

# TRAINING MANUAL



## Strengthening **ASEAN's** Human Rights System through Legal Advocacy

Southeast Asia Legal Advocacy Training

**[Oxford English Dictionary]**

Definition of **Advocacy**

**noun**

1. *Public support for or recommendation of a particular cause or policy*
2. *The profession or work of a legal advocate*

Definition of **legal**

**adjective**

1. *Relating to the law*

**Legal Advocacy** *is the act of arguing in favor of something or actively supporting a cause or proposal by using legal arguments and means.*

Definition of **Right**

1. *A moral or legal entitlement to have or do something*

Definition of **human right**

**noun** (usually human rights)

1. *A right which is believed to belong to every person*



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## Glossary

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|             |   |
|-------------|---|
| ABA ROLI    | American Bar Association Rule of Law Initiative   |
| ACMW        | ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers |
| ACWC        | ASEAN Commission on the Promotion and Protection of the Rights of Women and Children  |
| AICHR       | ASEAN Inter-governmental Human Rights Commission  |
| AMM         | ASEAN Foreign Ministers Meeting   |
| AMM-SWD     | ASEAN Ministerial Meeting on Social Welfare and Development   |
| ASEAN       | Association of Southeast Asian Nations  |
| CAT         | Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment  |
| CEDAW       | Convention on the Elimination of All Forms of Discrimination against Women  |
| CPED        | International Convention for the Protection of All Persons from Enforced Disappearance  |
| CRC         | Convention on the Rights of the Child   |
| CRPD        | Convention on the Rights of Persons with Disabilities   |
| CSO         | Civil Society Organization  |
| ECOSOC      | Economic and Social Council   |
| ICCPR OP    | Optional Protocol to the International Covenant on Civil and Political Rights   |
| ICCPR       | International Covenant on Civil and Political Rights  |
| ICERD       | International Convention on the Elimination of All Forms of Racial Discrimination   |
| ICESCR OP   | Optional Protocol to the International Covenant on Economic, Social and Cultural Rights   |
| ICESCR      | International Covenant on Economic, Social and Cultural Rights  |
| ICRMW       | International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families                   |
| LBH Jakarta | Jakarta Legal Aid Institute   |
| OAS         | Organization of American States   |
| OP CAT      | Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment               |
| OP CEDAW    | Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women                             |
| OP CRC      | Optional Protocol to the Convention on the Rights of the Child  |
| OP CRPD     | Optional Protocol to the Convention on the Rights of Persons with Disabilities  |
| TOR         | Terms of Reference  |
| UN          | United Nations  |
| UPR         | Universal Periodic Review   |



## About Us

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### Jakarta Legal Aid Institute (LBH Jakarta)

The Jakarta Legal Aid Institute (LBH Jakarta) was established on 28 October 1970 by the Decision Letter No.001/Kep/10/1970 of 26 October 1970 by the DPP (Board of Chairperson) of the Indonesian Bar Association (PERADIN). The intention was to establish an organization which provides legal aid services for those who are unable to defend their rights, especially the poor and marginalized.

LBH Jakarta became a prominent organization in the pro-democracy movement that fought against the New Order Regime under Soeharto. LBH Jakarta then developed the concept of Structural Legal Aid, the goal of which is to reform the social and legal structures that cause human rights violations, poverty and marginalization and not just settling legal cases. The concept believes that legal regulations have to be enacted based on peoples’ needs and aspirations.

LBH Jakarta’s ultimate achievement was the establishment of the Indonesian Legal Aid Foundation (YLBHI), which currently has 15 branch offices and 7 posts spreading from Aceh to Papua. YLBHI believes that state governance must be based on the protection and guarantees of human rights and fundamental freedoms.

### ABA Rule of Law Initiative (ABA ROLI)

The American Bar Association Rule of Law Initiative (ABA ROLI) is a non-profit program grounded in the belief that rule of law promotion is the most effective long-term antidote to the most pressing problems facing the world today, including poverty, conflict, corruption and disregard for human rights.

The ABA established the Rule of Law Initiative in 2007 to consolidate its five overseas rule of law programs, including the Central European and Eurasian Law Initiative (ABA CEELI), which it created in 1990 after the fall of the Berlin Wall. Today, ABA ROLI implements legal reform programs in roughly 45 countries in Africa, Asia, Europe and Eurasia, Latin America and the Caribbean, and the Middle East and North Africa. The ABA ROLI has nearly 700 professional staff working in the United States and abroad, including a cadre of short- and long-term expatriate volunteers who, since the program’s inception, have contributed more than \$200 million in pro bono legal technical assistance.

The ABA Rule of Law Initiative’s partners include judges, lawyers, bar associations, law schools, court administrators, legislatures, ministries of justice, human rights organizations and civil society organizations around the world.



# Acknowledgements

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# Introduction

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## BACKGROUND

This Manual is intended to be used by individuals and organizations interested in learning more about the ASEAN human rights system and how to:

1. Use this system to support their local-level advocacy
2. Contribute to the strengthening of this system

The Southeast Asia region faces numerous human rights challenges, including but not limited to; summary executions, migration, enforced disappearance, forced eviction, repression of freedoms of expression, association and assembly, and discrimination based on religion, race, ethnicity, and sexual orientation.

In advocating for their legal and human rights, victims and their lawyers have utilized judicial and other national-level dispute resolution mechanisms. However, access to justice can be impeded by the absence of impartial and efficient legal mechanisms.

Although still in its infancy, the ASEAN human rights system presents an opportunity for the development of regional human rights instruments and mechanisms that lawyers will be able to use as alternative tools in representing their clients' interests.

A crucial missing component in current advocacy efforts involving the ASEAN human rights system is a strong cadre of lawyers using legal advocacy to help bolster the system. Given their legal expertise, notably in advocating human rights cases and drafting legal documents, lawyers are especially needed to drive the development of a credible and effective ASEAN human rights system.

The Jakarta Legal Aid Institute (LBH Jakarta) and the American Bar Association Rule of Law Initiative (ABA ROLI) have created this Manual entitled, *"Strengthening ASEAN's Human Rights System through Legal Advocacy"* with the aim of encouraging more lawyers to collaborate with other civil society leaders to influence the development of the ASEAN Intergovernmental Commission on Human Rights (AICHR), other ASEAN bodies and reinforce lawyers' work on human rights issues at the national level.

## OBJECTIVES

This three-day workshop aims to achieve the following objectives:

- 1) To improve participants' knowledge of the ASEAN human rights system and other regional human rights systems.
- 2) To share best practices and lessons learned from legal advocacy efforts in ASEAN Member States.
- 3) To contribute towards the creation of an ASEAN-wide network of public interest lawyers committed to improving the ASEAN regional human rights system, and who can collaborate on legal advocacy initiatives.

## TARGET TRAINING AUDIENCE

This Manual and associated workshops are targeted at Southeast Asian lawyers interested in using legal advocacy to promote human rights and protect the disadvantaged in their own countries and the region. However, this Manual can also be of use to a broader range of legal professionals such as; private lawyers providing legal aid services, human rights advocates, staff of law faculties, and NGO and community-based organization staff with a legal background, who are interested in the development of the ASEAN human rights system.

Workshop organizers should aim to ensure that Southeast Asia's diversity is represented through the participants. Equal participation of women and men should also be encouraged.

## METHODOLOGY

This Manual employs participatory methods in line with the principles of adult learning. Such methods involve an exploration of the learner's own experience and the experience of others. By engaging in a process of mutual learning and teaching, much of the workshop content will come from the participants' own experiences, drawn out through a combination of small group work, presentations by resource persons, case studies and plenary discussions.

Emphasis will be given to combining the skills, experience and knowledge of different participants and applying these through common advocacy strategies.

## TRAINING CONTENT

This Manual is divided into five modules. As a practical and flexible training manual, each module can be tailored to suit specific situations and audience needs. The content of each module is briefly discussed below.

### **Module 1: Introduction**

This module explains the training objectives, methodology and agenda. It provides an opportunity for the participants to get to know one another, articulate their expectations about the training and the knowledge, skills and experience that they will contribute to the training. Participants' expectations and contributions will shape the training focus and content.

### **Module 2: Human Rights Context and Legal Advocacy**

This module provides an opportunity for the participants to analyze human rights issues in their respective countries, including the achievements as well as challenges in improving the rule of law and respect for human rights. The roles of different social actors in the promotion and protection of human rights will be examined, including the role of lawyers. Participants will also have a chance to share how they have been advocating for changes to laws, policy and practices, and any best practices or lessons learned from their experiences.

### **Module 3: The UN and Regional Human Rights Systems**

This module focuses on the ASEAN human rights system, its history, composition and work to date, and the potential contribution of lawyers to developing this system. It begins with a consideration of the United Nations (UN) human rights mechanisms, goes on to examine regional human rights mechanisms which have preceded the ASEAN system, and then concludes by looking more closely at the ASEAN human rights bodies and the opportunities and challenges they present for regional-level legal advocacy.

#### **Module 4: Developing Common Strategies**

This module allows for representatives from different regional legal networks in Southeast Asia to discuss the legal arguments and techniques used in their advocacy, and how regional collaboration has supported their work at the national level. Lawyers will be invited to collaborate with each other and develop common advocacy strategies to encourage the promotion and protection of human rights in ASEAN, as well as contributing to the development of the ASEAN human rights system.

#### **Module 5: Evaluation and Closing**

The module comprises a verbal and written training evaluation. This module also provides an opportunity for the organizers to summarize the learning process and highlight training follow-up activities that can further legal advocacy at the national and regional levels.

### **ROLE OF FACILITATION TEAM AND RESOURCE PERSONS**

This training will be facilitated by one or more facilitators who will be assisted by a co-facilitator. The role of the facilitation team is to create a positive learning environment and support participants' learning process. Learning is a process of sharing, of giving and taking. It is not a question of one person, who is "an expert", giving knowledge and skills to others.

As mentioned above, the primary training resource will be the participants, but a number of individuals with specific expertise in human rights and legal advocacy subject matters will be invited to present on different topics during the workshop.



# Agenda

| DAY/ TIME                                       | ACTIVITIES  |
|---|---|
| <b>Arrival and Registration of Participants</b> |   |
| <b>DAY 1</b>                                    |   |
| 08.00-08.30                                     | Registration  |
| 08:30-09:10                                     | Opening and Welcome Speeches  |
| 09:10-09:50                                     | Getting to Know You   |
| 09.50-10.20                                     | Coffee /Tea Break   |
| 10.20-11.00                                     | <ul style="list-style-type: none"> <li>▪ Setting Ground Rules</li> <li>▪ Expectations and Contributions</li> <li>▪ Training Approach and Methodology</li> </ul> |
| 11.00-12.30                                     | Identifying Human Rights Issues in ASEAN Countries  |
| 12.30-13.30                                     | Lunch   |
| 13.30-15.00                                     | Mapping of Human Rights Actors  |
| 15.00-15.30                                     | Coffee/ Tea Break   |
| 15.30-17.30                                     | Legal Advocacy: Lessons Learned from an ASEAN Country   |
| <b>DAY 2</b>                                    |   |
| 08:30-08:40                                     | Recap from Day 1  |
| 08:40-10:40                                     | Southeast Asian Legal Advocacy  |
| 10:40-11:00                                     | Coffee/ Tea Break   |
| 11:00-13:00                                     | The United Nations Human Rights Mechanisms & Regional Human Rights Systems  |
| 13.00-14.00                                     | Lunch   |
| 14:00-16:00                                     | ASEAN’s Human Rights System: Panel Discussion   |
| 16.00-16.30                                     | Coffee/ Tea Break   |
| 16:30-18:00                                     | Critical Overview of the ASEAN Human Rights Declaration   |
| <b>DAY 3</b>                                    |   |
| 08:30-08:40                                     | Recap from Day 2  |
| 08:40-10:40                                     | ASEAN’s Human Rights System: Arguing a Case   |
| 10:40-11:00                                     | Coffee/ Tea Break   |
| 11:00-12:30                                     | Developing and Maintaining Regional Networks of Lawyers: Panel Discussion   |
| 12.30-13.30                                     | Lunch   |
| 13:30-15:30                                     | Building Common Advocacy Initiatives:<br>Strengthening the ASEAN Human Rights System  |
| 15.30-16.00                                     | Coffee/ Tea Break   |
| 16:00-17.00                                     | Evaluation and Reflection   |
| 17:00-17:30                                     | Closing Remarks and Group Photo   |



# Module 1

## Introduction

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### Introduction

This module explains the training objectives, methodology and agenda. It provides an opportunity for the participants to get to know one another, articulate their expectations about the training and the knowledge, skills and experience that they will contribute to the training. Participants' expectations and contributions will shape the training focus and content.

### Module Objectives

- To allow the participants and facilitation team get to know each other and create a positive atmosphere for interaction and communication.
- To review the training objectives, methodology and agenda.
- To identify participants' expectations about and contributions to the training.
- To set the ground rules for the training.

### Expected Results

By the end of this module, the participants should be able to:

- Describe the background to, content, objectives and methodology of the training.
- Know each other's names and background.
- Understand and agree to ground rules necessary for developing an effective group dynamic.
- Identify each other's expectations about and contributions to the training.

### Scope

|              |  |     |
|--------------|--|-----|
| Activity 1.1 | Introduction to the Training Course      | 40' |
| Activity 1.2 | Getting to Know You                      | 40' |
| Activity 1.3 | Setting Ground Rules                     | 15' |
| Activity 1.4 | Verifying Expectations and Contributions | 15' |
| Activity 1.5 | Training Approach and Methodology        | 10' |



## Activity 1.1

# Introduction to the Training Course

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### Activity Objectives

- To make the participants feel welcome.
- To recognize the contribution of partners who have assisted organizing the training.
- To explain the background to this training; partnership between LBH and ABA ROLI, and the overall program "Strengthening ASEAN's Human Rights System through Legal Advocacy".

### Key Contents

- "Strengthening ASEAN's Human Rights System through Legal Advocacy" Partnership
- Opening remarks

### Method

- Short speech
- Briefing
- Dialogue

### Media

- Power point presentation

### Time

40 minutes

### Steps

1. The Organizer welcomes the participants and invites the representatives of the partner organizations to open the training.
2. The representatives of the partner organizations give an overview of the training, outlining its background, goals and objectives and officially open the training.
3. The training organizer explains about technical issues, including the training's schedule, facilities, learning materials as well as other issues necessary to ensure the best organization of the training sessions.
4. The organizer introduces and invites the facilitation team to start the training.

## Activity 1.2

### Getting to Know You

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#### Activity Objectives

- To get to know the names and background of the participants.
- To share the unique characteristics of the participants.
- To create a good atmosphere for interaction and communication.

#### Key Contents

- Participants' names, background and current work

#### Method

- Drawing Game
- Short presentation
- Dialogue

#### Media

- Microphone and speakers
- Name tags
- Colored cards and markers

#### Time

40 minutes

#### Steps

1. The facilitator asks the participants to put on the name tags provided.
2. The facilitator asks the participants to think of a noun or an adjective that describes them and then to draw this on a colored card using papers and pens on the tables. (*e.g.*, drawing a pair of scale to describe justice).
3. The facilitator asks each participant to introduce him/herself and explain the picture drawn.

## Activity 1.3

### Setting Ground Rules

---

#### Activity Objectives

- To develop common guidelines in order to create an effective group dynamic and enable the participants to work in a spirit of mutual respect and appreciation.

#### Key Contents

- How to create an effective group dynamic for learning
- Agreement on training Ground Rules

#### Method

- Brainstorming

#### Media

- Flipchart
- Marker
- Tape

#### Time

15 minutes

#### Steps

1. The facilitator asks the participants what behaviors and commitments are required of training participants in order to create a positive group dynamic and effective learning environment.
2. The facilitator draws out key points and invites the participants to discuss and agree on what rules to follow during the training.
3. The co-facilitator then writes the guidelines agreed to on flipchart and posts them in the room for the remainder of the training.

## Activity 1.4

# Verifying Expectations and Contributions

### Activity Objectives

- To identify personal expectations and transform them into shared expectations.
- To identify available resources among the participants to be used for the benefit of the group's learning process.

### Key Contents

- Participants' reasons for participation and their expectations of the training
- Participants' contribution to the training

### Method

- Brainstorming

### Media

- Banner with a tree printed on it
- Colored cards
- Flipchart
- Permanent markers
- Tape

### Time

15 minutes

### Steps

1. The co-facilitator hangs the tree banner on the flip chart board.
2. The co-facilitator distributes colored cards to the participants (brown and different bright colors).
3. The facilitator asks the participants to write down their **expectations** about the training on the brown cards and their **contributions** to the training on the colored cards. The participants are asked to write down their names on the contributions card.
4. The participants are asked to stick their cards on the tree banner: contributions as the roots of the tree and their expectations as the fruit.
5. The facilitator then compares participants' expectations and contributions with the ones taken from the participants' pre training assignment.
6. The facilitator reviews answers, asks for explanations if necessary and briefly summarizes the participants' expectations and contributions.

## Activity 1.5

# Training Approach and Methodology

### Activity Objectives

- To review the learning outline which will be used in the training, the agenda as well as the activities schedule.
- To understand and agree on the training approach and methodology.

### Key Contents

- Training agenda
- Training approach and methodology

### Method

- Briefing

### Media

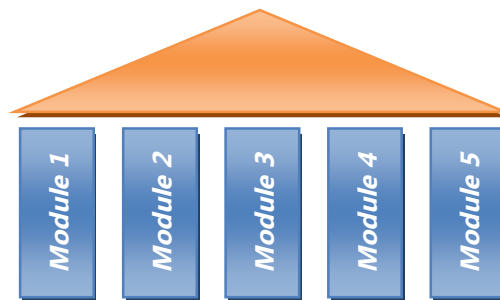
- Training agenda
- Plenary discussion
- Spiral Training Methodology

### Time

10 minutes

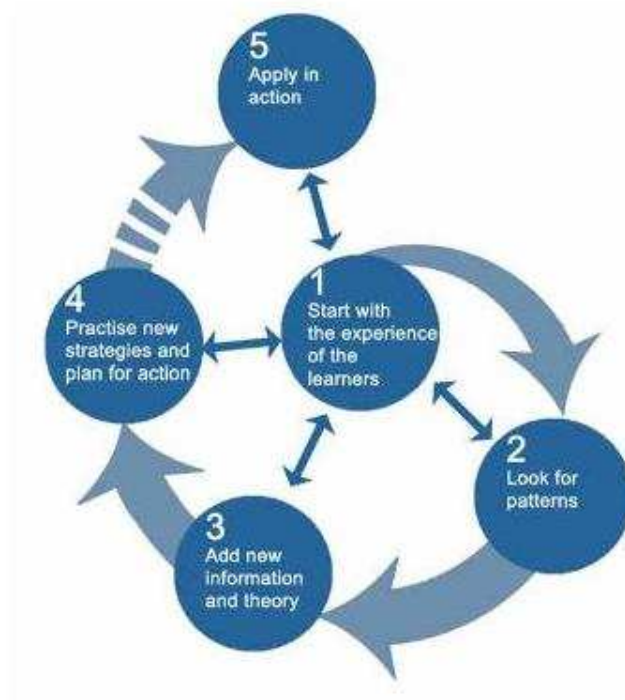
### Steps

1. The facilitator asks the participants to open the training agenda in order to get a clear picture of what the training is about. The facilitator then explains the agenda of the training by drawing a house with the training modules as pillars of learning.



2. The facilitator explains about the approach and methodology to be used during the training process (Spiral Training Methodology).
3. The facilitator invites comments from the participants related to their experience using participatory methodology for human rights training sessions.

## REFERENCE SHEET 1: Spiral Training Methodology<sup>1</sup>



1. Learning begins with the experience of the learners (i.e., their knowledge, skills, values and lived experience of human rights).
2. After the learners have shared their experience, they analyze that experience and look for patterns (i.e., what are the commonalities? What are the patterns?).
3. To complement the experience of the learners, new information and theory from experts are added or new ideas are created collectively.
4. Learners need to practice what they have learned, practice new skills and strategies, and plan for action.
5. Afterwards (usually when they are back in their organizations and daily work) learners apply in action what they have learned.

<sup>1</sup> United Nations Human Rights and Equitas, "Evaluating Human Rights Training Activities: A Handbook for Human Rights Educators", Montreal, 2011, p. 13.

## REFERENCE SHEET 2: Debriefing/ Reflection of the Day<sup>2</sup>

Debriefing is a term used in experiential education to describe a question and answer session with participants. These talking sessions are generally thought to be a 'sit down' circle where the facilitator asks questions and the participants answer. Although this can be an effective debriefing technique, if it is the only technique used, participants can become bored with it and can become easily distracted.

Debriefing helps participants connect lessons and activities they learned at the sessions to their daily work. It is a very important piece of training and learning as a whole. If participants are not allowed to reflect on their experiences and relate them to their work, then a lot of the learning may be lost. So including debriefing is really valuable after powerful experiences at the training session. And mixing up your debriefing activities will keep participants engaged in what they are learning and allow you to create more teachable moments.

### Pair & Share



#### How to do:

1. The facilitator asks the participants to work in pairs and to focus back on the sessions for 1 minute.
2. Ask them to discuss with their partner what they have learned from the sessions and how they think they can use what they have learned.
3. The question is targeting the thinking behavior and how they can apply what they have learned to a future event.
4. Now that the pairs have had a few minutes to talk one on one, it is now time to have them briefly discuss what they shared with their partner.
5. Review the question with the large group.
6. Utilize active listening skills by repeating back what was said and framing it in a way that emphasizes a job well done.
7. Thank the participants for sharing.

### Talking Stick

#### How to do:

1. The participant holding the stick has to share very briefly his or her views on:
  - the most interesting or useful points from the sessions today; or
  - What we have achieved from the sessions today; or
  - From 1 to 10, how we will we give score for our sessions today.
2. Another question that can be asked is how we can make the sessions better or what aspects need to be improved.
3. Make sure you get at least 5-10 participants who are willing to share their views.
4. Thank the participants for sharing.



<sup>2</sup> M. Cummings, M. S, "Training Wheels", 2011, pp. 27-28. See also Skills Converged, "Training Materials on Soft Skills, Management and Personal Development", [www.skillsconverged.com/FreeTrainingMaterials/tabid/258/articleType/ArticleView/articleId/728/Energiser-Learning-Points.aspx](http://www.skillsconverged.com/FreeTrainingMaterials/tabid/258/articleType/ArticleView/articleId/728/Energiser-Learning-Points.aspx).

## Temperature Check



### How to do:

1. Prepare a flip chart paper with a 'temperature check' table.
2. Stick the flip chart paper on the wall so it can be seen when the participants are ready to go.
3. Ask the participants to give their evaluation check by putting tick [✓] on the paper based on their personal observation.

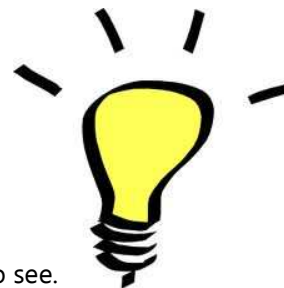
|                                       | Very Good<br>"sunny and<br>beautiful day" | Good<br>"warm" | Just so-so<br>"cloudy" | Not Good<br>"rainy/ stormy day" | Comment |
|---------------------------------------|---|----------------|------------------------|---------------------------------|---------|
| Contents<br>(substance)               |   |                |                        |                                 |         |
| Methods<br>(facilitation<br>process)  |   |                |                        |                                 |         |
| Logistic (room,<br>facilities, meals) |   |                |                        |                                 |         |

## Learning Points

This is a fun energizer or debriefing technique which also reinforces learning objectives and concepts discussed during the course. This activity is most suitable for the mid or end of the session slot. The participants are expected to come up with significant learning objectives and points discussed during the training session. What you need is a piece of paper and a pen for each group.

### How to do:

1. Divide the group into teams of 2 or 3 people.
2. Give each team a copy of the activity sheet and a pen.
3. Explain that teams have 3 minutes to come up with 4 main learning points or concepts they have learned so far in this training course.
4. Each point has to be written in a separate part of the diagram on the activity sheet.
5. Collect all the sheets and stick them on the wall or board for everyone to see.
6. Go through some of the points and ask the teams to explain their choices.





## REFERENCE SHEET 3: Energizer and Icebreaker<sup>3</sup>

### BIN YOUR NEGATIVE FEELING



The aim of this exercise is to prepare the participants for an energized and productive training session. The participants are encouraged to get rid of all their negative feelings and perceptions at the beginning of the session. The activity enables the participants to throw away their negative feelings and perceptions into a waste basket. What you need is only scrap papers and waste baskets.

#### How to do:

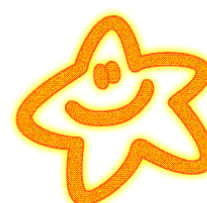
1. Ask the participants to sit behind a desk or table with a waste basket in front of every 6 participants.
2. Explain to the participants that they should write down their negative feelings or perceptions on a piece of paper, then wad up the paper and throw it into the basket. The participants should write down 1 feeling or perception on each piece of paper.
3. Give each participant a piece of chocolate or some other prize for their effort in becoming more positive.

### YOU ARE A STAR!

This is a great exercise for motivation and boosting morals especially after long training sessions. This activity is best placed in the middle of the training course due to its positive effects on the participants. The activity allows for the participants to recognize other's contributions in the group. What you need is star stickers.

#### How to do:

1. Give 3 stickers to each participant.
2. Explain that they have to give one sticker to a person in the session who they think have contributed to the training or supported others throughout the session.
3. The participants should go up to their 3 chosen people, give them a sticker and explain the reason for choosing them as a star. For example, they can say: *"I saw you earlier helping Lisa with her assignment"*.



YOU'RE A STAR

<sup>3</sup> Skills Converged, "Training Materials on Soft Skills, Management and Personal Development", [www.skillsconverged.com/FreeTrainingMaterials/tabid/258/articleType/ArticleView/articleId/728/Energiser-Learning-Points.aspx](http://www.skillsconverged.com/FreeTrainingMaterials/tabid/258/articleType/ArticleView/articleId/728/Energiser-Learning-Points.aspx).

## SHARED COMMONALITIES/ ACTIVITIES

This is a fun activity which is most suitable for groups of participants who do not know each other very well. This exercise allows for similar interests or experiences between participants to become apparent. The objective of the activity is to allow the participants to find out their similar interest or experiences with others.

### What you need:

1. A sheet of objectives including topics such as:
  1. Anyone who studied law at the university;
  2. Anyone who enjoys music;
  3. Anyone who plays instruments;
  4. Anyone who has traveled to other Southeast Asian countries;
  5. Anyone who likes cycling;
  6. Anyone who was born under zodiac Cancer.
2. A flip chart with the name of the participants written in a list form.



### How to do:

1. Ask the participants to stand in a straight line next to each other.
2. Explain that after reading each sentence, people who agree with the sentence should take a step forward.
3. Record the name of the people with shared answers on the flip chart.
4. The participants then go back to their original line up and you will read the next sentence.
5. At the end of the activity reveal which two people share most interest or experiences.

