast of in its promotion activities. Comparing the AICHR to regional human rights bodies in the Americas, Europe, and Africa, which consistently address human rights violations in their respective regions, similarly highlights the inadequacy of the AICHR's achievements.

The AICHR's impact should be also measured – for example, by assessing how far the Commission conducted follow-up activities to the workshops, dialogues, and thematic studies to improve human rights mainstreaming in the ASEAN countries, as highlighted by one interviewee (from CSO): *'Apart from AICHR's workshops and dialogue… the most important question is how to make an impact on the human rights situation in the region.'*[25] As it stands, the AICHR has not assessed or shown the impact of any of its various activities on the promotion of human rights.

Further mapping is needed on whether AICHR's activities can address current human rights situations and issues in ASEAN. This requires, among other things, an analysis of the effectiveness and relevance of activities to the achievement of the ASEAN 2025 vision, which needs reliable data and extensive research. With AICHR's current climate, this can be very challenging.

As an illustration, the AICHR conducted five meetings during 2017. The meetings were to discuss the implementation of activities under the annual priority programmes on issues such as the right to health, right to education, rights of persons with disabilities, right to life, the implementation of the AHRD as well as a meeting with CSOs with consultative statuses.[26] However, an interviewee from CSO stated that some meeting outcomes and action points (such as the Roundtable Discussion on ASEAN Human Rights Declaration (AHRD) to commemorate 50th anniversary of ASEAN and 5th anniversary of the AHRD) can not be accessed due to the bureaucracy and confidentiality of the AICHR. This means that it is very difficult for the public, or even close stakeholders, to measure any improvements or developments of the AICHR. Furthermore, for a body like the AICHR, the best way to asses its result should focus on how it has answered the outside world, on how it has impacted people that undergo its workshops, dialogues, or other activities.

As another example, there has been no follow-up to the Roundtable Discussion on ASEAN Human Rights Declaration (AHRD) to commemorate 50th anniversary of ASEAN and 5th anniversary of the AHRD which aimed to provide a platform for dialogue between the AICHR and CSOs on the needs, opportunities, and gaps in implementing the AHRD. The interviewees from CSOs stated that the meeting was a great initiative but failed to meet expectations given the limited time, absence of clarity on the result and action for the AHRD review, as well as lack of clarity on any follow-up mechanisms.

3. Assessing the AICHR's Performance in 2017

The challenges and limitations in measuring the AICHR's impact lie within the body itself. The AICHR could move towards becoming an independent body by changing the selection

[24] Op.cit.

[25] Interview with Emerlynne Gil, International Commission of Jurists (ICJ)

[26] See Annex A, Table 2: List of the AICHR's Meetings.

mechanism of its representatives, creating an open and transparent selection process, and avoiding the direct selection of representatives by heads of state, governments, or Ministers of Foreign Affairs. Given the current system, it is inevitable that the approach of the representatives to human rights issues depends on their respective states' political position on these issues. Most AICHR representatives are all but obliged to protect their government at the expense of their people's human rights.

The AICHR's activities implemented in 2017 did not meet CSOs' expectations nor address the reality of the human rights situation in the region. The AICHR's activities showed that its real function was essentially reduced to education and awareness-raising on human rights, rather than tackling the region's human rights problems and working to end human rights violations. This disparity should be addressed while developing and implementing AICHR's activities in the future.

AICHR did not demonstrate transparency or engagement, engaged in very limited advocacy, and did not even seriously assess its own activities or achievements. Nor do its activities fulfiled more than a limited part of its mandate. Furthermore, the AICHR as an institution has not effectively addressed any key human rights situation in Southeast Asia. It developed thematic study reports on human rights issues, but these reports were not then used to advocate for or encourage the political leadership of the ASEAN Member States to address these issues. It has not, to date, developed a mechanism to effectively address reports of human rights violations made by individuals or groups.

Although one respondent applauded the AICHR's work in encouraging the ratification of the Convention on the Rights of Person with Disabilties (CRPD) within ASEAN countries, notably, this is the only Convention the AICHR has encouraged the ratification and implementation of to date. It has not done so, for example, for key human rights treaties such as the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), or the Convention Against Torture and Other Cruel, Inhuman Degrading Treatment or Punishment (UNCAT). Ignoring such key treaties and instead focusing on those perceived to be less politically sensitive is emblematic of the AICHR's lack of commitment to achieving real human rights change in the region.

4. Engagement with Stakeholders

ENGAGEMENT WITH CSOS

According to the Annual Report of AICHR activities in 2017, the increasing number of applications from CSOs for Consultative Relationship with the AICHR was a testament to the increasing visibility of the AICHR's work and the interest of civil society to engage with it. CSOs with Consultative Relationships with the AICHR work on areas as diverse as the civil and political rights, rights of women, the rights of persons with disabilities, the rights of children, indigenous peoples, migrant workers, labour rights, the right to development, and the right to peace – among others.

The AICHR has ostensibly strengthened its relations with accredited CSOs over the past few years. It organised an interface meeting with CSOs in November 2017 as part of a Roundtable Discussion on the AHRD. Under the Guidelines on the AICHR's Relations with CSOs, the AICHR can leverage its relations with accredited CSOs[27] by regularising the communications between CSOs and the AICHR

[27] See http://aichr.org/press-release/press-release-25th-meeting-of-the-aichr-26-27-november-2017-bohol-philippines/, accessed on 15 August 2018.

through conducting an annual meeting with CSOs. According to the AICHR, this will enhance the value of the consultative relationship for both the AICHR and the accredited CSOs and contribute to the ASEAN community-building process.[28]

Nonetheless, there remain significant concerns among members of civil society regarding their relationship with the AICHR. Perhaps most seriously, interviews with CSOs showed that there is a feeling of apprehension by CSOs over their interactions with the AICHR, particularly on sensitive human rights issues. On a more structural level, the consultative relationship mechanism, which sets the parameters within which the AICHR representatives determine whether to grant civil society organisations a consultative relationship, is very vague. This implies that CSOs are not seen as meaningful partners within the regional mechanism – in contrast with their counterparts within international mechanisms such as the Universal Periodic Review (UPR) process, in which CSOs have a defined role and opportunity to raise even the most sensitive human rights issues.

According to one CSO interviewee, the AICHR needs to recognise the engagement of the CSOs as an added value which can ensure the sustainability and institutional strengthening of the body. Some AICHR representatives initiated and organised national meetings with CSOs but, as invitees to such meetings were limited, and there were no systematic and clear follow-up plans, and thus, CSO respondents believe that there is much room for improvement. One interviewee reported that even when CSOs were invited to various meetings by the AICHR Representatives, severe limitations were imposed on their participatory role. The CSOs demanded more active participation, not least by being granted the possibility to speak and comment on the human rights situation on the ground. CSOs have also faced financial constraints which prevented them from attending the AICHR's activities.

Involvement of CSOs in the AICHR is, in theory, set out through the AICHR's CSO Participation Guidelines and its ToR, but in practice it relies on the assessment and proactiveness of individual representatives. Instead, the AICHR can, and should, model its involvement with CSOs on the norms, attitude, and access granted by the UN Human Rights Council, which allow CSOs to actively engage with, and thus strengthen, sessions as key stakeholders.

According to interviews, another key challenge was the absence of or limitations in CSOs participation in, or at least input into, the development of the AICHR's work plan. Although the work plan was circulated in regional and/or national workshops, CSOs did not have any opportunity to provide input, analyse, or strengthen it in view of their familiarity with the human rights situation on the ground. In the instance that CSOs were invited to propose projects and activities to the AICHR work plan at the national level, the timeframe between the announcement of calls for proposal and the deadline of submission was quite limited (e.g., around five working days).

CSOs in the region also believed that ideally, the AICHR representatives themselves would take part in fact-finding missions and/or field visits to areas that tend towards human rights violations – such as grassroots community areas or conflict areas – to hear the perspectives and views on the actual situation of human rights on the ground in their respective countries, and in turn to act for the protection of human rights nationally and regionally.

As for the usefulness of the consultative relationship given by the AICHR to CSOs, the inteviewees' responses significantly varied. While some interviewees applauded the AICHR's effort to provide a formal mechanism for CSOs engagement, others expressed concerns about the mechanism's lack of transparency in providing consultative relationships, and pointed to a significant risk of excluding groups who hold dissenting positions and question national governments.

On the positive side, 2017 did see an interface meeting between CSOs, the AICHR, and other ASEAN sectoral bodies. This meeting, with financial support allocated for the travel expenses of the CSOs, was not initally in the 2017 work plan but was added later in the spirit of collaboration between the

[28] See AICHR Annual Report 2017, pp. 14-15.

AICHR and CSOs. Participants from both the AICHR and CSOs agreed that such a meeting could be improved in the future by providing additional time for discussions and interactions, and that future meetings should be based on the principles of mutual respect and open collaboration.

The Guidelines on the AICHR's Relations with CSOs are a significant milestone in further advancing the AICHR's mandate on engagement with CSOs, as provided in Article 4.8 of its ToR. Through the Guidelines, CSOs can formally request information from the AICHR (and vice versa), which is a valuable mechanism. However, the level of engagement between CSOs and the AICHR representatives was volatile and remained dependant on the willingness of the AICHR representatives.

ENGAGEMENT WITH EXTERNAL BODIES

There were four major engagements between the AICHR and international stakeholders in 2017. International dialogue partner such as the EU, the U.S., and Australia were an important source of financial and technical support to the AICHR, which is poorly funded by ASEAN.

During the 24th Meeting of the AICHR in May 2017, the Commission met with the Australian Mission and the U.S. Missions to ASEAN. In both meetings, the AICHR shared its priorities and activities for 2017 and gained further understanding of the priorities of Australia and the U.S. in the area of human rights. According to the AICHR, both meetings demonstrated the continued effort to strengthen partnerships with the ASEAN Dialogue Partners in the promotion and protection of human rights in the region.[29]

Building on this meeting, the AICHR representatives were invited to a study visit on 4-7 December 2017 by the Australian Department of Foreign Affairs and Trade (DFAT). The visit was officially described as aimed at fostering relations between the AICHR and the Australian Human Rights Commission (AHRC) through information and knowledge exchanges. During the visit, the AICHR representatives met with the Australian Foreign Minister and with the AHRC Commissioners.

The AICHR hosted the Second ASEAN-EU Policy Dialogue on Human Rights on 29 November 2017 in Bohol, the Philippines, two years after the first. The Dialogue was attended by a EU Delegation led by the EU Special Representative for Human Rights, Stavros Lambrinidis, and Representatives/ Alternate Representatives of the ACWC and the ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW). ASEAN and the EU agreed to continue cooperation and identified specific areas where both parties would work more closely together, including trafficking in persons; business and human rights; women's rights; children's rights; and the rights of migrant workers.

The AICHR also organised discussions with national human rights institutions in Southeast Asia and civil society groups, including legal organisations on human rights. These discussions served to share information on human rights and fundamental freedoms, particularly on issues relating to gender equality, the rights of people with disabilities, migration, people smuggling and trafficking in persons, and the rights of indigenous people.[30]

Dialogues with external parties such as these contributed to the AICHR's experience. However, dialogue partners also financed the AICHR's activities that have little or no impact on human rights in ASEAN, and offered the AICHR a legitimacy it does not deserve while it refused to tackle the many human rights violations in the region.

[29] See http://aichr.org/report/the-aichr-annual-report 2017/?doing_wp_cron=1538100005.7252049446105957031250, accessed on 15 August 2018.

[30] Op.cit, pp. 11-15.

5. Challenges

2017 marked the 50th anniversary of the establishment of ASEAN, and the eight-year anniversary of the AICHR. There remain many challenges to be overcome before the AICHR can claim to be a true regional human rights body. Key among these were:

1. THE NON-INTERFERENCE PRINCIPLE

The ASEAN Charter came into force on 15 December 2008. The treaty establishes ASEAN as a legal entity, and declares common objectives and principles that underline its structure, mechanism and operations. The ASEAN Charter espouses the following principles: respect for independence, sovereignty, territorial integrity; shared commitment to peace, security and stability; renouncement of use of force; peaceful settlement of disputes; non-interference in internal affairs; freedom from external interference, subversion, and coercion; *respect for fundamental freedoms, protection and promotion of human rights and social justice; respect for the UN Charter, international law and international humanitarial law;* abstinence from participation in activities which threaten members; respect for cultures, religions and languages; the centrality of ASEAN in economic, political, social, and cultural relations; adherence to rules towards integration; and a market-driven economy.

The relationship between member states is governed by tacit agreement between member states, commonly referred to as 'the ASEAN Way'. The 'ASEAN Way' is a common understanding of a diplomatic norm that encourages the member countries of ASEAN to seek an informal and incremental approach to cooperation through lengthy consultation and dialogue involving principles of consensus and non-interference. National interests and perceived sovereignty still prevailed when it comes to human rights, at least – in contrast to a deepening of the economic regionalisation process. This way of working also contributed to the limited participation of civil society in its decision-making processes as member states have different views on the degree and importance of CSOs participation, and the consensus principle allowed those states who oppose CSO participation to minimise it. In this way, the non-interference principle formed the centerpiece of the 'ASEAN way' approach to regionalism where human rights are concerned.

ASEAN viewed the principle of non-interference as an inviolable and static principle, in contrast to the UN, in which similar principles (in Article 2 para. 7) have been treated as a dynamic concept. There is no need for interference in the internal affairs of states that respect, protect and fulfil their populations' human rights. However, the notion that there must be no outside intervention whatsoever, no matter how atrociously states treat their population, has greatly diminished with development of international human rights law.

The ASEAN Charter and the AICHR's ToR reiterate the principle of non-interference in internal affairs and decisions by consensus, and in practice rely on informality and backdoor diplomacy, emphasising progressive changes without public participation. This made it very difficult for ASEAN human rights institutions to address national and regional human rights issues by publicly challenging member states' actions and policies. The 'ASEAN Way' diminished the obligation of states to implement international human rights law in the region and significantly limited the capability of ASEAN human rights mechanisms to overcome disagrements amongst the ASEAN members. As a consequence, the 'ASEAN Way' of non-interference, and its non-alignment with the human rights value of universality, was a fundamental limiting factor of the AICHR.[31] This has also manifested itself in the one instrument that the AICHR has so far drafted – the AHRD – which provides governments with a wide margin for restricting and indeed violating human rights in the name of balancing rights with duties, 'national and regional contexts,' considerations of 'different cultural, religious and historical backgrounds', 'national security', 'public morality' and more.

[31] Interview with Fatia Maulidiyanti, International Advocacy, KontraS, Indonesia, 6 August 2018.

In contrast, the ASEAN member states, and ASEAN as a whole, have readily altered domestic policies to deepen regional economic cooperation and collaboration. There was a problematic double standard in the application of these principles to limit discussion and action to address key human rights issues in the region.

2. LACK OF TRANSPARENCY AND OPENNESS IN SELECTING THE AICHR REPRESENTATIVES had a negative impact on the independence, impartiality, and professionalism of the representatives and, by extension, the AICHR as a whole. To date, only two member states have held a democratic selection process for the positions, namely Thailand and Indonesia. The involvement of CSOs are embedded within the selection process as member of selection panel in the selection process was still very limited across the region.

Such selection processes led to a tendency for the AICHR representatives to be more aligned to the government than to the people, and to subjugate their human rights work to national political considerations. Most AICHR Representatives were either state officials, or appointed by the state, or both, which has a serious impact on the ability of the AICHR to carry out its mandate.[32]

For example, the Representatives of Cambodia, Lao PDR, Myanmar, and Vietnam in particular avoided conversations regarding human rights in their respective countries because they were selected by and aligned to their respective governments. It was widely perceived that they see their task as preventing criticism of their governments on human rights issues, and more generally opposing any active protective activities for the AICHR.[33]

3. THERE ARE NO STANDARDS ON INSTITUTION-BUILDING OF THE AICHR.
The AICHR was established to implement the mandate and functions embodied within its ToR. This mandate is limited, in part because it is applied in line with the 'ASEAN Way' rather than in line with international human rights law and standards. The ToR calls for the development of strategies to promote and protect human rights and fundamental freedoms; however, the AICHR's work has followed a 'promotion first, protection later' approach, and eight years after its establishment, 'later' has yet to appear. The ToR does not include explicit powers of investigation, monitoring or enforcement, though it provides that the Commission is to 'uphold international human rights standards as prescribed by the Universal Declaration of Human Rights, the Vienna Declaration and Programme of Action, and international human rights instruments to which ASEAN Member States are parties.'[34] This has resulted in an ufortunate and debilitating combination of a weak protection mandate with an even weaker political will among most ASEAN Member States, and consequently of their AICHR representatives, to implement even this limited mandate, let alone attempt to expand it through creative, progressive interpretation and action.

