

**Translating International Human Rights Commitments into National Realities:  
The contribution of parliaments to the work of the  
United Nations Human Rights Council**

Manila, Philippines  
26 February 2015

**I. General Statement**

Thank you, Ms. Chair, Excellencies, for giving the Philippine Working Group for an ASEAN Human Rights Mechanism this opportunity to report and dialogue with you on the issue of human rights, more particularly on the *Common challenges regarding the human rights situation in Asia-Pacific*. On behalf of our Co-Chairperson, former Senator Wigberto Tañada, who could not be here this afternoon, allow me first to introduce our organization.

The Working Group for an ASEAN Human Rights Mechanism (Working Group) is an informal coalition of individuals and groups from the Southeast Asian region who are working in the field of human rights. It is organized into national working groups which are composed of representatives of government institutions, parliamentary human rights committees, national human rights institutions, the academe, and NGOs. At present, there are 6 national working groups: Cambodia, Indonesia, Malaysia, Philippines, Singapore, and Thailand.

Its primary objective is the establishment of an intergovernmental human rights mechanism in Southeast Asia through a constructive, consultative and step-by-step process involving governments and civil society groups. Since 1996, the Working Group has been engaging with key stakeholders in ASEAN, to discuss human rights and the possibilities of having effective human rights mechanisms on the national and regional level. It has also conducted annual workshops and roundtable discussions on human rights mechanisms, and pressing human rights issues and concerns, which are attended by government and non-government stakeholders, which provide for the space for exchange and discussion on the sub-regional level.

Though our experience draws more on the ASEAN experience, the challenges on human rights are not isolated to the Southeast Asian region, and may find relevance in the other parts of the Asia Pacific.

**II. Issues**

- a. Rule of Law and access to justice (or lack thereof)
- b. Ineffective national and regional human rights mechanisms (or lack thereof)

We are much encouraged by the developments in Asia, particularly in ASEAN, especially on the issue of human rights. While member-states of ASEAN still have diverse records on human rights, it is encouraging that ASEAN itself, as a rules-based regional organization, has increasingly paid attention to human rights, especially with the establishment of regional human rights mechanisms such as 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).

However, there is much to be desired in the extent of how human rights policies and measures on promotion and protection are felt on the ground. With ASEAN, and the rest of Asia, moving towards a “borderless” society in preparation for integration, ASEAN has been intensifying talks and negotiations with its dialogue partners from the other parts of the

region and the world.

Excellencies, allow me to highlight some pressing human rights concerns in the Asia Pacific. This enumeration is not meant to be exhaustive, but to draw a part of the whole picture when it comes to addressing common human rights concerns in the region.

**MIGRATION:** The complexity of migration as a global phenomenon is driven not only by economic considerations, but also by political or environmental factors. Skilled and semi-skilled workers in Asia are crossing international borders for more competitive work opportunities, higher pay, and a promise of a better life. However, due to protectionist economic stances of some states, or even abusive immigration policies, millions of workers suffer from a wide range of abuses such as discrimination, unpaid wages, poor and inhumane working conditions, physical abuse, and even forced labor.<sup>1</sup>

A common concern on labor also stems from the prevalence of human trafficking, which has been identified by ASEAN Member States as a priority concern. Relevant to this are discussions of having a sub-regional instrument that seeks to prevent trafficking through intergovernmental cooperation, and standard setting in the form of a Convention.

However, not all migrations are voluntary. There is an increasing need to address the causes the increasing refugee population in Asia. According to the UNHCR 2015 report “[t]he Asia and the Pacific region is home to 7.7 million people of concern to UNHCR: they include 3.5 million refugees, 1.9 million internally displaced people (IDPs), and 1.4 million stateless people... Most countries and territories in Asia and the Pacific continue to uphold their long tradition of hospitality to refugees and displaced people, although only 20 of them have acceded to the 1951 Refugee Convention and 1967 Protocol.”<sup>2</sup> Refugees, asylum seekers, stateless persons, and even internally displaced persons face uncertainty, threats to life and security, discrimination, and ultimately their circumstances make them more vulnerable to suffer human rights violations such as human trafficking and violence. More than the need to provide humanitarian aid, the challenge is to go to the root causes of the involuntary migration. A common challenge also is how capacitated receiving states are, in terms of providing aid and from a long-term perspective, in terms of their legal framework, whether they are signatories to the relevant conventions or not.

Opening up the borders not only to movement of people, but also of investments, raises other concerns in the protection of human rights. An emerging issue in the region concerns the correlation between Business and Human Rights. Common problems related to these are poor and inhumane labor treatment, land grabbing, extractive industries operations’ negative impact on the environment, destruction of indigenous peoples’ properties, and disregard for their rights.