## GREEDY TO PICK, GREEDY TO SHARE



In this exercise the participants are encouraged to share something about themselves with others in an entertaining way which keeps the atmosphere light. They will also get to learn about implications of greed! The activity allows for the participants to share an interesting thing about themselves to others.

### What you need:

A number of tokens that you can distribute to the participants. These can be anything as long as they are small and you can have many of them. Examples are: tokens used in board games (small plastic shapes, small plastic animals, small glass balls, etc.). You can even use large dry beans or similar if you are really short of materials! You need at least three per person plus 10.

### How to do:

1. Put all the objects in a bowl at the center of the table.
2. Ask the participants to pick as many objects as they like from this bowl. Unfortunately you cannot explain what this is for.
3. Once everyone has picked their objects, declare the following with a smile on your face! Ask the participants to introduce themselves one by one and then say something interesting about themselves per each object they picked.
4. Of course, those who were greedy to pick more objects will be amused and there will be lots of laughter.



# Module 2

## Human Rights Context and Legal Advocacy

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### Introduction

This module provides an opportunity for the participants to analyze human rights issues in their respective countries, including the achievements as well as challenges in improving the rule of law and respect for human rights. The roles of different social actors in the promotion and protection of human rights will be examined, including the role of lawyers. Participants will also have a chance to share how they have been advocating for changes to laws, policy and practices, and any best practices or lessons learned from their experiences.

### Module Objectives

- To give the participants the opportunity and tools to analyze human rights issues in their respective countries.
- To provide the participants a better understanding of the different contexts of the ASEAN countries.
- To identify contributing and/or obstructing roles of different actors in the promotion and protection of human rights in the ASEAN countries.
- To discuss how legal professionals have been pursuing structural changes (changes in laws, policy and practices) in order to promote human rights.

### Expected Results

By the end of this module, the participants should be able to:

- Understand the different human rights contexts in ASEAN countries.
- Identify human rights achievements and challenges in each ASEAN country.
- Identify contributing and/or obstructing roles of different actors in the promotion and protection of human rights in the ASEAN countries.
- Identify best practices and lessons learned in conducting legal advocacy for the promotion of human rights.

### Scope

|              |   |      |
|--------------|---|------|
| Activity 2.1 | Identifying Human Rights Issues in ASEAN Countries    | 90'  |
| Activity 2.2 | Mapping of Human Rights Actors                        | 90'  |
| Activity 2.3 | Legal Advocacy: Lessons Learned from an ASEAN Country | 120' |
| Activity 2.4 | Southeast Asian Legal Advocacy                        | 120' |

## Activity 2.1

# Identifying Human Rights Issues in ASEAN Countries

### Activity Objectives

- To provide the participants the opportunity to discuss human rights issues in their respective countries.
- To provide the participants the opportunity to analyze human rights achievements and challenges in their respective countries.

### Key Contents

- Human rights achievements and challenges in each ASEAN country

### Method

- Briefing
- Small group work
- Mapping
- Plenary discussion led by the facilitator

### Media

- Southeast Asia map (2.5 x 1.5 m)
- Colored cards
- Marker
- Tape
- Reference Sheets:
  - Status of ratification of core human rights treaties by ASEAN Member States.
  - Institutions related to the promotion and protection of human rights, good governance and rule of law.

### Time

90 minutes

### Steps

1. The facilitator briefly explains the activity objectives and steps.
2. The facilitator gives some examples of human rights "achievements and challenges".
3. The facilitator asks the participants to refer to **Reference Sheets No. 4 & 5** on the status of ratification of core human rights treaties and institutions related to the promotion and protection of human rights, good governance and rule of law in the Training Manual.
4. The facilitator divides the participants into groups by country to discuss human rights achievements and challenges by analyzing the existence of human rights-related legal instruments and their implementation as well as the presence of institutions for the promotion and protection of human rights.
5. Each group will be provided with two different colored cards and asked to identify key achievements and challenges and write down the "achievements" on one color and "challenges" on the other color.

6. The facilitator asks the participants to stick the achievement and challenge cards on the map of Southeast Asia after they finish their discussion in groups.
7. The facilitator then invites each group to present the results of the discussion by referring to the cards on the map.
8. The facilitator asks the participants to identify common trends in the Southeast Asia region.
9. The facilitator invites other participants to give feedback or comments on the presentation.
10. The facilitator invites critical comments from the participants on the particularity of each country's human rights situation.
11. The facilitator then summarizes the discussion by identifying the gaps between human rights achievements and challenges in each country as well as similarities and differences between countries as prepared by the co-facilitator.

Southeast Asia (U)



## REFERENCE SHEET 4: Status of Ratification of Core Human Rights Treaties by ASEAN Member States<sup>4</sup>

| Instrument   | Brunei         | Cambodia       | Indonesia      | Lao PDR        | Malaysia       | Myanmar        | Philippines    | Singapore      | Thailand       | Vietnam        |
|--------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| ICERD        |                | 28 Nov 1983    | 25 Jun 1999(a) | 22 Feb 1974(a) |                |                | 15 Sep 1967    |                | 28 Jan 2003(a) | 9 Jun 1982(a)  |
| ICCPR        |                | 26 May 1992(a) | 23 Feb 2006(a) | 25 Sep 2009    |                |                | 23 Oct 1986    |                | 29 Oct 1996(a) | 24 Sep 1982(a) |
| ICCPR OP-1   |                | 27 Sep 2004(s) |                |                |                |                | 22 Aug 1989    |                |                |                |
| ICCPR OP-2   |                |                |                |                |                |                | 20 Nov 2007    |                |                |                |
| ICESCR       |                | 26 May 1992(a) | 23 Feb 2006(a) | 13 Feb 2007    |                |                | 7 Jun 1974     |                | 5 Sep 1999(a)  | 24 Sep 1982(a) |
| ICESCR-OP    |                |                |                |                |                |                |                |                |                |                |
| CEDAW        | 24 May 2006(a) | 15 Oct 1992(a) | 13 Sep 1984    | 14 Aug 1981    | 5 Jul 1995(a)  | 22 Jul 1997(a) | 5 Aug 1981     | 5 Oct 1995(a)  | 9 Aug 1985(a)  | 17 Feb 1982    |
| OP CEDAW     |                | 13 Oct 2010    | 28 Feb 2000(s) |                |                |                | 12 Nov 2003    |                | 14 Jun 2000    |                |
| CAT          |                | 15 Oct 1992(a) | 28 Oct 1998    | 26 Sep 2012    |                |                | 18 Jun 1986(a) |                | 2 Oct 2007(a)  |                |
| OPCAT        |                | 30 Mar 2007    |                |                |                |                | 17 Apr 2012(a) |                |                |                |
| CRC          | 27 Dec 1995(a) | 15 Oct 1992(a) | 5 Sep 1990     | 8 May 1991(a)  | 17 Feb 1995(a) | 15 Jul 1991(a) | 21 Aug 1990    | 5 Oct 1995(a)  | 27 Mar 1992(a) | 28 Feb 1990    |
| OP-CRC-AC    |                | 16 Jul 2004    | 24 Sep 2012    | 20 Sep 2006(a) | 12 Apr 2012(a) |                | 26 Aug 2003    | 11 Dec 2008    | 27 Feb 2006(a) | 20 Dec 2001    |
| OP-CRC-SC    | 21 Nov 2006(a) | 30 May 2002    | 24 Sep 2012    | 20 Sep 2006(a) | 12 Apr 2012(a) | 16 Jan 2012(a) | 28 May 2002    |                | 11 Jan 2006(a) | 20 Dec 2001    |
| OP-CRC-CP    |                |                |                |                |                |                |                |                | 25 Sep 2012    |                |
| ICRMW        |                | 27 Sep 2004(s) | 31 May 2012    |                |                |                | 5 Jul 1995     |                |                |                |
| CPED         |                |                | 27 Sep 2010(s) | 29 Sep 2008(s) |                |                |                |                | 9 Jan 2012(s)  |                |
| CRPD         | 18 Dec 2007(s) | 20 Dec 2012    | 30 Nov 2011    | 25 Sep 2009    | 19 Jul 2010    | 7 Dec 2011(a)  | 15 Apr 2008    | 30 Nov 2012(s) | 29 Jul 2008    | 22 Oct 2007(s) |
| OP-CRPD      |                | 1 Oct 2007(s)  |                |                |                |                |                |                |                |                |
| Rome Statute |                | 11 Apr 2002    |                |                |                |                | 30 Aug 2011    |                | 2 Oct 2000(s)  |                |

(s) = signed, but not yet ratified. (a) = accession

<sup>4</sup> As of April 2013.

## REFERENCE SHEET 5: Institutions Related to the Promotion and Protection of Human Rights, Good Governance and Rule of Law<sup>5</sup>

| Country          | INSTITUTIONS RELATED TO THE PROMOTION AND PROTECTION OF HUMAN RIGHTS, GOOD GOVERNANCE AND RULE OF LAW        |  |   |                                  |  |   |                                       |                          |                        |   |  |
|------------------|--|--|---|----------------------------------|--|---|---------------------------------------|--------------------------|------------------------|---|--|
|                  | Human Rights Commission  | Commission on Women  | Commission on Children                          | Judicial Commission              | Ombudsman Commission                   | Anti-Corruption Commission  | Police Commission                     | Prosecutorial Commission | Constitutional Court   | Human Rights Court  | Other  |
| <b>Brunei</b>    |  | Special Committee on Family Institution and Women                | National Children's Council                     |                                  |  | Anti-Corruption Bureau  | Royal Brunei Police Force             |                          |                        |   | Special Committee on Persons with disabilities and the elderly; National Council on Social Issues          |
| <b>Cambodia</b>  | There are three human rights committees respectively of the National Assembly, the Senate and the Government | Cambodian National Council for Women (CNCW)                      |   |                                  |  | Anti-Corruption Institution (ACI) consists of the National Anti-Corruption Council and the Anti-Corruption Unit (ACU) |                                       |                          | Constitutional Council |   |  |
| <b>Indonesia</b> | National Commission on Human Rights (KOMNAS HAM)   | National Commission on Violence against Women (KOMNAS Perempuan) | National Commission for Child Protection (KPAI) | Judicial Commission of Indonesia | Ombudsman of the Republic of Indonesia | Corruption Eradication Commission (KPK)   | National Police Commission (Kopolnas) | Prosecutorial Commission | Constitutional Court   | Jakarta Ad Hoc Court & 4 permanent human rights courts in Indonesia, namely in Jakarta, Surabaya, Medan, and Makassar | Witnesses and Victims Protection Agency (LPSK); National Law Commission (KHN); General Election Commission |

<sup>5</sup> As of April 2013. Source: UPR Reports of ASEAN Member States and Human Rights Resource Centre, "Rule of Law for Human Rights in the ASEAN Region: A Baseline Study", May 2011, available at [http://hrrca.org/system/files/Rule\\_of\\_Law\\_for\\_Human\\_Rights\\_in\\_the\\_ASEAN\\_Region.pdf](http://hrrca.org/system/files/Rule_of_Law_for_Human_Rights_in_the_ASEAN_Region.pdf), accessed 04 July 2012.



|                    |  |   |   |                                  |                         |  |  |  |  |  |  |
|--------------------|--|---|---|----------------------------------|-------------------------|--|--|--|--|--|--|
| <b>Lao PDR</b>     |  | National Commission for the Advancement of Women          | National Commission for Mothers and Children  |                                  |                         |  |  |  | The Standing Committee of the National Assembly decides the constitutionality of a law |  | National Committee for Disabled People; the National Committee for Rural Development and Poverty Alleviation; the National Committee against Human Trafficking |
| <b>Malaysia</b>    | Human Rights Commission of Malaysia (SUHAKAM)                                      |   |   | Judicial Appointments Commission | Public Complaint Bureau | Malaysian Anti-Corruption Commission (MACC)  |  |  | The Federal Court also plays a role to interpret the Constitution                      |  | Enforcement Agency Integrity Commission; Election Commission   |
| <b>Myanmar</b>     | Myanmar National Human Rights Commission   |   |   |                                  |                         |  |  |  | Constitutional Tribunal  |  |  |
| <b>Philippines</b> | Commission of Human Rights of the Philippines; Presidential Human Rights Committee | National Commission on the Role of Filipino Women (NCRFW) | Commission of Human Rights of the Philippines |                                  | Office of the Ombudsman | Sandiganbayan,, an anti-graft court that tries public officers; Presidential Anti-Graft Commission (PAGC) - <i>abolished in 2010</i> |  |  | Supreme Court renders judgments in constitutional matters                              |  | Presidential Commission on Good Government (PCGG); National Labour Relations Commission; Department of Agrarian Reform Adjudication Board                      |

|                  |   |   |   |  |                                  |   |  |  |   |  |   |
|------------------|---|---|---|--|----------------------------------|---|--|--|---|--|---|
| <b>Singapore</b> |   |   |   |  |                                  | Corrupt Practices Investigation Bureau (CPIB)         |  |  | Constitutional Tribunal which is constituted on an ad hoc basis |  | National Family Council (NFC); Central Youth Guidance Office (CYGO); Office of Public Guardian  |
| <b>Thailand</b>  | National Human Rights Commission (NHRC) of Thailand | National Commission on Women’s Affairs and Family Development | National Child and Youth Promotion Committee; National Child Protection Committee | Judicial Commission of the Courts of Justice | Office of the Ombudsman Thailand | National Anti-Corruption Commission (NACC)            |  |  | Constitutional Court of the Kingdom of Thailand                 |  | Office of Welfare Promotion, Protection and Empowerment of Vulnerable Groups; Anti-Trafficking in Persons Committee; Coordinating and Monitoring of Anti-Trafficking in Persons Performance Committee |
| <b>Viet Nam</b>  |   | National Committee for the Advancement of Women (NCAFW)       |   |  |                                  | Central Steering Committee for Anti-Corruption (CSCA) |  |  |   |  |   |

## Activity 2.2

# Mapping of Human Rights Actors

### Activity Objectives

- To identify different actors who contribute to and/or obstruct the promotion and protection of human rights.
- To analyze the role of legal professionals in promoting and/or obstructing human rights.

### Key Contents

- Contributing and/or obstructing roles of different actors in the promotion and protection of human rights in the ASEAN countries.

### Method

- Briefing
- Small group work
- Presentation
- Plenary discussion led by the facilitator

### Media

- Flipchart
- Marker

### Time

90 minutes

### Steps

#### Option 1

1. The facilitator briefly explains the activity objectives and steps by referring to a table of different actors who contribute to and/or obstruct the promotion and protection of human rights.
2. The facilitator divides the participants into groups to identify the role of the following actors:
  1. Government/ executive
  2. Parliament
  3. Judiciary/ lawyers
  4. Private sector (businesses)
  5. Media
  6. Religious institutions
  7. Civil Society Organizations (CSOs)
  8. Security sector
3. Each group identifies the contributing and/or obstructing roles of each actor in the promotion and protection of human rights.
4. During the small group discussion, every member of the group should write down the role of each actor in his or her respective country (e.g., in Indonesia, the Parliament adopts laws and legislation promoting human rights).
5. Each group presents the results of their discussion to the plenary.

6. The facilitator invites other participants to make comments on the different actors’ roles and analyze:
  - a. The role of legal professionals in promoting and/or obstructing human rights.
  - b. Changes needed to improve the role that legal professionals currently play.
  - c. The risks and opportunities for legal professionals in advocating for human rights.

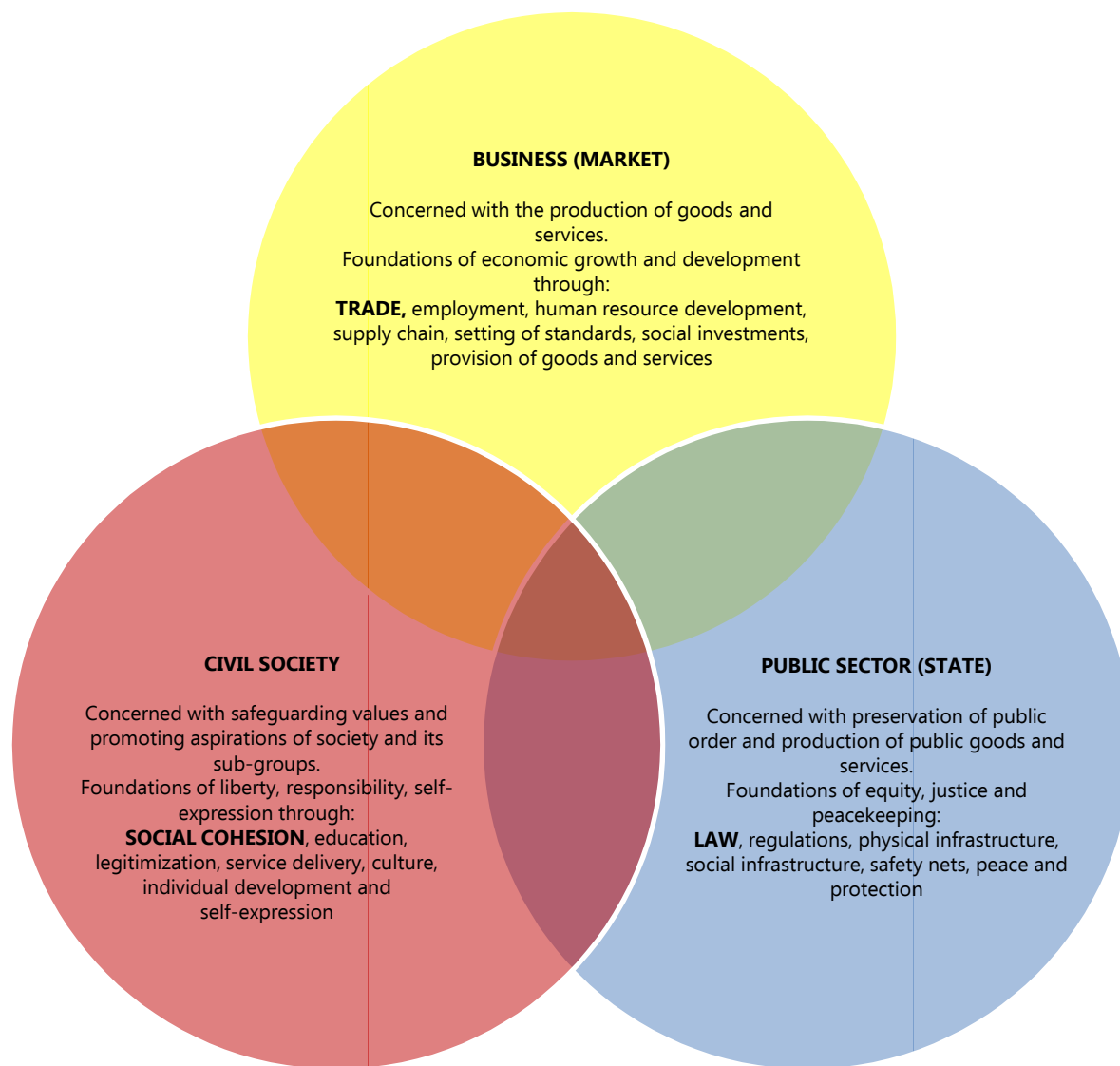
| No | Actor                             | Contributing role | Obstructing role |
|----|-----------------------------------|-------------------|------------------|
| 1  | Government/Executive              |                   |                  |
| 2  | Parliament                        |                   |                  |
| 3  | Judiciary/ lawyers                |                   |                  |
| 4  | Private sectors (businesses)      |                   |                  |
| 5  | Media                             |                   |                  |
| 6  | Civil Society Organizations(CSOs) |                   |                  |
| 7  | Security sector                   |                   |                  |
| 8  | Religious institutions            |                   |                  |

### Option 2

1. The facilitator briefly explains the activity objectives and steps by referring to the “ideal” power sharing map on **Reference Sheet No. 6** on Power Relation Mapping. For example: In the ideal power sharing map, all three sectors play their desired role, having relatively the same influence or power and some overlap of interests.
2. The facilitator asks the participants to draw a power map based on how they perceive the different roles and influence of the three sectors (business, civil society and state).
3. The facilitator divides the participants into groups by country to discuss the following key questions that will help them draw their power map:
  - a. Who are the most influential actors who determine the policy/law making process and the enjoyment of rights?
  - b. What are their interests?
  - c. What are their resources and ways they push for the fulfillment of their interests?
4. Each group in turn presents the results of the discussion to the plenary.
5. The facilitator invites others in the group to make comments on the different power maps and analyze:
  - a. The position of civil society.
  - b. The strength of civil society’s bargaining power in the configuration.
  - c. Are any changes needed to this situation?
  - d. The risks and opportunities for advocating human rights caused by the power imbalances and power relationships.

## REFERENCE SHEET 6: Power Relation Mapping<sup>6</sup>

### Power Relations: State, Business & Civil Society



### Sectoral Contributions to Development

<sup>6</sup> UNICEF, "Advocacy: People's Power and Participation Guide", available at [www.advocate-for-children.org/advocacy/strategizing\\_for\\_advocacy/strategic\\_analysis\\_tools](http://www.advocate-for-children.org/advocacy/strategizing_for_advocacy/strategic_analysis_tools), accessed 12 July 2012.

## Activity 2.3

# Legal Advocacy: Lessons Learned from an ASEAN Country

### Activity Objectives

- To share best practices and lessons learned in using legal advocacy to promote human rights.
- To discuss the experience of an ASEAN country in using legal advocacy to bring about structural change to social injustices.

### Key Contents

- Strategies for effective legal advocacy

### Method

- Power point presentation from resource person
- Plenary discussion

### Media

- Laptop
- LCD projector
- Microphone and speakers

### Time

120 minutes

### Steps

1. The facilitator briefly explains the activity objectives.
2. The facilitator writes down "Legal Advocacy" on the board and leads a brainstorming session about common understandings of the definition of "Legal Advocacy".
3. The facilitator introduces the resource person and the topics which will be covered in the presentation (the topics may vary depending on the country). Taking Indonesia as an example, the topics may include:
  - a. Indonesia under Soeharto Regime (*e.g.*, context, the role of the Indonesian Legal Aid Foundation (YLBHI) and success stories in using strategic impact litigation and introducing legal standing, class action and civil law suit);
  - b. The legal aid movement in Indonesia;
  - c. Strategies used to pursue structural changes and human rights promotion in Indonesia (pre and post reformation era).
4. The resource person shares his or her legal advocacy experience, best practices and lessons learned in challenging structural injustices and promoting human rights in the country-specific context.
5. The facilitator invites the participants to respond to the presentation and ask questions.
6. The facilitator concludes this session by providing feedback and wrap up of the whole module (the ASEAN human rights context, mapping of human rights actors, and legal advocacy experience of participants).

## Activity 2.4

# Southeast Asian Legal Advocacy

### Activity Objectives

- To discuss the experience of Southeast Asian lawyers in bringing about changes to policies, laws and practices (structural changes) through their legal work.
- To share best practices of the role of lawyers in the promotion of human rights among ASEAN countries.

### Key Contents

- Lessons learned of structural changes and the promotion of human rights

### Method

- Briefing
- Brainstorming
- Small group work
- Making a creative bulletin board
- Group presentation
- Plenary discussion led by the facilitator

### Media

- Bulletin board/ flip chart
- Bulletin board photos from the previous trainings
- Colored markers, newspapers, magazines
- Tape
- Scissors

### Time

120 minutes

### Steps

1. The facilitator briefly explains the activity objectives.
2. The facilitator refers to the definition of “Legal Advocacy” from the previous activity.
3. The facilitator divides the participants into groups to share their legal advocacy experience by depicting this on a bulletin board.
4. The facilitator encourages each group to use all media available (newspapers, magazines, pictures, cartoons, etc.) to create their bulletin board and in the process of making it, consider the following questions:
  - a. What issues do you advocate for?
  - b. What common means and strategies are used?
  - c. What are the common success stories and failures?
5. Once complete, the bulletin boards will be displayed around the room.
6. Each country will present its bulletin board to the plenary and the participants will be able to ask questions.
7. The facilitator identifies similarities and provides final comments.

## REFERENCE SHEET 7: Human Rights Bulletin Board



### What issues do you advocate for?

1. Flooding caused by a hydropower dam (Cambodia)
2. Land rights
3. Access to information
4. Gender equality and non-discrimination

### What common means and strategies are used?

1. Litigation
2. Ratification of human rights treaties
3. Research and documentation
4. Consultation with affected communities/ mediation
5. International concern - intervention through regional or international mechanisms
6. Media advocacy
7. Paralegal advocacy

### What are the success stories and failure?

1. Failure of the State to fulfil its obligations
2. Paid compensation to the hydropower-induced flooding victims
3. Editor arrested
4. Intimidation against human rights defenders
5. Constitutional challenges
6. Lack of check and balance
7. Corruption and abuse of power

### Countries represented:

**Thailand, Philippines, Cambodia and Malaysia**





# Module 3

## The UN and Regional Human Rights Systems

### Introduction

From 2008-2012, the Association of the Southeast Asia Nations (ASEAN) established three bodies related to the protection of human rights; the ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW), the ASEAN Inter-governmental Human Rights Commission (AICHR) and the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC). Several years on, all three are struggling to establish themselves as credible regional human rights institutions. A lack of political will from some ASEAN governments has deprived ASEAN's human rights bodies of the structure, mandate and resources necessary to operate effectively.

However, the ASEAN human rights system is now in the process of developing the legal structure within which it will operate. Given the lack of political will noted above, the effectiveness of the ASEAN human rights system will be in a large part linked to how well non-government groupings can advocate for improvements to how AICHR, ACWC and ACMW operate.

This module focuses on the ASEAN human rights system, its history, composition and work to date, and the potential contribution of lawyers to developing this system. It begins with a consideration of the United Nations (UN) human rights mechanisms, goes on to examine regional human rights mechanisms which have preceded the ASEAN system, and then concludes by looking more closely at the ASEAN human rights bodies and the opportunities and challenges they present for regional-level legal advocacy.

### Module Objectives

- To have legal professionals more involved in the efforts to strengthen the ASEAN human rights system.
- To have a strong network of lawyers for human rights advocacy in ASEAN.

### Expected Results

By the end of this module, the participants should be able to:

- Know about the United Nations (UN) human rights mechanisms.
- Understand how the UN human rights mechanisms can be used to complement local and regional level advocacy, including the development of the ASEAN human rights system itself.
- Reflect on the strengths and weaknesses of international and regional human rights mechanisms.
- Be updated on the ASEAN human rights system and ongoing civil society advocacy efforts related to the system.
- Identify their role as lawyers in legal and human rights advocacy in ASEAN.

### Scope

|              |  |      |
|--------------|--|------|
| Activity 3.1 | The United Nations Human Rights Mechanisms & Regional Human Rights Systems | 120' |
| Activity 3.2 | ASEAN's Human Rights System: Panel Discussion                              | 120' |
| Activity 3.3 | Critical Overview of the ASEAN Human Rights Declaration                    | 90'  |
| Activity 3.4 | ASEAN's Human Rights System: Arguing a Case                                | 120' |

## Activity 3.1(1)

# The United Nations Human Rights Mechanisms

### Activity Objectives

- To brief the participants on the United Nations human rights mechanisms.
- To analyze how international mechanisms can be used to support national and regional advocacy.
- To discuss how international mechanisms can be used to strengthen the ASEAN human rights system.