The AICHR was never meant to be an independent watchdog, promoting and protecting human rights in ASEAN in an expert and objective fashion and applying international human rights law and standards. Rather, it was launched to showcase the ASEAN leaders' commitment to human rights, with a view to pursuing a human rights strategy that would align with governments'political, security and economic agendas. One impact of this, according to the Indonesian Representative to the AICHR, is in 'constraints of funding… in running the program, outside the financing that sectoral bodies have.'[35]

Academics and other experts have joined human rights activists in describing the AICHR as a 'toothless' human rights body only established as a formality, so as to appear to follow the global trend to regionally enforce human rights. CSO representative Debbie Stothard stated that *'another*

[32] Interview with Hazel Bitana, Advocacy and Communications Coordinator of CRC Asia, 8 August 2018.

[33] Interview with Debbie Stothard, Director of ALTSEAN-Burma, Secretary General of FIDH, 11 August 2018.

[34] See https://www.idea.int/sites/default/files/publications/the-asean-intergovernmental-commission-on-human-rights-origins-evolution-and-the-way-forward.pdf., accessed on 15 August 2018.

[35] Interview with Dinna Wisnu, Ph.D, Indonesian Representative to the AICHR, 6 August 2018.

problem is how to build memory institutionalisation on an organisation basis at the AICHR. So many people do not realise what they have improved from the start. However, once again, the problem is that the existing activities and work plans do not fit with the situation of human rights and public expectations.'[36]

4. RESPONDING TO HUMAN RIGHTS ISSUES IN THE REGION AND FULFILLING EXPECTATIONS

The lack of responsiveness from the AICHR to human rights violations and crisis within the ASEAN member states has taken a toll on how the public perceived its work. The AICHR did not taken any actions or positions on any human rights violations in the region in 2017 (and or before that) – the year when the Rakhine State crisis continued, extrajudicial executions on a massive scale continued in the Philippines, the military government in Thailand extended its repressive rule, civic space continued shrinking in Cambodia, Lao PDR, Malaysia, and Vietnam and was virtually absent altogether in Brunei Darussalam, and discrimination against religious and ethnic minorities in Indonesia showed no sign of abating. CSO representatives have said that when they questioned this lack of action, the answer was often 'we discussed this seriously many times'. However, no discussions of any human rights violations have taken place officially, as part of the AICHR's agenda. What they meant by 'discussing' was that representatives spoke unofficially among themselves or during retreats. But serious human rights violations could not be addressed by talking about them in private. They need to be overtly, officially addressed through statements and other actions.[37] In the absence of an institutional response, individual initiatives could serve as useful strategies.

Debbie Stothard stated that many AICHR representatives have argued that CSOs' expectations were too high in encouraging ASEAN to align with Inter-American standards on addressing human rights. *'I even encourage us to at least be equal to the standards of the African Union human rights bodies in respect of rules, engagement, willingness, and investigations. ASEAN can reach African standards in at least the next three years to build more advanced systems.'* [38]

Although ASEAN GDPs are fairly robust, inequality is growing. There appears to be very little intention of prioritising human rights or social or economic justice, which is key for sustainable development and the creation of a fair society.[39]

6. Strategies for improvement

There are a number of strategies the AICHR could adopt in order to improve its work. The Chairship of the AICHR rotates with the Chairship of the ASEAN generally. Accordingly, the Chair fluctuates in its level of commitment to human rights depending on the country that holds it. To mitigate this, the AICHR should strengthen its cooperation and coordination with other ASEAN sectoral bodies[40] through joint activities, meetings and interfaces, and inviting them to participate in and contribute actively to the AICHR's activities and agenda, which would help to ensure that human rights are mainstreamed in in all three ASEAN pillars regardless of the chairship.[41]

In 2017, the AICHR raised its public profile through events and media coverage. However, it needs to further increase its media presence and to better disseminate information about its work to the public. This would be easier if the AICHR engaged with actual human rights protection work, which among other things would make the AICHR much more 'newsworthy'.

[36] Interview with Debbie Stothard, Director of ALTSEAN-Burma, Secretary General of FIDH, 11 August 2018.

[37] Interview with Braema Mathiaparanam, President of Maruah, Singapore.

[38] Interview with Debbie Stothard, Director of ALTSEAN-Burma, Secretary General of FIDH, 11 August 2018.

[39] Interview with Debbie Stothard, Director of ALTSEAN-Burma, Secretary General of FIDH, 11 August 2018.

[40] Such as the Senior Officials Meeting Responsible on Information (SOMRI), Senior Officials Meeting on Rural Development and Poverty Eradication (SOMRDPE), Senior Officials Meeting on Health Development (SOMHD), ASEAN Senior Officials on the Environment (ASOEN), ASEAN Senior Law Officials Meeting (ASLOM), Senior Officials Meeting on Transnational Crimes (SOMTC), and Senior Economic Officials Meeting (SEOM).

[41] See AICHR Annual Report 2018, p. 13.

Dinna Wisnu stated that the current AICHR's strategy is to foster mutual cooperation between the AICHR representatives, who have to work together to initiate and plan activities.[42] Better cooperation would lead to more institutional ownership of activities. She also argued that the level of government's support is key to the effectiveness of its representative: the Indonesian Government provided communication and human resources to assist the Representative's engagement with national institutions, therefore this model could be followed and strengthened by other governments in the region.

There are hopes that the AICHR will grow stronger in the future, especially given the presence of relatively progressive representatives within the Commission in 2018. It is now up to the AICHR whether it fulfils not only its own expectations but those of stakeholders, particularly CSOs, and in the wider human rights community. More importantly, following a year in which human rights violations in ASEAN were watched with horror throughout the world, it became clear that there was a major gap in protecting human rights in the region, and it is up to AICHR to step up and close it.

Emblematic Case 2

SERIOUS HUMAN RIGHTS VIOLATIONS IN ASEAN IN 2017: POOR URBAN AREAS, PHILIPPINES

Since July 2016, police and paid assassins working for the police killed thousands of people in the Philippines' 'war on drugs.' Since President Rodrigo Duterte swept to power, on a platform of uplifting the poor and ridding the streets of crime, he has incited his police with a murderous rhetoric to ignore proper legal procedures law and summarily kill anyone they suspect of using and/or selling drugs. Most killings have been execution-style, without the victims in any way posing a threat to the killers. The vast majority of the victims have been from poor and marginalised urban communities. Those killed have often been the breadwinners in the family, and their deaths sank women and children deeper into poverty.

At times people have been killed by uniformed police. At other times the police have preferred to operate in secrecy. Trading in their uniforms for disguises, they have roamed the streets on motorcycles in pairs. 'Riding in tandem,' as it is known locally, they approach their target, kill them, and speed away. This way, they have no questions to confront, and no paperwork to fill in or even reports to falsify. At other times, the police recruit paid assassins to do their dirty work for them. Such gangs often include former police officers and are paid 'per head.'

[42] Interview with Dinna Wisnu, Ph.D, Indonesian AICHR Representative, 6 August 2018.

CHAPTER 3
THE ASEAN COMMISSION ON THE PROMOTION AND PROTECTION OF THE RIGHTS OF WOMEN AND CHILDREN (ACWC)

1. Context

The ASEAN Commission on the Promotion and the Protection of the Rights of Women and Children (ACWC) is an ASEAN regional human rights institution established in 2010. It is an intergovernmental commission comprising 20 representatives, two from each of the ten ASEAN Member States. 2017 was a pivotal year for ACWC given the transition of chairship as well as the process of finalising the implementation plan and work plan that will guide the Commission's work between 2017 and 2020.

The status and identity of the ACWC remained ill-defined in 2017. This has created confusion in the way it was treated as an ASEAN Sectoral Body, which in turn affected the Commission's performance.

The Commission's full name has the word 'protection' in it, and it clearly and explicitly has a protection mandate. Among its purposes are 'to promote and protect the human rights and fundamental freedoms of women and children in ASEAN' (Article 2.1 of the ToR) and 'to uphold, promote, protect, respect and fulfill the rights of women and children in ASEAN to live in peace, equality, justice, dignity and prosperity' (Article 2.2 of the ToR). In addition, Article 3.7 provides that the ACWC must 'ensure a balance between the functions of promotion and protection of the rights of women and children,' thus clearly envisaging a protection role for the Commission. The mandate and functions listed in Article 5 of its ToR includes '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' (Article 5.2 of the ToR, emphasis added).

The mandate and functions also include advocacy (Article 5.4 of the ToR), capacity building (Article 5.5, and proposing 'appropriate measures, mechanisms and strategies' to end violations of the rights of women and rights of children (Article 5.12 of the ToR). As in the case of the AICHR's ToR discussed above, the ToR of the ACWC provides plenty of scope for the Commission to create protection procedures, policies and mechanisms. Indeed, despite challenges, progressive representatives have broadened the ACWC's areas of work and advocated for the creation of a monitoring and evaluation framework for the Commission to examine its impact on and the relevance of its output to the ASEAN 2025 blueprint.

The ACWC continued to face a lack of resources, which has restricted its ability to carry out its programmes. The ACWC did not receive annual contributions from the ASEAN Member States and many development partners did not support the Comission's regional programmes, focusing instead on activities in specific countries.

By the fourth quarter of 2017, the ACWC welcomed six new representatives for women's rights and three for children's rights from five member states, succeeding representatives who completed their term of office.[43]

[43] See Annex C for a full list of representatives.

2. Mandate and ToR

Women and children continue to be the most affected populations given the limited primary access and repression of political participation within the region. Therefore efforts to promote and protect their rights need to be prioritised. To date, however, the position of the body remains very tenuous, which negatively affects its ability to advocate for such a prioritising.

The ACWC's ToR was endorsed by the ASEAN Socio-Cultural Community (ASCC) Council in 2009. The body itself was inaugurated on 7 April 2010 in Hanoi, Vietnam, to promote and protect the human rights and fundamental freedoms of women and children in ASEAN. Specifically, the ACWC is tasked with upholding rights contained in the Convention on the Elimination of Violence against Women (CEDAW) and the Convention on the Rights of the Child (CRC), which all ten ASEAN Member States have ratified. The detailed mandate is:

No.	Mandate
5.1.	To promote the implementation of international instruments, ASEAN instruments and other instruments related to the rights of women and children.
5.2.	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.
5.3.	To promote public awareness and education of the rights of women and children in ASEAN.
5.4.	To advocate on behalf of women and children, especially the most vulnerable and marginalised, and encourage ASEAN Member States to improve their situation.
5.5.	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 realisation of the rights of women and children.
5.6.	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.
5.7.	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.
5.8.	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.
5.9.	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.
5.10.	To encourage ASEAN Member States to undertake periodic reviews of national legislations, regulations, policies, and practices related to the rights of women and children.
5.11.	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.
5.12.	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.
5.13.	To encourage ASEAN Member States to consider acceding to, and ratifying, international human rights instruments related to women and children.
5.14.	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.
5.15.	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.
5.16.	To perform any other tasks related to the rights of women and children as may be delegated by the ASEAN Leaders and Foreign Ministers.

Under Article 10.6 of its ToR, 'The ACWC shall review its ToR five years after its entry into force. The outcomes of this review and subsequent reviews shall be submitted to the AMMSWD.' This should have meant a review in 2015. However, no such review has taken place. According to the ACWC Representative from Indonesia (Children), Yuyum Fhahni Paryani,[44] there has neither been a problem with, nor a discussion to revise, the ToR. Further, she stated that the language in the mandate actually opens space for broader interpretations, which makes the ACWC's work easier. It is important to measure the impact of the ACWC's activities with regards to its mandate, as well as to comparable bodies in other regions.

An interviewee from a CSO said that the ACWC's mandate was strong because it also relies on the CEDAW and CRC, to which all ASEAN member states are parties – although not all member states have ratified CEDAW or CRC's Optional Protocols. The extent to which it can build on this strength, however, depends on various factors, including who the chair is, the background of the representatives, and the country which each comes from. *'Currently, we depend on the representatives from Indonesia, Philippines, Thailand, Malaysia, and Myanmar who have started to move actively'.*

Conducting single, standalone activities, without continuation or follow-up, affected both the sustainability and impact of the ACWC, particularly given the limitation of available resources. Because of this, ACWC could not be assessed simply by noting its activities, milestones, challenges and opportunities for the future in alignment with the ASEAN community vision 2025.[45]

Yuyum Fhahni Paryani said: 'There have been no studies on the impact of activities that have been undertaken. However, from this year, I will push for studies on our impact.' However, the absence of any indicators by the ACWC for evaluating its own work generally, and of the Regional Plan of Action for EVAW and EVAC monitoring framework, makes it difficult to assess the relevance and impact of ACWC within the region.

3. ACWC Activities in 2017

In 2017, ACWC finalised a work plan to be be implemented until 2020. Working under the Socio-Cultural Pillar, ACWC must report to the ASEAN Ministerial Meeting on Social Welfare and Development. In 2017, ACWC was still facing the same challenges in carrying out its mandate that it has faced since its establishment; namely, lack of funding, visibility, networks, and institutional support for its representatives and work.

The ACWC 2017 work plan consisted of fifteen planned activities; however, there was very little coherence among them. One ACWC representative highlighted the need to ensure interconnection among the activities by monitoring and documenting outputs to ensure that activities are coherennt and relevant to the overall goals of the ACWC.[46] To do this, there should be an integrated and longer-term mapping of activities, including indicators, to measure the success and examine its contribution to improving women and children's rights in ASEAN. The ACWC has been working with partners, including UNICEF, to develop such mechanisms and create tools for assessing the ACWC's milestones more systematically.

[44] Interview with Yuyum Fhahni Paryani, ACWC (Children) Representative from Indonesia, 10 August 2018.

[45] ASEAN was proclaimed a Community through a Declaration signed by ASEAN Leaders at their 27th Summit in Kuala Lumpur, Malaysia on 22 November 2015. ASEAN 2025: Forging Ahead Together, which was simultaneously endorsed by the Leaders at their 27th Summit, charts the path for ASEAN Community building over the next ten years. This document replaces 'the Roadmap for an ASEAN community: 2009-2015'. The new document articulates ASEAN goals and aspirations to realise further consolidation, integration and stronger cohesiveness as a Community. ASEAN is working towards a Community that is 'politically cohesive, economically integrated, and socially responsible'.

[46] Interview with Yuyum Fhahni Paryani, ACWC (Children) Representative from Indonesia, 10 August 2018.

4. Stakeholder Engagement

The ACWC conducted two meetings in 2017, namely the 14th meeting of the ACWC from 28 February – 2 March 2017, which took place at the ASEAN Secretariat, Jakarta, and the 15th Meeting of the ACWC from 4-6 October 2017 in Phuket, Thailand. During these two meetings the following were announced:

- Finalisation of the draft Progress Report on Gender Equality and Women's Rights in ASEAN, led by the Philippines Representative to the ACWC for women's rights;
- Finalisation of the draft Baseline Study on Child Protection Systems in ASEAN Member States led by the Indonesian Representative to the ACWC for children's rights;
- Completion of the AICHR-ACWC Training Workshop on the United Nations Convention on the Rights of the Child by the Singapore Representative to the ACWC for children's rights;
- Completion of the Report on Institutional Strengthening of the ACWC led by the the Philippines Representative to the ACWC for Women;
- Completion of the International Workshop and International Conference on Diversion through Restorative Justice by the Thailand Representative to the ACWC for children's rights;
- Completion of the Public Campaign Video to End Violence against Women (VAW) led by the Thailand Representative to the ACWC for women's rights.

The meetings also resulted in the finalisation of the ACWC work plan for 2016-2020. In addition to that, the ACWC also contributed to the creation of the comparative study appraising progress in securing the rights of women and children in alignment with ASEAN's 50th anniversary and joined a fellowship programme on women, peace, and security, responsibility to protect, and countering violent extremism in ASEAN, organised by the Asia Pacific Center for Responsibility to Protect at the University of Queensland.

