

**Second Roundtable Discussion on Human Rights in ASEAN:
Challenges and Opportunities for Human Rights
in a Caring and Sharing Community**

18-19 December 2006
Jakarta, Indonesia

SUMMARY OF PROCEEDINGS

I. Introduction

1. The Second Roundtable Discussion (Roundtable) on Human Rights in ASEAN, Challenges and Opportunities for Human Rights in a Caring and Sharing Community, was held in Jakarta, Indonesia, on 18-19 December 2006. The Roundtable was co-organized and co-hosted by the Department of Foreign Affairs of the Republic of Indonesia and the Working Group for an ASEAN Human Rights Mechanism.
2. The Roundtable was attended by participants representing governments, national human rights institutions, and civil society groups from Brunei Darussalam, Cambodia, Indonesia, Lao P.D.R., Malaysia, Myanmar, Philippines, Singapore, Thailand and Viet Nam, including a representative from the ASEAN Secretariat. Also in attendance was a discussant from UNESCO as well as observers from funding organizations.
3. The Roundtable was keynoted by H.E. Dr. N. Hassan Wirajuda, Minister of Foreign Affairs of the Republic of Indonesia. Minister Wirajuda explained that in the evolution of ASEAN's commitment to human rights, ASEAN leaders are, in effect, saying that the goal of the ASEAN Community cannot be achieved "until and unless the promotion and protection of human rights is pervasive in the region." According to him, this requires the setting up of a regional human rights mechanism through a gradual or building-block approach. He said that the establishment of an ASEAN commission on the promotion and protection of the rights of women and children is a modest but feasible step that can serve as a basis for future initiatives. He also endorsed the Malaysian proposal for the establishment of a mechanism involving initially only member-countries who are ready for it, while allowing others to subsequently join. Minister Wirajuda said that ASEAN needs to catch up with other regional groupings with human rights mechanisms in the foreseeable future. He concluded that the meaning of the non-interference principle has evolved in ASEAN, particularly since gross human rights violations are not anymore merely domestic issues.
4. In his welcome remarks, Mr. Marzuki Darusman, Co-Chairperson of the Working Group for an ASEAN Human Rights Mechanism thanked the participants for coming despite the short notice and expressed the Working Group's hope that the dynamics within ASEAN will eventually lead to the setting up of a regional human rights mechanism. He explained that the Roundtable aims to provide recommendations for a practical strategy towards a progressive realization of the regional mechanism, particularly with a view to implementing the human rights provisions of Vientiane Action Programme. He further pointed out that the Roundtable serves as a bridging activity to the annual workshops on the regional human rights mechanism which are co-organized by the Working Group with ASEAN governments.

