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ASEAN Needs a Stronger Human Rights Mechanism

(Jakarta, 9 May 2019) – Ten years since its establishment, the ASEAN Intergovernmental Commission on Human Rights (AICHR) has yet to fully realise the expectations that civil society has of its functioning as a regional human rights mechanism. During the High Level Dialogue on Human Rights in ASEAN in Jakarta held on 9 May 2019, the Asian Forum for Human Rights and Development (FORUM-ASIA), ASEAN Parliamentarians for Human Rights (APHR), and the Centre for Strategic and International Studies (CSIS) express grave concern about the ineffectiveness of the AICHR to protect the human rights of the peoples of Southeast Asia.

We call on the AICHR and ASEAN Member States to significantly and meaningfully strengthen the human rights commission's protection mandate, so it can truly benefit all in the region.

From 2010 to 2018, AICHR spent over six million USD conducting 121 activities approved by the ASEAN Member States. Unfortunately, these activities have not resulted in any significant improvement in the human rights situation on the ground, nor for those people in the ASEAN region, who need its protection.

In Southeast Asia, we are faced with frequent incidents of human rights violations and abuses, ranging from: the crimes against humanity committed against the Rohingya and other religious and ethnic minorities in Myanmar; numerous enforced disappearances; extra-judicial killings in the Philippines; attacks on independent media; dissolution of the political opposition; to the shrinking of civic space and crackdown on the freedom of expression. Overall, the human rights situation in the region is deteriorating, but all these issues remain unaddressed by AICHR.

Despite having protection-related provisions in its Terms of Reference (ToR) that could be used to meaningfully address human rights, the AICHR tends to succumb to the political will of ASEAN Member States. The human rights commission chooses to hide behind the non-interference principle of ASEAN, and, in doing that, to side-line international law and the respect for fundamental freedoms. This has resulted in the grave neglect of human rights, and has assured the irrelevance of both the AICHR and of ASEAN as a whole in addressing the struggles of its people.

It is evident that individually and collectively, the AICHR, the ASEAN Member States, and the ASEAN have failed to provide viable protection and respect for human rights. The mechanism is considerably weaker than similar institutions in Africa, the Americas, and Europe, which have the power to investigate and consider complaints. States can and do respectfully submit their positions to these bodies, but the mechanisms have the full ability to take steps to: prevent and stop violations; provide redress and accountability; and ensure that violations are not repeated.

It is crucial to ensure transparency and accountability to the peoples. We call on the AICHR to proactively and publicly respond to the human rights crises in the region, among others by: creating a robust complaint mechanism that is accessible to vulnerable individuals and groups; and the enhancement of engagement with civil society organisations as equal partners for the promotion and protection of human rights in the region.

We insist the AICHR needs to push the agenda to revise its ToR with the ASEAN Member States, in particular the ASEAN Foreign Ministers. ASEAN Member States, on the other hand, need to ensure that the revision of AICHR's ToR will ensure the inclusion of: a more elaborate and detailed protection mandate; guaranteeing and upholding the professionalism and independence of the AICHR representatives; and an innovative decision-making procedure that can override the current non-interference and consensus building principles in the event of grave human rights violation.

Ten years of silence is enough. If the AICHR would like to be relevant in the struggle of the peoples of Southeast Asia and merit to be called a human rights commission, it needs to make major institutional changes, and take genuine steps towards the promise that was made in its creation.