In 2017, the ACWC also began to implement the Regional Plan of Actions (RPAs) on EVAC & EVAW. Activities implemented in 2017 with a focus on the RPAs included:

- Strategising to improve the support service system across sectors and service providers for vulnerable groups for violence against women in ASEAN.
- Reviewing emerging legislation and legal enforcement relating to the elimination of cyber/online-based VAW and VAC.
- Public media campaign to stop VAW and VAC in collaboration with the ASEAN Senior Officials Meeting on Information (SOMRI).
- Baseline study of priority areas under the ASEAN Regional Plan of Action on the Elimination of Violence against Children.
- Regional Workshop for Promoting Comprehensive and Harmonized National Legislation aimed at Preventing and Combating Online Child Sexual Exploitation (OCSE) in ASEAN Member States.
- Strengthening the Survivor for Preventing Trafficking in Persons (TIP) in ASEAN.
- Regional Workshop on the Right to Identity for Marginalised Children in ASEAN Member States, a UN project on Diversion through Restorative Justice.
- Promoting inclusion and sustainable development in the ASEAN Community through ensuring the recognition of the legal identity of all women and children in ASEAN.
- Launching the ASEAN progress report on women's advancement and gender equality.
- The AICHR-ACWC's Training Workshop on the UN Convention on the Rights of the Child.
- The ACWC's Regional Dialogue on Building Mechanism of Concluding Observations and the Report on the Implementation of the Convention on the Rights of the Child.
- Strengthening the Protection and Empowerment of Women Migrant Workers in Crisis and Disaster Situations.

5. Assessing ACWC Performance in 2017

Despite the achievements of the ACWC in 2017, it still faced challenges that hinder the implementation of its work plan. Lack of intragovernmental coordination and support within member states made it difficult for the ACWC representatives to push forward their agenda as they rarely access the decision and policy-making processes at either the national or the ASEAN level. The role of the ACWC in the region was also compromised and sidelined by the lack of political ownership from ASEAN Member States on women and children's rights within the region. As a result, the body suffered from a lack of resources – in 2017, it did not receive enough funding to support all its planned activities. On the implementation of its activities, there was a clear lack of continuation, linkage, and sustainability.

The Commission often faced difficulties in reaching a consensus given the diverse composition of the ACWC representatives in terms of background and interests. This made the decision-making process arduous and impacted the selection and prioritisation of the ACWC's work plan. Some sensitive issues, such as those relating to sexual and reproductive rights and LGBTIQ rights, remained unaddressed owing to the inability to achieve consensus.

As in the case of the AICHR, the ACWC remained totally silent in the face of violations of the rights of women and of the rights of children during 2017. Most prominently and disappointingly, despite credible reports from multiple sources on rapes of women and girls on a massive scale by the Myanmar military in the Rakhine State, the killing of women and children, and the mass deportation of Rohingya, most of whom were women and children, the Commission remained totally silent. This represented a serious breach of its protection mandate.

The ACWC's ToR for addressing violence against women and children needs to be examined with respect to relevant international human rights law and standards to ensure the highest possible standard for the promotion and protection of women and children's rights in the region. Once this is completed, the ACWC needs to better promote, disseminate and popularise the RPAs on EVAW/EVAC as a first step towards ensuring the implementation of such documents.

The ACWC suffers from a lack of visibility compared to the other ASEAN human rights institutions and is often sidelined despite its important mandate. Until the ACWC raises it profile, and is provided by the necessary resources to so, it will continue to have weak bargaining power in relation to ASEAN member states and development partners.

6. Strategies for improvement

It is important for the ACWC to increase its visibility to boost engagement with various stakeholders at the national, regional, and international levels. This can be done both offline, for instance through lobbying related stakeholders to showcase the role of the ACWC and its mandate, and online by using its website and social media to reach a wider audience and increase ownership of ASEAN Member States on the issue of women and children's rights.

At the national level, the ACWC should engage with the National Commissions on Women in each country to ensure buy-in and implementation of their work plan and to ensure the work plan is reflected in national priorities. The Commission could also leverage its engagement with CSOs across various thematic issues to increase its visibility. Compared to the AICHR, which has adopted consultative guidelines that limit the participation of CSOs to the body, the ACWC has the opportunity to explore various collaborative plans under its mandate. This could include planning and implemeting joint programmes, co-implementing action plans, engaging in joint public campaigns, and involving CSOs in monitoring the implementation of the ACWC's work plan.

Furthermore, there is a need to establish a comprehensive monitoring and evaluation mechanism that will include the involvement of various ASEAN bodies, including the AICHR, to provide a clear direction and help to track its activities. With this, the ACWC would have a framework to continue, sustain, and link its activities to one another.

Like the AICHR, the ACWC has a clear protection mandate and should take bold steps to operationalise it. Among other things, it should try to actively monitor the extent to which member states respect – or violate – their legal obligations under CEDAW and CRC in general, and VAW and VAC in particular. Where serious violations occur, the ACWC must at least attempt to launch independent, professional investigations, or at the very least call for such investigations to take place.

Lastly, internal consolidation and coordination are important to align interests among representatives as well as as between the ACWC and the AICHR. In this way, the ACWC's focus on women and children issues could help to leverage the work of the AICHR as the overarching institution for promotion and protection and human rights in general, strengthening both bodies.

Emblematic Case 3

SERIOUS HUMAN RIGHTS VIOLATIONS IN ASEAN IN 2017:
SHRINKING CIVIL SPACE AND INTIMIDATION OF HUMAN RIGHTS DEFENDERS

Repressive laws are used to target **human rights defenders** and political dissidents. They remain subject to fabricated charges, State-sanctioned violence, imprisonment and extrajudicial killings. In **Malaysia,** the Sedition Act has been used to prosecute those who speak out against the government and its policies. Political upheavals may also be used to justify further use of these laws against human rights defenders. In **Cambodia,** four human rights defenders were a given a six month sentence under a law prohibiting "insult and obstruction to a public official'.

CHAPTER 4
CONCLUSIONS AND RECOMMENDATIONS

1. Conclusions

There are two broad reasons why the AICHR continued to fail to address egregious human rights violations in the region, in a year that saw such violations peak in several ASEAN member states: ASEAN's non-interference and decision-making by consensus principles, and the opaque and undemocratic selection process of its representatives in the majority of member states, which has a significant impact on its impartiality. These two factors have given ASEAN member states' governments control over the region's human rights bodies, hindering their work and their institution-building ability. Compared to other regional and international human rights mechanisms, they have the weakest protection record. This is not least because they have consistently refused to implement even the limited protection mandate provided by their ToRs, let alone interpret them creatively and innovatively, for instance by creating complaint and correspondence mechanisms.

The result has been a resounding silence of the region's main human rights body on any human rights violations, in a year that saw mass human rights violations amounting to crimes under international law in Myanmar and the Philippines, the continued repression of peaceful dissent and freedom of expression throughout the region, and a host of other human rights violations, old and new. This represents nothing less than a clear betrayal of the AICHR's mandate and even its name: a 'Commission on Human Rights' that keeps silent in the face of horrendous human rights violations within its own region is not worthy of the title.

The attempt by CSOs during their one and only interface meeting in 2017 to, among other things, regularise their meeting with the AICHR and encourage it to introduce complaint and correspondence mechanisms was met with silence from the Commission. Despite numerous activities conducted by the AICHR to showcase its commitment to promote human rights in the region, it still does not meet the minimum expected role of actually addressing human rights violations. These problems are not solely due to its ToR, but largely in the lack of political will of the body, its representatives, and ASEAN member states to improve it.

In order to remain relevant, the AICHR needs to evolve and move outside the non-interference and decision-making by consensus principles. This will not happen without the willingness of the ASEAN Chair and other member states, through their Ministries of Foreign Affairs, to support and strengthen the body, as well as to allow it to become independent. One way this could be done would be to make the AICHR representative selections transparent, and to take place in a way that would include civil society input. The role of civil society in the AICHR in general should be seen as a means to strengthen its mandate and work, as CSOs can offer expertise, information from the ground and grassroot perspectives. For this to be possible, the AICHR needs to create an enabling and participatory environment for CSOs free from intimidation, harrassment and attempts to dictate. This could be done within the AICHR's ToR by institutionalising interface meetings between the body and CSOs.

The ACWC is more inclusive toward CSOs, but it suffers from lack of resources and visibility which then affects the ability of the body to obtain support for sustaining their work, creating a in a vicious circle. In 2017, it managed to implement its work plan as well as the RPAs on EVAW and EVAC, but it was extremely hard to assess the extent to which its activities contributed toward achieving its goals. Given its lack of funding, monitoring, evaluating and improving its efficiency is crucial if it is to remain relevant and sustain its work.

The ACWC can increase its visibility through partnerships with CSOs to plan, develop, implement, and evaluate their work plan. Within the ACWC's curent mandate it can accommodate and explore closer cooperation with CSOs in many thematic fields related to women and to children. Two ways in which this could be done include establishing a complaint mechanism, and researching the prevalence of VAW and VAC in the region in collaboration with CSOs in order to set a relevant direction for their work. In addition, the ACWC should establish a clear working mechanism to coordinate with national-level institutions in ASEAN countries (to make it relevant to and align with national level advocacy) and with the AICHR, the ASEAN sectoral bodies, and other external stakeholders.

In its Charter, ASEAN commits to upholding the universality of human rights in accordance with international human rights standards. As ASEAN reaches its 50th anniversary, it and its member states, which have ratified various human rights treaties and are all members of the United Nations, should commit to human rights both in theory and in practice. This is only possible if ASEAN's human rights bodies, including the AICHR and the ACWC, as well as ASEAN more generally and its member states individually, recognise the value of the peoples' voices through civil society representation. The role of CSOs is at times to challenge the region's bodies and policies. However, CSOs are also willing and able to work with the ASEAN bodies to improve them, and to create an environment in which the ASEAN people can enjoy their universally recognised human rights. In terms of human rights, ASEAN has stagnated for 50 years. It is time for the region to wake up and show what it can offer to promote, protect and fulfil the rights of its people.

2. Recommendations

As part of civil society, we remind the ASEAN human rights mechanisms of treaties, standards and other tools developed to promote and protect human rights, such as the Universal Declaration of Human Rights (UDHR) and various human rights conventions, which are far from being accepted as norms by ASEAN member states. This report proposes several recommendations for the AICHR, the ACWC, and ASEAN more general, and reiterates unmet recommendations from previous reviews.

1. TO ASEAN MEMBER STATES:

- To review the ASEAN Intergovernmental Commission on Human Rights (AICHR)'s Terms of Reference (ToR) as requested by the AICHR in the 49th ASEAN Ministerial Meeting (AMM) in 2016, and reiterated by the Malaysian Minister of Foreign Affairs' statement in the 51st AMM in 2018. The review should include the adoption of the mandate for the creation and implementation of concrete human rights protection strategies and measures based on the international human rights laws and standards.
- To provide all ACWC Representatives with functioning national secretariats for administrative and expert support.

2. TO THE AICHR

- Provide timely and adequate responses to key human rights issues in the region, including timely public statements on human rights violations by member states.
- Conduct frequent, regular, broad-based and inclusive meetings on human rights issues and institution-building with a range of stakeholders including CSOs, national human rights institutions, affected communities, human rights defenders, and victims and survivors of human rights violations at both the regional and national levels in every ASEAN member state.
- Share publicly its process of formulating work plans, annual budgets, thematic studies and deliberating other important issues.
- Monitor, investigate, comment on and recommend solutions for human rights vilations in the ASEAN region, such as extrajudicial killings, crimes against humanity, the treatment of minorities and indigenous peoples, the rights of LGBTIQ people, torture and other ill-treatment, land rights, right to education, attacks against human rights defenders and more.

- Establish complaint and correspondence mechanisms that would receive complaints from individuals, groups and states, request information from the relevant member state(s), conduct its own investigations, make recommendations to the state(s) concerned and report publicly on the cases it has reviewed.
- Establish a monitoring and evaluation system to measure the progress and implementation of submitted complaints either based on the AICHR's own assessment or on feedback from stakeholders, with clear and measurable indicators that are formulated to measure performance not only through the completion of activities but through outcomes and impact on the protection and promotion of human rights.
- Reassess the process of granting consultative relationship status to CSOs to ensure inclusivity and effectiveness in creating space for providing CSO input into policies,
- Fulfill its protection mandate by implementing, innovatively and progressively, the provisions within its the ToR, including to obtain information from ASEAN member states on the protection of human rights, including information on human rights violations; and to develop common approaches and positions on human rights matters of interest to ASEAN based on international law and standards.
- Recommend that relevant Ministries of Foreign Affairs facilitate and ensure an open and transparent selection process for the AICHR representatives.
- Build an internal knowledge management mechanism that can be accessed by the AICHR, by the ACWC and by CSOs to ensure the maintainence of institution memory.
- Create a better alignment strategy for engaging with the ACWC and other ASEAN Sectoral Bodies beyond invitations to events and meetings.

3. TO THE ACWC

- Follow up on the ASEAN RPAs on EVAW and EVAC, so that they evolve from public campaigns into plans of action and activities at the national level.
- Follow up on the Regional Review on Laws, Policies and Practices within ASEAN related to the identification, management and treatment of victims of trafficking especially women and children with in-depth and more specific analysis for different sub-topics.
- Provide information to the public in an open and up-to-date manner, both relevant developments concerning the human rights of women and of children, including reporting on violations in the region and within countries, and also its budgets and work plans.
- Establish a complaint mechanism similar to those existing at the international and other regional levels, as part of its function as stated in paragraph 5.12 of the ToR, to propose and promote appropriate measures, mechanisms and strategies for the prevention and elimination of all forms of violations of the rights of women and children, including the protection of victims.
- Advocate directly on behalf of women and children, especially the most vulnerable and marginalised, and to encourage ASEAN member states to ensure respect and protection of their rights and improve their situation, as stipulated in paragraph 5.4 of the ToR.
- Create a better alignment strategy for engaging with the AICHR and other ASEAN Sectoral Bodies beyond invitations to events and meetings.
- Establish a Monitoring and Evaluation mechanism to objectively assess the outcome and impact of the ACWC's performance on the protection and promotion of women and children's rights and its connectivity with the ASEAN pillars and other human rights institution, such as the AICHR.
- Continue and expand explorations of various funding opportunities. This can be done through lobbying with development partners in collaboration with civil society organisations, think tanks, and other bodies.
- Facilitate and seek CSO involvement from the beginning of the preparation of work plans, activities, reports, and impact measurement.

ANNEXES

Annex A: Activities and Composition of the AICHR

1. Key AICHR programmes in 2017
2. Activities carried out by the AICHR in 2017
3. Composition of the AICHR Representatives

Annex B: ASEAN CSO Statements relating to AICHR and ACWC

1. Statements made by ASEAN CSOs relating to the AICHR during 2017
2. Statements made by ASEAN CSOs to the ACWC during 2017

Annex C: Activities and Composition of ACWC

1. The ACWC's press releases in 2017
2. Composition of the ACWC Representatives

Annex D: Report comparison and methodology

1. Comparison of previous reports on the annual performance of the ASEAN human rights mechanisms and methodology
2. List of interview questions
3. List of interviewees

Annex A: Activities and Composition of the AICHR

1. Key Programmes of AICHR in 2017 taken from the priority programmes/ activities of the AICHR in 2017 adopted by the AICHR on April 2016

Characteristics and Elements	Activities	Members State in Charge
4.1. To develop strategies for the promotion and protection of human rights and fundamental freedoms to complement the building of the ASEAN Community.		
1. Develop regional plans of action, recommendations, or ASEAN policy frameworks on human rights for women, children and persons with disabilities to mainstream and enhance human rights across the Community pillars, organs and bodies	3rd AICHR Regional Dialogue on Mainstreaming the Rights of Persons with Disabilities in the ASEAN Community	Thailand
2. Continue to develop strategies and undertake initiatives for further integration of Human Rights Based Approach to environmental policy making and protection in line with the ASEAN Human Rights Declaration and the Phnom Penh Statement	Follow-up to the 3rd Workshop on Human Rights , Environment & Climate Change	Myanmar & Thailand
4.2 To develop an ASEAN Human Rights Declaration with a view to establishing a framework for human rights cooperation through various ASEAN conventions and other instruments dealing with human rights;		
1. Support and strengthen the framework of legal cooperation on ASEAN human rights	i. Follow-up Consultation Workshop on the Development of the Legal Instruments on Human Rights ii. Regional Workshop on the Implementation of ASEAN Instruments related to Trafficking in Persons	Philippines Indonesia
4.3 To enhance public awareness of human rights among the peoples of ASEAN through education, research and dissemination of information.		
1. Disseminate information relating to the work of AICHR as it may be approved, including publications in both English and national languages	Publishing AICHR Booklet: AICHR What You Need to Know 3rd Edition (English and AMS language)	ASEAN Secretariat
2. Organise workshops/ seminars with track I, II and III either on its own or in cooperation with other institutions/organisation, at regional and national levels	Workshop to promote awareness on the UN Convention on the Rights of the Child	Singapore

