

Promotion and Protection of Human Rights in the ASEAN Community Building : An Evolution Process¹

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ASEAN's Human Rights Agenda

Promoting and protection of human rights cooperation in ASEAN is an evolving process. It was started by the endorsement of the Joint Communique of the 26th ASEAN Foreign Ministers' Meeting in 1993 in which ASEAN pledged, for the first time, its commitment to respect and promote human rights and fundamental freedom. The United Nations *World Conference on Human Rights* in Vienna, Austria acknowledged and welcome this commitment. Since then, the process of establishing an ASEAN Mechanism to promote and protect human rights has been started.

Hanoi Plan of Action, as the first Plan of Action to implement the ASEAN Vision 2020² reemphasized ASEAN's commitment to exchange information among its members on the promotion and protection of Human Rights as elaborated in section IV, paragraph 4.8.³ As the second phase of the Plan of Action to implement the ASEAN Vision 2020, the 2004 Vientiane Action Program, under the sub-section Political Development, ASEAN reaffirmed its commitment to promote human rights and fundamental freedom.

ASEAN Charter that was entered into force at the end of 2008 gave a significant leapfrog to the ASEAN's efforts to establish its Human Rights mechanisms and to promote further the protection of human rights and fundamental freedom. As the last phase to implement the ASEAN Vision 2020 and the establishment of the ASEAN Community 2015, the ASEAN Political-Security Community Blueprint, particularly under section A.1.5, charted the way forward to further strengthen ASEAN's commitment on the promotion and protection of human rights.

¹ This paper was presented at the Panel Discussion on the ASEAN Community Building through the AHRD and the Phnom Penh Statement on the adoption of AHRD, as a joint event of the ASEAN CPR and AICHR, ASEAN Secretariat, Jakarta, 23 August 2013

² Adopted by the 2nd ASEAN Informal Summit in Kuala Lumpur, Malaysia in December 1997.

³ Enhance exchange of information in the field of human rights among ASEAN Countries in order to promote and protect all human rights and fundamental freedoms of all peoples in accordance with the Charter of the United Nations, the Universal Declaration of Human Rights and the Vienna Declaration and Program of Action.

The ASEAN Intergovernmental Commission on Human Rights (AICHR) established as the follow up the entry into force of the ASEAN Charter, took up its role as the ASEAN overarching mechanism to promote and protect human rights and fundamental freedom in close collaboration with other mechanisms, including the ACWC. Although the current role of the AICHR is mainly focusing on human rights promotion, however, a significant progress has been achieved in its work to develop the ASEAN Human Rights Declaration (AHRD), which was endorsed by the ASEAN Leaders through the Phnom Penh Statement on the adoption of the ASEAN Human Rights Declaration.⁴

Human Rights and ASEAN's Community 2015

The entry into force of the ASEAN Charter, the establishment of the AICHR and the adoption of the AHRD are essential milestones on human rights cooperation both within and between ASEAN and its Dialogue Partners. These represent the essential transformation to strengthen further the collective efforts to promote and protect human rights in ASEAN. In other words, these milestones could also reinforce ASEAN's efforts to promote the establishment of peoples-centered and peoples-oriented ASEAN Community.

In addition to the full implementation of the ASEAN Human Rights Declaration (AHRD), the next step to be undertaken by ASEAN toward establishing the ASEAN Community by the end of 2015 are among others, raise the peoples awareness on the AHRD and the mainstreaming of AHRD to the activities of the relevant ASEAN's Sectoral Bodies. The establishment of National Human Rights Commission in each of the ASEAN Member States should be further promoted and expedited. Strengthening further the roles and mandates of the AICHR should be promoted through the process of the review of the TOR of the establishment of the AICHR as mandated after 5 years of its entry into force.⁵

Human rights cooperation is also one of the important activities under the Bali Concord III Plan of Action in pursuing the development of ASEAN Community in a Global Community of

⁴ The Phnom Penh Statement explicitly stated that the implementation of human rights must be "in accordance with our commitment to the Charter of the United Nations, the Universal Declaration of Human Rights, the Vienna Declaration and Program of Action, and other international human rights instruments to which ASEAN Member States are parties, as well as to relevant ASEAN Declarations and instruments pertaining to human rights."