### Key Contents

- Overview of the United Nations human rights mechanisms
  - Treaty-based mechanisms
  - Charter-based mechanisms
- Using the international human rights system for advocacy

### Method

- Briefing
- Small group work
- Plenary discussion led by the facilitator

### Media

- Laptop
- LCD projector
- Flipchart
- Markers
- Case studies
- Reference Sheets:
  - Charter-based Bodies Diagram
  - Treaty-based Bodies Diagram and the Complaint Procedures
  - Major Human Rights Treaties
  - List of the United Nations Special Procedures

### Time

60 minutes

## Steps

### Option 1

1. The facilitator explains the activity objectives.
2. The facilitator invites the participants to brainstorm about the United Nations Human Rights Mechanism.
3. The facilitator introduces the resource person and the topics which will be covered in the presentation:
  - a. “International human rights remedies: are they effective?”
  - b. “What do we want from a regional human rights system that the international system does not give us?”
4. The facilitator invites the participants to respond to the presentation and ask questions.

### Option 2

1. The facilitator explains the activity objectives.
2. The facilitator briefs the participants on the United Nations human rights mechanisms and their relevance to national-level advocacy. The facilitator invites some comments and opinions from the participants about the international human rights mechanisms.
3. The facilitator explains that the next activity will use case studies to allow them to share their knowledge on the international human rights system.
4. Participants are divided into three groups and each is given a pre-prepared case study (Malaysia, West Papua and Mindanao). Each group must address the following questions:
  - a. What human rights have been violated?
  - b. Who are the victims and perpetrators?
  - c. What international legal instruments and mechanisms could be used to obtain a remedy for the victims and punish the perpetrators?
5. The facilitator distributes **Reference Sheets No. 8, 9, 10, 11, 12 & 13** on Charter-based Bodies Diagram, Treaty-based Bodies Diagram, Treaty Bodies Complaint Procedures, Individual Complaint Form, Major Human Rights Treaties and List of the UN Special Procedures. The facilitator also reminds the participants to refer to **Reference Sheet No. 4** on the Status of Ratification of Core Human Rights Treaties by ASEAN Member States.
6. Each group is given 10 minutes to present their conclusions. The facilitator gives feedback and comments on the options identified by the participants.
7. Final reflection questions:
  - a. “International human rights remedies: are they effective?”
  - b. “What do we want from a regional human rights system that the international system does not give us?”

## WORKSHEET 1: CASE STUDIES

### CASE STUDY #1

*Adapted from the Asian Human Rights Commission (AHRC) website*

#### INDONESIA, WEST PAPUA, 2011

On 31 August 2011 at 5am, around 115 members of a joint team of Jayapura city district police (POLRESTA) and Cenderawasih military area command raided the Horas Skyline village, Abepura district, Jayapura, Papua.

The raid was in relation to villagers' suspected involvement in a shooting accident in Nafri on 1 August 2011 which resulted in the death of a military soldier, and the killing of a taxi driver and burning of his taxi in Skyline on 6 July 2011.

Other police and military members went to Biben Kogoya, the neighborhood leader's, house. The officers brought 14 villagers (three of whom were sick), randomly picked up from the village, to Biben's yard, ordered them to lie down and forced them to look into the sun without blinking. The officers humiliated, kicked, beat and pointed their guns at the villagers. They were repeatedly asked questions regarding the location of the Nafri and Skyline killing suspects.

The joint task force placed a photo of the killed soldier in Nafri into a photo album at Biben's house. They showed Biben the photo and forced him to admit that he was the killer. Biben was dragged to an empty house which had been ransacked by the joint task force. There was a hole at the house, with bullets and papers around it. Biben was threatened with death if he did not admit that these belonged to him. The officers ordered Biben to dig a hole while pointing a gun at him. Biben felt they would kill and bury him, and he tried to escape. He was caught and brought to his yard, where the other villagers were held.

At 6:30pm Metius Kogoya, a Christian clergyman, heard of the news and at 9:30pm he came to the location where the victims were being held. There, he was asked by the joint task force to name all the victims. When he named Ekimar, the officers immediately beat and dragged him to an empty yard, where he was beaten repeatedly and ordered "to name another killer". Finally Ekimar named Panius, as a result of which Panius was also dragged to the yard and beaten together with Ekimar. Metius then sat with the other victims in solidarity. He observed the victims being humiliated and beaten for eight hours.

While the victims were being beaten and interrogated, other joint task force were raiding Biben Kogoya's house for documents that could be used as evidence. The joint task force also raided other victims' houses.

At approximately at 1pm, the chief of regional police (KAPOLDA) of Papua and the chief of Jayapura city district police (KAPOLRESTA) came to Biben's yard and ordered the joint team members to stop their assault. The victims were brought to the Jayapura city district police headquarters and interrogated as witnesses of the Nafri and Skyline killings. The police officers did not show any arrest and seizure warrant when arresting the victims. The police officers also did not inform the victims of their rights and interrogated them without legal counsel.

The Jayapura police officers threatened to kill Ekimar and Panius if they did not confess to being the killers in the Nafri and Skyline incidents. As a result, the two victims made statements that they were the killers. Ekimar is a minor.

## CASE STUDY #2

*Adapted from the Asian Human Rights Commission (AHRC) website*

### **MALAYSIA, 2011**

Six members of the Parti Socialis Malaysia (PSM) were detained for 35 days without trial. They were first detained on 25 June as part of a group of 31 persons travelling to Penang to promote the Bersih 2.0 rally for electoral reforms that was to be held on 9 July. The Bersih 2.0 rally was initiated by a coalition of over 60 civil society groups calling for electoral reforms for free and fair elections in Malaysia. The Bersih 2.0 coalition was declared an illegal organization by the government and its supporters subject to police intimidation.

The Butterworth Magistrate's Court ordered that 30 of the detainees be held for seven days to assist the police investigation under Section 122 of the Penal Code for allegedly waging war against the Yang di-Pertuan Agong (Malaysia's Supreme Head of State, the King) and for attempting to revive the Communist Party. A 16-year-old teenager travelling with the group was released unconditionally. On 1 July, the High Court upheld the Magistrate's remand order.

After being released on 2 July 2011, six PSM members were immediately re-arrested and held under the Emergency (Public Order and Prevention of Crime) Ordinance 1969 (EO). The EO provides the police with powers to detain a person for up to 60 days. After the initial 60-day detention period, the Home Ministry can make an order authorizing further detention without trial for a period of up to two years. This order can be renewed indefinitely.

On 6 July, the six detainees filed their habeas corpus application to challenge their unlawful detention. This application is normally heard on an urgent basis but the High Court decided that the application would only be heard on 22 July. The Court then postponed the hearing date to 9 August.

The six detainees were released on 29 July.

### CASE STUDY #3

*Adapted from the Asian Human Rights Commission (AHRC) website*

#### PHILIPPINES, 2012

On 5 March 2012 at 6:30pm, Jimmy Liguyon, an indigenous leader and the barangay (village) chair of Dao, San Fernando, Bukidnon, was shot dead inside his residence by Alde Salusad a.k.a. Butsoy. Since 2011, the victim has been receiving threats to his life from members of a paramilitary group due to his anti-mining advocacy in his village.

The perpetrator, Alde is a member of a paramilitary group "TRIOM Force" (New Indigenous People's Army for Reforms). The group was reportedly created by Vice Mayor Levy Edma and backed by Lt. Fallar of the 8th Infantry Battalion, Philippine Army based at Halapitan, San Fernando Bukidnon.

Emelio and Arser Liguyon, brothers of the victim, went to Jimmy's house to borrow money and rice at 5.50 pm. Alde arrived accompanied by 15 armed men in military uniform and entered Jimmy's house without permission. Alde asked Jimmy about the presence of the military in the area. Jimmy replied that he had not noticed any soldiers patrolling the area. Alde then ordered Jimmy to transfer to the opposite bench. Jimmy obeyed and stood up. Alde pretended to offer his hand to shake Jimmy's, then shot him, hitting Jimmy in the chest and killing him instantly.

Shocked by the shooting of their brother, Emelio and Arser ran in separate directions.

Alde was heard to have said: "I killed the captain village chief because he would not sign the SANMATRIDA and refused to give certification to SANMATRIDA." Alde also warned the people that whoever complains and fights back, especially the Liguyon siblings, will also be killed.

The San Fernando Tribal Datus Association or SANMATRIDA, is a group of Lumad that acquired a Certificate of Ancestral Domain Title (CADT) from the government over 52,000 hectares of land in several villages in San Fernando, Bukidnon, including Dao. The SANMATRIDA Multi-purpose Cooperative, chaired by retired military official Herman Cris P. Estrella, has been inviting mining investors into their domain. The tribal datu of Barangay Dao under the SANMATRIDA is Alde Salusad's uncle, Datu 'Manayab' Carillo Salusad.

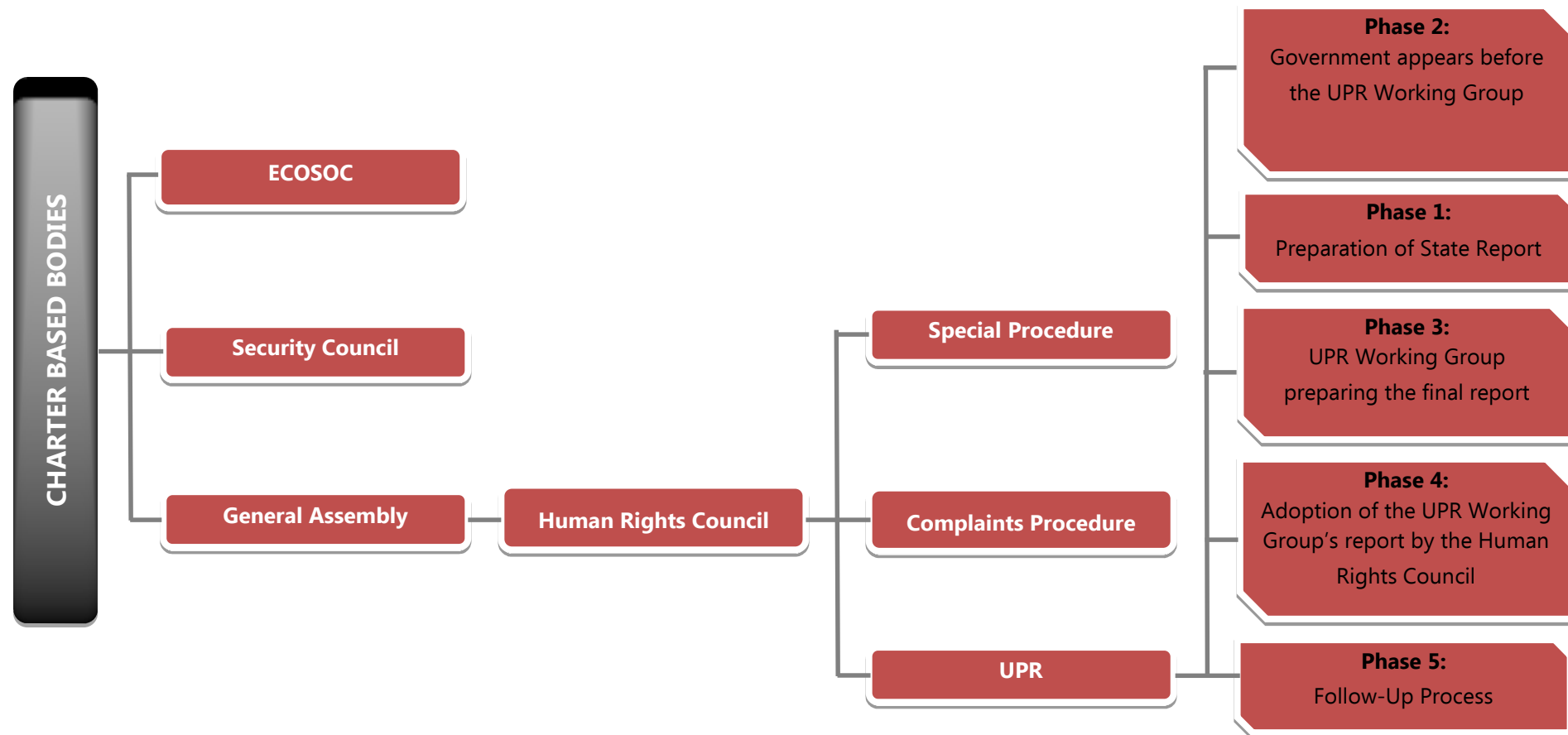
Jimmy strongly resisted the entry of mining companies into his village, where the main source of income is small-scale mining. His stand against the entry of mining companies in his village made him a target of SANMATRIDA and its militia led by Alde's father, Ben Salusad a.k.a Nonong.

In October 2011, Jimmy received several death threats and was detained by members of TRIOM Force who told him to allow mining in Dao village.

Jimmy also received information that Barangay Kagawad (village council members) Merlyn Isidro, Medy Mancilla and Fausto Bacliran were allegedly planning to kill him by using TRIOM Force men. The three village council members were the local buyers of gold in the area and were encouraging large scale mining companies to operate in their locality.

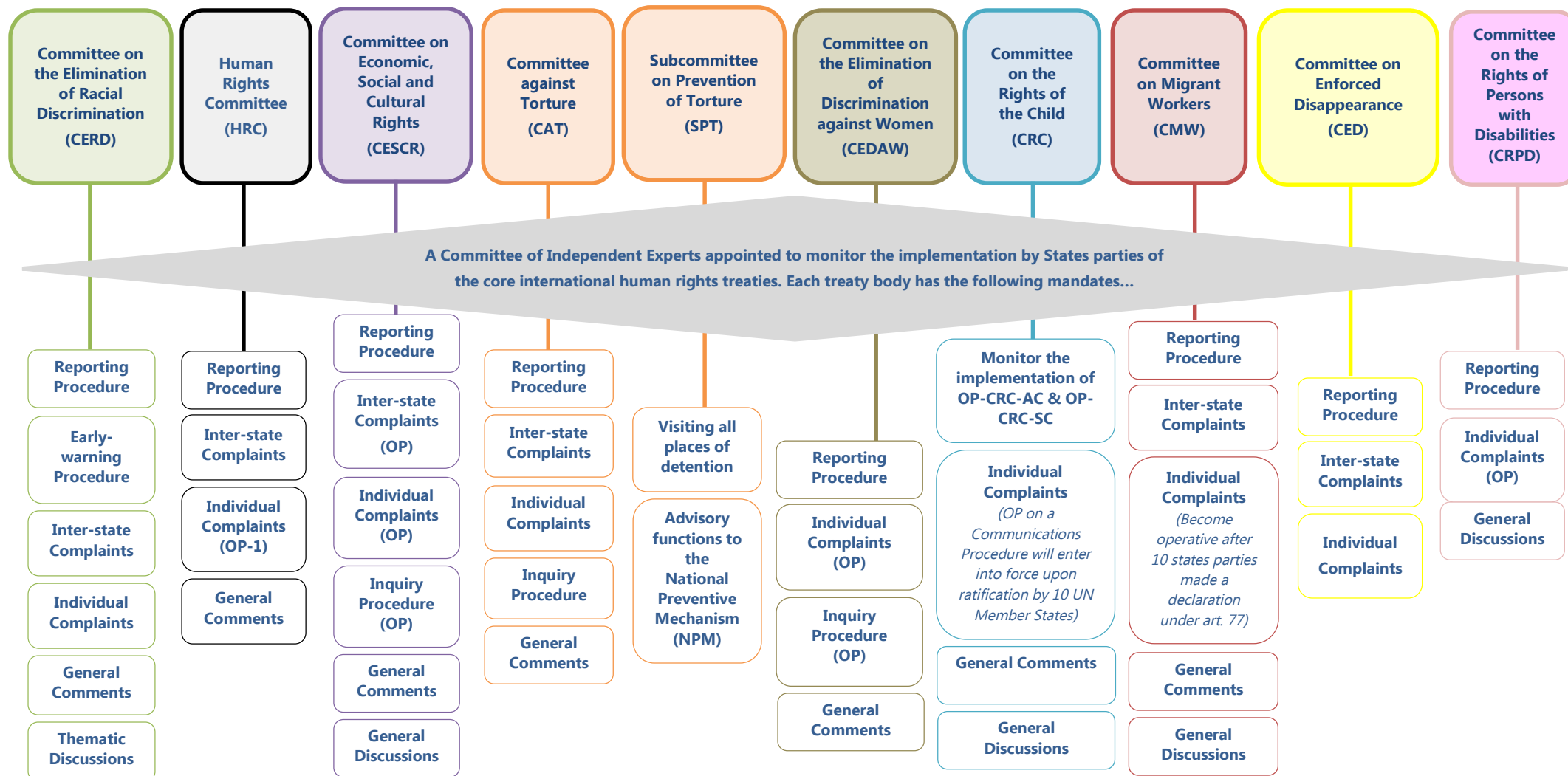
The main suspect in Jimmy's murder faces a warrant for his arrest, but has been seen going about his usual business in the village.

## REFERENCE SHEET 8: Charter-based Bodies Diagram

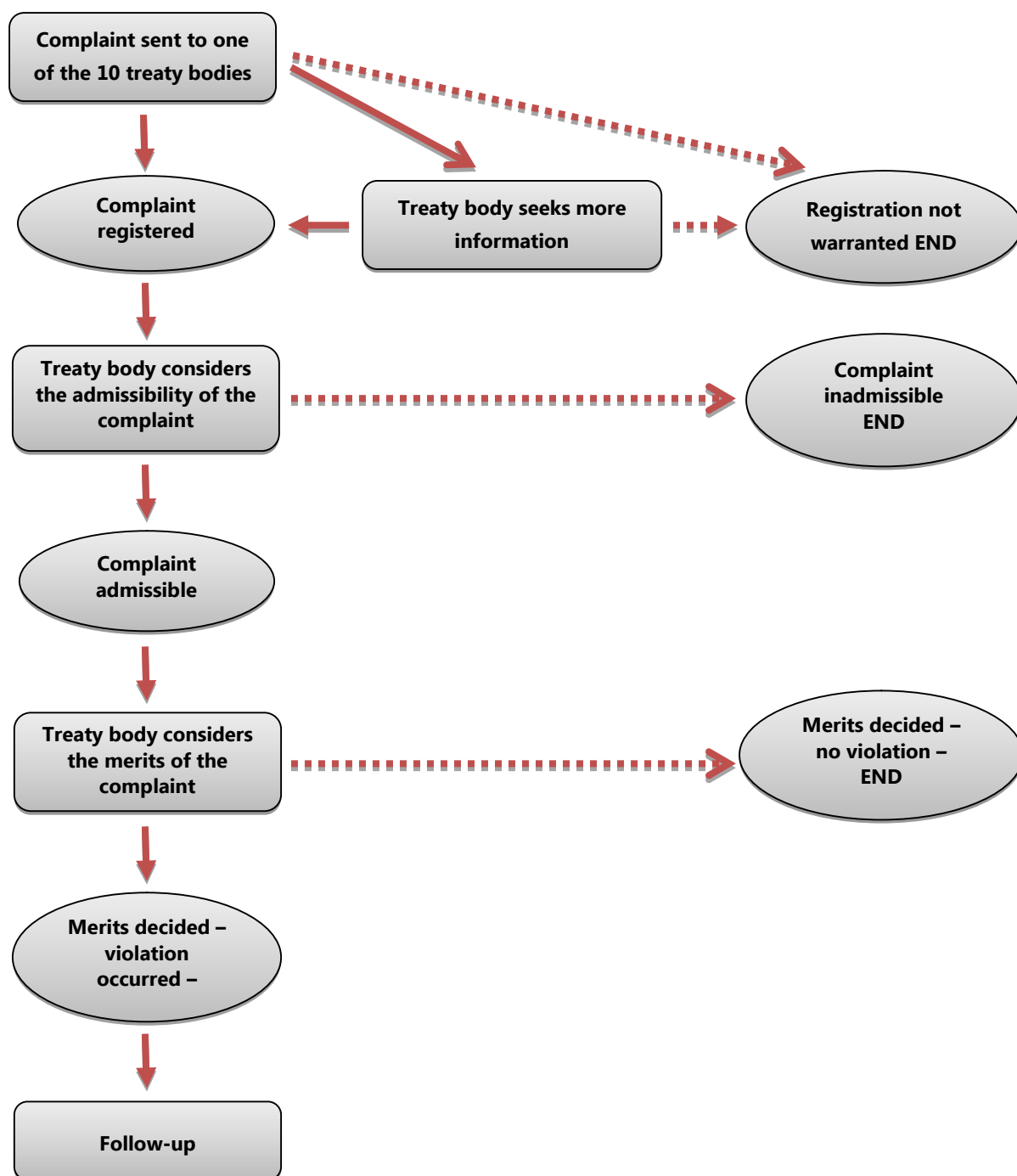




## REFERENCE SHEET 9: Treaty-based Bodies Diagram



## REFERENCE SHEET 10: Treaty Bodies Complaint Procedures<sup>7</sup>



<sup>7</sup> "How to Complain about Human Rights Treaty Violations", [www.bayefsky.com/tree.php/id/9178](http://www.bayefsky.com/tree.php/id/9178), accessed 04 July 2012. Updated for the purpose of this training, November 2012.

## REFERENCE SHEET 11: Individual Complaint Form<sup>8</sup>

For communications under:

- Optional Protocol to the International Covenant on Civil and Political Rights
- Convention against Torture, or
- International Convention on the Elimination of Racial Discrimination

Please indicate which of the above procedures you are invoking: .....

Date: .....

### I. Information of the complainant:

Name : ..... First name(s) : .....

Nationality : ..... Date and place of birth : .....

Address for correspondence on this complaint: .....

.....

.....

Submitting the communication : .....

on the author's own behalf : .....

on behalf of another person : .....

[If the complaint is being submitted on behalf of another person:]

Please provide the following personal details of that other person:

Name : ..... First name(s) : .....

Nationality : ..... Date and place of birth : .....

Address or current whereabouts: .....

.....

.....

If you are acting with the knowledge and consent of that person, please provide that person's authorization for you to bring this complaint .....  
or

If you are not so authorized, please explain the nature of your relationship with that person:

.....

and detail why you consider it appropriate to bring this complaint on his or her behalf: .....

.....

### II. State concerned/Articles violated

Name of the State that is either a party to the Optional Protocol (in the case of a complaint to the Human Rights Committee) or has made the relevant declaration (in the case of complaints to the Committee against Torture or the Committee on the Elimination of Racial Discrimination):

.....

.....

<sup>8</sup> OHCHR, [www2.ohchr.org/english/bodies/docs/annex1.pdf](http://www2.ohchr.org/english/bodies/docs/annex1.pdf), accessed 04 July 2012.

Articles of the Covenant or Convention alleged to have been violated: .....  
.....  
.....

### III. Exhaustion of domestic remedies/Application to other international procedures

Steps taken by or on behalf of the alleged victims to obtain redress within the State concerned for the alleged violation – detail which procedures have been pursued, including recourse to the courts and other public authorities, which claims you have made, at which times, and with which outcomes:

.....  
.....  
.....

If you have not exhausted these remedies on the basis that their application would be unduly prolonged, that they would not be effective, that they are not available to you, or for any other reason, please explain your reasons in detail: .....

.....  
.....

Have you submitted the same matter for examination under another procedure of international investigation or settlement (e.g. the Inter-American Commission on Human Rights, the European Court of Human Rights, or the African Commission on Human and Peoples' Rights)? .....

.....  
.....

If so, detail which procedure(s) have been, or are being, pursued, which claims you have made, at which times, and with which outcomes: .....

.....  
.....

### IV. Facts of the complaint

Detail, in chronological order, the facts and circumstances of the alleged violations. Include all matters which may be relevant to the assessment and consideration of your particular case. Please explain how you consider that the facts and circumstances described violate your rights.

.....  
.....  
.....

Author's signature: .....

[The blanks under the various sections of this model communication simply indicate where your responses are required. You should take as much space as you need to set out your responses.]

**V. Checklist of supporting documentation (copies, not originals, to be enclosed with your complaint):**

- Written authorization to act (if you are bringing the complaint on behalf of another person and are not otherwise justifying the absence of specific authorization): .....
- Decisions of domestic courts and authorities on your claim (a copy of the relevant national legislation is also helpful): .....
- Complaints to and decisions by any other procedure of international investigation or settlement: .....
- Any documentation or other corroborating evidence you possess that substantiates your description in Part IV of the facts of your claim and/or your argument that the facts described amount to a violation of your rights: .....

If you do not enclose this information and it needs to be sought specifically from you, or if accompanying documentation is not provided in the working languages of the Secretariat, the consideration of your complaint may be delayed.

## REFERENCE SHEET 12: Major Human Rights Treaties

### Universal Declaration of Human Rights (Universal Declaration)

The Universal Declaration was the first detailed expression of the basic rights and fundamental freedoms to which all human beings are entitled.

1948

### Convention on Racial Discrimination

The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) obliges States to take steps to prohibit racial discrimination and promote understanding among all races.

1965

### Covenant on Economic, Social and Cultural Rights

The International Covenant on Economic, Social and Cultural Rights (ICESCR) protects rights like the right to an adequate standard of living, education, work, healthcare, and social security. The ICESCR and the ICCPR (below) build on the Universal Declaration of Human Rights by creating binding obligations for state parties.

1966

### Covenant on Civil and Political Rights

Human rights protected by the International Covenant on Civil and Political Rights (ICCPR) include the right to vote, the right to freedom of association, the right to a fair trial, right to privacy, and the right to freedom of religion.

1966

### *The First Optional Protocol to the ICCPR*

*The Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR-OP1) creates a mechanism for individuals to make complaints about breaches of their rights.*

1966

### Convention on the Discrimination against Women

Under the Convention of the Elimination of All forms of Discrimination against Women (CEDAW), States must take steps to discrimination against women and to ensure that women enjoy human rights to the same degree as men in a range of areas: education, employment, healthcare and family life.

1979

### Convention against Torture

The Convention against Torture and Other Cruel, Inhuman or other Degrading Treatment of Punishment (CAT) aims to prevent torture around the world. It requires states to take steps to eliminate torture in within their borders and prohibits states from sending a person to another country where he or she would be in danger of being subjected to torture.

1984

### Convention on the Rights of the Child

The Convention on the Rights of the Child (CRC) states that children are entitled to the same human rights as all other people. It also creates special rights for children, recognizing their particular vulnerability, such as the right to express their views freely, and that decisions affecting children must consider the best interests of the child.

1989

### *The Second Optional Protocol to the ICCPR*

*The Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR-OP2) aims at the abolition of the death penalty.*

1989

### Convention on Migrant Workers

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) aims to ensure that migrant workers enjoy full protection of their human rights, regardless of their legal status.