3. Support the efforts of ASED to develop a regional education programme on human rights	Dialogue on Human Rights-based Approach to Education in the ASEAN Community	Cambodia
4. Develop a website of AICHR both at the regional and national level that is accessible to the public	Maintain the AICHR Website – Annual Website Hosting fee, Website Maintenance fee and Domain Extension fee	ASEAN Secretariat
5. Organise activities to raise awareness on the role of the AICHR and the importance of promoting and protecting human rights for relevant stakeholders, including students and youth	Organise a regional debate on Human Rights in ASEAN to be participated by students in ASEAN Member States	Thailand
4.4 To promote capacity building for the effective implementation of international human rights treaty obligations undertaken by ASEAN Member States.		
6. Design and organize a general course/advanced annual training program on implementation of international human rights treaty obligations undertaken by ASEAN Member States for government officials/ public officers of ASEAN Member States	AICHR Experience-Sharing Workshop on Implementing UPR Recommendations	Viet Nam
4.6. To promote the full implementation of ASEAN instruments related to human rights.		
7. Promote increased access to education for children with disabilities, including working with relevant stakeholders	AICHR Workshop on Enhanced Access to Education for Children with Disabilities	Viet Nam & Thailand
4.11. To develop common approaches and positions on human rights matters of interest to ASEAN;		
8.Develop and make recommendations on the common ASEAN approaches and positions on these matters	i. Regional Workshop on Achieving Sustainable Development Goals of Universal Health Coverage	Indonesia
	ii. Regional Workshop on 'Promotion and Protection Human Rights in the context of the 2030 Agenda for Sustainable Development Goals'	Viet Nam
	iii. Regional Consultation on the Right to Water (with particular emphasis on rural and indigenous communities)	Malaysia

	iv. Follow-up Regional Consultation on the Right to Water (with particular emphasis on rural and indigenous communities)	Malaysia
	v. AICHR Regional Dialogue on Mainstreaming of the Right to Food in the ASEAN Community: Right to Adequate Food and Food Sovereignty	Cambodia
	vi. Regional Workshop on the Promotion of Human Rights Aspect of Combatting Corruption through School Curriculum	Brunei Darussalam
4.12 To prepare studies on thematic issues of human rights in ASEAN.		
1. Initiate thematic studies on issues relating to human rights, at least one issue per year, in close consultation with sectoral and other relevant ASEAN bodies. Regional-base studies • Migration • Trafficking in person particularly women and children • 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 • Legal aid • Freedom of religion and belief	i. AICHR Thematic Study on Protecting the Rights of Women in Natural Disaster Situations	Philippines
	ii. AICHR Thematic Study on Right to Life: The Case of Death Penalty	Thailand
2. Hold workshop upon completion of the draft of the relevant thematic studies for discussion and consultation with the relevant stakeholders as provided for in the Guidelines on the Conduct of Thematic Studies for purposes of obtaining further inputs	i. Consultation Workshop on Women in Natural Disaster Situations	Philippines
	ii. Consultation Workshop on Legal Aid	Thailand

4.13. To submit an annual report on its activities, or other reports if deemed necessary, to the ASEAN Foreign Ministers Meeting.

1. Meet with AMM.

2. Prepare annual report on activities of AICHR, and other appropriate report as deemed necessary

3. Submit thematic report(s) for further guidance

4.14. To perform any other tasks as may be assigned to it by the ASEAN Foreign Ministers Meeting.

1. Meet with AMM

2. Activities of AICHR in 2017

PRESS RELEASES ISSUED BY AICHR

No.	Title	Date of issue
1.	CSO with Consultative Relationship with the AICHR	4 January 2017
2.	23rd Meeting of the AICHR, 13-15 February 2017, Boracay, the Philippines	15 February 2017
3.	AICHR Judicial Colloquium on the Sharing of Good Practices Regarding International Human Rights	17 March 2017
4.	Cross-pillar Collaboration on Mainstreaming the Rights of Persons with Disabilities in the ASEAN Community	19 April 2017
5.	24th Meeting of the AICHR, 15-19 May 2017, ASEAN Secretariat, Jakarta, Indonesia	19 May 2017
6.	Special Meeting of the AICHR, 17-18 June 2017, Phuket, Thailand	19 June 2017
7.	3rd Regional Dialogue on the Mainstreaming of the Rights of Persons with Disabilities in the ASEAN Community, 19-21 June 2017, Phuket, Thailand	22 June 2017
8.	3rd Meeting of the Task Force on the Mainstreaming of the Rights of Persons with Disabilities in the ASEAN Community	24 June 2017
9.	AICHR-ACWC Training Workshop on the UN Convention on the Rights of the Child, 13-14 July 2017, Singapore	14 July 2017
10.	Special Meeting of the AICHR, 4-6 August 2017, Manila, the Philippines	6 August 2017
11.	AICHR Youth Debate on Human Rights 2017, 4-6 September 2017, Bangkok, Thailand	11 September 2017
12.	AICHR Cross-Sectoral Consultation on the Human Rights based Instruments related to the Implementation of the ASEAN Convention Against Trafficking in Person, especially Women and Children, 29-30 August 2017, Yogyakarta, Indonesia	14 September 2017
13.	The Philippines Hosts 2nd AICHR ASEAN Legal Human Rights Instrument Workshop	20 September 2017
14.	Regional Consultation on the Thematic Study on Legal Aid, 11-12 October 2017, Bangkok, Thailand	13 October 2017
15.	ASEAN explores framework for an effective environment impact assessment to ensure sustainable development	1 November 2017
16.	ASEAN Meets to Develop a Common Approach and Position on the	7 November 2017

	Right to Safe Drinking Water & Sanitation Under Article 28(e) of the ASEAN Human Rights Declaration 2012 (AHRD)	
17.	AICHR Regional Dialogue on Mainstreaming of the Right to Education in the ASEAN Community, 10-12 November 2017, Phnom Penh, Cambodia	16 November 2017
18.	ASEAN Training on the Linkages between Business Cctivities and Human Rights	21 November 2017
19.	25th Meeting of the AICHR, 26-27 November 2017, Bohol, the Philippines	28 November 2017
20.	AICHR Reviews ASEAN's Implementation of the AHRD with Partners, SOMs and CSOs	30 November 2017
21.	2nd ASEAN-EU Policy Dialogue on Human Rights 29 November 2017, Bohol, the Philippines	29 November 2017
22.	AICHR Study Visit to Australia, 4-7 December 2017	12 December 2017
23.	AICHR Regional Workshop on Enhanced Access to Education for Children with Disabilities, 13-14 December 2017, Da Nang, Viet Nam	16 December 2017
24.	4th Meeting of the Task Force on the Mainstreaming of the Rights of Persons with Disabilities in the ASEAN Community, 15-16 December 2017, Da Nang, Viet Nam	16 December 2017

MEETINGS HELD BY AICHR

No.	Title	Place	Date
1.	Meeting between the Chair of the AICHR and the Senior Officials Meeting on Social Welfare and Development (SOMSWD)	Bangkok, Thailand	26 January 2017
2.	23rd Meeting of the AICHR	Boracay, the Philippines	13-15 February 2017
3.	Meeting between the AICHR and SOMSWD to discuss SOMSWD's participation in the Task Force on the Mainstreaming of the Rights of Persons with Disabilities in the ASEAN Community	Boracay, the Philippines	13 February 2017
4.	Meeting between the Chair of the AICHR with the Senior Economic Officials Meeting (SEOM) to explore possible areas of cooperation.	Bangkok, Thailand	29 March 2017
5.	2nd Coordination Meeting for the thematic study on the Right to peace	Lao, PDR	5 April 2017
6.	2nd of the Task Force on the Mainstreaming of the Rights of Persons with Disabilities in the ASEAN Community	Jakarta, Indonesia	18-19 April 2017
7.	24th Meeting of the AICHR	Jakarta, Indonesia	15-19 May 2017
8.	Meeting between the AICHR with Human Rights Resource Centre (HRRC), Due Diligence Project (DDP) and ASEAN CSR Network (ACN)	Jakarta, Indonesia	15-19 May 2017
9.	Special Meeting of the AICHR	Phuket, Thailand	17-18 June 2017
10.	3rd Meeting of the Task Force on the Mainstreaming of the Rights of Persons with Disabilities in the ASEAN Community	Phuket, Thailand	22-23 June 2017
11.	Special Meeting of the AICHR	Manila, the Philippines	4-6 August 2017
12.	25th Meeting of the AICHR	Bohol, the Philippines	26-27 November 2017
13.	4th Meeting of the Task Force on the Mainstreaming of the Rights of Persons with Disabilities in the ASEAN Community	Da Nang, Viet Nam	15-16 December 2017

REGIONAL CONSULTATIONS

No.	Title	Place	Date
1.	Regional Consultation on the Thematic Study on Legal Aid	Bangkok, Thailand	11-12 October 2017
2.	Regional Consultation on the Right to Safe Drinking Water & Sanitation in ASEAN	Kinabalu, Malaysia	25-27 October 2017

REGIONAL DIALOGUES

No.	Title	Place	Date
1.	3rd Regional Dialogue on the Mainstreaming of the Rights of Persons with Disabilities in the ASEAN Community	Phuket, Thailand	19-21 June 2017
2.	AICHR Regional Dialogue on Mainstreaming of the Right to Education in the ASEAN Community	Phnom Penh, Cambodia	10-12 November 2017

CROSS-SECTORAL CONSULTATIONS

No.	Title	Place	Date
1.	AICHR Cross-Sectoral Consultation on the Human Rights based Instruments related to the Implementation of the ASEAN Convention Against Trafficking in Person, especially Women and Children	Yogyakarta, Indonesia	29-30 August 2017

COLLOQUIUMS

No.	Title	Place	Date
1.	AICHR Judicial Colloquium on the Sharing of Good Practices Regarding International Human Rights	Kuala Lumpur, Malaysia	13-15 March 2017

WORKSHOPS

No.	Title	Place	Date
1.	2nd AICHR ASEAN Legal Human Rights Instrument Workshop	The Philippines	13-14 September 2017
2.	3rd workshop on human rights, environment and climate change	Yangon, Myanmar	29-30 October 2017
3.	AICHR Regional Workshop on Enhanced Access to Education for Children with Disabilities	Da Nang, Viet Nam	13-14 December 2017

TRAININGS

No.	Title	Place	Date
1.	AICHR-ACWC Training Workshop on the UN Convention on the Rights of the Child	Singapore	13-14 July 2017
2.	Training on the linkages between business activities and human rights	Bangkok, Thailand	13-16 November 2017

ROUNDTABLES

No.	Title	Place	Date
1.	50 Years of ASEAN and 5 Years of ASEAN Human Rights Declaration Roundtable Discussion: The AICHR's Role and Work in Fulfilling the Goals and Aspirations of AHRD 2012	Bohol, the Philippines	28 November 2017

POLICY DIALOGUES

No.	Title	Place	Date
1.	2nd ASEAN-EU Policy Dialogue on Human Rights	Bohol, the Philippines	29 November 2017

VISITS

No.	Title	Place	Date
1.	AICHR Study Visit to Australia	Australia	4-7 December 2017

EVENTS

No.	Title	Place	Date
1.	AICHR Youth Debate on Human Rights 2017	Bangkok, Thailand	4-6 September 2017

3. AICHR Representatives (2016-2018)

Country	Name
Brunei Darussalam	H.E. Haji Mohammad Rosli bin Haji Ibrahim
Cambodia	H.E. Mrs. Polyne Hean
Indonesia	H.E. Mrs. Dinna Wisnu, Ph.D.
Lao PDR	H.E. Mr. Phoukhong Sisoulath
Malaysia	H.E. Mr. Edmund Bon Tai Soon
Myanmar	H.E. Amb. Hla Myint
Philippines	H.E. Mr. Leo Herrera-Lim
Singapore	H.E. Amb. Barry Desker
Thailand	H.E. Dr. Seree Nonthasoot
Vietnam	H.E. Amb. Nguyen Thi Nha

Annex B: ASEAN CSO Statements relating to AICHR and ACWC

Statement made by ASEAN CSOs relating to the AICHR during 2017

Briefing Paper for the ASEAN Intergovernmental Commission on Human Rights (AICHR): Update on the mass displacement of people from Rakhine State, 11 September 2017

Jointly submitted by
Asian Forum for Human Rights and Development (FORUM-ASIA)
Asia Pacific Refugee Rights Network (APRRN)

Statement of Purpose
FORUM-ASIA welcomes the opportunity to present this joint briefing paper, in partnership with the Asia Pacific Refugee Rights Network (APRRN), to the ASEAN Intergovernmental Commission on Human Rights (AICHR). The purpose of this submission is to provide the AICHR with a brief analysis of attacks on civilians and mass displacement of people within and from Myanmar's Rakhine State. We urge the AICHR to: convince the Government of Myanmar to put an end to the violence, protect civilians, allow for urgently needed humanitarian access, and implement the recommendations of the Advisory Commission on Rakhine State; and for this purpose to consider and implement the recommendations provided in this submission.

Background & Issues of Concern
Tensions have risen in Northern Rakhine State in Myanmar in recent weeks, following attacks on police posts on August 25, 2017 by the Arakan Rohingya Salvation Army. In response, the Government of Myanmar has launched a large scale military operation, resulting in mass displacement and human rights violations committed against civilians.

Large-scale displacement of people
As of September 9, 2017, over 290,000 civilians have sought refuge from the conflict in neighbouring Bangladesh.[1] The United Nations (UN), in the past days, has revised its estimate, noting that the number of displaced persons may rise to as many as 300,000.[2] Due to the rapidly evolving nature of the situation, and the denial of access for international observers to the affected areas, accurate numbers are hard to verify. Among those seeking to reach Bangladesh some have sought to flee via boat, leading to a number of boats capsizing and people drowning, mostly women, elderly and children.[3] Thousands of others have been internally displaced and are stranded in the mountains and on the shoreline on the Myanmar side of the Naf River in Northern Rakhine State, without any access to food and shelter.[4]

Protection of civilians
Several reports and eyewitness accounts continue to emerge attesting to horrific abuses by Myanmar's security forces, such as the killing of people who are trying to flee and the burning down of whole villages. The brutal crackdown on civilians has further included indiscriminate firing at civilians and the use of grenades.[5] Satellite imagery demonstrates the destruction and burning down of hundreds of buildings in Chein Khar Li village and 16 other villages.[6] Accounts from people arriving in Cox's Bazaar indicate that Myanmar's security forces have been laying landmines in a section of its border with Bangladesh, which puts potential returnees and those fleeing from violence at risk. On 6 September the Government of Bangladesh lodged a formal complaint to the Government of Myanmar on the matter. Reports of casualties are already emerging, including of children being injured.[7]

Violence has also been targeted at women and children, among others in the form, according to several accounts, of rape. Women and children comprise 80 per cent of the new arrivals to Bangladesh. This requires specific humanitarian aid responses, such as child protection measures, psychosocial support for survivors of sexual and gender-based violence (SGBV), vaccinations for children, and assistance with constructing shelters.

Access to humanitarian aid

Humanitarian aid activities have been suspended for a prolonged period in areas of Northern Rakhine State, and have deteriorated significantly in other parts of the State. As of last week, aid activities carried out by international and local non-governmental organisations (NGOs) have largely been halted in Northern Rakhine State as Myanmar's authorities have imposed restrictions upon, and denied humanitarian agencies access to parts of Rakhine state.[8] Last week, the UN World Food Programme had to suspend all food assistance operations due to security concerns, a situation which it stated has implications for 250,000 internally displaced people (IDPs) and other most vulnerable populations.[9] This has resulted in an increasingly desperate humanitarian situation, leaving hundreds of thousands at risk of starvation without any access to basic supplies.