II. Roundtable Sessions

5. The Roundtable was divided into five sessions covering the following topics: (A) Is ASEAN Making Progress on Human Rights?; (B) Efforts To Implement the Human Rights Program Areas of the Vientiane Action Programme (VAP), which is further divided into: (i) Promoting Education and Public Awareness on Human Rights in the Region; (ii) Promoting and Protecting the Rights of Women and Children; and (iii) Promoting and Protecting the Rights of Migrant Workers; (C) Human Rights and the ASEAN Charter; and (D) Networking of National Human Rights Institutions: Efforts to Address Common Human Rights Issues and Concerns; and (E) Plenary Discussion on the Roundtable Conclusions and Recommendations.
6. In Session One, Dr. Sriprapha Petcharamesree, director of the Office of Human Rights Studies and Social Development of Mahidol University in Thailand, discussed ASEAN's perception of human rights, assessed the human rights elements in ASEAN's agenda for cooperation among member-states, considered ASEAN's progress on human using concrete indicators, and made some recommendations on how ASEAN could have greater progress on human rights, including the importance of enhancing ASEAN's relationship with civil society organizations, and the fixing of specific timeframes for the human rights program areas of the VAP. In the open forum, participants gave their own assessments on the progress of human rights in ASEAN. They also discussed certain challenges, including the question of the principle of non-interference and state sovereignty, the interface between human rights and development, the importance of establishing National Human Rights Institutions (NHRIs), and the need to consider the ASEAN way in efforts to establish the regional mechanism. The Session was moderated by Ms. Ha Thi Ngoc Ha, Deputy Director-General of the ASEAN Department, Ministry of Foreign Affairs of Viet Nam.
7. Session Two, entitled "Efforts to Implement the Human Rights Program Areas of the Vientiane Action Programme", was further divided into three sub-sessions.
 - a. In the first sub-session on "Promoting Education and Public Awareness on Human Rights in the Region," Dr. Alisher Umarov of UNESCO Jakarta discussed the link between human rights and education, a rights-based approach to education, the World Programme on Human Rights Education and UNESCO's work. He also noted opportunities and challenges for ASEAN countries in human rights education. During the open forum, participants, among others, talked about the various approaches in teaching human rights, the advantages of having a ministry on human rights as a leading agency for formal and non-formal education on human rights, and the importance of non-formal human rights education. The sub-session was moderated by Ms. Phantipha Iamsudha, Counsellor of the Social Division, Department of International Organizations of the Ministry of Foreign Affairs of the Kingdom of Thailand.
 - b. In the second sub-session on "Promoting and Protecting the Rights of Women and Children", Ms. Sjamsiah Achmad, a member of the National Commission on Violence Against Women of the Republic of Indonesia, cited pertinent ASEAN instruments and emphasized that a caring and sharing community cannot be built and maintained without continuous efforts in the promotion and protection of human rights, particularly those of women." She discussed the various challenges in the promotion of women's rights in the region and recommended a study of the Convention on the Elimination of Discrimination against Women (CEDAW) Committee's conclusions, issues of concern and recommendations on reports submitted by ASEAN member-countries as State Parties. On the issue of children's rights, Dr. Lily Rilantono of the Indonesian Commission for Child Protection outlined Indonesia's protection measures since

its ratification of the UN Convention on the Rights of the Child (CRC) in 1990, to the enactment in 2002 of the CRC-based child protection law, and the establishment in 2004 of the commission for the protection of children. She pointed out possible challenges to the establishment of an ASEAN commission for child protection. Such challenges can be responded to by, among others, establishing a Child Net as proposed by the conference in Manila in 2005 organized by the Council for the Welfare of Children and UNICEF. During the open forum, participants discussed the need for a clear terms of reference for the establishment of the ASEAN Commi

Pacific Forum of accredited national institutions as well as various conferences on human rights issues, and the signing of a Declaration of Cooperation which will formalize their networking. The importance of the cooperation of ASEAN NHRIs, the history of such cooperation including the role of the Working Group in the process, was underscored. She also emphasized the importance of encouraging governments of the other ASEAN member-countries to establish independent NHRIs in conformity with the Paris Principles and the proposed ASEAN Charter should contain a provision on this. The four ASEAN NHRIs have met regularly since 2004 and the imminent signing of the Declaration of Cooperation will formalize this partnership and networking. Tan Sri Simon Sipaun, Vice Chairperson of the National Human Rights Commission of Malaysia (SUHAKAM), for his part introduced SUHAKAM and focused on the migrant workers issue. He also said that while there are many issues which must be addressed by the ASEAN NHRIs separately, there are also many human rights concerns which can be addressed more effectively together. Finally, Mr. Jaran Ditapichai, Commissioner of the National Human Rights Commission of Thailand, stressed the need for the four ASEAN NHRIs to make its network more concrete and systematic, notwithstanding each NHRI's overwhelming duties and limitations. He also recommended more communication and cooperation among each other as well as the implementation of its proposed Declaration of Cooperation. During the open forum, questions were raised as to how the existing NHRIs can help other ASEAN member-countries establish an NHRI (e.g., such efforts are ongoing in Cambodia), how the networking could be translated into actual collective actions, and the possibility of bringing in specialized human rights institutions into the network. Information was also shared regarding actions taken in the past on migrant workers issues in Sabah and recommendations were also made regarding other possible strategic partners or associates (e.g., LAWASIA and the ASEAN Law Association). The session was moderated by Dr. Eny Soeprapto, Commissioner of the National Human Rights Commission of Indonesia (Komnas HAM).