1990

### *Optional Protocol to the CEDAW*

*The Optional Protocol (OP-CEDAW) establishes a mechanism for making complaints.*

1999

### *Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict*

*The Optional Protocol to the Convention on the Rights of the Child on the Involvement Of Children in Armed Conflict (OP-CRC-AC) is an effort to strengthen implementation of the Convention and increase the protection of children during armed conflicts.<sup>9</sup>*

2000

<sup>9</sup> United Nations Children's Funds (UNICEF), "Optional Protocol on the involvement of children in armed conflict", [www.unicef.org/crc/index\\_30203.html](http://www.unicef.org/crc/index_30203.html), accessed 04 July 2012.

**Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography**

*The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (OP-CRC-SC) supplements the Convention by providing States with detailed requirements to end the sexual exploitation and abuse of children. It also protects children from being sold for non-sexual purposes.<sup>10</sup>*

2000

**Optional Protocol to the CAT**

*The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or other Degrading Treatment of Punishment (OP-CAT) creates a system for regular inspection of places of detention.*

2002

**Convention on Persons with Disabilities**

The Convention on the Rights of Persons with Disabilities (CRPD) aims to promote, protect and ensure the full and equal enjoyment of all human rights by persons with disability. It includes the right to health, education, employment, accessibility, and non-discrimination.

2006

**Optional Protocol to the Convention on the Rights of Persons with Disabilities**

*The Optional Protocol to the Convention on the Rights of Persons with Disabilities (OP-CRPD) establishes an individual complaints mechanism.*

2006

**Convention on Enforced Disappearance**

The International Convention for the Protection of All Persons from Enforced Disappearance (CRPD) creates new obligations on states to prevent, investigate and prosecute enforced disappearances and to protect and compensate victims.

2006

**Optional Protocol of the ICESCR**

*The Optional Protocol of the International Covenant on Economic, Social and Cultural Rights (ICESCR-OP) confirms the equal value and importance of all human rights, as initially envisaged by the Universal Declaration, and remedies a gap in human rights protection under the international system.*

2008

<sup>10</sup> United Nations Children's Funds (UNICEF), "Optional Protocol on the sale of children, child prostitution and child pornography", [www.unicef.org/crc/index\\_30204.html](http://www.unicef.org/crc/index_30204.html), accessed 04 July 2012.



## REFERENCE SHEET 13: The United Nations Mandate-Holders<sup>11</sup>

| MANDATE   | ESTABLISHED                                       | MANDATE-HOLDER  |
|---|---|---|
| <b>COUNTRY MANDATES</b>   |   |   |
| Special Rapporteur on the situation of human rights in <b>Belarus</b>   | 2012<br>(for 1 year)                              | Mr. Miklós HARASZTI (Hungary)<br>(sr-belarus@ohchr.org)   |
| Special Rapporteur on the situation of human rights in <b>Cambodia</b>  | 1993  | Mr. Surya Prasad SUBEDI (Nepal)<br>(srcambodia@ohchr.org)   |
| Independent Expert on the situation of human rights in <b>Côte d’Ivoire</b>                                   | 2011<br>(for 1 year)                              | Mr. Doudou DIÈNE (Senegal)<br>(EICotedivoire@ohchr.org)   |
| Special Rapporteur on the situation of human rights in <b>Eritrea</b>   | 2012<br>(for 1 year)                              | Ms. Sheila B.KEETHARUTH (Mauritius)<br>(sr-eritrea@ohchr.org)   |
| Special Rapporteur on the situation of human rights in the <b>Democratic People’s Republic of Korea</b>       | 2004  | Mr. Marzuki DARUSMAN (Indonesia)<br>(hr-dprk@ohchr.org)   |
| Independent Expert on the situation of human rights in <b>Haiti</b>   | 1995<br>(duration of mandate not specified)       | Mr. Michel FORST (France)<br>(ie-haiti@ohchr.org)   |
| Special Rapporteur on the situation of human rights in the <b>Islamic Republic of Iran</b>                    | 2011  | Mr. Ahmed SHAHEED (Maldives)<br>(sr-iran@ohchr.org)   |
| Special Rapporteur on the situation of human rights in <b>Myanmar</b>   | 1992  | Mr. TomásOJEA QUINTANA (Argentina)<br>(sr-myanmar@ohchr.org)  |
| Special Rapporteur on the situation of human rights in the <b>Palestinian territories occupied since 1967</b> | 1993<br>(until the end of the Israeli occupation) | Mr. Richard FALK (USA)<br>(sropt@ohchr.org)   |
| Independent Expert on the situation of human rights in <b>Somalia</b>   | 1993  | Mr. Shamsul BARI (Bangladesh)<br>(ie-somalia@ohchr.org)   |
| Independent Expert on the situation of human rights in the <b>Sudan</b>                                       | 2009  | Mr. Mashood BADERIN (Nigeria)<br>(sudan@ohchr.org)  |
| Special Rapporteur on the situation of human rights in the <b>Syrian Arab Republic</b>                        | 2011  | Mr. Paulo Sérgio PINHEIRO (Brazil) - will start once the mandate of the commission of inquiry ends<br>(srsyria@ohchr.org) |

<sup>11</sup> As of April 2013. Office of the United Nations High Commissioner for Human Rights (OHCHR), “United Nations Special Procedures: Facts and Figures 2011”, May 2012, pp. 2-4. Updated for the purpose of the training.

| MANDATE   | ESTABLISHED | MANDATE-HOLDER  |
|---|-------------|---|
| <b>THEMATIC MANDATES</b>  |             |   |
| Special Rapporteur on <b>adequate housing</b> as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context | 2000        | Ms. Raquel ROLNIK (Brazil)<br>(srhousing@ohchr.org)   |
| Working Group on people of <b>African descent</b>   | 2002        | Ms. Verene SHEPHERD (Jamaica)<br>Chair-Rapporteur<br>Ms. Monorama BISWAS (Bangladesh)<br>Ms. Mireille FANON-MENDES-FRANCE (France)<br>Ms. Maya SAHLI (Algeria)<br>Ms. Mirjana NAJCEVSKA (The Former Yugoslav Republic of Macedonia)<br>(africandescent@ohchr.org) |
| Working Group on <b>Arbitrary Detention</b>   | 1991        | Mr. El Hadji Malick SOW (Senegal)<br>Chair-Rapporteur<br>Ms. Shaheen Sardar ALI (Pakistan)<br>Vice-Chair<br>Mr. Roberto GARRETON (Chile)<br>Mr. Vladimir TOCHILOVSKY (Ukraine)<br>Mr. Mads ANDENAS (Norway)<br>(wgad@ohchr.org)                                   |
| Special Rapporteur on the <b>sale of children</b> , child prostitution and child pornography  | 1990        | Ms. Najat Maalla M'JID (Morocco)<br>(srsaleofchildren@ohchr.org)  |
| Special Rapporteur in the field of <b>cultural rights</b>   | 2009        | Ms. Farida SHAHEED (Pakistan)<br>(srculturalrights@ohchr.org)   |
| Independent expert on the promotion of a democratic and equitable <b>international order</b>  | 2011        | Mr. Alfred de ZAYAS (USA)<br>(ie-internationalorder@ohchr.org)  |
| Special Rapporteur on the right to <b>education</b>   | 1998        | Mr. Kishore SINGH (India)<br>(sreducation@ohchr.org)  |
| Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable <b>environment</b>                  | 2012        | Mr. John KNOX (USA)<br>(ieenvironment@ohchr.org)  |
| Working Group on <b>Enforced or Involuntary Disappearances</b>  | 1980        | Mr. Olivier de FROUVILLE (France)<br>Chair-Rapporteur<br>Mr. Ariel DULITZKY (Argentina/ USA)<br>Ms. Jasminka DZUMHUR (Bosnia and Herzegovina)<br>Mr. Jeremy SARKIN (South Africa)<br>Mr. Osman EL-HAJJE (Lebanon)<br>(wgeid@ohchr.org)                            |
| Special Rapporteur on <b>extrajudicial, summary or arbitrary executions</b>   | 1982        | Mr. Christof HEYNS (South Africa)<br>(eye@ohchr.org)  |
| Special Rapporteur on <b>extreme poverty and human rights</b>   | 1998        | Ms. Maria Magdalena SEPÚLVEDACARMONA (Chile)<br>(srextremepoverty@ohchr.org)  |

|   |      |   |
|---|------|---|
| Special Rapporteur on the right to <b>food</b>  | 2000 | Mr. Olivier De SCHUTTER (Belgium)<br>(srfood@ohchr.org)   |
| Independent expert on the effects of <b>foreign debt</b> and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights | 2000 | Mr. Cephas LUMINA (Zambia)<br>(ieforeigndebt@ohchr.org)   |
| Special Rapporteur on the rights to <b>freedom of peaceful assembly and of association</b>  | 2010 | Mr. Maina KIAI (Kenya)<br>(freeassembly@ohchr.org)  |
| Special Rapporteur on the promotion and protection of the right to <b>freedom of opinion and expression</b>   | 1993 | Mr. Frank LA RUE (Guatemala)<br>(freedex@ohchr.org)   |
| Special Rapporteur on <b>freedom of religion or belief</b>  | 1986 | Mr. Heiner BIELEFELDT (Germany)<br>(freedomofreligion@ohchr.org)  |
| Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental <b>health</b>  | 2002 | Mr. Anand GROVER (India)<br>(srhealth@ohchr.org)  |
| Special Rapporteur on the situation of <b>human rights defenders</b>  | 2000 | Ms. Margaret SEKAGGYA (Uganda)<br>(defenders@ohchr.org)   |
| Special Rapporteur on the <b>independence of judges and lawyers</b>   | 1994 | Ms. Gabriela KNAUL (Brazil)<br>(srindependencejl@ohchr.org)   |
| Special Rapporteur on the rights of <b>indigenous peoples</b>   | 2001 | Mr. James ANAYA (USA)<br>(indigenous@ohchr.org)   |
| Special Rapporteur on the human rights of <b>internally displaced persons</b>   | 2004 | Mr. Chaloka BEYANI (Zambia)<br>(idp@ohchr.org)  |
| Working Group on the use of <b>mercenaries</b> as a means of impeding the exercise of the right of peoples to self-determination  | 2005 | Ms. Faiza PATEL (Pakistan)<br>Chair-Rapporteur<br>Ms. Patricia ARIAS (Chile)<br>Ms. Elzbieta KARSKA (Poland)<br>Mr. Anton KATZ (South Africa)<br>Mr. Gabor RONA (USA/ Hungary)<br><br>(mercenaries@ohchr.org) |
| Special Rapporteur on the human rights of <b>migrants</b>   | 1999 | Mr. François CRÉPEAU (Canada)<br>(migrant@ohchr.org)  |
| Independent Expert on <b>minority issues</b>  | 2005 | Ms. Rita IZSAK (Hungary)<br>(minorityissues@ohchr.org)  |
| Special Rapporteur on the <b>promotion of truth, justice, reparation &amp; guarantees of non-recurrence</b>   | 2011 | Mr. Pablo De GREIFF (Colombia)<br>(srtruth@ohchr.org)   |
| Special Rapporteur on contemporary forms of <b>racism</b> , racial discrimination, xenophobia and related intolerance   | 1993 | Mr. Mutuma RUTEERE (Kenya)<br>(racism@ohchr.org)  |
| Special Rapporteur on contemporary forms of <b>slavery</b> , including its causes and its consequences  | 2007 | Ms. Gulnara SHAHINIAN (Armenia)<br>(srslavery@ohchr.org)  |
| Independent Expert on human rights and <b>international solidarity</b>  | 2005 | Ms. Virginia DANDAN (Philippines)<br>(iesolidarity@ohchr.org)   |
| Special Rapporteur on the promotion and protection of human rights while countering <b>terrorism</b>  | 2005 | Mr. Ben EMMERSON (United Kingdom of Great Britain and Northern Ireland)<br>(srct@ohchr.org)   |
| Special Rapporteur on <b>torture</b> and other cruel, inhuman or degrading treatment or punishment  | 1985 | Mr. Juan MENDEZ (Argentina)<br>(sr-torture@ohchr.org)   |

|  |      |   |
|--|------|---|
| Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of <b>hazardous substances and wastes</b> | 1995 | Mr. Marc PALLEMAERTS (Belgium)<br>( <i>srtoxicwaste@ohchr.org</i> )   |
| Special Rapporteur on <b>trafficking in persons</b> , especially women and children  | 2004 | Ms. Joy Ngozi EZEILO (Nigeria)<br>( <i>srtrafficking@ohchr.org</i> )  |
| Working Group on <b>the issue of human rights and transnational corporations and other business enterprises</b>  | 2011 | Mr. Puvan J. SELVANATHAN (Malaysia)<br>Chair-Rapporteur<br>Mr. Michael K. ADDO (Ghana)<br>Ms. Alexandra GUAQUETA (Colombia/ USA)<br>Ms. Margaret JUNGK (USA)<br>Mr. Pavel SULLYANDZIGA (Russian Federation)<br><br>( <i>wg-business@ohchr.org</i> )         |
| Special Rapporteur on the human right to safe drinking <b>water</b> and sanitation   | 2008 | Ms. Catarina de ALBUQUERQUE (Portugal)<br>( <i>srwatsan@ohchr.org</i> )   |
| Working Group on the issue of discrimination against <b>women in law and in practice</b>   | 2010 | Ms. Kamala CHANDRAKIRANA (Indonesia)<br>Chair-Rapporteur<br>Ms. Frances RADAY (Israel/ UK)<br>Vice-Chair<br>Ms. Emna AOUIJ (Tunisia)<br>Ms. Patricia OLAMENDI (Mexico)<br>Ms. Eleonora ZIELINSKA (Poland)<br><br>( <i>wgdiscriminationwomen@ohchr.org</i> ) |
| Special Rapporteur on violence against <b>women</b> , its causes and consequences  | 1994 | Ms. Rashida MANJOO (South Africa)<br>( <i>vaw@ohchr.org</i> )   |

## Activity 3.1(2)

# Regional Human Rights Systems

### Activity Objectives

- To be aware of the existing regional human rights systems.
- To reflect on the possibilities for the development of the ASEAN human rights system.

### Key Contents

- Information about regional human rights systems

### Method

- General discussion
- Plenary discussion
- Lecture

### Media

- Laptop
- LCD projector
- Microphone and speakers
- Flipchart
- Markers
- Table of comparison of regional systems on flipchart
- Reference Sheets:
  - Regional Human Rights Systems
  - Media articles

### Time

60 minutes

### Steps

#### Option 1

1. The facilitator briefly explains the activity objectives.
2. The facilitator invites the participants to brainstorm about regional human rights systems.
3. The facilitator introduces the resource person and the topics which will be covered in the presentation:
  - a. What is the geographical and personal jurisdiction of the regional human rights system?
  - b. What are the available mechanisms within the regional human rights system? Any quasi-legal mechanism and/or legal mechanism?
  - c. What are the strengths and weaknesses?
4. The facilitator invites the participants to respond to the presentation and ask questions.

## Option 2

1. The facilitator explains the objective of the activity, namely to reflect on the possibilities for the improvement of human rights protection in ASEAN Member States by considering the characteristics of the ASEAN human rights system.
2. The facilitator explains that the participants will be divided into three groups, each will be asked to study **Reference Sheet No. 14** on Regional Human Rights Systems. The groups will be asked to answer these questions:
  - a. What is the geographical and personal jurisdiction of the regional human rights system?
  - b. What are the available mechanisms within the regional human rights system? Any quasi-legal mechanism and/or legal mechanism?
  - c. What are the strengths and weaknesses?
3. The facilitator divides the participants into three groups.
4. Group work.
5. Group presentation. Each group shall be given 5 minutes to explain their answer.

## REFERENCE SHEET 14: Regional Human Rights Systems<sup>12</sup>

Currently, there exist three regional, treaty-based systems for the adjudication and reparation of human rights violations committed against individuals: the Inter-American, European, and African. The three regional systems were each established under the auspices of a larger intergovernmental organization for regional cooperation: the Organization of American States (OAS), Council of Europe, and African Union, respectively.

Two other regional human rights bodies in the Middle East and Southeast Asia – the newly-created Arab Human Rights Committee (a League of Arab States body) and the ASEAN Intergovernmental Commission on Human Rights (AICHR) - do not decide individual complaints and, therefore, cannot be considered quasi-judicial.

The key feature of each system is a judicial or quasi-judicial decision-making body (or bodies) responsible for receiving complaints of alleged human rights violations and determining States' international responsibility. These are, respectively, the Inter-American Court of Human Rights and Inter-American Commission on Human Rights; the European Court of Human Rights (and defunct European Commission of Human Rights) and European Committee of Social Rights; and the African Commission on Human and Peoples' Rights and the African Court on Human and Peoples' Rights (and the to-be-established African Court of Justice and Human Rights, whose protocol has been ratified by only **3 States as of April 2013**). The nature and duties of each system's organs, as well as the norms they interpret and apply, are established in regional treaties.

**INTER-AMERICAN.** The competence of the Inter-American Court of Human Rights and Inter-American Commission on Human Rights extends throughout the Western Hemisphere. The Commission may decide contentious cases against **all 35 OAS Member States** under the 1948 American Declaration on the Rights and Duties of Man, and against the **24 States**<sup>13</sup> which have ratified the American Convention on Human Rights. The Court, conversely, may only examine contentious cases against States which have both ratified the American Convention and recognized the Inter-American Court's jurisdiction (**currently 18 States**).

**EUROPEAN.** The European Court of Human Rights has jurisdiction over complaints against all 47 Council of Europe Member States, mandatory parties to the European Convention on Human Rights. The European Committee of Social Rights monitors compliance of Council of Europe Member States that have ratified the European Social Charter (**43 States**), and may decide complaints against those States that have chosen to accept the Committee's collective complaints procedures (**currently 15 States**).

**AFRICAN.** The African Commission on Human and Peoples' Rights may decide complaints against all **53 Member States of the African Union**, all signatories to the African Charter on Human and Peoples' Rights. The African Court on Human and Peoples' Rights has jurisdiction to give advisory opinions and to decide contentious cases against the **26 States** which have accepted its jurisdiction.

<sup>12</sup> International Justice Resource Center, "Regional Systems", <http://ihrlaw.org/ihr-reading-room/regional/>, accessed 07 July 2012. Updated for the purpose of this training, April 2013.

<sup>13</sup> On 26 May 1999, Trinidad and Tobago officially withdrew from the American Convention on Human Rights. On 10 September 2012, the Government of Venezuela also denounced the Convention.

**COMMON FEATURES.** Under the regional systems, only States may be held accountable for human rights violations- most basically because each system was created on the basis of a regional intergovernmental agreement establishing specific obligations of signatory States- a minimum code of conduct for States in the region. In other words, States have agreed to abide by certain standards in its actions and to ensure the enjoyment of certain guarantees by those within its jurisdiction, thereby establishing individual rights *vis-a-vis* the State. Thus, States may be held accountable for a particular violation when it is attributable to the action of State agents, to those acting with the knowledge and acquiescence of State agents, or to the State’s failure to protect individuals from the actions of non-State actors (when such a duty may be found due to, for example, knowledge of an specific threat to a protected right).

Further, international human rights adjudication is limited by the principles of subsidiarity and complementarity, meaning that the relevant international decision-making organs are meant neither to supplant nor form part of domestic judicial systems. Rather, those alleging human rights violations before an international tribunal must generally first have exhausted the appropriate, available domestic remedies. Additionally, the international tribunal will not review domestic judicial decisions which are procedurally fair. Generally, then, a State will only be considered internationally responsible for a violation when recourse was unavailable, unduly delayed, or inadequate at the domestic level. If, on the other hand, the violation was remedied by the State (for example, police officers prosecuted for an extrajudicial killing, or a discriminatory practice timely ceased- and the damage repaired as appropriate), there is no violation for which the State may be held internationally responsible.

In addition to individual complaints (contentious cases), the regional human rights systems engage in varying degrees of general human rights monitoring and promotion. Here, the broad role of the Inter-American Commission contrasts sharply with the highly limited role of the European Court. In this vein, the Inter-American Commission and African Commission have established various thematic rapporteurships, and the Council of Europe has established the Commissioner for Human Rights.



## REFERENCE SHEET 15: Media Articles

# Human Rights

### ALL ABOUT HUMAN RIGHTS ISSUES

### EXCLUSIVE NEWS TODAY

#### Human Rights Declaration Falls Short

By Mong Palatino

**November 28, 2012** - The document is a proclamation of governmental powers disguised as a declaration of human rights.

This was the scathing reaction of more than 50 human rights groups in Southeast Asia to the recent unveiling of a Human Rights Declaration drafted by the 10-member nations of the Association of Southeast Asian Nations (ASEAN).

The signing of the joint declaration was supposed to be the high point during the 21st ASEAN Summit in Phnom Penh but it turned out to be an embarrassing moment when civil society groups rejected it as an "anti-human rights instrument." It was ASEAN's chance to prove its adherence to the UN Universal Declaration of Human Rights (UDHR) but instead it merely made itself vulnerable to criticisms that it's an organization comprised of "human rights-hostile governments."

The initiative to establish the region's first joint declaration on human rights was discussed in Laos in 2010 by the ASEAN Intergovernmental Commission on Human Rights.

Countless officials and experts from ASEAN member countries had a hand in the drafting of the declaration. Still, key stakeholders and human rights advocates complained that they were not consulted.

When the declaration was made public this month, it was immediately dismissed by regional human rights organizations who claimed it contained provisions that distort universal standards on human rights protection. In particular, they question the wording of the declaration's general principles which balance rights with duties and responsibilities imposed by member countries.

"...the realization of human rights must be considered in the regional and national context bearing in mind different political, economic, legal, social, cultural, historical and religious backgrounds," a controversial provision reads.

"The exercise of human rights and fundamental freedoms shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition for the human rights and fundamental freedoms of others, and to meet the just requirements of national security,

public order, public health, public safety, public morality, as well as the general welfare of the peoples in a democratic society."

Indeed, several fundamental rights were identified in the declaration like the right to vote, the right to participate in government, and the right to form and join trade unions, but these supposedly universal rights are apparently applicable only if they conform to existing national laws and policies.

Maruah, a human rights group in Singapore, argued that the declaration subverts the concept of human rights by defining them through the lens of national governments instead of affirming them as the absolute and irrevocable rights of individuals. Maruah also derided ASEAN's decision to include "public morality" in the document, arguing that the term is "subjective and can be interpreted in such a manner that affects people, particularly women from fulfilling their rights."

Philippine human rights network Karapatan worries that the loopholes in the declaration would be used by state parties in the region as a "blueprint for further rights violations."

Meanwhile, the Committee to Protect Journalists noted in a letter to U.S. President Barack Obama that the document does not have a clear mechanism for enforcement.

Even the U.S. State Department - while stating, "in principle, we support ASEAN's efforts to develop a regional human rights declaration" - said in a statement that it was "deeply concerned that many of the ASEAN Declaration's principles and articles could weaken and erode universal human rights and fundamental freedoms as contained in the UDHR."

Navanethem Pillay, the UN High Commissioner on Human Rights, joined 62 local, regional, and international civil society groups by going so far as to call on ASEAN to suspend the signing of the declaration.

Taken aback by the flurry of criticisms of the declaration, ASEAN Secretary-General Surin Pitsuwan defended ASEAN saying the organization and its members "have come a long way on human rights" and contending that the group is "looking at it [human rights] in a long timeframe" with the declaration being an important step in "a progression."

ASEAN did the right thing in conceptualizing a regional human rights agreement but its attempt to refashion human rights to suit the national interests of its members is a serious attack on the principles of human rights. Perhaps it's wise for ASEAN to review the implementation of the declaration and consult a larger pool of stakeholders as part of a possible path forward.\*

<http://thediomat.com/asean-beat/2012/11/28/human-rights-declaration-falls-short/>

## ASEAN's Magna Carta a Miracle

By Kevin H.R. Villanueva

### ***BENEFITS FOR ALL: Human Rights Declaration is one small step for group and one giant step for humanity***

**February 05, 2013** - THE ASEAN Human Rights Declaration, signed by ASEAN's 10 heads of state last November, is a slender document with sections on general principles, civil and political rights, economic, social and cultural rights, development, peace, and international cooperation in the promotion and protection of human rights. Nothing like this Magna Carta has ever been adopted by any country or by any other legal bloc in the region.

The Asian values debate of the 1990s and the spectre of cultural relativism have been laid to rest. And the rights and principles that have been enshrined in the declaration reveal ASEAN's political will to level the playing field in international politics.

This human rights project offers novel and delicate notions on the right to peace and development and a clarion call for sovereign respect and equality in international cooperation. One iconic feature is ASEAN's imprimatur on the universality of the international human rights regime.

As a member of the Philippine delegation for the drafting of the declaration, I observed that the longest and thorniest debates during the negotiations revolved around the word "regional particularities". It was a joust between adopting the same paragraph in the Vienna Declaration and Programme of Action in 1993, from which the phrase originates, drafting a modified version that would alter the paragraph, except for that phrase, or removing the word "particularities" in an absolute and final way.

The result was a new article: "All human rights are universal, indivisible, interdependent and interrelated. All human rights and fundamental freedoms in this Declaration must be treated in a fair and equal manner, on the same footing and with the same emphasis.

"At the same time, the realisation of human rights must be considered in the regional and national context bearing in mind different political, economic, legal, social, cultural, historical and religious backgrounds." (Article 7)

"Particularities" was purged, putting on record ASEAN's consensus for an effective end to pretexts for selectivity, including partiality and forms of discrimination or double standards not only amongst member states but also between them and detractors in the West who would use rights talk in the service of self-interest.

It was agreed that Article 7 must, henceforth, never be interpreted as diminishing the universality of human rights or in a manner that would undermine the principles protected in the declaration. The provision also maintains the respect for the rich socio-cultural diversities of the member states and their national traditions.

It serves to remind the international community to be sensitive to the needs and desires of national constituencies, but to be critical and steadfast against local practices that violate human dignity.

It is unfortunate that in the past, understandings of "backgrounds" tended to emphasise national over regional contexts. Notions of "particularities" have thus to this day, inadvertently, been on the basis of national differences rather than on shared regional practices.

The Phnom Penh Statement by the heads of state on the adoption of the declaration states that the implementation of human rights must be "in accordance to the Charter of the United Nations, the Universal Declaration of Human Rights, the Vienna Declaration and Programme of Action, and other international human rights instruments to which ASEAN Member States are parties, as well as to relevant ASEAN declarations and instruments pertaining to human rights", lest the declaration lends itself to tangential interpretations of would-be authoritarians.

ASEAN has been criticised from within and outside for the lack of an effective voting system.

But the spirit of compromise and consensus played out consistently, and quite painfully, throughout the entire drafting process and especially in the negotiation of article 7.

Notwithstanding hard and intractable positions, the 10 representatives of the ASEAN Intergovernmental Commission on Human Rights invoked the ground rule to drop any issue when one or more states were in absolute disagreement. It was the double-edged sword.