Potential for looming health crisis in Bangladesh

Civilians fleeing the violence have not had access to medical care and are malnourished. They thus arrive at the border extremely traumatised with severe medical needs, such as violence-related injuries, infected wounds and obstetric complications.[10] Humanitarian agencies operating on both sides of the border have noted that systems are not in place to handle the large influx of people. They further note that the health situation and risks for people fleeing Rakhine are impossible to predict, leaving scope for a potential future health crisis in Bangladesh, where makeshift settlements and UNHCR-registered camps, established since the recent violent clashes in Rakhine State started in October last year, are already overburdened and severely under-resourced.[11]

Recommendations

The AICHR is tasked with the development of regional cooperation and strategies for the promotion and protection of human rights. Under its Terms of Reference (TOR), the AICHR is tasked with the development of regional cooperation and strategies for the promotion and protection of human rights. And in particular, the AICHR should also leverage its mandate to obtain information from ASEAN Member States on the promotion and protection of human rights.[12]

As such, we request that the AICHR urge ASEAN Member States to urgently take all actions possible to stop the atrocities, and for this purpose to implement the following recommendations:

1. ASEAN Governments should urge the Government of Myanmar to take immediate action to protect the civilian population in Rakhine State and prevent a humanitarian disaster. This must include the end of all military operations against civilians, and complete and unfettered access to humanitarian aid.
2. ASEAN governments should urge the Government of Myanmar to uphold its commitments under the ASEAN Charter, the ASEAN Declaration of Human Rights, and other ASEAN and international human rights instruments to which they are signatory, and to take immediate steps to halt the violence and protect all civilians against indiscriminate attacks, displacement, and dispossession of property and belongings.
3. The Government of Myanmar must be urged to take measures to de-escalate the tensions and identify measures that can lead to long-term peace and security in Rakhine State. This includes establishing effective mechanisms as soon as possible to fully implement the recommendations of the Advisory Commission on Rakhine State Report to secure a peaceful, inclusive and respectful future for the region.
4. ASEAN must acknowledge that this is a problem that can have a destabilising impact on the entire region in a number of ways. The situation is reminiscent of the 2015 Andaman Sea Crisis, which resulted in massive numbers of migrants fleeing from the conflict in Myanmar. Such a crisis cannot repeat itself. While the conflict remains unresolved, ASEAN Governments must welcome refugees and provide support as well as protection.
5. ASEAN Governments should urge all sides to cease all forms of violence, as allowing it to continue unabated will more than likely result in thousands more being forced to flee, increasing risks of human trafficking, and further human rights abuses and violations in the region.
6. ASEAN Governments should also coordinate with the international community to support the authorities in Bangladesh in responding to the humanitarian needs of the thousands of the refugees that have crossed the border in the last weeks

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[1] http://www.bbc.com/news/world-asia-41214057

[2] Violence could lead to exodus of 300,000 Rohingya: UN. Al Jazeera, Web. 06 September 2017 http://www.aljazeera.com/news/2017/09/violence-lead-exodus-300000-rohingya-170907024358023.html.

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[4] Myanmar | Conflict in Northern Rakhine – DG ECHO Daily Map. reliefweb, Web. 06 September 2017 http://reliefweb.int/map/myanmar/myanmar-conflict-northern-rakhine-dg-echo-daily-map-05092017.

[5] Myanmar: Worsening cycle of violence in Rakhine must be broken urgently, UN expert warns. United Nations Special Rapporteur on situation of human rights in Myanmar's statement, OHCHR, Web. 31 Aug 2017 http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22018&LangID=E.

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[11] Crisis looms as nearly 125,000 Rohingya refugees flood into Bangladesh. The Daily Star, AFP, Web. 05 September 2017 http://www.thedailystar.net/country/rohingya-crisis-looms-nearly-125000-refugees-flood-bangladesh-fearing-persecution-myanmar-1457821.

[12] AICHR: What You Need to Know. Rep. The ASEAN Secretariat, Jakarta, Oct. 2012. Web. 06 Sept. 2017.

CSOs Recommendations to the AICHR for the Promotion and Implementation of ASEAN Human Rights Declaration – Bohol, 28 November 2017

We[1], civil society organizations (CSOs) with consultative relationship with the AICHR gathered in Bohol, Philippines, on 28 November 2017 to join the first interface meeting between AICHR and CSOs as part of the ASEAN Round Table Dialogue (RTD) on the ASEAN Human Rights Declaration (AHRD). We would like to convey our appreciation toward AICHR and ASEAN Member States (AMS) for organizing this interface meeting. We believe that this meeting is a pivotal moment for a better communication, coordination, and meaningful engagement between CSOs and AICHR in our common aspiration that no one is left behind in the ASEAN community.

We welcome the initiative to discuss the AHRD, which was adopted in 2012 and recognize this is the first formal interface meeting between CSOs and AICHR. In this occasion we would like to discuss ways to review towards better cooperation between CSOs and AICHR on the implementation of AHRD.

We applaud the AMS commitment to the international human rights standard such as Universal Declaration of Human Rights, the Charter of the United Nations, the Vienna Declaration and Programme of Action, the Convention of the Rights of the Children, Convention on the Elimination of All Forms of Discrimination Against Women, International Conference on Population and Development, Convention on the Rights of Persons with Disabilities and other international instruments enshrined in the AHRD and Phnom Penh Statement on the Adoption of AHRD.

We support the recognition of rights to enjoy peace of its people within an ASEAN framework of security and stability, neutrality and freedom. The AHRD further reiterates the AMS commitment to enhance cooperation in the furtherance of peace, harmony, well-being, quality of life and stability in the region. Reiterating the general principles of the AHRD especially non-discrimination, to protect the rights of all peoples especially the most marginalized and vulnerable groups including but not limited to: women, children, the elderly, person with disabilities, migrant workers, indigenous peoples, ehtnic minorities,

peoples with diverse sexual orientation, gender identities and expressions, and the key affected populations such as People who Use Drugs, People Living with HIV, Hepatitis C and Tuberculosis.

We need to work together to urgently improve the human rights situation in the ASEAN region. We are concerned about the shrinking democratic space that affects CSOs' capacity and ability to effectively engage and complement AICHR's work in upholding human rights. Therefore, as a pivotal step to enhance better cooperation, communication and involvement of CSOs on the promotion and protection of human rights in ASEAN, we call upon AICHR to:

- Advance and strengthen communication, cooperation, and exchange of ideas with the CSOs at the regional and national level through:
    1. Institutionalising annual interface meetings between CSOs and AICHR to discuss key issues in the region;
    2. Encouraging more CSOs to obtain CSO consultative status with AICHR;
    3. Guaranteeing that CSOs with consultative status are invited of every AICHR regional and national consultations, and provided updates of these consultations;
    4. Collaborating with CSOs in doing human rights advocacy, research, and awareness-raising activities;
- Create the communications mechanism between AICHR and CSOs to document key human rights concerns in the national and regional level for the protection and promotion of human rights in ASEAN;
- Support AMS in ensuring that human rights principles are consistently upheld, in the implementation of Sustainable Development Goals (SDGs), through:
    1. Supporting CSOs in effectively monitoring the implementation of the SDGs in their respective AMS;
    2. Providing independent input with regards to national implementation of the SDGs in the annual Asia Pacific Forum on Sustainable Development (APFSD) and High-Level Political Forum on Sustainable Development (HLPF) whenever any AMS volunteered to be reviewed;
- Ensure that the results to AICHR's regional consultations and dialogues have concrete improvements in the lives of the ASEAN peoples, through:
    1. Enhancing transparency and wider participation reviewing the implementation of AHRD and its follow up activities;
    2. Support and complement national human rights institutions' independent reports to treaty bodies, including the Universal Periodic Review, whenever any AMS are under review, with specific focus on the implementation of the AHRD and other relevant ASEAN instrument.

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[1] FORUM-ASIA, CRC Asia, PKNI, Pusat KOMAS, SUARAM, IRF, ASETUC, HRRC, HRDF, AIPP, EMPOWER, VPD

On the 50th Anniversary of ASEAN, civil society demands stronger and more forceful human rights mechanisms

(Bangkok, 8 August 2017) – On its 50th anniversary, the Asian Forum for Human Rights and Development (FORUM-ASIA) calls on the Association of Southeast Asian Nations (ASEAN) to address the deteriorating human rights situation in the region. It should honour five decades of regionalisation by promoting human rights as an integral part of its efforts to adapt and maintain its relevance in a changing regional and global environment, in particular by strengthening the protection mandate of the ASEAN Intergovernmental Commission on Human Rights (AICHR).

'To remain relevant in the next 50 years, ASEAN needs to be strategic and forward looking in its plan to address human rights, a plan to advance the quality of life of the people. While acknowledging its commitments to the promotion of democracy, human rights, transparency, and good governance as stipulated in the ASEAN Charter, it is the actual implementation of such commitments that is most important,' says John Samuel, Executive Director of FORUM-ASIA, 'ASEAN needs to address major human rights challenges in the region, such as: the migrant and refugee crisis; the impact of businesses on

human rights; shrinking democratic space; and the protection of human rights defenders. To address these issues, the AICHR, which is an essential component of the overall human rights architecture of ASEAN, needs to be able to work independently without government interference.'

The ASEAN region is home to 639 million people and represents the world's third largest market. Nevertheless, the value of ASEAN cooperation lays beyond numbers and economic partnership, it relies heavily on the socio-cultural advances to achieve peace and security within the region and beyond. ASEAN Member States have agreed to uphold such commitments as part of the ASEAN 2025 Socio-Cultural Community Blueprint to adhere to the human dimension of ASEAN cooperation and support the region's aspirations to advance the quality of life of its peoples.

Unfortunately, there has been a steady rise of intolerance and shrinking of democratic space in the region. This has materialised through the targeting and killing of human rights defenders, in particular of women and people with diverse sexual orientation and gender identities, and abuse of state powers through the use of repressive laws against civil society. The human rights situation in ASEAN countries continues to deteriorate.

Eight years after its inception, the AICHR continues to be criticised for being silent on human rights violations taking place in different countries in ASEAN. Many question the efficiency of AICHR as it lacks independent enforcement powers. This will remain the case as long as the mandate of the AICHR, as stipulated in its Terms of Reference, focuses more on the promotion than on the protection of human rights. Opening itself to genuine and inclusive engagement with civil society and national human rights institutions can help the AICHR to transform itself into a rights-respecting body.

As the celebrations for 50 years of ASEAN take place in the Philippines, the current Chair of ASEAN, FORUM-ASIA reminds the Member States that its true value lies in what it offers its peoples. Ensuring human rights protection for all the people of the ASEAN region will ensure its relevance for the next 50 years.

JOINT LETTER TO AICHR THAILAND ABOUT THEMATIC STUDY IN LEGAL AID, 1 November 2017

Dear Dr. Seree Nonthasoot,
The Asian Forum for Human Rights and Development (FORUM-ASIA) and Indonesian Drug Users Network (Persaudaraan Korban NAPZA Indonesia / PKNI) applaud the initiative of the Thailand Representative to the ASEAN Intergovernmental Commission on Human Rights (AICHR) to conduct a regional consultation on the thematic study on legal aid. We welcome the discussion during the event in Bangkok, 11-12 October 2017, as an attempt to further propel the research that will set a framework for addressing legal aid issues in the region and to navigating ASEAN Member States (AMS) in implementing the human rights goals in the ASEAN region. The human rights goals in the ASEAN region should enable the creation of an inclusive community that promotes: a high quality of life; equitable access to opportunities for all; and promotes and protects human rights all, in particular vulnerable groups, including women and children.

While we acknowledge this initiative as a reference for AMS to comply with current international standard enshrined in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR) and the United Nations Guiding Principle in Legal Aid, we would like to provide recommendations to advance the usefulness and relevance of the study especially in the realm of implementation and monitoring.

Apart from the comprehensiveness of the initial study, which elaborates on the status of legal aid provisions in the AMS, not enough attention was given to some specific areas of improvement. The study excludes the mapping of legal aid service providers in the AMS, among other: information about types of available legal aid services; agencies providing legal aid; the role of stakeholders; and coordination mechanisms. Providing this information is of significance to make the distribution of power, authority, and roles transparent.

The study also does not include information on the protection, security, and safety of legal aid providers in the region. As we see a trend of escalating human rights situations and shrinking civic space in the ASEAN region, threats and challenges against legal aid services providers are increasing, particularly against those who work to support vulnerable and marginalised groups. Having a framework that gives assurance for the safety, security, and wellbeing of the providers of legal aid will significantly improve their performance in conducting their work on the ground.

Lastly, the study does not address the role of ASEAN itself to promote legal assistance and to help monitor AMS in the implementation of its legal aid laws or provisions. There should be a section to elaborate on the role of ASEAN beyond its current modalities to hold AMS accountable to their commitments in upholding human rights in their countries.

Reflecting on the assessment, we would like to ask the AICHR to heed our concerns and advice, and address them in the outcome document on legal aid frameworks in the region.

As civil society organisations with consultative relationship with AICHR, FORUM- ASIA and PKNI offer its insights and collaboration to strengthen and deepen the analysis in the current study on legal aid. We hope this manifests our commitment to work in partnership with the ASEAN Human Rights Mechanism to support the different Sectoral Bodies to provide a meaningful and effective mandate to protect and promote human rights in the region. As enshrined in the theme of ASEAN 50, 'partnering for change, engaging the world, it is our hope to partner with ASEAN to achieve equitable human rights and access to justice that will promote a people-oriented, people-centred ASEAN.

Yours Sincerely,
Rachel Arinii Judisthari
East Asia – ASEAN Program Manager FORUM-ASIA
Edo Nasution
National Coordinator Indonesian Drug User Network (PKNI)

14 November 2017
Press Statement of the
ASEAN Civil Society Conference/ASEAN Peoples' Forum

During this 31st ASEAN Summit, we, of the ASEAN Civil Society Conference/ASEAN Peoples' Forum 2017 (ACSC/APF) collectively demand an urgent break away from the dominant development narrative that has bred economic, social and environmental crises, including extreme inequalities, extensive human rights violations, situations of conflict and violence, and wanton exploitation of natural resources.

Amid appearances of economic growth, and self-congratulatory platitudes of the region's leaders in keeping the organization together through the 'ASEAN way', we also find ourselves on a path of rapidly rising inequality. There is a yawning gap between the richest ASEAN member-states and those still in early stages of development.

ASEAN's narrow focus on creating a single market is seriously undermining peoples' food sovereignty and reducing policy space that protect small-scale farmers and fishers. The neoliberal thrust for an integrated regional market steers member states into preparing the region to take its place in a global market ever hungry for profit accumulation.

The Regional Comprehensive Economic Partnership (RCEP) and new generation bilateral treaties are a growing cause for concern owing to their negative impacts on the region's agricultural sector, on labor and migrants rights, women, marginalized sectors, and on indigenous peoples, access to reasonably priced and life-saving medicines, and on national sovereignty.

Corporate dominance and greed, supported by ASEAN states, also manifest in the unabated pursuit of extractive activities and fossil fuel projects, even as climate science has shown incontrovertible links between climate change and dirty energy use. Our region ranks among the most threatened in the world by intensifying climate-related impacts.

Presently, Southeast Asia faces serious threats to peoples' right to peace. There is an increased militarization of ASEAN countries because of overlapping territorial and maritime claims. Most ASEAN countries have correspondingly increased their spending for importing arms anywhere from 6% to more than 100%, resulting to higher access to arms in conflict areas.

The exclusion of a large part of the region's population from exercising their basic rights continue to fuel national and sub-national situations of ongoing conflict and violence. Furthermore, global superpowers, aiming to protect their interests in the region, have encouraged militaristic approaches to the resolution of armed conflicts instead of preventing the escalation of such by addressing the root causes of the unrest.

Despite voices of concerns from regional and international communities, China is adamant on using its military power to expand its territorial claims in the South China/West Philippine Sea/Vietnam's East Sea, aiming especially for the rich marine and seabed resources of Southeast Asian countries, particularly Vietnam and the Philippines.

Furthermore, ASEAN States continue to ignore the universality and interdependence of human rights. Despite ASEAN having its own human rights mechanism, AICHR remains weak and toothless. In some ASEAN countries, governments are installing laws and committing acts that continue to destroy the enabling environment for CSOs and grassroots organizations, as well as human rights defenders. Ordinary innocent people become targets of extra judicial killings. Leaders of groups challenging government policies are threatened and intimidated with trumped up charges.

Freedoms of expression, religion, belief, peaceful assembly and association are being curtailed in many ASEAN States both in online and offline spaces while hate speeches targeting LGBTI groups, human rights defenders, national human rights institutions, journalists, parliamentarians, and minorities.There is a pervasive culture of impunity in violence against women and girls, owing mostly to the ASEAN governments' blatant disregard for women's rights. In conflict or post-conflict situations, sexual violence persists.

Furthermore, throughout ASEAN's 50 years, majority of the people are deprived of their social and economic rights and criminalized for practicing their sustainable traditional livelihoods.. More than 50 percent of workers are in precarious working condition, suffering from poverty-level income. ASEAN women in vulnerable employment, comprising more than 60% of workers, are not covered by labor laws or social protection. Adequate income especially in times of old age, chronic and serious illness, disability, and unemployment, as well as guaranteed essential services are most needed by majority. However, government spending on social protection remains low – an average of 3% of GDP, way below the minimum 6% recommended by ILO.

Also, ASEAN's economic integration and migration policies continue to neglect realities of the region which is characterized by large displacement of people from their lands, labor mobility and different migration flows. While the integration will provide greater mobility for workers, it fails to recognize that the majority of migrant workers arefound in low-skilled sectors and in the informal economy. Many of them are women migrant workers who are more vulnerable to greater risks.

