

Terms of Reference

Development of A Report on the Performance of the ASEAN Human Rights Mechanisms in 2017

1. Background

The Asian Forum for Human Rights and Development (FORUM-ASIA) was founded in 1991 with the mission to promote and protect all human rights, including the right to development, through collaboration and cooperation among human rights organisations and defenders in Asia. It is a membership-based non-governmental organisation with 58 members in 19 countries and in Special Consultative Status with the United Nations Economic and Social Council (ECOSOC). In addition, FORUM-ASIA received AICHR consultative status in 2017.

The vision of FORUM-ASIA is to build a peaceful, just, equitable and ecologically sustainable community of peoples and societies in Asia, where all human rights of all are fully respected and realised in accordance with internationally accepted human rights norms and standards.

FORUM-ASIA's specific objectives for 2016-2010 are: (a) to strengthen the capacity of Asian civil society organisations and human rights defenders; (b) to undertake advocacy for inclusive and participatory policymaking in relation to human rights, democratic governance and sustainable development at all levels in particular SAARC, ASEAN and United Nations (UN) human rights mechanisms; (c) to respond to human rights situations in Asia and beyond through solidarity actions and emergency assistance; and (d) to further strengthen FORUM-ASIA's institutional and operational capacity in order to better serve and effectively represent its constituencies at the national, regional and global levels.

As part of its advocacy on the ASEAN human rights mechanisms, FORUM-ASIA and the Solidarity for ASEAN People's Advocacy (SAPA) produce an annual assessment of the performance of the ASEAN human rights mechanisms: the ASEAN Intergovernmental Commission on Human Rights (AICHR), and the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC). This year mark the 8th annual assessment of ASEAN human rights mechanism. This flagship report serves as an advocacy tool to enhance the effectiveness and functioning of the AICHR and the ACWC as regional bodies mandated to promote and protect human rights in the region.

With the Terms of Reference (ToR), FORUM-ASIA seeks to engage an external consultant to write the 2017 annual performance report of the ASEAN Human Rights mechanism and draw practical recommendations for the improvement of the AICHR, the ACWC, and the ASEAN overall.

2. Objective

Against the background discussed in the first section, the objectives of the assignment are as follows:

- To facilitate a preparatory meeting of a reference group, which consists of representatives of FORUM-ASIA's members, SAPA representatives, academics, activists, and practitioners. The meeting aims at fine-tuning the report's methodology and finalising the meta-indicators to be used in examining the performance of the ASEAN human rights mechanisms and review;

- To objectively assess the performance of the ASEAN human rights mechanisms between the period 1 January-31 December 2017¹ and offer concrete practical recommendations for the improvement of their work. The analysis will concentrate on how the implementation of their mandates and annual work plan, activities, and their engagements with CSOs and other stakeholders are in compliance with international human rights standards and norms.

3. Methodology

The Consultant may utilise different research methodologies in preparing the report. The Consultant may collect data both from primary and secondary sources, and draw findings by cross triangulation of information collected from various sources.

- **Primary data collection** will involve interviews with ASEAN Human Rights Mechanism Representatives, FORUM-ASIA's members, SAPA members, and partners working on ASEAN; select human rights defenders; representatives of national human rights institutions (if relevant); representatives of the donor community; media persons; etc.
- **Data analysis** involves the analysis of information generated through secondary sources; perspectives, ideas and opinions collected through interviews and interactions with those involved; clustering of information based on research questions; and, drawing conclusions on the basis of evidence.
- **Consolidation** of findings will include following:
 - Preparation of a draft report. The structure of the draft report is as follows:
 - ❖ **Preface**
 - ❖ **Executive Summary**
 - ❖ **Chapter 1: Introduction**
This Chapter will include the current context and key human rights issues in the region, in particular the developments in 2017; and any mega/global trends which influenced the state of human rights in ASEAN during the year.
 - ❖ **Chapter 2: Implementation of Mandate and Work Plan of the AICHR**
This Chapter will include a brief information on the AICHR, including its mandate, 2017 work plan, as well as the representatives (including the selection process and background); a gap analysis of its key activities that contributed to the mandates and work plan, and more importantly to addressing human rights issues in ASEAN; an analysis of the AICHR's engagement with civil society; and a critical analysis of the implementation of ASEAN human rights instruments.
 - ❖ **Chapter 3: Implementation of Mandate and Work Plan of the ACWC**
This Chapter will include a brief information on the ACWC, including its mandate, 2017 work plan, as well as the representatives (including the selection process and background); a gap analysis of its key activities that contributed to the mandates and work plan, and more importantly to addressing human rights issues in ASEAN; an analysis of the ACWC's engagement with civil society; and a critical analysis of the implementation of the ASEAN Declaration on the Elimination of Violence Against Women and Children in ASEAN and the Regional Plan of Action on EAW and EVAC in 2017.