Between the benefits of avoiding neighbourly conflict or those of an agreement, the pre-eminent principle for political expediency held sway: one for all, and all for one.

At a series of retreats, the framers, who were ultimately responsible for every word in the declaration, negotiated away from the public eye, combining the requirements of confidentiality (not secrecy) and of saving face in Southeast Asian ethos.

Such ideals and values are unique to ASEAN, but they lean undeniably on the principles of the modern state system in large measure.

Indeed, we can choose to be cynical and look only at the staying power of the state and how often it falters in protecting the rights and freedoms of peoples and individuals, women and men.

But we can also choose to look differently at this declaration: one small step for ASEAN, one giant leap for humanity.

The reverse is no less true: one small step for humanity, one giant leap for ASEAN. It is no small miracle that we now all stand to benefit either way.\*

<http://www.nst.com.my/opinion/columnist/asean-s-magna-carta-a-miracle-1.213128>

## Is the Inter-American Commission of Human Rights too progressive?

By Manuela Picq

**June 09, 2012 - San Francisco, CA**

The Inter-American Commission of Human Rights (IACHR) has been threatened yet again to be sent to the doghouse. The 42nd General Assembly of the Organisation of American States (OAS), held in Cochabamba, Bolivia, June 3 to 5, became another occasion for the ALBA bloc to intensify its offensive against the IACHR. President Evo Morales inaugurated the three-day summit suggesting the elimination of the IACHR. Venezuela's representative deplored the "decadence" of the OAS, whereas Ecuador's president exceptionally attended the meeting to put the international bureaucracy "back in its place". Earlier this year, President Hugo Chávez promised that Venezuela would leave the Inter-American human rights system, Nicaragua's President Daniel Ortega linked the OAS to the Monroe Doctrine, and Ecuador's chancellor denounced the IACHR as an inquisitor against member states.

Governments have alternatively accused the Commission of being a platform for US imperialism, an obsolete institution inadequate to contemporary geopolitical realities, or a biased judicial body exceeding its jurisdiction. As some progressive governments on the left pledge to reject the "old and worn-out OAS", they promote a Community of Latin American and Caribbean States (CELAC) as a desirable alternative.

*Following an outcry from indigenous communities that would be affected by the Belo Monte dam, the IACHR ordered the Brazilian government to halt the project [Reuters]*



Since the Commission was established in 1979 to hold governments accountable for human rights violations, it has been doing exactly that. But since the Commission started sticking its nose in matters presidents would rather sweep under the carpet, a wave of discontent has spread across the region.

But if anything, the attacks against the IACHR reinforce the legitimacy of a progressive judicial system.

### Government discontent with the IACHR

The IACHR is so unpopular among governments because it monitors human rights violations. The

*"[When the IACHR] issued precautionary measures in favour of indigenous communities of the Xingu River and ordered the Brazilian government to halt the construction of the Belo Monte hydroelectric dam project. Brazil threw a fit."*

*"The IACHR is the strongest human rights system in the Americas in part because it is independent enough to stand up to member-states."*

The challenge is not as much to reform the Commission's proceedings as to appease the wrath of states when rulings interfere with their political agendas. When the IACHR next meets at its Costa Rica headquarters on July 16, it will elect a new Executive Secretary to replace Santiago Cantón. Some governments under scrutiny will try to reduce the judicial independence of the Commission, notably by pressuring the OAS's hesitant Secretary General José Miguel Insulza.

Commission has held the government of Venezuela accountable for its systematic violation of judicial independence. Similarly, it recommended that Ecuador's government stop harassment against the press, notably in the case of *El Universo*.

Recently, the IACHR has been expanding its jurisdiction in ways that put member states in uncomfortable situations. The Commission, traditionally focused on civil and political rights, has accepted various cases of collective rights.

In May, the first case of femicide in Guatemala reached the Commission, while another case recognised education as a collective human right. Most importantly, the Commission has defended cases of prior consultation brought forward by indigenous peoples. Expanding the jurisdiction to collective, environmental rights has fueled a wave of discontent.

Argentina's recent silence when questioned about violence against indigenous peoples was mild. Things really turned sour when the IACHR upset the strongest kid on the block.

In April 2011, it issued precautionary measures in favour of indigenous communities of the Xingu River and ordered the Brazilian government to halt the construction of the Belo Monte hydroelectric dam project. Brazil threw a fit, keeping its ambassador to the OAS grounded at home in Brasilia in a sign of protest, recalling its candidate to the IACHR and suspending payment of its annual dues to the organisation (\$6 million of past dues were paid in full in 2012).

The Commission has impartially held accountable governments in both small countries like Guatemala and large, powerful ones like Brazil, while pursuing cases against the US for its Guantanamo military base in Cuba and against Venezuela for censorship of the mass media. So what exactly is the problem?

### Blowing hot and cold

The inconsistency of government discontent indicates the tensions are often political. In Ecuador, Luis Saavedra, from the human rights organisation INREDH, notes that President Rafael Correa invoked reports from the Inter-American system to discredit prior rightist governments. Correa's administration also cited principles of non-intervention in the OAS Charter to condemn the 2008 Colombian bombing against FARC leader Raul Reyes on Ecuadorian territory. It was only when the Special Rapporteur for Freedom of Expression called into question efforts to censor opposition media, notably recommending precautionary measures on the case of the newspaper El Universo that the Correa administration reacted strongly against the IACHR.

The Brazilian relation to the Commission has been similarly contradictory. President Rousseff strongly supported the IACHR request that Brazil create a Truth Commission to shed light on human rights violations that took place during the 1964-1985 military dictatorship. In fact, prior to the Belo Monte rulings, President Rousseff invoked the Commission's authority and stressed her country's engagement with the hemispheric human rights system.

These cases demonstrate that Commission decisions are supported when they are aligned

with governmental agendas and attacked and discredited when the Commission's actions are perceived as inconvenient. This indicates that the problem is not the legal procedures of the IACHR.

What bothers governments is not how decisions are made but who they are seen to favour. The IACHR is the strongest human rights system in the Americas in part because it is independent enough to stand up to member-states.

### The IACHR in perspective

There is nothing new about states resenting international mechanisms of accountability to human rights. Before Chavez, it was Fujimori who removed Peru from the OAS (he was subsequently found guilty of crimes against humanity). The IACHR is crucial as the last instance for many cases of human rights abuse, providing access to justice to individuals and entire communities. For Katya Salazar, at the Due Process of Law Foundation, it is as important to recognise the decisive leadership of the IACHR in shaping human rights norms, for the hemisphere and beyond.

The Inter-American system helped countries and governments move beyond dictatorships. In Argentina, the IACHR shed light on the clandestine detention centres where the military junta tortured and killed thousands of people (closing down the facility

of El Vesubio, for instance). In the 1990s, the Court supported the Peruvian government in rebuilding the country after the fall of the Fujimori regime. If there are so many Truth Commissions across Latin America it is also because the Court challenged amnesty laws as incompatible with OAS principles.

The revocation of amnesty laws is just one example of the Commission promoting judicial reform in the region.

The case Maria da Penha (2001), the first case of domestic violence to reach the Commission, not only upheld the rights of the victim but also led to legislative reforms in Brazil to reduce official governmental tolerance with in instances of domestic violence against women.

As the IACHR creatively interprets human rights norms, it expands the definition of rights, generates innovative, cutting-edge and progressive legislation. The IACHR’S pioneering role has inspired other human rights courts around the world, from Africa to Europe.

Tensions around collective rights to prior consultation like Belo Monte show the evolving face of human rights across the region. Cases brought to the Commission against the depredations of mining companies reveal both the collective dimension of human rights and the intricate relationship between states, multinational corporations and indigenous peoples.

Cases involving extractive industries also blur the lines between political parties on the right and the left. The form may vary, but the substantive content of these cases does not. Following in the footsteps of authoritarian governments before them, progressive governments on the left from Bolivia to Brazil are being taken to court for human rights abuses. Beyond the inevitable disillusionment with the arrival of the left to power, the current situation shows that human rights violations transgress familiar political and ideological camps.

The point is not to tar political parties on the right and the left with the same brush, however, but rather to point out that it may matter less whether the right or the left is in power as much as to call attention to the fact that that it is in the nature of power itself to resist and deny mechanisms of accountability. And that is precisely why the IACHR will always be necessary.

If heads of state hesitate in supporting an independent IACHR in July, they may simply be thinking that eventually they, too, will be on the other side of power.\*

<http://www.aljazeera.com/indepth/opinion/2012/06/2012658344220937.html>



## CIA 'tortured and sodomised' terror suspect, human rights court rules

*Landmark European court of human rights judgment says CIA tortured wrongly detained German citizen*

*By Richard Norton-Taylor*



*The European court of human rights has ruled German citizen Khaled el-Masri was tortured by CIA agents, the first time the court has described treatment meted out by the CIA as torture. Photograph: Christian Hartmann/AP*

**December 13, 2012** – CIA agents tortured a German citizen, sodomising, shackling, and beating him, as Macedonian state police looked on, the European court of human rights said in a historic judgment released on Thursday.

In a unanimous ruling, it also found Macedonia guilty of torturing, abusing, and secretly imprisoning Khaled el-Masri, a German of Lebanese origin allegedly linked to terrorist organisations.

Masri was seized in Macedonia in December 2003 and handed over to a CIA "rendition team" at Skopje airport and secretly flown to Afghanistan.

It is the first time the court has described CIA treatment meted out to terror suspects as torture.

"The grand chamber of the European court of human rights unanimously found that Mr el-Masri was subjected to forced disappearance, unlawful detention, extraordinary rendition outside any judicial process, and inhuman and degrading treatment," said James Goldston, executive director of the Open Society Justice Initiative.

He described the judgment as "an authoritative condemnation of some of the most objectionable tactics employed in the post-9/11 war on terror". It should be a wake-up call for the Obama administration and US courts, he told the Guardian. For them to continue to avoid serious scrutiny of CIA activities was "simply unacceptable", he said.

Jamil Dakwar, of the American Civil Liberties Union, described the ruling as "a huge victory for justice and the rule of law".

The use of CIA interrogation methods widely denounced as torture during the Bush administration's "war on terror" also came under scrutiny in Congress on Thursday. The US Senate's select committee on intelligence was expected to vote on whether to approve a mammoth review it has undertaken into the controversial practices that included waterboarding, stress positions, forced nudity, beatings and sleep and sensory deprivation.

The report, that runs to almost 6,000 pages based on a three-year review of more than 6m pieces of information, is believed to conclude that the "enhanced

interrogation techniques" adopted by the CIA during the Bush years did not produce any major breakthroughs in intelligence, contrary to previous claims. The committee, which is dominated by the Democrats, is likely to vote to approve the report, though opposition from the Republican members may prevent the report ever seeing the light of day.

The Strasbourg court said it found Masri's account of what happened to him "to be established beyond reasonable doubt" and that Macedonia had been "responsible for his torture and ill-treatment both in the country itself and after his transfer to the US authorities in the context of an extra-judicial 'rendition'".

In January 2004, Macedonian police took him to a hotel in Skopje, where he was kept locked in a room for 23 days and questioned in English, despite his limited proficiency in that language, about his alleged ties with terrorist organisations, the court said in its judgment. His requests to contact the German embassy were refused.

At one point, when he said he intended to leave, he was threatened with being shot.

"Masri's treatment at Skopje airport at the hands of the CIA rendition team – being severely beaten, sodomised, shackled and hooded, and subjected to total sensory deprivation – had been carried out in the presence of state officials of [Macedonia] and within its jurisdiction," the court ruled.

It added: "Its government was consequently responsible for those acts performed by foreign officials. It had failed to submit any arguments explaining or justifying the degree of force used or the necessity of the invasive and potentially debasing measures. Those measures had been used with premeditation, the aim being to cause Mr Masri severe pain or suffering in order to obtain information. In the court's view, such treatment had amounted to torture, in violation of Article 3 [of the European human rights convention]."

In Afghanistan, Masri was incarcerated for more than four months in a small, dirty, dark concrete cell in a brick factory near the capital, Kabul, where he was repeatedly interrogated and was beaten, kicked and threatened. His repeated requests to meet with a representative of the German government were ignored, said the court.

Masri was released in April 2004. He was taken, blindfolded and handcuffed, by plane to Albania and subsequently to Germany, after the CIA admitted he was wrongly detained. The Macedonian government, which the court ordered must pay Masri €60,000 (£49,000) in compensation, has denied involvement in kidnapping.

UN special rapporteur on human rights and counter-terrorism, Ben Emmerson, described the ruling as "a key milestone in the long struggle to secure accountability of public officials implicated in human rights violations committed by the Bush administration CIA in its policy of secret detention, rendition and torture".

He said the US government must issue an apology for its "central role in a web of systematic crimes and human rights violations by the Bush-era CIA, and to pay voluntary compensation to Mr el-Masri".

Germany should ensure that the US officials involved in this case were now brought to trial.\*

<http://www.guardian.co.uk/law/2012/dec/13/cia-tortured-sodomised-terror-suspect>



## REFERENCE SHEET 16: A Schematic Comparison of Regional Human Rights Systems<sup>14</sup>

|   | African   | Inter-American   | European  |
|---|---|--|---|
| <b>Regional organizations of which the systems form part</b>                  | Organization of African Unity, replaced by the African Union (AU) in July 2002 (53 members)   | Organization of American States (OAS), established in 1948 (35 members)  | Council of Europe (CoE), established in 1949 (47 members)   |
| <b>General human rights treaties which form the legal base of the systems</b> | <p>African Charter on Human and Peoples' Rights (1981/86), 53 ratifications.</p> <p>Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights (1998/2004), 26 ratifications.</p> <p>The Protocol entered into force in January 2004 and the process is underway to establish the Court. The AU Summit has taken a decision in July 2004 to merge the African Human Rights Court with the African Court of Justice. However, the 'Merger' Protocol has not yet been ratified by the necessary 15 Member States to come into force (it has been ratified by only 4 States as of</p> | <p>Charter of the OAS (1948/51), 35 ratifications, read together with the American Declaration on the Rights and Duties of Man (1948).</p> <p>American Convention on Human Rights (1969/78), 24 ratifications (18 states accept the compulsory jurisdiction of the Court).</p> | <p>Convention for the Protection of Human Rights and Fundamental Freedoms (1950/53), 47 ratifications, and 14 additional protocols. Protocol No. 11 created a single full-time court (1994/98). Protocol No. 14 (2004/10) to the European Convention on Human Rights and Fundamental Freedoms introduces changes in three main areas:</p> <ol style="list-style-type: none"> <li>1) reinforcement of the Court's filtering capacity to deal with clearly inadmissible applications;</li> <li>2) a new admissibility criterion concerning cases in which the applicant has not suffered a significant</li> </ol> |

<sup>14</sup> Excerpted from C. Heyns, D. Padilla and L. Zwaak, "A Schematic Comparison of Regional Human Rights Systems: An Update", Sur - International Journal on Human Rights; vol. 3, no. 4, pp. 163-171. Updated for the purpose of this training, April 2013.

|   | <b>African</b>   | <b>Inter-American</b>   | <b>European</b>  |
|---|--|---|--|
|   | June 2012).  |   | disadvantage;<br>3) measures for dealing more efficiently with repetitive cases.                     |
| <b>Supervisory bodies in respect of general treaties</b>                                | The Court was established in 2004.<br>The Commission was established in 1987.<br>The African Court of Justice and Human Rights is yet to be established.   | The Court was established in 1979.<br>The Commission was established in 1960 and its statute was revised in 1979.   | A single full-time Court was established in 1998, taking over from the earlier Commission and Court. |
| <b>Supervisory bodies based</b>   | <b>Court:</b> Arusha, the United Republic of Tanzania.<br><br><b>Commission:</b> Banjul, The Gambia (It often meets in other parts of Africa).   | <b>Court:</b> San Jose, Costa Rica.<br><br><b>Commission:</b> Washington, DC. (It also occasionally meets in other parts of the Americas).  | Strasbourg, France   |
| <b>Contentious/ advisory jurisdiction of Courts</b>                                     | Contentious and broad advisory   | Contentious and broad advisory  | Contentious and limited advisory   |
| <b>Who is able to seize the supervisory bodies in the case of individual complaints</b> | <b>Court:</b> After the Commission has given an opinion, only States and the Commission will be able to approach the Court. NGOs and individuals will have a right of ‘direct’ access to the Court where the state has made a special declaration.<br><br><b>Commission:</b> Not defined in the Charter. It has been interpreted widely to include any person or group of persons or NGOs. | <b>Court:</b> After the Commission has issued a report only states and the Commission can approach the Court. As from 2001, the Commission sends cases to the Court as a matter of standard practice.<br><br><b>Commission:</b> Any person or group of persons, or NGO. | Any individual, group of individuals or NGO claiming to be a victim of a violation.                  |

|  | <b>African</b>   | <b>Inter-American</b>   | <b>European</b>  |
|--|--|---|--|
| <b>Number of members of the supervisory bodies</b>               | <b>Court:</b> 11/ <b>Commission:</b> 11  | <b>Court:</b> 7/ <b>Commission:</b> 7   | Equal to the number of State Parties to the Convention (47)  |
| <b>Appointment of members of the supervisory bodies</b>          | Judges and Commissioners are elected by the AU Assembly of Heads of State and Government.  | Judges and Commissioners are elected by the General Assembly of the OAS.  | The Parliamentary Assembly of the CoE elects judges from three candidates proposed by each state. There is no restriction on the number of judges of the same nationality. |
| <b>Meeting of the supervisory bodies</b>                         | <b>Court:</b> 24 ordinary and 2 extra-ordinary sessions have been held.<br><br><b>Commission:</b> two regular two-week sessions per year (51 ordinary and 11 extraordinary sessions have been held). | <b>Court:</b> approximately five times per year; at least once per year (95 ordinary and 46 extraordinary sessions have been held).<br><br><b>Commission:</b> at least three meetings per year (143 sessions have been held). | The <b>Court</b> is a permanent body.  |
| <b>Terms of appointment of members of the supervisory bodies</b> | <b>Judges</b> are appointed for six years, renewable only once. Only the President works full-time.<br><br><b>Commissioners</b> are appointed for six years, renewable, part time.                   | <b>Judges</b> are elected for six-year terms, renewable only once, part time.<br><br><b>Commissioners</b> are elected for four-year terms, renewable only once, part time.  | <b>Judges</b> are elected for a non-renewable term of nine years, full-time.   |

|  | <b>African</b>   | <b>Inter-American</b>  | <b>European</b>  |
|--|--|--|--|
| <b>Form in which findings on merits are made in contentious cases; remedies</b>          | <p><b>Court:</b> It renders judgments on whether a violation has occurred and makes appropriate orders to remedy or compensate violations.</p> <p><b>Commission:</b> It issues reports which contain findings on whether violations have occurred and sometimes makes recommendations.</p> | <p><b>Court:</b> It renders judgments on whether violation occurred; it can order compensation for damages or other reparations.</p> <p><b>Commission:</b> It issues reports which contain findings on whether violations have occurred and makes recommendations.</p> | Declaratory judgments offer general direction for implementation in the main body of the judgment and in most cases anyone reading the judgment can identify what the appropriate implementation measures should be to prevent future violations from occurring. |
| <b>Permission required from supervisory bodies to publish their decision</b>             | <p><b>Court:</b> No</p> <p><b>Commission:</b> Requires permission of the Assembly. In practice permission has been granted by the Assembly as a matter of course.</p>  | <p><b>Court:</b> No</p> <p><b>Commission:</b> No</p>   | No, decisions and judgments are public.  |
| <b>Power of supervisory bodies to issue interim/ provisional/ precautionary measures</b> | <p><b>Court:</b> Yes</p> <p><b>Commission:</b> Yes</p>   | <p><b>Court:</b> Yes</p> <p><b>Commission:</b> Yes</p>   | Yes  |
| <b>Country visits by Commissions</b>   | A small number of fact-finding missions and a larger number of promotional country visits.   | 92 on-site fact-finding missions conducted so far.   | N/A  |
| <b>Commissions adopt reports on State Parties by their own initiative</b>                | Yes, occasionally following fact-finding missions.   | Yes, 62 country reports and 47 thematic reports adopted so far.  | N/A  |

“Strengthening ASEAN’s Human Rights System through Legal Advocacy”  
Southeast Asia Legal Advocacy Training

|  | African   | Inter-American   | European |
|--|---|--|----------|
| <b>State parties to submit reports</b>                       | Yes, every two years.   | No   | N/A      |
| <b>Appointment of special rapporteurs by the Commissions</b> | <p><b>6 Thematic Rapporteurs:</b> Extra-judicial, Summary or Arbitrary Executions; Freedom of Expression; Prisons and Conditions of Detention; Human Rights Defenders; Refugees And Displaced Persons; and Women.</p> <p><b>3 Committees:</b> Prevention of Torture; Protection of the Rights of People living with HIV; and Budgetary and Staff Matters.</p> <p><b>9 Working Groups:</b> Economic, Social and Cultural Rights; Death Penalty; Indigenous People or Communities; Specific Issues related to the Work of the African Commission; Rights of Older Persons and People with Disabilities; Extractive Industries, Environment and Human Rights Violations; Fair Trial; Freedom of Association; and Communications.</p> <p><b>Country rapporteurs:</b> None</p> | <p><b>8 Thematic Rapporteurs:</b> Indigenous Peoples; Women; Migrant Workers; Freedom of Expression; Children; Human Rights Defenders; Persons Deprived of Liberty; Afro Descendants and Racial Discrimination.</p> <p><b>A Unit</b> on the Rights of Lesbian, Gay, Trans, Bisexual and Intersex Persons.</p> <p><b>Country Rapporteurs:</b> Each OAS member state has a country rapporteur drawn from the Commission members.</p> | N/A      |

|   | <b>African</b>   | <b>Inter-American</b>  | <b>European</b>  |
|---|--|--|--|
| <b>Clusters of rights protected in the general treaties</b> | Civil and political rights as well as some economic, social and cultural rights, and some “third generation” rights. | Civil and political rights, socio-economic rights recognized by the Protocol.                                | Civil and political rights and the right to education.           |
| <b>Recognition of duties</b>                                | Yes, extensively   | In the American Declaration but not in the American Convention.  | No, except in relation to the exercise of freedom of expression. |
| <b>Recognition of peoples’ rights</b>                       | Yes, extensively   | No   | No   |
| <b>Official websites</b>                                    | <a href="http://www.achpr.org">www.achpr.org</a><br><a href="http://www.african-court.org">www.african-court.org</a> | <a href="http://www.corteidh.or.cr">www.corteidh.or.cr</a><br><a href="http://www.cidh.org">www.cidh.org</a> | <a href="http://www.echr.coe.int">www.echr.coe.int</a>           |

## Activity 3. 2

# ASEAN's Human Rights System: Panel Discussion

### Activity Objectives

- To understand the existing human rights mechanisms in ASEAN.
- To identify the respective roles of AICHR, ACWC, ACMW within the ASEAN human rights system.
- To analyze the opportunities and challenges of the ASEAN human rights system for legal advocacy.

### Key Contents

- ASEAN Structure
- ASEAN Charter
- ToRs, Structure and Composition of AICHR, ACWC and ACMW
- CSOs engagement to date with the ASEAN human rights system
- Contribution of lawyers to the development of the ASEAN human rights system

### Method

- Lecture
- Panel discussion with practitioners of human rights or legal advocacy of the ASEAN human rights system

### Media

- Laptop
- LCD projector
- Movie about ASEAN
- Microphone and speakers
- Flipchart
- Markers
- Reference Sheets:
  - ASEAN Organogram
  - Fact Sheet: ASEAN's Human Rights System
  - ASEAN Charter
  - Terms of Reference (ToR) of AICHR
  - Terms of Reference (ToR) of ACWC
  - ASEAN Declaration on the Promotion and Protection on the Rights of Migrant Workers

### Time

120 minutes

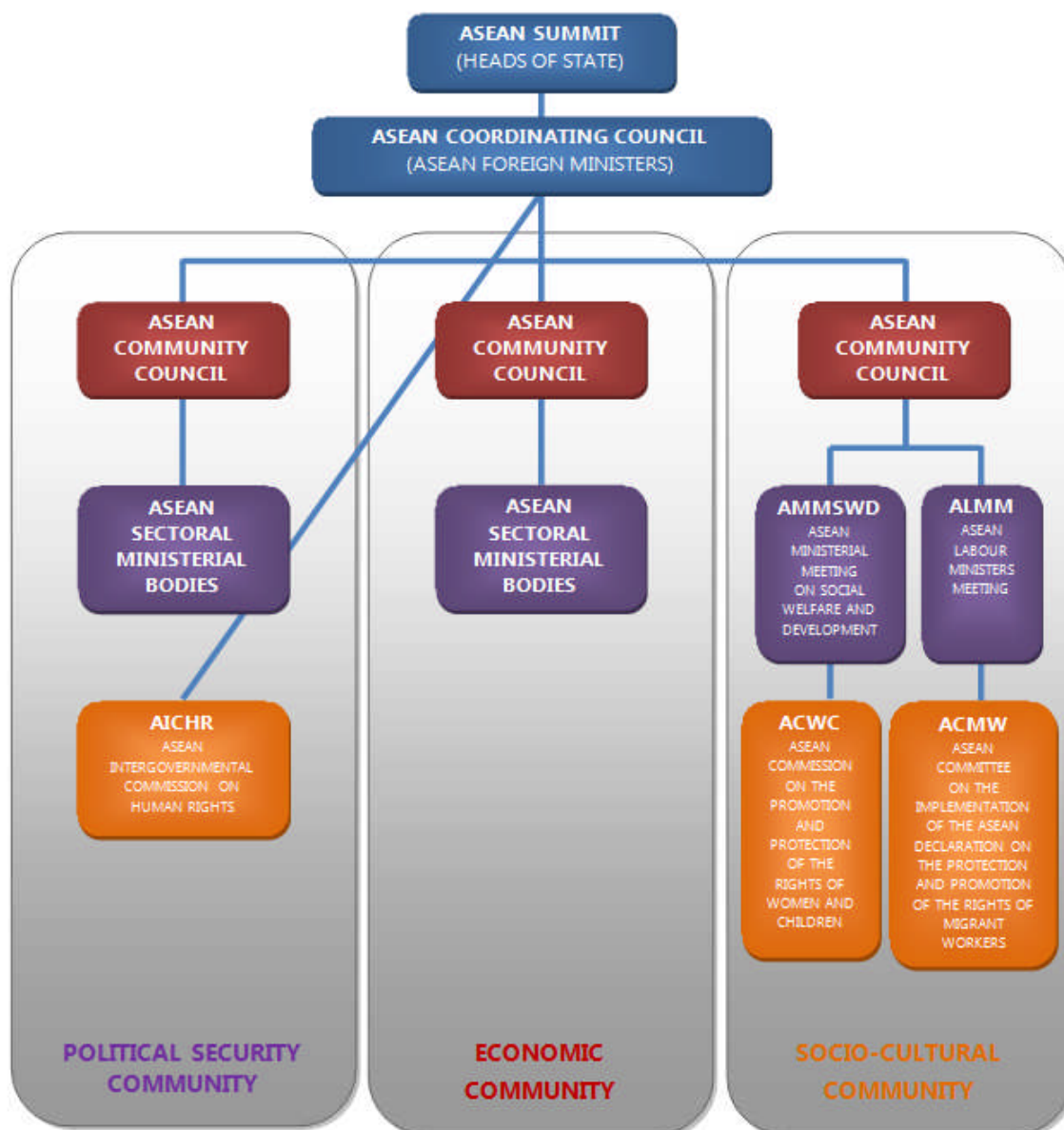
### Steps

1. Following the completion of all activities in Day 1, the facilitator divides the participants into 5 (five) groups. Each group will be assigned to read one of following documents: ASEAN Charter, ToR AICHR, ToR ACWC, ASEAN Declaration on the Promotion and Protection on the Rights of Migrant Workers and ASEAN Human Rights Declaration.