ASEAN also fails to recognize the social cost of migration, in particular, the impact on families and children left behind. People escaping from conflict such as Rohingya, who face constant abuse and harassment including systematic violation of human rights in Myanmar, are at the mercy of traffickers and horrendous treatment in countries of destination. Protection of migrant workers' rights remains inadequate, subjecting them to low wages, long hours and dangerous work, and have led to the

endangerment of the lives of migrants.

Forced migration has increased in the wake of climate change and its intensifying impacts. Persistent poverty, deprivation and large coastal populations make Southeast Asia one of the most climate-threatened regions in the world.

Lastly, for 50 years, genuine peoples' participation in the ASEAN has been severely limited. Despite CSOs' efforts to initiate engagements for constructive dialogue alongside ASEAN's claims of having more inclusive and meaningful spaces, ASEAN remains largely inaccessible to the people. What we are witnessing is a direct assault on civil and political, as well as economic, social, and cultural rights of the people.

In the face of these grave challenges, peoples' movements are consolidating and building networks to resist and push back these attacks on peoples' rights. The rallying cries and demands are finding their way in new protest art, plays, and musicale, street dances, effigies helping to educate, awaken, enrage and mobilize the public to stand up for their rights.

An ASEAN well-grounded in the concerns of its peoples and receptive to active civil society participation can only work to its benefit, by making its policies and programs more responsive and effective. It can begin right here, with ASEAN heeding the following general recommendations from the ACSC/ASEAN Peoples' Forum:

1. PUT A SOCIAL DIMENSION TO THE ASEAN INTEGRATION with emphasis on rights of people particularly marginalized and discriminated sectors
2. UPHOLD HUMAN RIGHTS AND THE RULE OF LAW
3. REVIEW THE ASEAN PRINCIPLE OF NON-INTERFERENCE AND ADVANCE DEMOCRACY AND DEMOCRATIC DECISION MAKING IN ASEAN
4. FORGE REGIONAL SOLUTIONS TO REGIONAL PROBLEMS LIKE CONFLICT
5. ADOPT INTERNATIONAL LAWS AND POLICIES (e.g. human rights, labor laws, law on refugees, etc)
6. EXPAND SPACES FOR PEOPLES PARTICIPATION
7. BUILD CAPACITIES FOR PEOPLE EMPOWERMENT
8. PRIOTIZE PEOPLES' AGENDA OVER CORPORATE AGENDA
9. SUPPORT PEOPLES' ALTERNATIVE REGIONAL INTEGRATION
10. RESPECT STRUGGLES OF COLLECTIVE RESISTANCE

We urgently call on ASEAN Heads of States and leaders to make partners of peoples' organizations and social movements so we all can truly create a just, equitable and human Southeast Asia and an ASEAN advancing programs and policies that are genuinely people- centered.

ASEAN SOGIE Caucus' Statement for ASEAN 50, 15 January 2017

This year, 2017, marks a historic and remarkable year for the Association of Southeast Asian Nations (ASEAN) , as the association celebrates its 50th anniversary of its establishment. With Philippines having the honour as the chairperson in this remarkable year the chairpersonship is scheduled to kick off on January 15th in Davao. During Philippine President Rodrigo Duterte's speech in Lao PDR, while accepting the chairmanship from Lao PDR's government as the previous chairperson in 2016, he mentioned that theme of ASEAN 2017 being 'Partnering for Change, Engaging the World'. Some of the key priorities of ASEAN 2017's are people-oriented and people-centered initiatives, peace and stability, maritime security and cooperation, inclusive and innovative-led growth, ASEAN resiliency and ASEAN as model of regionalism.

Amidst this momentous celebration, however, we express our great concerns on the equitable enjoyment of human rights for marginalized and excluded groups, particularly the Lesbian, Gay, Bisexual, Transgender, Intersex, and Queer (LGBTIQ) community in Southeast Asia. Within 50 years of its establishment, ASEAN has failed to seriously address and include LGBTIQ people

in the region in the development work it has done for the region, particularly in it exclusion to include sexual orientation, gender identity and expression, and sex characteristic (SOGIESC) in ASEAN Human Rights mechanisms, namely ASEAN Intergovernmental Commission on Human Rights (AICHR) and ASEAN Commission on the Rights of Women and Children (ACWC).

The systemic and structural discrimination faced by LGBTIQ people within the region have devastating impact on the lives of people, which can be described as follows:

- Continuous stigmatization of LGBTIQ people by the continuous negative portrayal of LGBTIQ in media, school curricula and policies, employment discrimination, family acceptance and the increasing influence of religious institutions in spreading bigoted and false information about LGBTIQ issues that leads to the continuous structural and systemic discrimination, bullying and harassment suffered by the members of the LGBTIQ community;
- Criminalization of LGBTIQ people is continuously increasing. Homosexuality remains criminalized in Singapore, Malaysia, Myanmar and Brunei Darussalam, where the section 377 of Penal Code that criminalize carnal intercourse exists. In the first three, LGBTIQ persons can be imprisoned while in Brunei Darussalam LGBTIQ are threated with death penalty because of their sexual orientation, gender identity and expression (SOGIE). Threat to criminalize LGBTIQ community is increasing as well In Indonesia, where LGBTIQ in the country is under threat to be criminalized if Constitutional Courts decides to grant the petition submitted by religious extremist groups to extend the meaning of adultery and removing age barrier in the same-sex sexual conduct within the country's Penal Code;
- The absence of protection in the form of anti discrimination law for LGBTIQin national level law, bylaws and policies in all ASEAN country members Except for the Thailand's Gender Equality Act passed in 2015, which was designed to give protection for LGBTIQ persons and to impose penalties for discrimination based on sexual orientation and gender identity, there are no legal apparatuses to protect the LGBTIQ population in the region. This increases barriers to hold perpetrators accountable and to provide redress for the victims;
- Shrinking civic space for LGBTIQ organizations and human rights defenders. The rise of religious extremist groups in ASEAN member states in carrying out violent actions against LGBTIQ persons and groups has resulted to the disruption of LGBTIQ events and repression of the work of LGBTIQ organizations. In this hostile environment, the law enforcement apparatuses and the government remain apathetic and absent;
- LGBTIQ community remains pathologized in all country. While the World Health Organization has removed homosexuality, bisexuality and transgenderims as mental disorders, ASEAN member states have failed to implement parallel corrections in their government health ministries.

In its 50th Anniversary, we challenge ASEAN to seriously uphold human rights for all without discrimination on the basis of SOGIE. In doing so, we reiterate the following recommendation:

- Ensure that domestic laws within the ASEAN member States uphold the principles of substantive equality and non-discrimination, and that these are effectively implemented to guarantee respect for human rights of LGBTIQ persons;
- Repeal all law and policies that directly or indirectly criminalize LGBTQ persons
- Strengthen protection mechanisms to address threats against marginalized groups' fundamental rights to freedom of speech, assembly and expression such as the rising religious extremism that directly threatens the lives of LGBTIQ persons;
- Remove all social policies and programs that perpetuate social stigma against LGBTIQ persons, including outdated health policies that consider non-heteronormative and non-gender binary identities and expressions as mental illness;
- Undertaking meaningful dialogue involving state and non-state actors both at the regional and domestic levels towards promoting positive social recognition of the rights and well-being of LGBTIQ persons.

Statement on the 30th ASEAN Summit: Continuing Threats and Persistent Denial of LGBTIQ Rights in ASEAN, 28 April 2017

Amidst the euphoria of the 30thAssociation of Southeast Asian Nations (ASEAN) Summit in Manila, ASEAN SOGIE Caucus reiterates its call to various governments to uphold their human rights obligations to promote and protect the rights of lesbian, gay, bisexual, transgender, intersex, and queer (LGBTIQ) people.

Even as ASEAN turns 50, the lives of people of diverse sexual orientation, gender identity, and gender expression (SOGIE) in Southeast Asia continue to be put at risk. These risks include the perpetuation of culturally-sanctioned stigma, discriminatory laws and policies, and acts of violence in all levels of social, political, and cultural life. And in many cases, the lives of LGBTIQ people have been cut short by hate-motivated murders that are either ignored or misreported as regular crimes.

Cases of threats against LGBTIQ human rights defenders (HRDs) have recently been recorded. In 2016, a pro-LGBTIQ rally in Yogyakarta was repressed by local police, resulting in 15 HRDs wounded. This was contrary to the police's treatment of an anti-LGBTIQ rally that happened at the same time. And in 2017, a public event organized by the local *waria/bissu* community in South Sulawesi was cancelled by police in reaction to a report made by an Islamic group. In Thailand, Buku Books, an LBT organization working in deep south of Thailand's, received hate speech and threats of violence for 'teaching their children to become lesbian'.

Consensual same-sex relations remain to be criminalized in several countries, including Brunei Darussalam, Myanmar and Singapore. In Indonesia, there is a move to revise the Penal Code of Indonesia to criminalize LGBTIQ people on the pretenses of protecting the moral fabric of Indonesian society. A group called *Aliansi Cinta Keluarga* also submitted a petition to revise Article 292 of the Penal Code by removing the age barrier for same-sex sexual conduct, which will effectively criminalize any form of consensual same-sex relations between adults.

Transgender people continue to be criminalized in Brunei, Indonesia and Malaysia. The Shariah Law of Negeri Sembilan, Malaysia criminalizes 'any male person who, in any public place wears a woman attire and poses as a woman'. Across Malaysia, a local organization recorded that 63 transgender persons were arrested between January to May 2016.

As a regional body, ASEAN has made very little progress in addressing the rights of LGBTIQ people. The ASEAN Commission on Women and Children (ACWC) Plan of Action on Violence Against Children which lists 'children from the lesbian, gay, transgender or transsexual community' as among children vulnerable to violence, but this remains very limited because there have been no concrete measures to done to protect children from violence.

Meanwhile, the ASEAN Intergovernmental Commission on Human Rights (AICHR) has made no steps to address the rights of LGBTIQ persons in its work plan. We note how AICHR continues to view SOGIE as a sensitive matter, which is the same reason behind the rejection of references to SOGIE in the ASEAN Human Rights Declaration (AHRD).

ASEAN's refusal to recognize the rights of LGBTIQ people is especially clear in how member-states voted on UN SOGIE resolutions. In June 2016, the UN Human Rights Council Resolution to establish the mandate of the Independent Expert on SOGIE (IESOGIE), only Thailand and Vietnam voted in favor. And in December 2016, the UN General Assembly resolution deferring the mandate of the IESOGIE, Brunei Darussalam, Indonesia, Malaysia and Singapore voted to oppose the mandate. Lao PDR, Myanmar and the Philippines abstained on the resolution. Only Cambodia, Thailand, and Vietnam stood their ground to defend the IESOGIE mandate.

Considering the continuing problems faced by LGBTIQ people and HRDs in Southeast Asia, ASEAN SOGIE Caucus calls for the following:

1. ASEAN member states must review and amend existing laws which directly or indirectly discriminate LGBTIQ people, and enact national anti-discrimination legislation.
2. ASEAN member states must guarantee safe spaces for LGBTIQ human rights defenders and ensure their protection from violence and harassment.
3. ASEAN human rights mechanisms, particularly the AICHR and ACWC, must develop and implement their regional plans of action which recognize and affirm LGBTIQ persons as key stakeholders in the protection and promotion of human rights.
4. ASEAN human rights mechanisms, particularly the AICHR and ACWC, must establish mechanisms that effectively monitor, receive, and respond to communications alleging human rights violations involving LGBTIQ people.

AMNESTY INTERNATIONAL OPEN LETTER: ASEAN MUST ADDRESS HUMAN RIGHTS VIOLATIONS AROUND THE MYANMAR RAKHINE CRISIS, 6 October 2017

Secretary Alan Peter Cayetano
Foreign Secretary of the Republic of the Philippines Department of Foreign Affairs
2330 Roxas Boulevard Pasay City, Metro Manila, Philippines

Dear Secretary Cayetano,
We are writing on behalf of Amnesty International to express our deep concerns over the human rights and humanitarian crisis facing the civilian population of northern Rakhine State. As the current Chair of the Association of Southeast Asian Nations (ASEAN) our organisations urge the Philippines to take urgent steps to address the issue in accordance with the ASEAN Charter and international human rights law and standards.

Since a Rohingya armed group launched a series of coordinated attacks on dozens of security forces posts on 25 August 2017, the Myanmar's security forces have engaged in an unlawful and disproportionate campaign of violence against the Rohingya. Amnesty International has documented numerous human rights violations and abuses including unlawful killings and large scale burning of homes and villages and has also confirmed the use of anti-personnel landmines by the Myanmar Army. Further humanitarian access to northern Rakhine State has been severely restricted to the UN and other international humanitarian organisations, putting tens of thousands of lives at risk. According to latest UN estimates 480,000 Rohingya have fled to Bangladesh, while the Myanmar government has evacuated over 30,000 people belonging to other ethnic minority communities within Rakhine State.

While we recognize that the Myanmar authorities have the duty and the right to protect the population – and officials from attacks, and to investigate and bring to justice those suspected of responsibility, they must ensure that measures taken in response to the attacks are proportionate and do not involve human rights violations.

Instead, evidence gathered by Amnesty International has led us to conclude that what is happening in northern Rakhine State may be described as ethnic cleansing, with the Rohingya targeted for their ethnicity and religion. In legal terms, these are crimes against humanity that include murder and deportation or forcible transfer of population. The violence in northern Rakhine State has occurred in a wider context of long-standing discrimination against the Rohingya in Myanmar where they are segregated, denied a right to a nationality, and face severe restrictions on their rights to freedom of movement, access to education, healthcare, and livelihoods, to practise their religion and participate in public life.

The ASEAN Charter clearly provides that 'ASEAN and its member states shall act in accordance with' the principle of 'respect for fundamental freedoms, the promotion and protection of human rights, and the promotion of social justice'. Further Article 20(4) provides that '[i]n the case of a serious breach of

the Charter or noncompliance, the matter shall be referred to the ASEAN Summit for decision;' and Article 7(2)(d) that 'The ASEAN Summit shall... address emergency situations affecting ASEAN by taking appropriate actions'. Amnesty International believes that Myanmar has seriously breached the human rights commitment it is obliged to uphold under the ASEAN Charter.

While our organisation notes the statement from the ASEAN Chair on 24 September expressing concerns and condemning 'all acts of violence which resulted in loss of civilian lives, destruction of homes and displacement of large numbers of people' in the Rakhine state we believe that this does not go far enough and what is required is a much more significant response from ASEAN to the crisis in Myanmar.

Therefore we call on ASEAN to take the follow steps as a matter of priority:

- Hold an emergency ASEAN summit to deal with the crisis, in accordance with Articles 20(4) and Article 7(2)(d) of the ASEAN Charter to discuss with the Government of Myanmar immediate ways to:
    - End the ongoing violence, human rights violations and crimes under international law;
    - Ensure humanitarian assistance to Rohingya refugees in Bangladesh and those displaced within Myanmar;
    - Ensure the safe and voluntary return of any of the Rohingyas wishing to do so to their homes in safety and dignity;
    - Address the root causes of the current crisis, in particular the entrenched discrimination and segregation, on ethnic and religious grounds, against the Rohingya;
    - Support the Fact-Finding Mission of the Human Rights Council and any other international initiatives to investigate human rights violations and crimes under international law and bring perpetrators to justice; and
- Support the adoption of a resolution on the deteriorating situation of human rights in Myanmar at the UN General Assembly; and
- Establish a mechanism, whether within the ASEAN Intergovernmental Commission on Human Rights (AICHR) or outside it, which would receive complaints of human rights violations by any ASEAN Member State from individuals and groups, with a mandate to investigate such complaints, seek and receive information from the Member State concerned, and make recommendations to address the issues raised by the complaint.

Yours sincerely,
Claire Mallinson, Director Amnesty International Australia
Mabel Au, Director Amnesty International Hong Kong
Aakar Patel, Director Amnesty International India
Usman Hamid, Director Amnesty International Indonesia
Kaoru Yamaguchi, Director (Acting) Amnesty International Japan
Catherine Hee Jin Kim, Director Amnesty International Korea
Gwen Lee, Director (Acting) Amnesty International Malaysia
Altantuya Batdorj, Director Amnesty International Mongolia
Nirajan Thapaliya, Director Amnesty International Nepal
Grant Bayldon, Director Amnesty International New Zealand
Butch Olano, Director Amnesty International Philippines
Piyanut Kotsan, Director Amnesty International Thailand
James Fang, Director Amnesty International Taiwan

2. Statement submitted by ASEAN CSOs to the ACWC during 2017

June 1, 2017

Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics (SOGIESC) and Violence Against Children in ASEAN

A Submission for the 7th Cross-Regional Meeting on Violence Against Children
June 6-8, 2017, Manila, Philippines

1. International Human Rights Framework and SOGIESC

International human rights frameworks relevant to the rights of the children have increasingly been interpreted to be inclusive. The non-discrimination provisions of human rights texts, including the Convention on the Rights of the Child, include non-exhaustive list of protected categories that may be invoked to include SOGIESC.