10. The Final Session was a Plenary Discussion on the Roundtable Conclusions and Recommendations. The rapporteurs, Mr. Jonny Sinaga, Deputy Director of the Directorate for Human Rights and Humanitarian Affairs, Ministry of Foreign Affairs of Indonesia, and Mr. Carlos Medina, Secretary- General of the Working Group for an ASEAN Human Rights Mechanism, presented for plenary deliberation the draft summary of the Roundtable proceedings and the conclusions and recommendations of the Roundtable. The session was moderated by Ms. Wiwiek Setyawati Firman, Director of the Directorate for Human Rights and Humanitarian Affairs of the Department of Foreign Affairs of the Republic of Indonesia.
11. The closing remarks were delivered by H.E. Mr. Imron Cotan, the Secretary General of the Department of Foreign Affairs of the Republic of Indonesia. He stated that a caring and sharing ASEAN Community can only be realized if ASEAN is faithful to its human rights commitments by establishing an effective ASEAN human rights mechanism.

III. Conclusions and Recommendations

General

12. The Roundtable acknowledges that, while ASEAN has made progress in the field of human rights promotion through various instruments and programmes, there is a need for ASEAN to address human rights protection in the region.
13. The Roundtable reaffirms the need to have a human rights mechanism in the region which should have the Universal Declaration of Human Rights as minimum

standards. The mechanism, however, should not be a mere replication of what other regional groupings have in place but should take into account the regional particularities.

14. The Roundtable further reaffirms the commitment of all stakeholders to the establishment of the regional human rights mechanism through a step-by-step, multi-track and building-block approach involving governments, national human rights institutions, and civil society groups in the ASEAN region.
15. The Roundtable acknowledges the importance of having all ASEAN member-countries jointly subscribe to the regional mechanism at the same time. However, it also recognizes the merits of the proposal first advanced by Malaysia that an ASEAN human rights mechanism can be established with the initial involvement of member-countries which are already prepared to do so, while allowing others to join subsequently.
16. The Roundtable encourages ASEAN to implement, within the timeframe, the human rights program areas of the Vientiane Action Programme (2004-2010), particularly the establishment of an ASEAN commission on the promotion and protection of the rights of women and children, and the elaboration of an instrument on migrant workers.
17. The Roundtable emphasizes the need for ASEAN to exert greater efforts at promoting itself and making ASEAN peoples aware of its goals and programs, including the initiative to draft an ASEAN Charter that will serve as a firm foundation for ASEAN in the years ahead and to facilitate the building of an ASEAN sharing and caring community.

Human Rights Education (HRE)

18. The Roundtable reiterates the importance of the concept enshrined in the International Covenant on Economic, Social and Cultural Rights that education is both a human right in itself and an indispensable means of realizing other human rights.
19. The Roundtable notes the many approaches and methodologies to human rights education and acknowledges the different benefits and challenges of teaching human rights as a separate subject and of incorporating and integrating human rights in existing courses.
20. The Roundtable recommends that UNESCO consider publishing a compilation of best practices in HRE in the ASEAN region.
21. The Roundtable takes note of the following opportunities and corresponding challenges in human rights education in the region:
 - The framework for action and cooperation for HRE in the formal school curriculum provided by the World Programme on Human Rights Education and the challenge of assessing national strategies for implementation through national action plans;
 - The many case studies of successful non-formal HRE in the region and the challenge of assessing their applicability for replication; and
 - The regional cooperation undertaken through existing ASEAN mechanisms and the challenge of working towards an ASEAN human rights mechanism, including the sharing of best practices on policy implementation of HRE.