2. The facilitator starts the session with a short introduction, a movie about ASEAN and how the ASEAN human rights system fits into ASEAN's overall structure and goals, and the basic components of the ASEAN human rights system.
3. The facilitator asks the participants to work with their assigned group to identify 5 (five) key points from the document that they are studying.
4. The facilitator then collects all the answers and sticks them on the wall for everyone to see.
5. The facilitator introduces the key reflection questions from this session:
  - a. What is the importance of the ASEAN human rights system?
  - b. What contribution can lawyers make to the development of the ASEAN human rights system?
  - c. How could a regional human rights system contribute to our existing legal advocacy work?
6. The facilitator invites a panel of practitioners:
  - a. **AICHR, ACWC Representative and/or ACMW Committee Member**  
A representative/ committee member from one or two of the ASEAN human rights institutions presents on their institution's history, position within ASEAN, internal structure, mandate and workplan.
  - b. **CSO Practitioner(s)**  
A CSO practitioner with an experience on human rights advocacy in ASEAN shares the history, position within ASEAN, structure, mandates and activities other ASEAN human rights bodies. Update on CSO engagement with the ASEAN human rights system.
7. Before proceeding to the panel discussion, the facilitator asks the participants to write down 3 (three) key points from the presentation, focusing on the issues that are not covered by their group.
8. The facilitator opens the question and answer session with the resource persons, addressing the key questions provided in point 2 above.
9. The facilitator debriefs the session by pointing out some important notes from the discussion and then allows for the participants to comment or share their thoughts.



## REFERENCE SHEET 17: ASEAN Organogram



## REFERENCE SHEET 18: Fact Sheet: ASEAN’s Human Rights System

### Association of Southeast Asian Nations (ASEAN)



The Association of Southeast Asian Nations (ASEAN) was established on 8 October 1967 with five founding members; Indonesia, Malaysia, Philippines, Singapore and Thailand. Today, ASEAN has expanded its membership to a total of ten member states including Brunei Darussalam, Viet Nam, Lao PDR, Myanmar and Cambodia.

During the 1993 World Conference on Human Rights in Vienna, the ASEAN Foreign Ministers affirmed the Vienna Declaration and Programme of Action (VDPA) and declared that ASEAN should consider establishing a regional human rights system. Since then, ASEAN has gradually come to include human rights language in its work plan and official documents, including, ASEAN Vision 2020 (1997), the Ha Noi Plan of Action (1998), the Vientiane Action Programme (2004), and the ASEAN Charter (2007).

The ASEAN Charter, which entered into force in 2008, provides for the establishment of an ASEAN human rights body. It was pursuant to this Charter that the ASEAN Inter-government Commission on Human Rights (AICHR) was established.

Three ASEAN human rights bodies have been established to date; AICHR (23 October 2009) the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC, 7 April 2010), and the ASEAN Committee on the Implementation of the ASEAN Declaration on Promotion and Protection of the Rights of Migrant Workers (ACMW, July 2007).

### ASEAN Intergovernmental Commission on Human Rights (AICHR)



*The AICHR Representatives, 2013, AICHR website*

The ASEAN Intergovernmental Commission on Human Rights (AICHR) is the overarching human rights body in ASEAN with overall responsibility for the promotion and protection of human rights in ASEAN. It operates in accordance with a Terms of Reference (ToR), adopted by the ASEAN Foreign Ministers Meeting in 2009, and its Rules of Procedure. AICHR’s ToR will be reviewed in 2014.

AICHR comprises of ten government-appointed representatives, one per ASEAN Member State. It sits within the ASEAN Political and Security Community Blueprint and reports to the ASEAN Foreign Ministers Meeting (AMM).

Under its ToR, AICHR is to:

- Develop strategies for the promotion and protection of human rights;
- Develop an ASEAN Human Rights Declaration;
- Enhance public awareness of human rights;
- Promote the implementation of ASEAN human rights instruments and Member States’ international human rights treaty obligations;
- Prepare thematic studies on human rights issues
- Obtain information from ASEAN Member States on human rights.

AICHR meets at least twice a year and can hold additional meetings if required. Decision making in the AICHR is based on consultation and consensus in accordance with Article 20 of the ASEAN Charter.

From 2009, up until May 2013, AICHR has held 12 regular meetings, and 8 special meetings. The special meetings focused on the drafting of the ASEAN Human Rights Declaration.

Official website: [www.aichr.org](http://www.aichr.org)

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



*The ACWC representatives, 2013, ASEAN website*

The ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) was inaugurated on 7 April 2010. ACWC is mandated to promote and protect the rights of women and children in ASEAN, and enhance regional and international cooperation in the area of women and child rights.

All ten ASEAN Member States have ratified the UN Convention on the Elimination of all forms of Discrimination against Women (CEDAW) and the UN Convention on the Rights of the Child. In addition, ASEAN had also adopted declarations on the rights of women and children, including; the Declaration on the Advancement of Women in ASEAN Region (1988); Declaration on the Commitments for Children in ASEAN (2001); and Declaration on the Elimination of Violence against Women in ASEAN Region (2004).

ACWC is comprised of 20 representatives; two representatives from each ASEAN Member State with one representing women's issues and the other children's issues. ACWC operates in accordance with its 2009 ToR and Rules of Procedure. ACWC falls within the Socio-Cultural Community Blueprint and reports to the ASEAN Ministerial Meeting on Social Welfare and Development (AMMSWD). Decision making in the ACWC is based on consultation and consensus.

ACWC meets at least twice a year and can hold additional meetings if required. ACWC has held 6 regular meetings since its establishment in 2010.

ACWC, like AICHR, does not have a mechanism for accepting and responding to complaints of human rights violations.

## ASEAN Committee on the Implementation of the ASEAN Declaration on Promotion and Protection of the Rights of Migrant Workers (ACMW)

The ASEAN Committee on the Implementation of the ASEAN Declaration on Promotion and Protection of the Rights of Migrant Workers (ACMW) is tasked with drafting a binding legal document (Convention) to protect the rights of migrant workers in ASEAN.

ASEAN had adopted several documents related to the migrant workers issues, among others, ASEAN Declaration on Transnational Crime (1997); ASEAN Vision 2020 (1997); Hanoi Plan of Action (1998); Bangkok Declaration on Irregular Migration (1999); and ASEAN Declaration against Trafficking in Persons particularly Women and Children (2004).

ACWM comprises of representatives of the Ministry dealing with labor issues in each of the ASEAN Member States. The committee members agreed during the first ACMW meeting to convene a drafting team tasked to set up an ASEAN framework instrument on the protection and promotion of the rights of migrant workers. This drafting team has conducted 8 meetings since the first one held in Bangkok, 2009. As of April 2013, ACMW has held 6 regular meetings.

ACWM discussions regarding the Convention are currently deadlocked due to differences between receiving and sending countries as to whether the Convention should protect undocumented migrants and migrant workers' families.

ACMW also holds an annual meeting - the ASEAN Forum on Migrant and Labour (AFML) - which brings together governments, workers' and employers' organizations, and civil society stakeholders to discuss migrant worker issues.

## REFERENCE SHEET 19: AICHR Terms of Reference (ToR)

### Terms of Reference of the ASEAN Intergovernmental Commission on Human Rights

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Pursuant to Article 14 of the ASEAN Charter, the ASEAN Intergovernmental Commission on Human Rights (AICHR) shall operate in accordance with the following Terms of Reference (TOR):

#### 1. PURPOSES

The purposes of the AICHR are:

- To promote and protect human rights and fundamental freedoms of the peoples of ASEAN;
- To uphold the right of the peoples of ASEAN to live in peace, dignity and prosperity;
- To contribute to the realisation of the purposes of ASEAN as set out in the ASEAN Charter in order to promote stability and harmony in the region, friendship and cooperation among ASEAN Member States, as well as the well-being, livelihood, welfare and participation of ASEAN peoples in the ASEAN Community building process;
- To promote human rights within the regional context, bearing in mind national and regional particularities and mutual respect for different historical, cultural and religious backgrounds, and taking into account the balance between rights and responsibilities;
- To enhance regional cooperation with a view to complementing national and international efforts on the promotion and protection of human rights; and
- To uphold international human rights standards as prescribed by the Universal Declaration of Human Rights, the Vienna Declaration and Programme of Action, and international human rights instruments to which ASEAN Member States are parties.

#### 2. PRINCIPLES

The AICHR shall be guided by the following principles:

- 2.1 Respect for principles of ASEAN as embodied in Article 2 of the ASEAN Charter, in particular:
- a) respect for the independence, sovereignty, equality, territorial integrity and national identity of all ASEAN Member States;
  - b) non-interference in the internal affairs of ASEAN Member States;
  - c) respect for the right of every Member State to lead its national existence free from external interference, subversion and coercion;
  - d) adherence to the rule of law, good governance, the principles of democracy and constitutional government;
  - e) respect for fundamental freedoms, the promotion and protection of human rights, and the promotion of social justice;
  - f) upholding the Charter of the United Nations and international law, including international humanitarian law, subscribed to by ASEAN Member States; and
  - g) respect for different cultures, languages and religions of the peoples of ASEAN, while emphasising their common values in the spirit of unity in diversity.

- 2.2 Respect for international human rights principles, including universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms, as well as impartiality, objectivity, non-selectivity, non-discrimination, and avoidance of double standards and politicisation;
- 2.3 Recognition that the primary responsibility to promote and protect human rights and fundamental freedoms rests with each Member State;
- 2.4 Pursuance of a constructive and non-confrontational approach and cooperation to enhance promotion and protection of human rights; and
- 2.5 Adoption of an evolutionary approach that would contribute to the development of human rights norms and standards in ASEAN.

### **3. CONSULTATIVE INTER-GOVERNMENTAL BODY**

The AICHR is an inter-governmental body and an integral part of the ASEAN organisational structure. It is a consultative body.

### **4. 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; and
- 4.14. To perform any other tasks as may be assigned to it by the ASEAN Foreign Ministers Meeting.

## 5. COMPOSITION

### ***Membership***

- 5.1 The AICHR shall consist of the Member States of ASEAN.
- 5.2 Each ASEAN Member State shall appoint a Representative to the AICHR who shall be accountable to the appointing Government.

### ***Qualifications***

- 5.3 When appointing their Representatives to the AICHR, Member States shall give due consideration to gender equality, integrity and competence in the field of human rights.
- 5.4 Member States should consult, if required by their respective internal processes, with appropriate stakeholders in the appointment of their Representatives to the AICHR.

### ***Term of Office***

- 5.5 Each Representative serves a term of three years and may be consecutively re-appointed for only one more term.
- 5.6 Notwithstanding paragraph 5.5, the appointing Government may decide, at its discretion, to replace its Representative.

### ***Responsibility***

- 5.7 Each Representative, in the discharge of his or her duties, shall act impartially in accordance with the ASEAN Charter and this TOR.
- 5.8 Representatives shall have the obligation to attend AICHR meetings. If a Representative is unable to attend a meeting due to exceptional circumstances, the Government concerned shall formally notify the Chair of the AICHR of the appointment of a temporary representative with a full mandate to represent the Member State concerned.

### ***Chair of the AICHR***

- 5.9 The Chair of the AICHR shall be the Representative of the Member State holding the Chairmanship of ASEAN.
- 5.10 The Chair of the AICHR shall exercise his or her role in accordance with this TOR, which shall include:
  - a) leading in the preparation of reports of the AICHR and presenting such reports to the ASEAN Foreign Ministers Meeting;
  - b) coordinating with the AICHR’s Representatives in between meetings of the AICHR and with the relevant ASEAN bodies;
  - c) representing the AICHR at regional and international events pertaining to the promotion and protection of human rights as entrusted by the AICHR; and
  - d) undertaking other specific functions entrusted by the AICHR in accordance with this TOR.

### ***Immunities and Privileges***

- 5.11 In accordance with Article 19 of the ASEAN Charter, Representatives participating in official activities of the AICHR shall enjoy such immunities and privileges as are necessary for the exercise of their functions.



## 6. MODALITIES

### ***Decision-making***

- 6.1 Decision-making in the AICHR shall be based on consultation and consensus in accordance with Article 20 of the ASEAN Charter.

### ***Number of Meetings***

- 6.2 The AICHR shall convene two regular meetings per year. Each meeting shall normally be not more than five days.
- 6.3 Regular meetings of the AICHR shall be held alternately at the ASEAN Secretariat and the Member State holding the Chair of ASEAN.
- 6.4 As and when appropriate, the AICHR may hold additional meetings at the ASEAN Secretariat or at a venue to be agreed upon by the Representatives.
- 6.5 When necessary, the ASEAN Foreign Ministers may instruct the AICHR to meet.

### ***Line of Reporting***

- 6.6 The AICHR shall submit an annual report and other appropriate reports to the ASEAN Foreign Ministers Meeting for its consideration.

### ***Public Information***

- 6.7 The AICHR shall keep the public periodically informed of its work and activities through appropriate public information materials produced by the AICHR.

### ***Relationship with Other Human Rights Bodies within ASEAN***

- 6.8 The AICHR is the overarching human rights institution in ASEAN with overall responsibility for the promotion and protection of human rights in ASEAN.
- 6.9 The AICHR shall work with all ASEAN sectoral bodies dealing with human rights to expeditiously determine the modalities for their ultimate alignment with the AICHR. To this end, the AICHR shall closely consult, coordinate and collaborate with such bodies in order to promote synergy and coherence in ASEAN’s promotion and protection of human rights.

## 7. ROLE OF THE SECRETARY-GENERAL AND ASEAN SECRETARIAT

- 7.1 The Secretary-General of ASEAN may bring relevant issues to the attention of the AICHR in accordance with Article 11.2 (a) and (b) of the ASEAN Charter. In so doing, the Secretary-General of ASEAN shall concurrently inform the ASEAN Foreign Ministers of these issues.
- 7.2 The ASEAN Secretariat shall provide the necessary secretarial support to the AICHR to ensure its effective performance. To facilitate the Secretariat’s support to the AICHR, ASEAN Member States may, with the concurrence of the Secretary-General of ASEAN, second their officials to the ASEAN Secretariat.

## 8. WORK PLAN AND FUNDING

- 8.1 The AICHR shall prepare and submit a Work Plan of programmes and activities with indicative budget for a cycle of five years to be approved by the ASEAN Foreign Ministers Meeting, upon the recommendation of the Committee of Permanent Representatives to ASEAN.
- 8.2 The AICHR shall also prepare and submit an annual budget to support high priority programmes and activities, which shall be approved by the ASEAN Foreign Ministers Meeting, upon the recommendation of the Committee of Permanent Representatives to ASEAN.
- 8.3 The annual budget shall be funded on equal sharing basis by ASEAN Member States.

- 8.4 The AICHR may also receive resources from any ASEAN Member States for specific extra-budgetary programmes from the Work Plan.
- 8.5 The AICHR shall also establish an endowment fund which consists of voluntary contributions from ASEAN Member States and other sources.
- 8.6 Funding and other resources from non-ASEAN Member States shall be solely for human rights promotion, capacity building and education.
- 8.7 All funds used by the AICHR shall be managed and disbursed in conformity with the general financial rules of ASEAN.
- 8.8 Secretarial support for the AICHR shall be funded by the ASEAN Secretariat’s annual operational budget.

## 9. GENERAL AND FINAL PROVISIONS

- 9.1. This TOR shall come into force upon the approval of the ASEAN Foreign Ministers Meeting.

### ***Amendments***

- 9.2. Any Member State may submit a formal request for an amendment of this TOR.
- 9.3. The request for amendment shall be considered by the Committee of Permanent Representatives to ASEAN in consultation with the AICHR, and presented to the ASEAN Foreign Ministers Meeting for approval.
- 9.4. Such amendments shall enter into force upon the approval of the ASEAN Foreign Ministers Meeting.
- 9.5. Such amendments shall not prejudice the rights and obligations arising from or based on this TOR before or up to the date of such amendments.

### ***Review***

- 9.6. This TOR shall be initially reviewed five years after its entry into force. This review and subsequent reviews shall be undertaken by the ASEAN Foreign Ministers Meeting, with a view to further enhancing the promotion and protection of human rights within ASEAN.
- 9.7. In this connection, the AICHR shall assess its work and submit recommendations for the consideration of the ASEAN Foreign Ministers Meeting on future efforts that could be undertaken in the promotion and protection of human rights within ASEAN consistent with the principles and purposes of the ASEAN Charter and this TOR.

### ***Interpretation***

- 9.8. Any difference concerning the interpretation of this TOR which cannot be resolved shall be referred to the ASEAN Foreign Ministers Meeting for a decision.



## REFERENCE SHEET 20: ACWC Terms of Reference (ToR)

### **Terms of Reference of the ASEAN Commission for the Promotion and Protection of the Rights of Women and Children (ACWC)**

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#### **1. Background**

- 1.1. All ASEAN Member States have ratified and are parties to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC).
- 1.2. At the 10<sup>th</sup> ASEAN Summit in November 2004, the ASEAN Leaders adopted the Vientiane Action Programme 2004-2010 (VAP) which among others called for the establishment of an ASEAN commission on the promotion and protection of the rights of women and children (Measure 1.1.4.7 of the VAP).
- 1.3. The ASEAN Charter which entered into force on 15 December 2008 called under Article 14 for ASEAN to establish an ASEAN human rights body in conformity with the purposes and principles relating to the promotion and protection of human rights and fundamental freedoms.
- 1.4. At the 14<sup>th</sup> ASEAN Summit on 28 February – 1 March 2009, the ASEAN Leaders adopted the Cha-am Hua Hin Declaration on the Roadmap for the ASEAN Community (2009-2015) which includes the ASEAN Political Security Community (APSC) Blueprint and the ASEAN Socio-Cultural Community (ASCC) Blueprint that reiterate the establishment of an ASEAN commission on the promotion and protection of the rights of women and children as an important measure to ensure equitable development for women and children

#### **2. Purposes**

- 2.1. To promote and protect the human rights and fundamental freedoms of women and children in ASEAN, taking into consideration the different historical, political socio-cultural, religious and economic context in the region and the balances between rights and responsibilities.
- 2.2. To uphold, promote, protect, respect and fulfill the rights of women and children in ASEAN to live in peace, equality, justice, dignity and prosperity.
- 2.3. To promote the well-being, development, empowerment and participation of women and children in the ASEAN Community building process which contribute to the realization of the purposes of ASEAN as set out in the ASEAN Charter.
- 2.4. To enhance regional and international cooperation with a view to complementing national and international efforts on the promotion and protection of the rights of women and children.
- 2.5. To uphold human rights as prescribed by the Universal Declaration of Human Rights, the Vienna Declaration and Programme of Action, Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Convention on the Rights of the Child (CRC), Beijing Platform for Action (BPFA), World Fit for Children, International Humanitarian Law and other international human rights instruments and regional declarations related to women’s and children’s rights to which ASEAN Member States are parties.
- 2.6. To promote stability and harmony in the region, friendship and cooperation among ASEAN Member States.

### 3. Principles

- 3.1. To respect for the principles of ASEAN as embodied in Article 2 of the ASEAN Charter.
- 3.2. To respect for human rights principles, including universality, indivisibility, interdependence and interrelatedness of all fundamental freedoms and the rights of women and children, the guiding principles of CEDAW and CRC.
- 3.3. To respect for the principles of impartiality, objectivity, non-selectivity, non-discrimination and avoidance of double standards and politicization.
- 3.4. To complement, rather than duplicate, the function of CEDAW and CRC Committees.
- 3.5. To recognize that the primary responsibility to promote and protect the fundamental freedoms and rights of women and children rests with each Member State.
- 3.6. To pursue a constructive non-confrontational and cooperative approach to enhance the promotion and protection of rights of women and children.
- 3.7. To ensure a balance between the functions of promotion and protection of the rights of women and children.
- 3.8. To adopt an evolutionary approach that would contribute to the realization of the rights of women and children in ASEAN.
- 3.9. To adopt a collaborative and consultative approach with ASEAN Member States, academia and civil society pertaining to the rights of women and children.

### 4. Status of the ACWC

The ACWC is an intergovernmental body and an integral part of the ASEAN organisational structure. It is a consultative body.

### 5. Mandate and Functions

- 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 marginalized, 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 realization 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.

## 6. Composition

### ***Membership***

- 6.1. The ACWC shall consist of the Member States of ASEAN.
- 6.2. Each ASEAN Member State shall appoint two representatives, one representative on women’s rights and one representative on children’s rights to the ACWC.

### ***Qualifications***

- 6.3. When appointing their representatives to the ACWC, Member States shall give due consideration to competence in the field of the rights of women and children, integrity and gender equality.

### ***Selection Process***

- 6.4. When appointing their representatives to the ACWC, Member States shall conduct, in accordance with the respective internal processes, a transparent, open, participatory and inclusive selection process of their representatives to the ACWC.

### ***Terms of Office***

- 6.5. Each representative serves a term of three years and may be consecutively re-appointed for only one additional term.
- 6.6. To provide continuity for the work of the ACWC, the term of office of representatives shall be staggered. Each Member State shall appoint one of its two representatives to serve an initial term of four and a half years.
- 6.7. In the event of vacancy caused by recall, resignation, incapacity or demise of a representative, the appointing government will provide a replacement who shall serve for the remaining term of that departed representative. This representative must have the same area of competence (women’s or children’s rights) as the replaced representative.
- 6.8. Notwithstanding paragraph 6.5, the appointing Government may decide, at its discretion, to replace its representatives. Whenever appropriate the Government shall inform the ACWC of the reason of the replacement.

### ***Responsibility of Members***

- 6.9. In the discharge of his/her duties, each representative shall act impartially in accordance with the ASEAN Charter and this TOR, and shall display the highest moral character.
- 6.10. Attendance at the ACWC meetings by the representatives is mandatory.

### ***Chair and Vice-Chair of the ACWC***

- 6.11. The first Chair and Vice-Chair of the ACWC shall be elected by the appointed representatives. The subsequent Chair and Vice-Chair shall be rotated among ASEAN Member States on an alphabetical basis. The rotation of Chairmanship and Vice-Chairmanship shall follow an opposite cycle. Should a Member State next in line be not ready to assume the Chairmanship or Vice-Chairmanship, it may forgo its turn. The Chair and the Vice-Chair shall not be representatives from the same Member State and with the same area of competence (women's or children's rights).
- 6.12. The Chair and the Vice-Chair shall serve a term of 3 years.
- 6.13. The Chair of the ACWC shall exercise his/her role in accordance with the TOR, which shall include:
  - a) Preparing the agenda for and chairing the ACWC meetings;
  - b) Leading in the preparation of reports to other ASEAN bodies specified in paragraph 7.5;
  - c) Coordinating with the ACWC's representatives during the times between meetings of the ACWC, and promoting the engagement of the ACWC with the relevant ASEAN bodies;
  - d) Representing the ACWC at regional and international events pertaining to the promotion and protection of the rights of women and children as entrusted by the ACWC; and
  - e) Undertaking other specific functions entrusted by the ACWC in accordance with this TOR.
- 6.14. The Vice-Chair will be responsible for the duties of the Chair in his/her absence, and/or as delegated by the Chair.

### ***Immunities and Privileges***

- 6.15. In accordance with Article 19 of the ASEAN Charter, representatives participating in official activities of the ACWC shall enjoy such immunities and privileges as are necessary for the exercise of their functions.

## **7. Modalities**

### ***Decision Making***

- 7.1. Decision making in the ACWC shall be based on consultation and consensus in accordance with the ASEAN Charter.

### ***Meetings***

- 7.2. The ACWC shall convene two regular meetings per year and each meeting shall normally be no longer than 5 days.
- 7.3. Regular meetings of the ACWC shall be held alternately at the ASEAN Secretariat and/or ASEAN Member States.
- 7.4. As and when appropriate, the ACWC may hold special meetings at a venue to be agreed by the representatives.

***Line of Reporting***

- 7.5. The ACWC shall submit an annual report including accomplishments, challenges and recommendations on the promotion and protection of the rights of women and children and other appropriate reports, e.g. progress report, to the ASEAN Ministers Meeting on Social Welfare and Development (AMMSWD) with copy to the ASEAN Committee on Women (ACW) and other relevant ASEAN sectoral bodies.

***Public Information***

- 7.6. The ACWC shall keep the public regularly informed of its work and activities through appropriate public information materials produced by the ACWC.

***Coordination and Alignment***

- 7.7. The ACWC shall coordinate with AICHR and other relevant ASEAN sectoral bodies dealing with issues pertaining to women and children including consultations on the ultimate alignment between the ACWC and the AICHR as the overarching human rights institution in ASEAN.
- 7.8. The ACWC shall engage in dialogue and consultation, as may be appropriate, with other national, regional and international institutions and entities concerning the promotion and protection of the rights of women and children.

**8. Work Plan and Funding**

- 8.1. The ACWC shall prepare and submit a Work Plan of programmes and activities with indicative budget for a cycle of five years to be approved by the AMMSWD. Whenever appropriate, the ACWC may consult relevant ASEAN bodies in the preparation of its Work Plan.
- 8.2. The ACWC shall also prepare and submit an annual budget to implement the Work Plan to be approved by the AMMSWD upon recommendation of the Committee of Permanent Representatives to ASEAN (CPR) when required.
- 8.3. The programme and activities of the ACWC shall be funded by ASEAN Member States on cost-sharing basis and voluntary contributions from ASEAN Member States.
- 8.4. The ACWC may receive funding from other sources, subject to the approval of AMMSWD upon the endorsement of the CPR, to support effective implementation of its work serving the common interest of women and children in all ASEAN Member States.
- 8.5. The ACWC may establish its own Fund with the terms and conditions to be determined by the ACWC and approved by the AMMSWD, upon the recommendation of CPR.
- 8.6. All funds used by the ACWC shall be managed and disbursed in conformity with the general financial rules of ASEAN.
- 8.7. Secretarial support for the ACWC shall be funded by the ASEAN Secretariat’s operational budget.

**9. Role of the Secretary-General of ASEAN and the ASEAN Secretariat**

- 9.1. The Secretary-General of ASEAN may bring relevant issues to the attention of ACWC.
- 9.2. The ASEAN Secretariat shall provide the necessary secretarial support the ACWC.