The General Comment 13 (GC 13) of the Committee on the Rights of the Child stressed the need to address the gender dimension of discrimination and violence in all settings. This requires states to address gender-based stereotypes, power imbalances, inequalities and discrimination that support and perpetuate violence and coercion.

The General Comment 15 (GC 15) of the Committee on the Rights of the Child identifies sexual orientation and gender identity as a ground for discrimination. Consequently, the said GC 15 requires states to report on discrimination on the basis of sexual orientation and gender identity, including discrimination and bullying in schools and educational establishments.

Increasingly, the Committee on the Rights of the Child have been raising concerns about discrimination and violence faced by children on the basis of SOGIESC in their concluding observations. In Brunei, for example, the treaty body expressed that discrimination against certain groups of children including lesbian, gay, bisexual and intersex (LGBTI) children still exist in practice, and called on the state to adopt a comprehensive strategy to eliminate gender stereotypes as well as de jure and de facto discrimination.1

In October 2016, a group of international human rights experts including the Committee on the Rights of the Child and the UN Special Representative on Violence Against Children issued a

1 UN Committee on the Rights of the Child, 2016. Concluding Observations on the Combined Second and Third
Periodic Reports of Brunei Darussalam. CRC/C/BRN/CO/2-3.

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111 Panay Avenue, South Triangle
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(S.E.C. No. CN201516714)

joint statement raising concerns about violence against intersex children.2

In such statement,
they expressed concern that intersex infants, children and adolescents are subjected to medically unnecessary surgeries, hormonal treatments and other procedures to forcibly change their appearance to conform to societal expectations towards female and male bodies. They reiterated that procedures to change one's body should be done with children's informed consent.

In May 2017, a group of international human rights experts including the Committee on the Rights of the Child issued a joint statement which called on states to strengthen protection measures to ensure full respect of the rights of children irrespective of their actual or perceived sexual orientation, and gender identity and expression.3 Such statement urged governments to adopt a legal and policy framework, and comprehensive implementation measures, including laws aimed anti-discrimination and prohibition of conversion therapies. States were also called on to decriminalize and depathologize trans and gender diverse identities and expressions.

Meanwhile, the ASEAN Regional Plan of Action on Violence Against Children elaborates on the measures to address all forms of violence, including mental, physical, sexual violence as well as neglect. The said document stressed the need to have inclusive programming with special emphasis on 'vulnerable groups of children' which specifically includes 'children from the lesbian, gay, transgender or transsexual community'.4

2. Discrimination and Violence Experienced by Children Because of their Actual or Perceived SOGIESC

Across Southeast Asia, children remain to be vulnerable to discrimination and violence due to their self-determined or perceived SOGIESC. Discrimination and violence most often are state perpetrated fueled by the existence of laws that criminalize persons, for example, countries like Brunei, Indonesia, Malaysia, Myanmar and Singapore remain to have criminal laws against

2 Office of the High Commissioner on Human Rights, October 26, 2016. 'End Violence and Harmful Medical Practices on Intersex Children and Adults, UN and Regional Experts Urge'. http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20739&LangID=E

3 Office of the High Commissioner on Human Rights, May 17, 2017. 'Embrace Diversity and Protect Trans and Gender Diverse Children and Adolescents'. http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21622

4 ASEAN Regional Plan of Action on Elimination of Violence Against Children. http://srsg.violenceagainstchildren.org/sites/default/files/regions/asean_regional_plan_of_action_on_elimination_of_violence_against_children_adopted.pdf

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consensual same-sex relations. Meanwhile, persons who 'cross-dress' or those who do not conform with social accepted gender expressions have been arrested and criminalized in Brunei, Indonesia and Malaysia.

Discrimination and violence take place in various spaces including the home, school and community. Perpetrators range from parents, relatives, peers, teachers, school personnel and even public officials.

In the Philippines, discriminatory policies coupled by social stigma against LGBTI persons translate into violence. In a 2016 consultation with self-identified lesbian, gay, bisexual and transgender children aged 13 to 17 years old, narratives illustrating violence have been reported.5 Many reported instances of verbal abuse by family members where they were told slurs: 'ipako sa krus' (crucify to death), 'salot sa lipunan' (disgrace to society), 'anak kayo ng demonyo' (devil's children). One child reported of an incident of extortion in a school, 'When I was in grade 7, I was bullied. I was on my way home from school and someone put an arm over my shoulder and asked for a peso. It did not end there. The next day, a kid pushed me and asked money from me…He threatened me with a sharp object.'

In Myanmar, existence of discriminatory laws were used by police forces to abuse and attack LGBTI persons, including children. These laws include the Section 377 of the Penal Code which criminalize consensual same-sex acts; and Section 35 of the Police Act of 1945 which emboldens the police to arrest any person who between sunset and sunrise found to have covered his face or otherwise disguised, as well as persons who were found in public places without being able to satisfactorily account for one's presence in such places. A report local civil society organizations documented between January to December 2015 more than 800 cases of discrimination and violence against LGBTI persons.6

In their report, there were 5 LGBTI children who experienced discrimination and abuse in the community. There were also 10 LGBTI children who were reported to have been arrested because of the Police Act of 1945.

In Vietnam, a research focusing on the situation of self-identified lesbian, gay, bisexual and

transgender (LGBT) street children looked at the connections between domestic violence,

5 ASEAN SOGIE Caucus, 2016. Bata at Bahaghari: Children's Workshop on the Rights of LGBT Children. Workshop Report.
6 Colors Rainbow, Equality Myanmar and USAID, 2016. From Victims to Agents of Change: Live and Voices of LGBT Individuals. economic marginalization and exposure to street violence.

7 The research noted that nonacceptance of one's sexual orientation or gender identity have pushed children to leave their homes and forcing them to live or work in the streets. Without support from parent or relatives, LGBT street children had to survive without any means to buy food and basic necessities. Some reported to have been exposed to risky behavior such as joining street gangs, using illegal substances, and unsafe sexual practices. Moreover, children reported discomfort in accessing social services provided by government and non-government organizations due to social stigma associated with their identity.

In Indonesia, several government officials have made public statements that discriminate and stigmatize LGBTI persons. The officials of Komnas Perlindungan Anaka Indonesia (Indonesian Child Protection Commission) made public pronouncements that same-sex attraction and relations are a form of addiction and the lack of a regulation to criminalize consensual same-sex relations will lead children to think that such acts are normal. KPAI officials, moreover, said that absence of a law that criminalize LGBTI persons is contrary to the best interest of the child. Some KPAI officials also made statements that LGBT persons spread sexually transmitted diseases and pedophilia, and that LGBT children should be cured and undergo therapy. KPAI is an institution that is mandate to protect and promote the rights of all children without discrimination. However, recent public pronouncements of their officials further put children who may self-identity or perceived to be LGBTI to be in danger. In fact, Indonesian civil society organizations have reported several cases of violence against LGBTI persons such as bullying in schools which resulted to decreased academic performance and drop out. A report by Arus Pelangi and PLUSH pointed out that around 17% of LGBT youth who interviewed has attempted suicide because of the discrimination and non-acceptance. Data from Sanggar SWARA, a local organization of transgender women, revealed many transgender women running away from their families at an early age; many of them do not have identity cards and access to health services and social security.

7 Nguyen Thu Huong, Nguyen Thi Thu Nam, et. al., n.d. Situation Assessment of LGBT Street Children in Ho Chi Minh City. Hanoi: The Gioi Publishers.

In Thailand, a study covering five provinces revealed that more than half of the self-identified LGBT students have experienced bullying.8 Around 30% of those who self-identified as LGBT reported experiences of physical abuse, and around 24% reported being sexually harassed because of their SOGIE.
In Malaysia, the Department of Islamic Development of Malaysia (JAKIM) released a reference material that reinforces social stigma against LGBTI persons.9 The said reference reinforces the government's plan to engage LGBT persons into 'Ilaj Wa Shifa' (treatment and rehabilitation). LGBTI activists in Malaysia have reported that government organized 'Mukhayyam Camps' exists aimed to 'cure' LGBT persons from deviant behavior.10
3. Good Practices in Addressing Violence Against Children on the Basis of SOGIESC
Specific countries have adopted national laws and policies addressing violence and discrimination on the basis of SOGIESC.
In the Philippines, the Anti-bullying Act of 2013 requires all schools to adopt policies and programs to address all forms of bullying, including gender-based bullying, and to establish child protection committees tasked monitor, report and respond to cases of bullying. The Implementing Rules and Regulations (IRR) of the said law defined 'gender-based bullying' as an act that humiliates or excludes a person on the basis of perceived or actual sexual orientation and gender identity. Meanwhile, the 2012 Child Protection Policy of the Department of

Education stressed out that children should be protected from all forms of discrimination including on grounds of sexual orientation and gender identity, and instructs all school officials to monitor and respond to all child protection cases.

8 Mahidol University, Plan International Thailand and UNESCO, 2014. Bullying Targeting Secondary School Students
Who Are or Are Perceived to be Transgender or Same-sex Attracted: Types, prevalence, impact, motivation and
preventive measures in 5 provinces of Thailand. Retreived from:
http://unesdoc.unesco.org/images/0022/002275/227518e.pdf
9 Department of Islamic Development Malaysia (JAKIM), 2015. Hadith Sahih on the Behaviour of LGBT. Retrieved
from http://www.islam.gov.my/images/ePenerbitan/Hadis-hadis_Sahih_Berkaitan_Perlakuan_LGBT_BI.pdf
10 JAKIM, Program Intervensi Kerohanian Terhadap Golongan LGBT Oleh Jakim. Retrieved
from: http://jknterengganu.moh.gov.my/index.php/muat-turun/category/18-mini-simposium?download=76:2-3-
program-intervensi-kerohanian-lgbt
In Vietnam, the Ministry of Education and Training adopted Decision No. 42/2012/TT-BGDDT which specifically prohibits gender-based discrimination or abuse, violence or bullying incidents in schools; the implementation of such policy however need to be more inclusive of SOGIESC.
Community-led and supported initiatives aimed at promoting social acceptance of LGBTI persons are being done.
In Vietnam, PFLAG which is an organization led by parents of LGBTI persons conducts groups discussions with fellow parents and provides counselling to families to help them understand and support their LGBTI children. PFLAG also engages in policy dialogues with government.
In Cambodia, CamASEAN which is a youth-led local organization have collaborated with the Ministry of Education to train teachers and school personnel on social awareness and acceptance of LGBTI students.
4. Recommendations
The following recommendations are being proposed:
1. Review all monitoring and reporting mechanisms, including relevant tools, to enable them to capture and respond to cases of SOGIESC-based violence.
2. Review and revise all legislation and policies that directly or indirectly criminalize, discriminate and stigmatize persons because of their SOGIESC.
3. Review and revise health policies, manuals and guidelines that stigmatize LGBTI persons, as well as legitimize gender conversion practices.
4. Ensure that protocols to respond to gender-based violence against children reflect and recognize the nuances of violence experienced by LGBTI children.
5. Ensure that response and redress mechanisms are inclusive and affirmative towards the actual or perceived SOGIESC of children.
6. Conduct training and awareness raising for all personnel, volunteers and other stakeholders to enable them to be sensitive and affirmative towards persons' diverse SOGIESC.
ASEAN SOGIE Caucus (ASC) is a regional organization of human rights defenders from various countries in
Southeast Asia. ASC advocates for the promotion, protection and fulfillment of the rights of all persons regardless
of their sexual orientation, gender identity and expression, and sex characteristics. The organization aims to
support capacities of local HRD's to engage domestic, regional and international human rights mechanisms.

Annex C: Activities and Composition of ACWC

1. Press Releases of the ACWC during 2017

Press Release of the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC)

JAKARTA, 2 March 2017 – The Fourteenth Meeting of the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) was convened on 28 February – 2 March 2017 at the ASEAN Secretariat, Jakarta, Indonesia.

The Meeting reviewed the status of projects and activities under the ACWC Work Plan 2012-2016. The Meeting deliberated on several projects for completion this year, including the finalisation of the draft Progress Report on Gender Equality and Women's Rights in ASEAN led by the Philippines and draft Baseline Study on Child Protection Systems in ASEAN Member States led by Indonesia, as well as on-going drafting of the Baseline Study on the Status of Child Participation in the ASEAN and ASEAN Member States also led by the Philippines.

The Meeting discussed ACWC's cross-sectoral collaboration with other ASEAN bodies on key thematic issues, such as on gender mainstreaming across the ASEAN Community pillars with the ASEAN Committee on Women (ACW), on trafficking in persons with the Senior Officials Meeting on Transnational Crime (SOMTC), and on persons with disabilities with the ASEAN Inter-governmental Commission on Human Rights (AICHR) and Senior Officials Meeting on Social Welfare and Development (SOMSWD).

The Meeting discussed the alignment of the new ACWC Work Plan 2016-2020 with the implementation of the ASCC Blueprint 2025, specifically to ensure coherence with the Blueprint's strategic measures. The Meeting agreed on the new projects and programmes that would be included in the ACWC Work Plan 2016-2020 and submitted to the ASEAN Ministers Meeting on Social Welfare and Development (AMMSWD) for support. Thethematic areas of the previous Work Plan remain relevant and will be continued. Several new projects were approved, such as the AICHR-ACWC Training Workshop on the UN Convention on the Rights of the Child, Strengthening the Survivor for Preventing Trafficking in Persons (TIPs) in ASEAN, Advancing Gender, Peace and Security in ASEAN, and development of the Guidelines and Procedures to Address the Needs of TIP Victims in accordance with the ASEAN Convention Against TIPs Especially Women and Children (ACTIP).

The Meeting conducted an open session with Mdm. Marta Pais, the Special Representative of the UN Secretary-General's Special Representative on Violence Against Children (SRSG-VAC), to continue the partnership on implementing the ASEAN Regional Plan of Action on the Elimination of Violence Against Children (RPA on EVAC). Mdm. Marta Pais applauded ACWC involvement in the global campaign, 'High Time to End Violence Against Children' movement, and its support to put children at the heart of the Sustainable Development Goals (SDGs) implementation. Prior to that, she encouraged for greater commitment of the governmentsto place children at the heart of country's development agenda. She also informed the meeting of the upcoming 7th Cross-Regional Roundtable on Violence Against Children scheduled on 6-8 June 2017 in Manila, which is co-organised by the Philippines as the ASEAN Chair, SRSG-VAC, and ASEAN Secretariat to commemorate the 50th Anniversary of ASEAN.The ACWC and Mdm. Marta Pais agreed on the importance of giving a greater attention on violence against children at the heart of implementing the SDGs as well as ASEAN Community Vision 2025.

The Meeting also conducted an open session with the Secretary-General of ASEAN Inter-Parliamentary Assembly (AIPA), H.E.Isra Sunthornvut. He invited ACWC to collaborate on AIPA's initiative to address the sexual exploitation of children in travel and tourism (SECTT). Highlighting the role of parliaments in crafting laws, the partnership presents an opportunity for both AIPA and ACWC to advocate for strengthening legal framework to address the issue.

The Meeting likewise conducted an open session with the U.S. Central Authority for the Hague Convention on the Civil Aspects of International Child Abduction (the Hague Convention). H.E. Kimberly Kelly, Consul General of the U.S. Embassy to Jakarta, briefed the meeting on the features of the Hague Convention, its implementation, and its relevance and significance to ASEAN.

The Fifteenth ACWC Meeting is scheduled on 4-6 September 2017 in Phuket, Thailand.

The ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) to Advance Gender, Peace and Security Agenda in the Region

BRISBANE, AUSTRALIA, 31 March 2017 – The ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) joined a fellowship programme organised by the Asia Pacific Centre for the Responsibility to Protect at University of Queensland from 27-31 March 2017.

The ACWC exchanged views with senior officials from the Department of Foreign Affairs and Trade, Federal Police, and Ministry of Defense of Australia on various aspects of women, peace and security in the contexts of Australia and Southeast Asia. Actions to advance women, peace and security in other regions and regional organisations, United Nations Department of Peacekeeping Operations, as well as the Nadia Initiative of UN Goodwill Ambassador for the Dignity of Survivors of Human Trafficking were shared by expert speakers.