⁵ Article 9.6 of the TOR on the Establishment of the AICHR mandated that the TOR shall be initially reviewed 5 years after its entry into force. This review shall be undertaken with a view to further enhancing the promotion and protection of the human rights within ASEAN.

Nations. Cooperation with ASEAN's external partners always includes promotion and protection of human rights as one of the components of the partnership plan of action.

Challenges and the way forward

The challenges of promoting and protecting human rights in ASEAN do not end with the adoption of the ASEAN Human Rights Declaration. Ensuring the effective implementation of the Declaration and mainstreaming the values contained therein remains a crucial challenge, particularly for the AICHR and all relevant mechanisms in ASEAN.

The commitment to promote and protect human rights in ASEAN is high, however, the efforts to strengthen further the ASEAN mechanisms to protect human rights requires further political support at the highest level. To mobilize such support, a process of confident building among ASEAN's Member States is still crucial. The establishment of national mechanism in each of ASEAN member states could help the process of building confident to strengthen further the mechanisms and to ensure the effective implementation of the AHRD.

Finalization of the negotiation on remaining issues related to human rights protection, such as the promotion and protection of the rights of migrant workers, remains one of the crucial challenges that requires continued and collective efforts by ASEAN member states to expedite the process. The progress to develop an ASEAN legal instrument to promote and protect the rights of migrant workers should be completed prior to the establishment of the ASEAN Community by the end of 2015.

The Preamble of the ASEAN Human Rights Declaration stipulates "... this Declaration will help the establishment of a framework for regional human rights cooperation and contribute to the ASEAN Community building process". Toward that end, there is a need to enhance the public awareness. Enhancing the awareness could be done through various means of communication such as publications, media or discussions/seminars/workshops.

The launching of the booklet on ASEAN Human Rights Declaration and the Phnom Penh Statement including the publication of the translated version in the national languages of ASEAN Member States will enhance further the public awareness. Collaboration between AICHR and other ASEAN human rights mechanisms and relevant bodies under the three

pillars of ASEAN Community should also be promoted to raise the awareness and mainstream human rights in their respective activities.

The Dialogue between the Government of Indonesia with AICHR held in June 2013 has been recognized by ASEAN as important step toward ensuring the effective implementation of the AHRD and the strengthening of the work of AICHR to promote and protect human rights in ASEAN. Similar dialogues will be organized by the other ASEAN member states.

This Discussion Panel jointly organized for the first time between AICHR and the Committee of Permanent Representatives to ASEAN to commemorate the ASEAN Day this year is another examples on how AICHR could join hand with other ASEAN's bodies and organs.

Despite all these efforts, however, more efforts must also be undertaken to reach the grassroots of ASEAN. In doing so, AICHR and the ACWC need to collaborate closely with relevant stakeholders to foster greater awareness on human rights protection.

Capacity building, experience sharing or technical assistance should be further promoted to ensure that all members are on the similar pace in implementing the AHRD.

Last but not least, the continued efforts to promote and protect human rights in ASEAN should be coupled with the development of a stronger ASEAN mechanism to promote the protection of human rights. A stronger mechanism requires a stronger support from each member states. A review process to the TOR of the establishment of the AICHR due to be initiated next year could enhance the momentum of the implementation of the AHRD and the strengthening of ASEAN's Mechanisms. In addition to the strengthening the promotion dimension, the ASEAN mechanism should also be able to strengthen its protection role.

A stronger AICHR will hopefully allow us to attain the objectives of the establishment of the people-oriented and peoples-centered ASEAN Community.

Conclusion

If we look back 46 years ago, it was difficult to imagine that ASEAN could achieve significant progress to maintain peace and stability and to promote prosperity for its peoples. It was difficult to imagine that ASEAN could play a central role in the evolving development of

regional architecture in the most dynamic region. It was even more difficult to imagine that the promotion and protection of human rights could be achieved this far.

All of these achievements, however, should not lead us to complacency. Challenges ahead are still significant. In line with its efforts to build a peoples-centered and peoples-oriented ASEAN Community, ASEAN should continue to build the positive momentum to continue strengthening its efforts to protect and promote human rights.

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