Promotion and Protection of the Rights of Women and Children

22. The Roundtable recognizes that the establishment of an ASEAN commission on the promotion and protection of the rights of women and children is a modest but feasible preliminary step leading to the eventual establishment of a general human rights mechanism which can address the rights of all sectors in society.
23. The Roundtable reaffirms the need to hold extensive consultations with representatives of ASEAN governments, NHRIs and civil society organizations in the process of considering the proposed commission on the promotion and protection of the rights of women and children.
24. The Roundtable takes note of the importance of the on-going research study on women and children being undertaken by Mahidol University of Thailand as a step towards identifying possible courses of action in implementing the VAP program area on establishing a commission on the promotion and protection of the rights of women and children.

Promotion and Protection of the Rights of Migrant Workers

25. The Roundtable reaffirms that it is the obligation of every ASEAN member-country to protect its citizens, without discrimination, wherever they may be. It also recognizes the need to protect migrant workers everywhere.
26. The Roundtable recognizes the need for both sending and receiving countries to coordinate closely in addressing the problems and concerns of migrant workers.
27. The Roundtable recommends that ASEAN member-countries, which have not yet done so, consider ratifying the ICMR and concluding bilateral arrangements on the promotion and the protection of migrant workers' rights.
28. The Roundtable acknowledges the importance of considering the viewpoints of both sending and receiving states, as well as bilateral agreements already concluded, in drafting the proposed ASEAN Declaration on the Promotion and Protection of Migrant Workers.
29. The Roundtable recommends that a follow-up activity be undertaken after the 12th ASEAN Summit in Cebu to discuss vital documents such as the proposed declaration on the rights of migrant workers.
30. The Roundtable expresses the hope that ASEAN can become a model of regional cooperation on the promotion and protection of migrant workers.

ASEAN Charter

31. The Roundtable acknowledges the importance of incorporating human rights components in the ASEAN Charter, including the establishment of a regional human rights mechanism.
32. The Roundtable recommends that civil society participation be institutionalized in the ASEAN Charter.
33. The Roundtable recommends that the Working Group for an ASEAN Human Rights Mechanism and other civil society groups should, to the extent possible, engage the high level task force for the ASEAN Charter, individually and collectively, during the drafting process.

34. The Roundtable recognizes that the ASEAN Charter would impact on the lives of ASEAN peoples and that they should therefore be informed and made aware of what is to be contained in the Charter. For this purpose, the Roundtable recommends that information campaigns be undertaken.
35. The Roundtable takes note of the meetings and gatherings of the ASEAN Peoples' Assembly and the ASEAN Civil Society Conference and their submissions to the EPG for the ASEAN Charter which maintained that human rights and the possibility of a regional mechanism be included in the Charter.

National Human Rights Institutions (NHRIs)

36. The Roundtable recognizes the efforts of NHRIs to strengthen their cooperation and networking to address human rights issues of common concern, including the rights of women, children and migrant workers.
37. The Roundtable urges the establishment of an independent NHRI compliant with the Paris Principles in ASEAN member-countries without one and notes the recent developments in Cambodia towards such establishment.
38. The Roundtable recognizes the importance of confidence-building measures (e.g., invitations to meetings) which existing NHRIs may undertake to encourage participation from other ASEAN member-countries considering a prospective national institution.
39. The Roundtable commends the efforts of the four ASEAN NHRIs to address various human rights concerns, including human rights education, in the region, and welcomes the proposed Declaration of Cooperation to be concluded at their next consultation meeting in early 2007.
40. The Roundtable urges the ASEAN NHRIs to continue cooperating and coordinating with the Working Group for an ASEAN Human Rights Mechanism, other civil society groups, and governments of ASEAN member-states towards the establishment of an ASEAN human rights mechanism.

IV. Acknowledgment

41. The Roundtable participants expressed appreciation to the Department of Foreign Affairs of the Republic of Indonesia and the Working Group for an ASEAN Human Rights Mechanism for co-hosting and co-organizing the Second Roundtable Discussion on Human Rights in ASEAN: Challenges and Opportunities for Human Rights in a Caring and Sharing Community, and to Friedrich Naumann Foundation and to the Canadian International Development Agency (CIDA) sponsored Southeast Asia Regional Cooperation in Human Development (SEARCH) project for providing invaluable financial support.