The ACWC was also engaged in discussions with civil society organisations. The Australian Civil Society Coalition on Women, Peace and Security, Australian National Committee on Refugee Women, Diaspora Action Australia, Australian Red Cross, and Stateless Network Asia Pacific (SNAP), shared information on their initiatives to advocate for protection of refugees, internally displaced persons, women and children as victims of conflicts and in other vulnerable situations. Senior lecturers from University of Queensland, Monash University and Griffith University shared knowledge and perspectives on issues of atrocity crime prevention and transitional justice.

The ACWC Representatives and delegates from ASEAN Member States shared information on country situations and initiatives concerning prevention and early warning of sexual and gender-based violence, preventing atrocity crimes, women and youth participation in peace building and promoting gender responsiveness of peace processes, women's and children's rights in contexts of transnational justice and emerging violent extremism, and building a culture of prevention were discussed. ASEAN Secretariat highlighted the relevant regional strategies and policies on peace building, prevention of and countering extremism and promotion of moderation under the political-security and socio-cultural pillars.

'Women, peace and security is part of the thematic areas of the ACWC Work Plan 2016-2020. It is also closely related to the ASEAN Regional Action Plan on Elimination of Violence Against Women and ASEAN Regional Action Plan on Elimination of Violence Against Children, and other programmes promoting and protecting the rights of women and children' said Mdm. Lily Purba, Chair of ACWC and Indonesia's Representative for Women's Rights. She further underlined, 'The fellowship programme was relevant to the ACWC as it gave broader perspectives on how we could contribute to better promotion and protection of the rights of women and children and the responsibility of each ASEAN Member State to protect women and children's peace and security, and the whole population'.

On 29 March 2017, the ACWC introduced its work and achievements to undergraduate, graduate and post-graduate students of University of Queensland. It was a good opportunity to raise public awareness of the ACWC. At the last day, the ACWC agreed to propose an ASEAN statement on women, peace and security for adoption at the 31st ASEAN Summit in November 2017 in the Philippines.

The 15th Meeting of The ASEAN Commission on The Promotion and Protection of The Rights of Women and Children (ACWC)

PHUKET, 6-4 SEPTEMBER – The 15th Meeting of the ASEAN Commission on The Promotion and Protection of the Rights of Women and Children (ACWC) was held from 4th-6th September 2017 in Phuket, Thailand. The Meeting was hosted by the Ministry of Social Development and Human Security of Thailand.

The Meeting discussed the follow-up from the 14th Meeting in Jakarta, Indonesia and reviewed the status of implementation of projects of the ACWC Work Plan 2012-2016. A number of important projects have been completed such as the AICHR-ACWC Training Workshop on the UN Convention on the Rights of the Child by Singapore, the report on Institutional Strengthening of the ACWC by the Philippines and International Workshop and International Conference on Diversion through Restorative Justice by Thailand. At the Meeting, Thailand presented the public campaign video to stop violence against women for 2017. The Meeting congratulated Thailand and exchanged views on the ways forward to ensure the continuity of the public campaign, and engage other relevant ASEAN sectoral bodies such as SOMRI.

In addition, the Meeting approved the ACWC Work Plan 2016-2020. The representatives agreed on the new projects and activities that would be included in the ACWC Work Plan 2016-2020 to be submitted for approval. The projects that were approved are under the thematic areas of eliminating child marriage, awareness raising campaign on social impact of climate change on women and children, women, peace and security and women economic empowerment. These include Regional Dialogue on children bullying and abuse at schools by Viet Nam and online and the Women's Economic Empowerment and ICT project by Cambodia.

The Meeting conducted an open session with Child Rights Coalition (CRC ASIA) who presented to the Meeting its organisation and proposed areas of partnership with ACWC with the focus on child protection. CRC ASIA encouraged further engagement of ACWC with civil society organizations (CSOs). Likewise, the meeting held an open session with UNICEF who shared with the Meeting the priority areas of collaboration with ACWC which are violence against children, child protection online, ASEAN integration and child rights, restorative justice and children and migration.

The Meeting also conducted an open session with UN WOMEN who expressed appreciation of a long-term partnership between UN WOMEN and ACWC and ensured stronger collaboration particularly in the areas of women economic empowerment, migration and elimination of violence against women through evidence and data-based policies and gender mainstreaming across the three pillars.

The Meeting also held an open session with Due Diligence Project who shared with the Meeting on the organization and mandates as well as expressed their interest to collaborate with ACWC especially on the capacity-building on elimination of violence against women and girls.

The 15th ACWC meeting discussed the draft declaration on the Gender-Responsive Implementation of the ASEAN Community Vision 2025 and the Sustainable Development Goals and the draft Joint Statement on Promoting Women, Peace and Security.

The 16th ACWC Meeting will be held in February 2018 in Jakarta, Indonesia.

2. Composition of ACWC Representatives

Country	Rights	Name
Brunei Darussalam	Children	Dato Paduka DR Haji Junaidi Bin Haji Abd. Rahman
	Women	HJH Misnah BTE HJ Bolhasan
Cambodia	Children	Theng Chhorvirith
	Women	Chhy Ratha
Indonesia	Children	Ms. Yuyum Fhahni Paryani
	Women	Ms. Sri Danti Anwar
Lao PDR	Children	Chongchith Chantharanonh
	Women	Soukphaphone PHANIT
Malaysia	Children	Professor Dato' NooR Aziah MOHD AwaL
	Women	Dato' Suriani Binti Dato' Ahmad
Myanmar	Children	Rupar Mya
	Women	Dr. Thet Thet Zin.
Philippines	Children	Prof. Maria Cynthia Dizon-Gealogo
	Women	Prof. Lourdesita Sobrevega-Chan
Singapore	Children	Koh Choon Hui
	Women	Laura Hwang Cheng Lin PBM
Thailand	Children	Mr. Wanchai Roujanavong
	Women	Miss Ratchada Jayagupta, PhD
Vietnam	Children	Ms. Ha Thi Minh Duc
	Women	Ms. Hoang Thi Thu Huyen

Annex D: Report methodology

1. Comparison of reports on the performance of ASEAN's human rights mechanisms: methodology, contents, summary and recommendations

	Review of the ASEAN Human Rights Mechanism Annual Performance Evaluation Report					
Year/ Areas	**2010-2011**	**2011-2012**	**2013**	**2014**	**2015**	**2016**
Title	A commission shrouded in secrecy	Still Window-Dressing	Four Years On and Still Treading Water	The Future of HR in ASEAN: Public Call for Independence and Protection Mandates	Breaking the Silence and Unlocking Barriers for HR Protection in ASEAN	Have they passed the Litmus Test?
Methodology	Desk Review and Interviews					
List of Content	-Introduction -Institutional building: ToR, selection -Implementation of Mandates and Functions: Listing activities -Engagement with Stakeholders -Conclusion and Recommendations		Additional section on the collaboration of AICHR and ACWC.	-AICHR -Implementation of functions and mandates (thematic studies, raising public awareness, advisory services, capacity building and standard setting) -ACWC (implementation of mandates and functions)	Same as the previous report	-Performance of the AICHR: Meetings, Representatives, Annual Report, priority activities, implementation of mandates, thematic studies, advisory services, standard-setting, conclusion -Performance of the ACWC: same as above -CSO Advocacy in ASEAN -Engagement with Stakeholders -Conclusion and Recommendations
Summary and Recommendations	Summary: -AICHR continuous to works in secrecy -AICHR continuous to avoid engagement with stakeholders from this region -The nature of AICHR as an intergovernmental-body has affected in working pace and decision making process -The lack of progress in implementing its mandates and functions	AICHR to launch an official website to share developments in its work with the public – such a website was indeed launched in October; AICHR to conduct more national and regional consultation meetings with civil society – 2012 saw more consultations at the national level, focusing largely on the ASEAN Human Rights Declaration (AHRD), and which varied widely, from extensive,	Summary: It is clear that AICHR and ACWC have been operating far below the minimum standards for regional human rights bodies set by the OHCHR, and in comparison with practice in other regional human rights systems. There are four main reasons this underperformance of the ASEAN human rights system	Summary: AICHR need to move beyond their activity to address the 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,	Summary: In terms of the implementation of their respective mandates, it was noted that the ACWC's work had a stronger focus on producing instruments or standard setting documents, while the AICHR on the other hand concentrated more on organising dialogues, trainings and meetings. This underlines earlier observations that AICHR's work continues to have a heavy emphasis on the promotional aspect of its mandate.	Summary: - Human rights are therefore portrayed as a sectoral issue instead of one that affects and influences all aspects of the lives of the ASEAN peoples - The volume of publicly accessible information from the AICHR is growing, as its official website is regularly updated nevertheless there is much room for improving both the quality and the quantity of information given to the public.

Recommendation
For AICHR:
-Be transparent
-Engage with civil society and other stakeholders
-Draft AHRD for ASEAN to be proud of
-Make the thematic studies count
-Promote and protect Human Rights
-Work together collaboratively with other ASEAN sectoral and HR bodies
-Become less-govt friendly and more Human Rights friendly.

For AMS:
-Revise the rules of procedures and criteria for civil society engagement with ASEAN as mandated under Article 16.2 in ASEAN charter as consulted with CSO
-Institutionalize support for the AICHR
-Allow space for AICHR to work independently
-Open up to AICHR's research and investigation

inclusive consultations in a very small number of member states, through limited consultations in others to no consultations at all in several states. On the regional level AICHR held, for the first time, two official consultations with civil society, both focusing on the AHRD;
We criticised AICHR for its failure to announce publicly the change of a national representative – in 2012 AICHR started providing information on the changing of national representatives in its press statements

Recommendations
For AICHR:
• Ensure that the reviews of the TORs of AICHR and ACWC are conducted in consultation with relevant ASEAN sectoral bodies as well as NHRIs, CSOs, academics, human rights experts and the broader public in all Member States with a view to ensuring that the revised TORs enhance the capability of both Commissions to promote and protect human rights in ASEAN.
-Engage more extensively with human rights entities outside ASEAN such as NHRIs, CSOs, affected communities, and victims of human rights violations; and establish guidelines that will facilitate instead of limit access and engagement.

For ACWC:
-Enable public access to documents, and ensure inputs from and consultation

For AMS:
Ensure that the reviews of the TORs of AICHR and ACWC are conducted in consultation with relevant ASEAN sectoral bodies as well as NHRIs, CSOs, academics,

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.
Recommendations:
For 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

-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. •

Finally, on the point of engagement between the Commissions and CSOs, although the AICHR tries to implement a more structured way of engaging with civil society – as seen with the introduction of the Guidelines on the AICHR's Relations with CSOs – many of the organisations that applied were rejected, including for the disturbing grounds of being critical or for other technical reasons.

Recommendations:

For AICHR:
Many of the following past recommendations are still much relevant and therefore are reiterated as follows: 1. Develop extensive human rights protection strategies and measures, such as communications 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 for both the promotion and protection of human rights.
2. Conduct frequent, regular, broad-

For AICHR:
-Become involved in monitoring, investigating, commenting on and recommending solutions for human rights issues in the ASEAN region
-Formulate a clearer communication procedure and grievance handling mechanism
- Establish a monitoring and evaluation system to measure the progress and implementation of recommendations
Accelerate discussion on the advantage that CSOs get from being granted consultative relationship status when it comes to creating space for providing inputs into policies,
5. Fulfil the mandate to work on both the protection and promotion of human rights by implementing paragraphs 4.10 and 4.11 of the ToR,
-Create a better alignment strategy for engaging with the ACWC and other ASEAN Sectoral Bodies beyond invitations to events and short meetings.

For ACWC:
- Follow up on the ASEAN RPAs on EVAW and EVAC, so that they evolve from public campaigns into plans of action at the national level.

human rights experts and the broader public in all Member States with a view to ensuring that the revised TORs enhance the capability of both Commissions to promote and protection of human rights in ASEAN.

• Provide adequate institutional support to the AICHR and the ACWC in the form of dedicated budgets and a secretariat which will allow the bodies to work effectively.

• Allow and encourage the AICHR and the ACWC to work more independently and transparently to ensure the effectiveness of these bodies.

• Institutionalise the free flow of information within ASEAN, including allowing unhindered access to documents in order to facilitate public participation with all regional bodies, toward the protection and promotion of human rights.

- 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.

For 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.

based and inclusive meetings on issues concerning human rights and its institution building with a range of stakeholders including CSOs, national human rights institutions, affected communities, human rights defenders, victims of human rights violations at the regional level and national level in every Member State.
AICHR representatives that have not conducted any consultation meetings with their national CSOs are encouraged to start doing so and on a regular basis.
- Make public the provisional agenda and draft documents of all meetings at least two weeks or, adequate time enough for the formulation of inputs, prior to the meeting.
-Apply an open and transparent process when assessing the applications of the organisations, and to consider necessary improvement or revision of the Guidelines

For ASEAN:
1. Institutionalise the free flow of information within ASEAN including allowing unhindered access to documents in order to facilitate public participation with all regional bodies, toward the protection and promotion of human rights.

-Follow up on the Regional Review on Laws, Policies and Practices within ASEAN related to the identification, management and treatment of victims of trafficking especially women and children with in-depth and more specific analysis for different sub-topics.
-Be more open and up to date in providing information to the public, including on relevant human rights developments in the region and within countries, but also budgets and work plans.

For ASEAN:
1. For the AMM to review the AICHR's ToR as requested by the AICHR in the 49th AMM in 2016.
2. For the AMS to deliberate on the necessity to provide all ACWC Representatives with functioning national secretariats that provide administrative and expert support.

					2. Continue the agenda of the review of the TORs of both the AICHR and the ACWC with a vision to develop independent human rights bodies, with a stronger protection mandate as to receive, investigate and report human rights violations. 3. Make public the deliberations and decision of the ASEAN Foreign Ministers on the review of the ToR of the AICHR, in order for stakeholders and the public to be informed accordingly. 4. Make public the deliberations and decision of the AMMSWD on the review of the ToR of the ACWC, in order for stakeholders and the public to be informed accordingly. 5. Allow the AICHR and ACWC to have their own independent and dedicated secretariats in order to support their work more effectively.
Launching process, feedback of the usefulness	-usefulness of the additional sections on the emblematic cases	-usefulness of the compilations of CSOs statements on AHRD	This is the first report that also includes a a performance assessment of the ACWC. There's a section about the case study/ highlights from other regional Human Rights commission like the African Commission and their effort to include the participations of PLHIV and PWD.	This report is particularly important because in 2014, the AICHR Term of Reference (TOR) will be due for its first mandatory review.	This is the year wear AICHR achieve an agreement to accept and implement the guideline of interaction with CSOs

2. List of interview questions

Aspect to assest	Key questions
Mandate	1. Are the mandates available for decent or not? 2. Are those mandates suitable with the local and global situation or not? If not, how, and where is the unsuitable position on that argument? 3. Are those any opportunities to expand the mandate, normatively or practically? If its already implemented, where is the best example? Is it successful or not?
Work plan	1. Is the work plan being arranged with considering the recommendation of the last annual performance report? 2. Is the work plan already arranged accordingly with the regional challenges? How is it being successfully implemented? 3. How is the work plan that already suitable with the regional challenges successfully implemented? 4. How the work plan being evaluated and monitored? 5. Are the key programmes successfully interpreting the existed work plan? 6. Are the key programmes accordingly with the local and regional context? If yes, on what aspects? And if not, how is it not being accordingly implemented? 7. Are there another resources in deciding the key priorities? For instance, letter from the CSOs or civil groups? 8. Are there key programmes that suitable already being implemented? How far it is being implemented and how to measure it? 9. What are the achievement in 2017? 10. Are those achievements could answer the regional challenges? 11. How far its being achieved and how to measure it? 12. What challenges that is found on those achievements? (could be categorized – institutional challenges, problem challenges, or even the stakeholders' expectation challenges) 13. Any achievement that could not be achieved in 2017? And why? 14. What strategies that was implemented in reaching the achievements? 15. How far is the level of achievement? 16. How far is the CSOs involvement in those strategies? Are they proportionally involved or not? 17. How the AICHR and ACWC working relation with others stakeholders in ASEAN and its represented country?

3. List of interviewees

Name	Organisations
Dinna Wisnu	Indonesian AICHR Representative
Seree Nonthasoot	Thailand AICHR Representative
Yuyum Fhahni Paryani	Indonesian ACWC (Children) Representative
Lily Purba	Former Indonesian ACWC (Women) Representative
Emerlynne Gil	Special Advisor of International Commission of Jurists (ICJ)
Debbie Stothard	Director of ALTSEAN-Burma, Secretary General of FIDH
Hazelyn Joy Bitaña	Advocacy and Communications Coordinator of Child Rights Coalition Asia (CRC Asia)
Braema Mathiaparanam	President of Maruah, Singapore
Fatia Maulidiya	International Advocacy, KontraS, Indonesia

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