¹ The TORs of the AICHR and the ACWC will be used in making the assessments, but bearing in mind that the nature of the obligations they impose on these bodies is a matter of contention. The AICHR and the ACWC often rely on their TORs to justify their inaction in protecting human rights, even in the face of major human rights crises, whereas the report will also reflect Forum-Asia/SAPA's position that the TORs impose on both Commissions the obligation to actively protect as well as to promote human rights, and they can only blame themselves for failing to meet this obligation.

❖ **Chapter 4:** Engaging the ASEAN Human Rights Mechanisms- Perspective from CSOs and Academician

This Chapter will include the findings of interviews of key activists, FORUM-ASIA’s staff and members, SAPA members, as well as academics. It will focus on the assessment of the effectiveness, impact, and relevance of the ASEAN human rights mechanisms in relation to key activities, researches, initiatives, or advocacies undertaken during the reporting period (2017) to influence the AICHR and the ACWC to undertake their mandates.

❖ **Chapter 5: Thematic Case Studies**

This Chapter will examine the role (including the inactivity and absence of actions) of the AICHR and the ACWC in thematic areas agreed by the reference group, such as business and human rights; protection of human rights defenders; Rohingya crisis; or the implementation and governance of SDGs.

❖ **Chapter 6: Conclusions and Recommendations**

❖ **Annexes:** full list of representatives, changes during the year, and the full list of activities

- Sharing of the draft report with FORUM-ASIA and SAPA for comments and feedback; and,
- Finalisation of the report after incorporating comments/feedback received from FORUM-ASIA.

4. Duration

The review will take place from **April to June 2018**. The actual duration for the review will be thirty **(30) (thirty) working days**.

Date(s)	Activity	# of working days	Amount
	Secondary and primary data collection	12 days x USD 120	USD 1,440
	Attending the Preparatory meeting		
	Letters to ASEAN Secretariat and relevant Ministries		
	Survey to FORUM-ASIA’s members and partners		
	Deadline for survey from FORUM-ASIA’s members and partners		
	Circulation of 1 st draft to FORUM-ASIA’s members and partners		
	Deadline for comments/feedback on the 1 st draft from FORUM-ASIA’s members and partners		
	Incorporation of comments/feedback from FORUM-ASIA’s members and partners and revision of 1 st draft	5 days x USD 120	USD 600
	Circulation of 2 nd draft to FORUM-ASIA and members of SAPA Task Force on ASEAN and Human Rights		
	Deadline for comments/feedback on the 2 nd draft from FORUM-ASIA and members of SAPA Task Force on ASEAN and Human Rights	5 days x USD 120	USD 600
	Incorporation of comments/feedback from FORUM-ASIA’s members and partners and revision of 2 nd draft		
	Review by FORUM-ASIA		
	Incorporation of comments/feedback from FORUM-ASIA and finalisation of the draft	5 days x USD 120	USD 600

	Final review by FORUM-ASIA		
	Final revision by the Consultant (final draft ready for editing and printing)	3 days x USD 120	USD 360
	TOTAL	30 days	USD 3,600

5. Deliverables

The consultancy will have following output-related deliverables:

- **A Draft Report** containing responses to all aspects of the assessment objectives as outlined in Section 2 and the methodology as discussed in Section 3 above; and
- **A Final Report** incorporating comments/feedback by FORUM-ASIA’s members and partners, between 30-40 pages (A4 size, single spacing, Calibri 12), excluding annexes.

6. Expertise

The consultant will have at least a master’s degree in a relevant field, with proven experience of human rights research and advocacy, particularly in the area of ASEAN and regional human rights mechanisms. The consultant will have proven ability of writing fluently in English.

8. Budget

The budget for the assignment includes a fee of USD 120 per day (for 30 days). Other costs incurred in relation to fieldwork, *if required*, including costs for economy-class travel, local airport transfers and local transportation in the home and destination countries, standard accommodation costs, phone credit, and per diem, will follow FORUM-ASIA’s Financial Rules and Regulation.