## 10. General and Final Provisions

10.1. This TOR shall come into force upon the approval of the AMMSWD.

### ***Amendments***

10.2. Any Member State may submit, through the Chair of the ACWC, a formal request for an amendment of this TOR for consideration of the ACWC.

10.3. The ACWC shall submit the request for the approval of the AMMSWD.

10.4. Such amendments shall take effect upon approval of the AMMSWD.

### ***Review***

10.5. The ACWC shall undertake mid-term and final-term reviews of its 5-year Work Plan. The outcomes of these reviews shall be submitted to the AMMSWD.

10.6. 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.

### ***Interpretation***

10.7. Any difference concerning the interpretation of the TOR which cannot be resolved shall be referred to the AMMSWD.

## REFERENCE SHEET 21: ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers

### ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers

**WE**, the Heads of State/Government of the Member Countries of the Association of Southeast Asian Nations (hereinafter referred to as ASEAN), attending the 12th ASEAN Summit on 13 January 2007 in Cebu, Philippines;

**RECALLING** the Declaration of ASEAN Concord II adopted at the 9th ASEAN Summit in Bali, Indonesia, which stipulated the establishment of an ASEAN Community resting on three pillars: an ASEAN Security Community, an ASEAN Economic Community and an ASEAN Socio-Cultural Community;

**RECALLING** also the Universal Declaration on Human Rights adopted and proclaimed by General Assembly Resolution 217(A)(III) of 10 December 1948, as well as other appropriate international instruments which all the ASEAN Member Countries have acceded to, in order to safeguard the human rights and fundamental freedoms of individuals such as the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child;

**RECALLING** further the Vientiane Action Programme adopted at the 10th ASEAN Summit in Vientiane, Lao PDR, which provides for, inter alia, the promotion of human rights and obligations to realise an open, dynamic and resilient ASEAN Community;

**CONFIRMING** our shared responsibility to realise a common vision for a secure and prosperous ASEAN Community by improving the quality of life of its people and strengthening its cultural identity towards a people-centered ASEAN through, among others, measures on the protection and promotion of the rights of migrant workers;

**RECOGNISING** the contributions of migrant workers to the society and economy of both receiving states and sending states of ASEAN;

**RECOGNISING** further the sovereignty of states in determining their own migration policy relating to migrant workers, including determining entry into their territory and under which conditions migrant workers may remain;

**ACKNOWLEDGING** the legitimate concerns of the receiving and sending states over migrant workers, as well as the need to adopt appropriate and comprehensive migration policies on migrant workers;

**ACKNOWLEDGING** also the need to address cases of abuse and violence against migrant workers whenever such cases occur;

**REITERATING** that ASEAN should make further progress as a cohesive and caring society committed to enhancing the quality of life and well-being of its people, especially those in the vulnerable and disadvantaged sectors;

**HEREBY DECLARE AS FOLLOWS:**

**GENERAL PRINCIPLES**

1. Both the receiving states and sending states shall strengthen the political, economic and social pillars of the ASEAN Community by promoting the full potential and dignity of migrant workers in a climate of freedom, equity, and stability in accordance with the laws, regulations, and policies of respective ASEAN Member Countries;
2. The receiving states and the sending states shall, for humanitarian reasons, closely cooperate to resolve the cases of migrant workers who, through no fault of their own, have subsequently become undocumented;
3. The receiving states and the sending states shall take into account the fundamental rights and dignity of migrant workers and family members already residing with them without undermining the application by the receiving states of their laws, regulations and policies; and
4. Nothing in the present Declaration shall be interpreted as implying the regularisation of the situation of migrant workers who are undocumented.

**OBLIGATIONS OF RECEIVING STATES**

Pursuant to the prevailing laws, regulations and policies of the respective receiving states, the receiving states will:

5. Intensify efforts to protect the fundamental human rights, promote the welfare and uphold human dignity of migrant workers;
6. Work towards the achievement of harmony and tolerance between receiving states and migrant workers;
7. Facilitate access to resources and remedies through information, training and education, access to justice, and social welfare services as appropriate and in accordance with the legislation of the receiving state, provided that they fulfill the requirements under applicable laws, regulations and policies of the said state, bilateral agreements and multilateral treaties;
8. Promote fair and appropriate employment protection, payment of wages, and adequate access to decent working and living conditions for migrant workers;
9. Provide migrant workers, who may be victims of discrimination, abuse, exploitation, violence, with adequate access to the legal and judicial system of the receiving states; and
10. Facilitate the exercise of consular functions to consular or diplomatic authorities of states of origin when a migrant worker is arrested or committed to prison or custody or detained in any other manner, under the laws and regulations of the receiving state and in accordance with the Vienna Convention on Consular Relations.

**OBLIGATIONS OF SENDING STATES**

Pursuant to the prevailing laws, regulations and policies of the respective sending states, the sending states will:



11. Enhance measures related to the promotion and protection of the rights of migrant workers;
12. Ensure access to employment and livelihood opportunities for their citizens as sustainable alternatives to migration of workers;
13. Set up policies and procedures to facilitate aspects of migration of workers, including recruitment, preparation for deployment overseas and protection of the migrant workers when abroad as well as repatriation and reintegration to the countries of origin; and
14. Establish and promote legal practices to regulate recruitment of migrant workers and adopt mechanisms to eliminate recruitment malpractices through legal and valid contracts, regulation and accreditation of recruitment agencies and employers, and blacklisting of negligent/unlawful agencies.

### COMMITMENTS BY ASEAN

For purposes of protecting and promoting the rights of migrant workers, ASEAN Member Countries in accordance with national laws, regulations and policies, will:

15. Promote decent, humane, productive, dignified and remunerative employment for migrant workers;
16. Establish and implement human resource development programmes and reintegration programmes for migrant workers in their countries of origin;
17. Take concrete measures to prevent or curb the smuggling and trafficking in persons by, among others, introducing stiffer penalties for those who are involved in these activities;
18. Facilitate data-sharing on matters related to migrant workers, for the purpose of enhancing policies and programmes concerning migrant workers in both sending and receiving states;
19. Promote capacity building by sharing of information, best practices as well as opportunities and challenges encountered by ASEAN Member Countries in relation to protection and promotion of migrant workers' rights and welfare;
20. Extend assistance to migrant workers of ASEAN Member Countries who are caught in conflict or crisis situations outside ASEAN in the event of need and based on the capacities and resources of the Embassies and Consular Offices of the relevant ASEAN Member Countries, based on bilateral consultations and arrangements;
21. Encourage international organisations, ASEAN dialogue partners and other countries to respect the principles and extend support and assistance to the implementation of the measures contained in this Declaration; and
22. Task the relevant ASEAN bodies to follow up on the Declaration and to develop an ASEAN instrument on the protection and promotion of the rights of migrant workers, consistent with ASEAN's vision of a caring and sharing Community, and direct the Secretary-General of ASEAN to submit annually a report on the progress of the implementation of the Declaration to the Summit through the ASEAN Ministerial Meeting.

**DONE** at Cebu, Philippines, this Thirteenth Day of January in the Year Two Thousand and Seven, in a single original copy in the English Language.

## Activity 3.3

# Critical Overview of the ASEAN Human Rights Declaration

### Activity Objectives

- To understand the drafting process of the ASEAN Human Rights Declaration.
- To understand the substance of the ASEAN Human Rights Declaration.
- To critically examine the potential use of the ASEAN Human Rights Declaration.

### Key Contents

- The drafting process of the ASEAN Human Rights Declaration
- ASEAN Human Rights Declaration
- CSOs Submissions on the ASEAN Human Rights Declaration

### Method

- Lecture
- Buzz group
- Plenary discussion

### Media

- ASEAN Human Rights Declaration (AHRD)
- Phnom Penh Statement on the Adoption of the ASEAN Human Rights Declaration
- CSOs Submissions on the ASEAN Human Rights Declaration

### Time

90 minutes

### Steps

#### Option 1

1. The facilitator briefly explains the activity objectives.
2. The facilitator divides the participants in groups of two to analyze the ASEAN Human Rights Declaration and identify the positive and negative points. Some critical issues to discuss:
  - a. Balancing rights and responsibilities
  - b. Limitation on human rights
  - c. Universality vs. regional particularities
  - d. Rights not included in the ASEAN Human Rights Declaration
3. Each group in turn presents on the results of the discussion and the resource persons responds to the presentations.
4. The facilitator invites the resource person to present on the ASEAN Human Rights Declaration.
5. The resource person welcomes comments or questions from the participants.
6. As a final reflection, the facilitator or resource person asks the participants whether the ASEAN Human Rights Declaration can be used to support the advocacy and how.

## REFERENCE SHEET 22: ASEAN Human Rights Declaration

### ASEAN HUMAN RIGHTS DECLARATION

*18 November 2012*

WE, the Heads of State/Government of the Member States of the Association of Southeast Asian Nations (hereinafter referred to as "ASEAN"), namely Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic, Malaysia, the Republic of the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Viet Nam, on the occasion of the 21st ASEAN Summit in Phnom Penh, Cambodia.

REAFFIRMING our adherence to the purposes and principles of ASEAN as enshrined in the ASEAN Charter, in particular the respect for and promotion and protection of human rights and fundamental freedoms, as well as the principles of democracy, the rule of law and good governance;

REAFFIRMING FURTHER our commitment to the Universal Declaration of Human Rights, the Charter of the United Nations, the Vienna Declaration and Programme of Action, and other international human rights instruments to which ASEAN Member States are parties;

REAFFIRMING ALSO the importance of ASEAN's efforts in promoting human rights, including the Declaration of the Advancement of Women in the ASEAN Region and the Declaration on the Elimination of Violence against Women in the ASEAN Region;

CONVINCED that this Declaration will help establish a framework for human rights cooperation in the region and contribute to the ASEAN community building process;

#### **HEREBY DECLARE AS FOLLOWS:**

##### **GENERAL PRINCIPLES**

1. All persons are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of humanity.
2. Every person is entitled to the rights and freedoms set forth herein, without distinction of any kind, such as race, gender, age, language, religion, political or other opinion, national or social origin, economic status, birth, disability or other status.
3. Every person has the right of recognition everywhere as a person before the law. Every person is equal before the law. Every person is entitled without discrimination to equal protection of the law.
4. The rights of women, children, the elderly, persons with disabilities, migrant workers, and vulnerable and marginalised groups are an inalienable, integral and indivisible part of human rights and fundamental freedoms.
5. Every person has the right to an effective and enforceable remedy, to be determined by a court or other competent authorities, for acts violating the rights granted to that person by the constitution or by law.

6. The enjoyment of human rights and fundamental freedoms must be balanced with the performance of corresponding duties as every person has responsibilities to all other individuals, the community and the society where one lives. It is ultimately the primary responsibility of all ASEAN Member States to promote and protect all human rights and fundamental freedoms.

7. All human rights are universal, indivisible, interdependent and interrelated. All human rights and fundamental freedoms in this Declaration must be treated in a fair and equal manner, on the same footing and with the same emphasis. At the same time, the realisation of human rights must be considered in the regional and national context bearing in mind different political, economic, legal, social, cultural, historical and religious backgrounds.

8. The human rights and fundamental freedoms of every person shall be exercised with due regard to the human rights and fundamental freedoms of others. The exercise of human rights and fundamental freedoms shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition for the human rights and fundamental freedoms of others, and to meet the just requirements of national security, public order, public health, public safety, public morality, as well as the general welfare of the peoples in a democratic society.

9. In the realisation of the human rights and freedoms contained in this Declaration, the principles of impartiality, objectivity, non-selectivity, non-discrimination, non-confrontation and avoidance of double standards and politicisation, should always be upheld. The process of such realisation shall take into account peoples’ participation, inclusivity and the need for accountability.

### **CIVIL AND POLITICAL RIGHTS**

10. ASEAN Member States affirm all the civil and political rights in the Universal Declaration of Human Rights. Specifically, ASEAN Member States affirm the following rights and fundamental freedoms:

11. Every person has an inherent right to life which shall be protected by law. No person shall be deprived of life save in accordance with law.

12. Every person has the right to personal liberty and security. No person shall be subject to arbitrary arrest, search, detention, abduction or any other form of deprivation of liberty.

13. No person shall be held in servitude or slavery in any of its forms, or be subject to human smuggling or trafficking in persons, including for the purpose of trafficking in human organs.

14. No person shall be subject to torture or to cruel, inhuman or degrading treatment or punishment.

15. Every person has the right to freedom of movement and residence within the borders of each State. Every person has the right to leave any country including his or her own, and to return to his or her country.

16. Every person has the right to seek and receive asylum in another State in accordance with the laws of such State and applicable international agreements.

17. Every person has the right to own, use, dispose of and give that person’s lawfully acquired possessions alone or in association with others. No person shall be arbitrarily deprived of such property.

18. Every person has the right to a nationality as prescribed by law. No person shall be arbitrarily deprived of such nationality nor denied the right to change that nationality.

19. The family as the natural and fundamental unit of society is entitled to protection by society and each ASEAN Member State. Men and women of full age have the right to marry on the basis of their free and full consent, to found a family and to dissolve a marriage, as prescribed by law.

20. (1) Every person charged with a criminal offence shall be presumed innocent until proved guilty according to law in a fair and public trial, by a competent, independent and impartial tribunal, at which the accused is guaranteed the right to defence.

(2) No person shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed and no person shall suffer greater punishment for an offence than was prescribed by law at the time it was committed.

(3) No person shall be liable to be tried or punished again for an offence for which he or she has already been finally convicted or acquitted in accordance with the law and penal procedure of each ASEAN Member State.

21. Every person has the right to be free from arbitrary interference with his or her privacy, family, home or correspondence including personal data, or to attacks upon that person’s honour and reputation. Every person has the right to the protection of the law against such interference or attacks.

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

23. Every person has the right to freedom of opinion and expression, including freedom to hold opinions without interference and to seek, receive and impart information, whether orally, in writing or through any other medium of that person’s choice.

24. Every person has the right to freedom of peaceful assembly.

25. (1) Every person who is a citizen of his or her country has the right to participate in the government of his or her country, either directly or indirectly through democratically elected representatives, in accordance with national law.

(2) Every citizen has the right to vote in periodic and genuine elections, which should be by universal and equal suffrage and by secret ballot, guaranteeing the free expression of the will of the electors, in accordance with national law.

### **ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

26. ASEAN Member States affirm all the economic, social and cultural rights in the Universal Declaration of Human Rights. Specifically, ASEAN Member States affirm the following:

27. (1) Every person has the right to work, to the free choice of employment, to enjoy just, decent and favourable conditions of work and to have access to assistance schemes for the unemployed.

(2) Every person has the right to form trade unions and join the trade union of his or her choice for the protection of his or her interests, in accordance with national laws and regulations.

(3) No child or any young person shall be subjected to economic and social exploitation. Those who employ children and young people in work harmful to their morals or health, dangerous to life, or likely to hamper their normal development, including their education should be punished by law. ASEAN Member States should also set age limits below which the paid employment of child labour should be prohibited and punished by law.

28. Every person has the right to an adequate standard of living for himself or herself and his or her family including:

- a. The right to adequate and affordable food, freedom from hunger and access to safe and nutritious food;
- b. The right to clothing;
- c. The right to adequate and affordable housing;
- d. The right to medical care and necessary social services;
- e. The right to safe drinking water and sanitation;
- f. The right to a safe, clean and sustainable environment.

29. (1) Every person has the right to the enjoyment of the highest attainable standard of physical, mental and reproductive health, to basic and affordable health-care services, and to have access to medical facilities.

(2) The ASEAN Member States shall create a positive environment in overcoming stigma, silence, denial and discrimination in the prevention, treatment, care and support of people suffering from communicable diseases, including HIV/AIDS.

30. (1) Every person shall have the right to social security, including social insurance where available, which assists him or her to secure the means for a dignified and decent existence.

(2) Special protection should be accorded to mothers during a reasonable period as determined by national laws and regulations before and after childbirth. During such period, working mothers should be accorded paid leave or leave with adequate social security benefits.

(3) Motherhood and childhood are entitled to special care and assistance. Every child, whether born in or out of wedlock, shall enjoy the same social protection.

31. (1) Every person has the right to education.

(2) Primary education shall be compulsory and made available free to all. Secondary education in its different forms shall be available and accessible to all through every appropriate means. Technical and vocational education shall be made generally available. Higher education shall be equally accessible to all on the basis of merit.

(3) Education shall be directed to the full development of the human personality and the sense of his or her dignity. Education shall strengthen the respect for human rights and fundamental freedoms in ASEAN Member States. Furthermore, education shall enable all persons to participate effectively in their respective societies, promote understanding, tolerance and friendship among all nations, racial and religious groups, and enhance the activities of ASEAN for the maintenance of peace.

32. Every person has the right, individually or in association with others, to freely take part in cultural life, to enjoy the arts and the benefits of scientific progress and its applications and to benefit from the protection of the moral and material interests resulting from any scientific, literary or appropriate artistic production of which one is the author.

33. ASEAN Member States should take steps, individually and through regional and international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realisation of economic, social and cultural rights recognised in this Declaration.

34. ASEAN Member States may determine the extent to which they would guarantee the economic and social rights found in this Declaration to non-nationals, with due regard to human rights and the organisation and resources of their respective national economies.

### **RIGHT TO DEVELOPMENT**

35. The right to development is an inalienable human right by virtue of which every human person and the peoples of ASEAN are entitled to participate in, contribute to, enjoy and benefit equitably and sustainably from economic, social, cultural and political development. The right to development should be fulfilled so as to meet equitably the developmental and environmental needs of present and future generations. While development facilitates and is necessary for the enjoyment of all human rights, the lack of development may not be invoked to justify the violations of internationally recognised human rights.

36. ASEAN Member States should adopt meaningful people-oriented and gender responsive development programmes aimed at poverty alleviation, the creation of conditions including the protection and sustainability of the environment for the peoples of ASEAN to enjoy all human rights recognised in this Declaration on an equitable basis, and the progressive narrowing of the development gap within ASEAN.

37. ASEAN Member States recognise that the implementation of the right to development requires effective development policies at the national level as well as equitable economic relations, international cooperation and a favourable international economic environment. ASEAN Member States should mainstream the multidimensional aspects of the right to development into the relevant areas of ASEAN community building and beyond, and shall work with the international community to promote equitable and sustainable development, fair trade practices and effective international cooperation.

### **RIGHT TO PEACE**

38. Every person and the peoples of ASEAN have the right to enjoy peace within an ASEAN framework of security and stability, neutrality and freedom, such that the rights set forth in this Declaration can be fully realised. To this end, ASEAN Member States should continue to enhance friendship and cooperation in the furtherance of peace, harmony and stability in the region.

## **COOPERATION IN THE PROMOTION AND PROTECTION OF HUMAN RIGHTS**

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

40. Nothing in this Declaration may be interpreted as implying for any State, group or person any right to perform any act aimed at undermining the purposes and principles of ASEAN, or at the destruction of any of the rights and fundamental freedoms set forth in this Declaration and international human rights instruments to which ASEAN Member States are parties.

Adopted by the Heads of State/Government of ASEAN Member States at Phnom Penh, Cambodia, this Eighteenth Day of November in the Year Two Thousand and Twelve, in one single original copy in the English Language.



## REFERENCE SHEET 23: Phnom Penh Statement

### **Phnom Penh Statement on the Adoption of the ASEAN Human Rights Declaration (AHRD)**

WE, the Heads of State/Government of the Member States of the Association of Southeast Asian Nations (ASEAN), on the occasion of the 21st ASEAN Summit in Phnom Penh, Cambodia;

REAFFIRMING ASEAN’s commitment to the promotion and protection of human rights and fundamental freedoms as well as the purposes and the principles as enshrined in the ASEAN Charter, including the principles of democracy, rule of law and good governance;

REITERATING ASEAN and its Member States’ commitment to the Charter of the United Nations, the Universal Declaration of Human Rights, the Vienna Declaration and Programme of Action, and other international human rights instruments, to which ASEAN Member States are parties as well as to relevant ASEAN declarations and instruments pertaining to human rights;

ACKNOWLEDGING the importance of the role of the ASEAN Intergovernmental Commission on Human Rights (AICHR), as the overarching institution responsible for the promotion and protection of human rights in ASEAN, that contributes towards the building of a people-oriented ASEAN Community and as a vehicle for progressive social development and justice, the full realization of human dignity and the attainment of a higher quality of life for ASEAN peoples;

COMMENDING AICHR for developing a comprehensive declaration on human rights, in consultation with ASEAN Sectoral Bodies and other relevant stakeholders;

ACKNOWLEDGING the meaningful contribution of ASEAN Sectoral Bodies and other relevant stakeholders in the promotion and protection of human rights in ASEAN, and encourage their continuing engagement and dialogue with the AICHR;

DO HEREBY:

1. ADOPT the ASEAN Human Rights Declaration (AHRD);
2. AFFIRM our commitment to the full implementation of the AHRD to advance the promotion and protection of human rights in the region; and
3. REAFFIRM further our commitment to ensure that the implementation of the AHRD be in accordance with our commitment to the Charter of the United Nations, the Universal Declaration of Human Rights, the Vienna Declaration and Program of Action, and other international human rights instruments to which ASEAN Member States are parties, as well as to relevant ASEAN declarations and instruments pertaining to human rights.

DONE at Phnom Penh, Kingdom of Cambodia, this Eighteenth Day of November in the Year Two Thousand and Twelve, in a single original in the English language.

## REFERENCE SHEET 24: CSOs Submissions on the ASEAN Human Rights Declaration

| No | Date of Submission | Submitted by  | Title of Submission  | Link  |
|----|--------------------|---|--|---|
| 1  | 12 September 2012  | 62 representatives of civil society organizations (CSOs) and people's movements | Joint submission to the ASEAN Intergovernmental Commission on Human Rights on the ASEAN Human Rights Declaration | <a href="http://www.dtp.unsw.edu.au/documents/CivilSocietyJointASEANsubmission.pdf">http://www.dtp.unsw.edu.au/documents/CivilSocietyJointASEANsubmission.pdf</a>   |
| 2  | 12 September 2012  | The Southeast Asia Women's Caucus on ASEAN                                      | Second Addendum to the Southeast Asia Women's Caucus on ASEAN  | <a href="http://womenscaucusonasean.files.wordpress.com/2012/09/wc-submission-on-ahrd-addendum-2-final.pdf">http://womenscaucusonasean.files.wordpress.com/2012/09/wc-submission-on-ahrd-addendum-2-final.pdf</a>   |
| 3  | 9 September 2012   | Indonesian CSOs   | Indonesian Civil Society Organizations Inputs for ASEAN Human Rights Declaration                                 | <a href="http://www.hrwg.org/en/asean/civil-society-activities/asean-human-rights-declaration/item/3926-briefing-paper-indonesian-civil-society-organizations-inputs-for-asean-human-rights-declaration">http://www.hrwg.org/en/asean/civil-society-activities/asean-human-rights-declaration/item/3926-briefing-paper-indonesian-civil-society-organizations-inputs-for-asean-human-rights-declaration</a>   |
| 4  | 22 June 2012       | 48 Civil Society Organizations (CSOs) and People's Movements                    | Joint submission to the ASEAN Intergovernmental Commission on Human Rights on the ASEAN Human Rights Declaration | <a href="http://www.forum-asia.org/uploads/statements/2012/Joint%20submission_FINAL.pdf">http://www.forum-asia.org/uploads/statements/2012/Joint%20submission_FINAL.pdf</a>   |
| 5  | 21 June 2012       | The Southeast Asia Women's Caucus on ASEAN                                      | Addendum to the Southeast Asia Women's Caucus on ASEAN   | <a href="http://womenscaucusonasean.files.wordpress.com/2012/07/addendum-final.pdf">http://womenscaucusonasean.files.wordpress.com/2012/07/addendum-final.pdf</a>   |
| 6  | 24 April 2012      | Indonesian CSOs   | Indonesian Civil Society Organizations Inputs for ASEAN Human Rights Declaration                                 | <a href="http://www.hrwg.org/en/asean/civil-society-activities/asean-human-rights-declaration/item/3518-submission-from-indonesia%E2%80%99s-civil-society-organisations-on-asean-human-rights-declaration-ahrd-24-april-2012">http://www.hrwg.org/en/asean/civil-society-activities/asean-human-rights-declaration/item/3518-submission-from-indonesia%E2%80%99s-civil-society-organisations-on-asean-human-rights-declaration-ahrd-24-april-2012</a> |

“Strengthening ASEAN’s Human Rights System through Legal Advocacy”  
Southeast Asia Legal Advocacy Training

|    |                 |   |   |   |
|----|-----------------|---|---|---|
| 7  | 3 January 2012  | Human Rights Resource Centre (HRRC)                                     | HRRC Recommendations for the ASEAN Human Rights Declaration(AHRD)   | <a href="http://www.hrwg.org/en/asean/civil-society-activities/asean-human-rights-declaration/item/3479-hrrc-recommendations-for-the-asean-human-rights-declaration-ahrd">http://www.hrwg.org/en/asean/civil-society-activities/asean-human-rights-declaration/item/3479-hrrc-recommendations-for-the-asean-human-rights-declaration-ahrd</a> |
| 8  | December 2011   | Agenda Asia   | Election Access for Persons with Disabilities: Recommendations for the ASEAN Human Rights Declaration               | Pdf file available  |
| 9  | 21 October 2011 | The Southeast Asia Women’s Caucus on ASEAN                              | Women’s Human Rights Advocates on the ASEAN Human Rights Declaration  | <a href="http://womenscaucusonasean.files.wordpress.com/2012/06/wc-submission-publisher.pdf">http://womenscaucusonasean.files.wordpress.com/2012/06/wc-submission-publisher.pdf</a>   |
| 10 | 19 October 2011 | Southeast Asia NHRIs Forum (SEANF)                                      | SEANF’s Position on the ASEAN Human Rights Declaration  | <a href="http://www.aseannhrforum.org/attachments/072_SEANF%20position%20on%20AHRD.pdf">http://www.aseannhrforum.org/attachments/072_SEANF%20position%20on%20AHRD.pdf</a>   |
| 11 | 21 June 2011    | SAPA Task Force on ASEAN and Human Rights                               | Civil Society’s Position Paper on ASEAN Human Rights Declaration  | <a href="http://forum-asia.org/documents/SAPA%20TFAHR%20Position%20Paper%20AHRD%20final.pdf">http://forum-asia.org/documents/SAPA%20TFAHR%20Position%20Paper%20AHRD%20final.pdf</a>   |
| 12 | February 2011   | Amnesty International - Thailand  | Submission of Amnesty International- Thailand on the rights to be included in the ASEAN Declaration on Human Rights | <a href="http://www.amnesty.org/en/library/asset/IO64/001/2011/en/a0dabb8d-23bf-4e8d-bd25-fd5276b68e2f/ior640012011en.pdf">http://www.amnesty.org/en/library/asset/IO64/001/2011/en/a0dabb8d-23bf-4e8d-bd25-fd5276b68e2f/ior640012011en.pdf</a>   |
| 13 |                 | Asia Indigenous Peoples Pact and Indigenous Peoples Task Force on ASEAN | Submission for the Drafting of the ASEAN Human Rights Declaration   | <a href="http://www.aippnet.org/pdf/aipp%20iptf%20position%20paper%2028%20nov.pdf">http://www.aippnet.org/pdf/aipp%20iptf%20position%20paper%2028%20nov.pdf</a>   |
| 14 |                 | Working Group for an ASEAN Human Rights Mechanism                       | Human Rights Declaration of the Association of Southeast Asian Nations (ASEAN) (Draft)                              | Pdf file available  |

## Activity 3.4

# ASEAN's Human Rights System: Arguing a Case

### Activity Objectives

- To have a more in-depth understanding of the mandate and role of AICHR, ACWC and ACMW, and the challenges and opportunities for the advancement of human rights in ASEAN.
- To reflect on the role of lawyers in strengthening AICHR, ACWC and ACMW through advocacy.