**ENVIRONMENT:** Other environmental concerns also pose a challenge to States, such as those that negatively impact human rights which include transboundary movement of hazardous wastes, pollution, emerging diseases, and destruction of ecosystems. At present, there is a lack of regional instruments that address these concerns between states on the regional level, and on the national level.

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<sup>1</sup> See <http://www.hrw.org/news/2014/11/23/gulf-countries-increase-migrant-worker-protection> and [http://www.escwa.un.org/information/publications/edit/upload/E\\_ESCWA\\_SDD\\_2013\\_Technicalpaper\\_2\\_E.pdf](http://www.escwa.un.org/information/publications/edit/upload/E_ESCWA_SDD_2013_Technicalpaper_2_E.pdf)

<sup>2</sup> <http://www.unhcr.org/pages/4a02d8ec6.html>

## THREATS TO HUMAN SECURITY:

Another challenge that states are facing, which incidentally is a cause of other human rights violations, is armed conflict within and between states. Most commonly, women and children are the most affected in conflict situations, though they remain to be seen only as victims of war, when they should be considered as critical participants in peace-building. A number of Asian countries share this common concern, and should also therefore share a common basic approach in taking into consideration the role of women in peace-building. According to Ambassador Anwarul K. Chowdhury, former Under Secretary-General of the United Nations, "women should have more avenues to promote peace, not only at the local level, but also at the national, regional, and global levels. In this way, women are able to inject in the peace process a practical understanding of the various challenges faced by civilian populations, leading to the development of mechanisms that are more purposeful and sustainable."

For all countries, civil society participation and freedom of expression and assembly are basic rights that need to be protected and respected. Sadly, "human rights defenders across the Asia Pacific continue to face intimidation, harassment and attacks because of their work."<sup>3</sup> Harassment include threats to life and security, physical abuse, repressive and oppressive legislation regulating free speech that can lead to censorship, threats of filing trumped up or false charges, involuntary disappearances, and even extralegal killings.

### III. Recommendation

As already mentioned, the establishment of human rights mechanisms in ASEAN is very promising progress. However human rights is everybody's concern. Human rights concerns cannot simply be diverted to the existing human rights bodies, or to civil society alone. These issues and concerns should be discussed and addressed by and among states. Human rights should be treated as cross-cutting considerations in policy advocacy, and should be the foundation of law making. Additionally, the establishment of a regional or subregional human rights mechanisms should be accompanied by renewed efforts to strengthen the body of substantive international, regional and national human rights norms.

Excellencies, if you would allow me to make recommendations on how these human rights challenges may be addressed by a concerted, coordinated, and concretized agreement of action between Asian countries, here are some points for consideration.

1. States should express its commitment to abide by international human rights standards by ratification of the core human rights instruments, such as the ICCPR, ICESCR, CRC, CEDAW, CERD, CMW, CAT, CRPD, CED, and its protocols. This shows the commitment of each State to promote and protect human rights, as well as address its violations.
2. More than ratification, there is a need to translation into national legislation of human rights instruments and policies, while mainstreaming gender policies in the laws.
3. There is a need to treating "human rights" as a cross-cutting and primary consideration in policy and law making, as well as in negotiations between and among states.

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<sup>3</sup> <http://www.asiapacificforum.net/news/human-rights-defenders-need-greater-protection-ngos.html>

4. I also stress the need for states to adopting human rights related national and regional agendas or programs to ensure that policies are implemented and felt on the ground. Examples of regional and national agendas are on Business and Human Rights, Women, Peace and Security, and Environmental Protection. These agendas may be non-binding instruments, but they may be considered as action programs that will set the minimum standards on the regional and national levels for the better protection of human rights.
5. There is also a need to establish and maintain linkages between parliaments and share best practices in addressing human rights violations and issues, to ensure that human rights issues of common concern are addressed from a regional perspective and through regional cooperation.
6. In all of this, one cannot disregard the need for inclusive engagement with stakeholders through dialogue and consultation, especially the civil society and the academe, which provide the connection to the people and on the ground.
7. Lastly, as what the Working Group has been advocating and continue to advocate for years now, there is a need to establish national and regional human rights institutions and mechanisms that are independent and have effective human rights promotion and protection mandates, and that will lead the setting of standards-through regional instruments and national policies.

Since 1996, the Working Group has been consistently and constantly dialoguing with ASEAN on the issue of human rights, particularly on the establishment of an ASEAN Human Rights Mechanism. Due regard has been given by ASEAN, in turn, to the Working Group when it was later on included as one of the "Entities Associated With ASEAN" in the Charter. The Working Group looks forward to its continued dialogue process with ASEAN to seek ways of helping ASEAN achieve its human rights goals. Again, Excellencies, we offer renewed assurances of our highest respect for you and gratitude for the opportunity of this meeting. We look forward to a fruitful discussion.