

Joint Submission to the ASEAN Intergovernmental Commission on Human Rights: Civil Society Organisations request meaningful engagement

Attn:

H.E. Ambassador Barry Desker, Singapore Representative and Chair of AICHR
H.E. Dr. Seree Nonthasoot, Thailand Representative of AICHR
H.E. Mr. Edmund Bon Tai Soon, Malaysia Representative of AICHR
H.E. Mrs. Dinna Wisnu, PhD, Indonesia Representative of AICHR
H.E. Leo Herrera-Lim, Philippine Representative of AICHR
H.E. Haji Mohammad Rosli bin Haji Ibrahim, Brunei Darussalam Representative of AICHR
H.E. Mrs. Polyne Hean, Cambodia Representative of AICHR
H.E. Mr. Phoukhong Sisoulath, Lao PDR Representative of AICHR
H.E. Amb. Hla Myint, Myanmar Representative of AICHR
H.E. Amb. Nguyen Thi Nha, Vietnam Representative of AICHR

CC:

H.E. Lim Jock Hoi, ASEAN Secretary General
H.E. AKP Mochtan, Deputy Director for Community and Corporate Affairs
Ms. Le Thi Nam Huong, ASEAN Assistant Director Human Rights Division

Your Excellencies,

Civil Society Organisations (CSOs) have played a critical role in advocating for the creation of a human rights body in the Association of Southeast Asian Nations (ASEAN). This eventually resulted in the ASEAN Intergovernmental Commission on Human Rights (AICHR), an intergovernmental body, which has the purpose of realising the principle of the ASEAN Charter concerning the promotion and protection of human rights and fundamental freedoms in the ASEAN region, Article 14.

We acknowledge the importance of the role of the AICHR, as the institution responsible for the promotion and protection of human rights in ASEAN. Furthermore, we are aware of the adoption of the 'Guidelines on the AICHR's Relations with Civil Society Organisations', and welcome the AICHR's openness in establishing an accreditation system for CSOs in order to establish an enabling environment for meaningful and constructive engagement and interaction between AICHR and CSOs. This should further strengthen cooperation in the promotion and protection of human rights in accordance with the ASEAN Charter, as well as international human rights laws and standards.

Since its establishment in 2009, we have been calling on the AICHR to establish a framework for engagement with civil society, and for it to recognise the important role CSOs play in its functioning as a regional human rights mechanism.

We regret that there has been little progress in this area. More than that, there have been recent instances where CSO representatives were invited to attend AICHR meetings, but where it soon became clear that their presence was merely formulaic. During these meetings, CSO representatives were not given a chance to seek clarifications on the matters discussed, including on their further engagement in the follow up to such gatherings. These instances include: the AICHR meeting on the ASEAN Human Rights Declaration in Bohol, Philippines in November 2017; and several key regional dialogues organised by the AICHR.

In addition, we write to raise concerns about the lack of transparency, accountability and follow-up in relation to the thematic studies conducted by AICHR. We note that several thematic studies, such

as the ‘Thematic Study on Business and Human Rights’ and the ‘Thematic Study on Women in Disaster Management’, were conducted without involving CSOs in the process, hence creating duplication of work, instead of building on what CSOs had already achieved in these areas.

The ‘Guidelines on the AICHR’s Relations with Civil Society Organisations’ stipulate that prior to consultations with CSOs and other institutions, related materials ‘will be forwarded to them well in advance to enable CSOs concerned to be prepared for the Consultations’ (Article 16) and ‘the consultations or dialogues between AICHR and CSOs shall always be substantive and towards a mutually satisfactory result, carried out in an environment of friendliness and respect’ (Article 17). In light of the above-mentioned incidents, we are disappointed to note that these articles and others have not been followed.

During its 38th session, on 4 July 2018, the UN Human Rights Council adopted a resolution on ‘Civil society space: engagement with international and regional organizations’. It emphasised the essential contribution that civil society organisations make to the promotion of human rights, the creation of peaceful dialogue, and the building of pluralistic democracies. It further recognised that the effective functioning of the regional human rights mechanisms is inexorably linked to civil society participation. The UN Human Rights Council also called upon States ‘to review, and update as appropriate, their frameworks for engagement with civil society to ensure that those frameworks reflect and respond to the challenges faced, in order to support improved civil society engagement with international and regional organizations.’

We also reaffirm that the AICHR needs to continuously evolve and develop itself and strive to fulfil its purpose to become the overarching institution responsible for the promotion and protection of human rights in ASEAN, by, among others, reviewing its Term of References (ToR) every five years to strengthen its mandate as stipulated in the ‘Cha Am Hua Hin Declaration on the Intergovernmental Commission on Human Rights’. It is in particular important for the AICHR to embrace and strengthen its protection mandate, which it has so far failed to implement, remaining passive even in the face of major human rights crises in the region.

In alignment with the principles enshrined in international human rights laws and standards, the ASEAN Charter, the Cha Am Hua Hin Declaration on ASEAN Intergovernmental Commission on Human Rights, and the recent HRC Resolution on civil society engagement with international and regional organisations, as well as by reflecting on the recent trends of CSO exclusion, we urge the AICHR to:

- 1) Expressly recognise that its effective functioning as the overarching institution responsible for the promotion and protection of human rights in ASEAN is inextricably linked to civil society participation;
- 2) Review its TOR with a view to amending it to enhance civil society engagement in its work and strengthen its protection mandate;
- 3) [Respect](#) and uphold principles of inclusivity and non-discrimination; and
- 4) [Ensure](#) meaningful participation of grassroots and marginalised groups in decision-making

In addition, we urge the ASEAN Member States to:

- 5) Create and maintain a safe and enabling environment for civil society by applying sound procedures and good practices as identified in international human rights standards in order to strengthen the engagement of CSOs with international and regional bodies such as AICHR

We call for respecting, protecting and fulfilling the right of everyone, individually and in association with others, to unhindered access to and communication with regional and international human rights bodies, their representatives and mechanisms. Our role as civil society is to strengthen the mandate and action of the AICHR as a body that encourages and helps ASEAN Member States in fulfilling as well as expanding their obligations under international human rights law as it is mandated to. Therefore, it is important to establish an enabling environment that promotes mutual respect and constant engagement between both parties.

We thank you in advance for your kind consideration of the concerns raised in this letter and look forward to your early reply.

List of endorsers:

Alternative ASEAN Network on Burma (ALTSEAN-Burma)
ASEAN Services Employees Trade Union Council (ASETUC)
ASEAN SOGIE Caucus
Asian Forum for Human Rights and Development (FORUM-ASIA)
Asia Pacific Refugee Rights Network (APRRN)
Initiatives for International Dialogue (IID)
International Commission of Jurists (ICJ)
MARUAH (Singapore)
People's Empowerment Foundation (PEF)
Persaudaraan Korban Napza Indonesia (PKNI)
Progressive Voice
Pusat KOMAS
Secretariat for Indonesian Independent Children (SAMIN)
Suara Rakyat Malaysia (SUARAM)
The Commission for Disappeared and Victims of Violence (KontraS)
Think Centre