### Key Contents

- Mandates of AICHR and ACWC
- Strengths and weaknesses of AICHR and ACWC
- Role of lawyers in strengthening AICHR and ACWC through legal and human rights advocacy

### Method

- Role play
- Plenary discussion

### Media

- Terms of Reference (ToR) of AICHR and ACWC
- Role Play Scenario
- Role Cards (card with each role written on it)
- Cases of human rights violations submitted to the AICHR

### Time

120 minutes

### Steps

#### Option 1

##### The day before the session

1. The facilitator briefs the participants on the activity. The participants are provided with the briefing document and asked to meet as a group to brainstorm how they will present the role play the next day.
2. The facilitator divides the participants into a group containing the following roles:
  - 3 x Lawyers representing the victims
  - 3 x Foreign Ministers representing AMM
  - 1 x ASEAN Secretary General
3. The group shall examine a case study about the disappearance of Lao human rights defender, Sombath Somphone and discuss how to bring this case before AICHR.

### On the day

4. The group has 10 minutes to set up its role play. They will then role play the bringing of a case before AICHR. The facilitators will play the role of AICHR and respond to the group’s presentation.
5. The rest of the participants shall be the observers, who have to identify the limitations of, and opportunities in the current system for bringing cases to AICHR.
6. The facilitator invites participants to consider the importance of the role of lawyers in the regional human rights advocacy.

### Option 2

#### The day before the session

1. The facilitator briefs the participants on the activity. The participants are provided with the briefing document and asked to meet as a group to brainstorm how they will present the role play the next day.
2. The facilitator divides the participants into three groups using the 1, 2, 3 system. Within each group there will be the following roles:
  - 1 x AICHR / ACWC representative who was a former government official
  - 1 x AICHR / ACWC representative with a human rights background
  - 1 x The Foreign Minister of a country involved in the case (AMM)
  - 1 x The ASEAN Secretary General
  - The rest will be Lawyers representing the victims

Group A shall study the Malaysia case of Yong Vui Kong, and present it to the AICHR.

Group B shall study the Indonesia case of May 1998, and brings it to the AICHR.

Group C shall study the case of Ampatuan Massacre and brings it to the AICHR.

### On the day

3. Groups have 10 minutes to set up their role play. They will then role play on bringing of a case to either AICHR or ACWC. The rest of the participants shall be the observers, who have to identify the opportunities in regional advocacy through the role play.
4. The facilitator directs the participants to see that the role of lawyers is not only important in the legal advocacy, but also in the regional human rights advocacy. Key questions:
  - a. Were there any arguments that went against international human rights principles such as the universality of human rights?
  - b. Which arguments did you find convincing and why?
  - c. How can lawyers with their expertise in legal language, drafting and interpretation contribute to the development of ASEAN instruments and protection mechanisms?

## WORKSHEET 2: ROLE PLAY SCENARIO

Your group has been provided with a case study of a particular human rights violation. All cases used in this exercise have already been submitted to AICHR for action by lawyers or non-government organizations.

1. Study the case and ensure you understand the facts and human rights violations committed.
2. You will have already been allocated roles by the facilitator. Below are some notes on the different roles.

### A. AICHR / ACWC Representatives

- Although AICHR and ACWC are *government* representatives, under their ToRs the two Commissions have the purpose of promoting and protecting human rights, and are mandated to:
  - Engage in dialogue and consultation with other ASEAN bodies;
  - Obtain information from ASEAN Member States on the promotion and protection of human rights;
  - Promote the full implementation of ASEAN instruments related to human rights;
  - Advocate on behalf of women and children (ACWC only).

### B. Foreign Ministers

- The ASEAN Foreign Ministers together form the ASEAN Coordinating Council, popularly known as ASEAN Foreign Ministers' Meeting (AMM). In the structure of ASEAN (**Reference Sheet No. 17** on ASEAN Organogram), the AMM is the second highest body within ASEAN. AMM meets twice a year, and is charged with:
  - Coordinating the implementation of agreements and decisions of the ASEAN Summit (Article 8(2)(b) of the ASEAN Charter);
  - Coordinating the reports of the ASEAN Community Councils to the ASEAN Summit (Article 8(2)(d) of the ASEAN Charter);
  - Considering the annual report of the Secretary-General on the work of ASEAN (Article 8(2)(e) of the ASEAN Charter).
- How does the AMM relate to AICHR?
  - Article 14 of the ASEAN Charter:
    1. In conformity with the purposes and principles of the ASEAN Charter relating to the promotion and protection of human rights and fundamental freedoms, ASEAN shall establish an ASEAN human rights body.
    2. This ASEAN human rights body shall operate in accordance with the terms of reference to be determined by the ASEAN Foreign Ministers Meeting.
  - Under Article 4.14 of its ToR, AICHR can perform any tasks assigned by the AMM, beside the tasks that are mandated in its ToR.
  - Article 4.13 of the AICHR's ToR provides that AICHR must submit an annual report on its activities, or other reports if deemed necessary, to the AMM.
  - Article 9.6 of AICHR's ToR, the AMM will review the ToR after the first five years of AICHR's operation

### C. The ASEAN Secretary General

- The ASEAN Secretary General is the Chief Administrative Officer of ASEAN, so he/ she runs the Secretariat. The ASEAN Secretary General is appointed by the ASEAN Summit, based on the recommendation of the AMM.
- Article 11(2)(b) of the ASEAN Charter provides that ASEAN Secretary General shall facilitate and monitor progress in the implementation of ASEAN agreements and decisions, and submit an annual report on the work of ASEAN to the ASEAN Summit (the Heads of State).
- How does the ASEAN Secretary General relate to AICHR and ACWC?
  - According to Article 7.1 of AICHR's ToR and Article 9.1 ACWC's ToR, the ASEAN Secretary General may bring relevant issues to the attention of the AICHR and ACWC.
- The ASEAN Secretary General oversees the work of the ASEAN Secretariat, where the units supporting AICHR and ACWC's work are located
  - So far, the ASEAN Secretary General has not met with lawyers or civil society to discuss individual cases of human rights abuse. What the ASEAN Secretary General has done is hold 3 informal meetings with CSO representatives to discuss about ASEAN human rights in general, particularly on civil society engagement and human rights mainstreaming in the ASEAN Community Building process.<sup>15</sup>

### D. Lawyers for the Victims

#### E. The Media

- After the lawyers presented their case to the different ASEAN bodies, the media representatives will interview the lawyers and plan a strategy that they will use in advocating the case at hand.
3. Discuss as a group the motivations and positions of the different roles and consider:
- Are the human rights violated protected by the ASEAN Human Rights Declaration or international human rights treaties to which the relevant ASEAN country is a party?
  - What remedies or actions does the victim and/or his or her family want from AICHR or ACWC (a declaration, a direction to government, an investigation etc.)?
  - Can AICHR or ACWC take such desired actions, according to the wording of the AICHR or ACWC Terms of Reference? (Remember lawyers, you do not have to be constrained by how the commissions themselves interpret their mandates!).
  - What are the broader goals and principles of ASEAN and how can these be used to argue your case for or against AICHR or ACWC intervention?
  - How best to approach AICHR or ACWC – through the Foreign Ministers, through their thematic studies, through individual Commission representatives?

Prepare a 10 minute role play of bringing your case to an ASEAN human rights body. You should ensure that the views of all the above roles are represented. You can be creative as you like.

<sup>15</sup> For more information on the Informal Meeting with the ASEAN Secretary General, please visit <http://www.hrwg.org/en/asean/civil-society-activities/document/item/4145-report-jakarta-human-rights-dialogue-jhrd>, accessed on 21 April 2013.

## WORKSHEET 3: CASES SUBMITTED TO THE AICHR<sup>16</sup>

### SOMBATHSOMPHONE CASE

Sombath.org

Email: [Sombathinfo@gmail.com](mailto:Sombathinfo@gmail.com)

*Information compiled from various sources*

#### Case Summary:

Sombath Somphone, a 60-year-old veteran community activist, was disappeared on 15 December 2012, in Vientiane. CCTV footage showed a man with an uncanny resemblance to Mr. Sombath being bundled into a police post. His car was driven away and then him being driven away separately in the company of two unidentified men after the arrival of a pickup truck with its lights flashed. He has not been seen or heard from since that incident. His wife, in an appeal to the Lao Government, described the CCTV footage that showed her husband's encounter at a police post in the Lao capital, Vientiane.

A Government spokesman said in KPL Lao News Agency that the pickup truck that was driven by two unidentified men "went away to an unknown destination" and that Mr. Sombath may have been "kidnapped perhaps because of a personal conflict or a conflict in business". The Government spokesman also stated that the authorities are not in apposition to say exactly what has actually happened, why Mr. Sombath has gone missing and who have been involved in the incidence. Sombath's family and friends said he had no such conflicts and that no ransom has been demanded.

As the founder and former director of Lao's Participatory Development Training Centre, an NGO working with civil society and government in community development and poverty reduction, Mr. Sombath has campaigned for land rights for subsistence farmers at a time when land grabbing becomes increasingly common. According to Lao Movement for Human Rights, vast concessions have been granted to national and foreign companies.

A week before Mr. Sombath's disappearance, a fellow land rights campaigner, Anne-Sophie Gindroz, the former country director of the Swiss Agricultural Development Charity, Helvetas, was expelled from the country. She wrote a personal letter to international donors in which she criticized the Lao Government for "little space for meaningful democratic debate" and the "repercussions that follow" after she organized the civil society Asia-Europe People's Forum in October 2012 with Mr. Sombath. The Government deemed her actions a "prejudicial anti-Lao Government campaign" and gave her 48 hours to leave the country. There is a speculation that Mr. Sombath has been targeted by a jittery Laotian Government concerned about his role in the Asia People's Forum 9 held in Vientiane recently, in the side line to the ministerial level Asia-Europe Summit.

In December 2012, a spokesperson for the Office of the UN High Commissioner for Human Rights (OHCHR) stated, "We are concerned by what appears to be the enforced disappearance of Mr. Sombath Somphone," later adding "We are highly concerned for his safety and believe that his abduction may be related to his human rights work." However, the Lao Government responded by repeated its denial of having any been involved in the kidnapping.

As a result, the United States, European Union, and United Nations are demanding fresh answers to questions surrounding Mr. Sombath's disappearance and are no doubt mindful that Lao still remains heavily dependent upon foreign aid to function.

<sup>16</sup> Excerpted from SAPA TF AHR, "Hiding Behind Its Limits, A Performance Report of the First Year of The ASEAN Intergovernmental Commission on Human Rights (AICHR)", 2009-2010, FORUM ASIA: 2011, pp. 75-118.



## YONG VUI KONG CASE

### Submitted by:

Save Vui Kong Campaign  
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### Case Summary:

Yong Vui Kong, a Malaysia citizen, is now awaiting execution following a conviction for trafficking 47g of drug into Singapore. The law, s5(1) (Cap 185) of the Misuse of Drug Act, in which he was charged and convicted carries mandatory death penalty, leaving the judge no discretion to consider any mitigating factors when passing sentence. This has violated human rights principles and the right to life as enshrined in Article 3 of the Universal Declaration of Human Rights.

As a person facing death penalty, Yong has a right to a fair and impartial clemency proceeding. This is accepted in international law and practice and a right granted to him pursuant to Article 22(p) of the Constitution of the Republic of Singapore. On 9 May 2010, before even the Court of Appeal gave its verdict, the Law Minister, K. SHANMUGAM, made this public statement when asked:

*"Yong Vui Kong (who was sentenced to hang for trafficking 47g of Heroin) he is young. But if we say we let you go what's the signal we're sending? We're sending a signal to all drug barons out there...just make sure you choose a victim who's young or a mother of a young child and use them as the people to carry drugs into Singapore. With the sympathy generated after these people are caught he added, there will be a whole unstoppable stream of people coming through as long as we won't enforce our laws".*

This statement was never denied. Instead, the Law Minister repeated the above statement and explained that it is a government policy on drugs. The Law Minister's statement has a far-reaching implication on Yong's case. It has indeed offended the rules of natural justice, due process and Yong's right to a fair and impartial clemency proceeding under international law and the country's Constitution. The statement had specifically named Yong Vui Kong and literally said that his life should not be spared. This is not a statement pertaining to the general anti-drug policy of Singapore, but a statement directed to Yong's case.

The Law Minister made the above statement before Yong filed his 2nd petition for clemency. The rejection of Yong's 1st petition for clemency in November 2009 shall not in any way be deemed that Yong's 2nd petition for clemency, which has yet to be filed and heard, will be rejected. Yong's right to be heard must be upheld and due process must be adhered to.

The decision of the Singapore High Court in dismissing Yong's application for judicial review, ruled that the President does not have discretion on clemency but must act on the advice of the Cabinet has reinforced the arguments above, that the Cabinet had made a decision on Yong's 2nd petition for clemency before Yong is heard. Yong was denied his right to be heard, and right to a fair and impartial clemency proceeding.

### Recommendations:

1. Exercise its mandate to obtain information from Singapore on the violation of human rights of Yong Vui Kong.
2. Exercise its mandate to conduct a thematic study on the mandatory death penalty in this region.
3. Exercise its function in advising ASEAN countries to stop execute and abolish death penalty.

## THE AMPATUAN MASSACRE

### Submitted by:

CENTER FOR INTERNATIONAL LAW  
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### Case Summary:

The urgency in this preliminary request for the appropriate declaration is based on strong evidence of complicity on the part of agents of the Republic of the Philippines – including those who occupy top posts of the Arroyo cabinet – in the massacre. At the very least, these agents of the Philippine State had been complicit in the massacre through failure to prevent the massacre, which they had clearly foreseen, as well as their failure to protect the Right to Life of the victims.

In his testimony last January 28, 2010 in the bail hearings before the Quezon City Regional Trial Court, Vice Mayor Esmael "Toto" Mangudadatu said that just before his wife Genalyn was killed, she managed to place a call on her mobile to him to inform him that armed men led by Andal "Unsay" Ampatuan Jr. had just waylaid their convoy. She also told him that Unsay slapped her on the face.

In his tearful testimony, Vice Mayor Mangudadatu also said that then Defense Secretary Gilbert Teodoro (the administration's Presidential candidate in the forthcoming elections) and other Presidential Palace officials knew of the violent nature of the Ampatuans but failed to stop them from bullying their political rivals in Maguindanao.

He told the court that weeks before the massacre, former Congressman Prospero Pichay, also of the ruling Lakas-Kampi-CMD party, told him to be careful because the Ampatuans are given to violence.

In his one-and-a-half-hour testimony, Vice Mayor Mangudadatu said President Gloria Macapagal-Arroyo's chief political adviser, Gabriel Claudio, brokered two "reconciliatory meetings" on July 20 and Aug. 11 last year between the Mangudadatus and the Ampatuans.

In those meetings, Andal Ampatuan Sr. strongly demanded that he declare that he would not contest Ampatuan Jr.'s gubernatorial run, Mangudadatu said. He said he replied to clan patriarch that he was running for governor because of the clamor from his constituents.

Moreover, complicity by the Philippine State in the carnage is established by the following points:

*First*, the Republic of the Philippines could have disarmed the Ampatuans. Its top officials have pronounced that they are "violent people" but continued to supply them with high-powered firearms so that the clan could maintain a private army.

*Second*, the Republic of the Philippines could have sent police and military personnel to accompany Mangudadatu's supporters to the capitol but it did not, despite intelligence reports received from personnel on the ground of the massing of armed men along the highway leading to Shariff Aguak.

This security provision could have prevented the massacre. Yet the Republic of the Philippines' top Army officers in the region refused to heed requests by the Mangudadatus and their media companions, on the lame excuse that they did not have enough personnel for the purpose. Worse of all, they gave assurances that the highway leading to the capitol is safe and secure.

The avoidance by both the police and the military officials in the region of security duty on that ill-fated day is inexplicable, given that the violent tendencies of the Ampatuans are well-known to them and to the high civilian officials of the Republic of the Philippines and the abundant intelligence information passed on from the ground to the chain of command about the massing of armed men along the highway.

Too, this avoidance of duty by responsible officers and men of the Philippine national police and armed forces constitutes a failure to prevent impunity under international law.

It is clear from the above-discussion that the Philippine State is responsible under international law for the acts of its agents who were either complicit in the 23 November Massacre or were its direct perpetrators.

By reason of the above, there are well-founded fears that the Philippine State will be under very heavy pressure from the Ampatuans to whitewash the investigation or to cover up crucial evidence and witnesses. Thus, the need on the part of the Commission to issue an urgent declaration calling on the Philippine State to abide with its obligations under international law and ensure the prosecution and conviction of the perpetrators of the massacre as well as the provision of adequate reparations, including compensation and satisfaction, to the victims and their heirs.

**Preliminary Request:**

Petitioners hereby make a preliminary request for an urgent declaration from the Commission calling on the Philippine State to ensure that the perpetrators of the heinous human rights violation – who are all agents of the Philippine State – are brought to justice and adequate reparations are made to the heirs of the victims under applicable rules of international law.

## MAY 1998 CASE

### Submitted by:

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Fax: 021-3926821  
Website : [www.kontras.org](http://www.kontras.org)  
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### Case Summary:

May 1998 was a dark period in Indonesia's history. There were mass riots in almost all parts of Indonesia during which shops were destroyed and robbed; houses, vehicles and other possessions were burnt; forced disappearances and killings occurred; and abuse and rape were committed against the Chinese ethnic minorities. These incidents cannot be separated from the context of Indonesia's political situation and dynamics, which were 1997 general election, kidnapping of several activists, monetary crisis, General Meeting of People's Consultative Assembly, and massive student demonstrations. The May 1998 riots were closely related to the shift in allegiance of the political elites at that time which was followed by Soeharto's stepping down as President on 21 May 1998--a victorious moment for reformation movement.

Many in the local and international community demanded the government to resolve the case. In 1998 Tim Gabungan Pencari Fakta or Fact Finding Joint Team was formed with the task of revealing the facts and the background of the incident. This team concluded that not only was the riot not an accidental or isolated incident but part of a political shift, exhibiting a similar pattern of incidents occurring all over Indonesia. There was an early indication of severe human rights violations especially crimes against humanity. A lack of follow up to this report made the victims, victims' families, accompanying NGOs, several community organizations, political parties and press groups demand Komnas HAM to investigate the case.

In 2003 Komnas HAM formed an Ad Hoc Team for the investigation of 13-15 May 1998 riots, working *pro justitia*. In this report, it stated that this incident was an inseparable part of repressive ways employed by Soeharto's New Order regime in managing the nation's problems, with the aim of eliminating all potential opposition from the community groups. It had to be seen as part of a long series of intelligence operations during the end of New Order power. Considering the wide and systematic nature of these incidents, and their sequence, it can be seen that there was a deliberate and designed riot which occurred in 88 locations in all Jakarta, Bogor, Tangerang and Bekasi (Jabotabek).

The systematic nature can be seen from the attacks against a certain ethnic group, discriminatory policies and various criminal acts. The riots followed a certain pattern: the trigger is provided by a group of people with similar characteristics appearing at every riot location; and the pattern of official ignorance towards the riots could be seen from the fact that many officials are absent at these locations, thus allowing the riots to continue. It is therefore necessary to demand a legal accountability of the parties suspected to be responsible for the crimes against humanity in May 1998 incidents, which are TNI, Polri and civil officials.

Komnas HAM report was then submitted to the Attorney General's office. Early January 2004, the Attorney General's office stated that the investigation report was incomplete and would be returned to Komnas HAM because there was no explanation on the probable responsibility of the parties mentioned. In mid-2005, Komnas HAM submitted the inquiry report to the Attorney General, but it cannot be followed up because the case was deemed "too political" and limitations on legal technicalities, since no explanations on the responsibility of the parties was provided. This stagnation of the inquiry continued until two years ago.



# Module 4

## Developing Common Strategies

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### Introduction

This module allows for representatives from different regional legal networks in Southeast Asia to discuss the legal arguments and techniques used in their advocacy, and how regional collaboration has supported their work at the national level. Lawyers will be invited to collaborate with each other and develop common advocacy strategies to encourage the promotion and protection of human rights in ASEAN, as well as contributing to the development of the ASEAN human rights system.

### Module Objectives

Looking at the different existing networks of lawyers in the region, the module aims:

- To examine how to create effective networks and how these networks can be used for legal advocacy.
- To have the participants creatively use the regional networks of lawyers to support human rights advocacy at the national and regional levels.
- To have lawyers contribute to the development of the ASEAN human rights system.

### Expected Results

By the end of this module, the participants should be able to:

- Identify different existing regional networks of lawyers.
- Understand the role of the regional networks in various human rights advocacy at the national and regional levels.
- Establish a common understanding about the relevance of regional networks of lawyers in human rights and legal advocacy at the national level.
- Reflect on opportunities for lawyers and other legal professionals to engage with the ASEAN human rights System.
- Develop common advocacy initiatives for future action.

### Scope

|              |  |      |
|--------------|--|------|
| Activity 4.1 | Developing and Maintaining Regional Networks of Lawyers:<br>Panel Discussion         | 90'  |
| Activity 4.2 | Building Common Advocacy Initiatives: Strengthening the ASEAN<br>Human Rights System | 120' |

## Activity 4.1

# Developing and Maintaining Regional Networks of Lawyers: Panel Discussion

### Activity Objectives

- To identify different existing networks of lawyers and their role in various human rights advocacy at the national and regional levels.
- To share lessons learned from the regional initiatives on joint legal advocacy.
- To establish a common understanding around the importance of regional networks of lawyers in supporting human rights and legal advocacy at the national level.

### Key Contents

- Best practices of different networks of lawyers in Southeast Asia.
- Some strategies to develop and maintain collaborative activities on legal advocacy.
- The possible areas for future networking in Southeast Asia legal advocacy.

### Method

2. Lecture
3. Panel discussion with representatives of different networks of lawyers in Southeast Asia

### Media

4. Laptop
5. LCD projector
6. Microphone and speakers
7. Flipchart
8. Markers

### Time

90 minutes

### Steps

1. The facilitator gives a brief overview of the activity.
2. The facilitator invites representatives of different networks of lawyers to sit in a panel to share best practices and lessons learned deriving from their advocacy. An emphasis will be given to how to develop and maintain regional networks of lawyers working on various human rights issues.
3. The panelists will be asked to tell of the successes that their regional networks have had in terms of their legal advocacy. The presentation shall also respond to how the network links its work with or uses the ASEAN human rights system (AICHR, ACWC, and ACMW).
4. The facilitators invite the other participants to share their views, comments or feedback to the panel discussion.
5. The facilitator leads the de-briefing of the activity and asks the participants to reflect on the work of the existing regional networks of lawyers and how they can develop collaboration among themselves to complement the current legal advocacy efforts.

## Activity 4.2

# Building Common Advocacy Initiatives: Strengthening the ASEAN Human Rights System

### Activity Objectives

- To reflect on opportunities for lawyers and legal professionals to engage with the ASEAN human rights system.
- To build common legal advocacy initiatives directed towards strengthening the ASEAN human rights system.

### Key Contents

- Opportunities in using the ASEAN human rights system to support human rights advocacy at the national and regional levels
- Legal advocacy initiatives and strategies

### Method

- Power point presentation
- Brainstorming
- Small group work
- Plenary discussion led by the facilitator

### Media

- Laptop and LCD projector
- Microphone and speakers
- Flipcharts, Marker, Tape and Scissors

### Time

120 minutes

### Steps

1. The facilitator gives a brief and introductory overview of the activity.
2. The facilitator then invites the participants to identify topics of interest or working areas for future advocacy initiatives.
3. The facilitator divides the participants into small groups according to the interest or working areas of the participants.
4. The facilitator asks each group to identify two or three concrete initiatives to be undertaken individually or in collaboration with other lawyers or networks as a follow-up to the training.
5. Each group is invited to share their ideas of collaboration to the larger group.
6. After all presentations, the facilitator leads a plenary discussion and invites the participants to comment on various initiatives presented, with an aim to identifying two-three initiatives that can be carried out.
7. The facilitator summarizes and closes the discussion.





# Module 5

## Evaluation and Closing

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### Introduction

The module comprises a verbal and written training evaluation. This module also provides an opportunity for the organizers to summarize the learning process and highlight training follow-up activities that can further legal advocacy at the national and regional levels.

### Module Objectives

- To evaluate the training.
- To officially close the training.

### Expected Results

By the end of this module, the participants should be able to:

- Evaluate and make critical notes on the training for future improvement.

### Scope

|              |                                 |     |
|--------------|---------------------------------|-----|
| Activity 5.1 | Evaluation and Reflection       | 60' |
| Activity 5.2 | Closing Remarks and Group Photo | 30' |

## Activity 5.1

### Evaluation and Reflection

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#### Activity Objectives

- To reflect on the knowledge gained during the training process.
- To evaluate and make critical notes on notes on the training for future improvement.

#### Key Contents

- Evaluation of the training process

#### Method

- Brainstorming
- Individual evaluation

#### Media

- Evaluation form
- Microphone and speakers

#### Time

60 minutes

#### Steps

1. The facilitator distributes the written evaluation form and explains about the content. The participants fill out the written evaluation and return it to the facilitator.
2. The facilitator invites the participants to verbally share their feedback and suggestions. The facilitator takes notes on the important feedback and suggestions derived from the evaluation.
3. The facilitator highlights what has been achieved in the three-day process and “Where to from now” by also referring to how the process relates to the objectives of the training and the expectations of participants.

## Activity 5.2

### Closing Remarks and Group Photo

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#### Activity Objectives

- To reflect on the whole training process.
- To officially close the training and share about follow-up and future activities.

#### Key Contents

- Closing remarks from the representatives of the partner organizations.

#### Method

- Speech
- Photo-taking

#### Media

- Microphone and speakers
- Camera
- Training certificates

#### Time

30 minutes

#### Steps

1. The organizer invites the representatives of the partner organizations to officially close the training by providing closing remarks.
2. The representatives of the partner organizations hand out the training certificates to the participants.
3. The organizer invites all participants to take part in the group photo.



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