**SUMMARY REPORT**

**ASEAN Dialogue in Realising Southeast Asia as a Torture-Free Region**

Nusantara Room, ASEAN Secretariat, Jakarta, Indonesia,
28-29 August 2023, Hybrid

**INTRODUCTION**

1. The ASEAN Dialogue in Realising Southeast Asia as a Torture-Free Region was hosted by the ASEAN Intergovernmental Commission on Human Rights (AICHR) Indonesia in partnership with the Ministry of Foreign Affairs of the Republic of Indonesia (Kemlu RI) with the support of the Australian Human Rights Commission, Australian Aid, Norway Embassy in Jakarta, and the Office of High Commissioner of Human Rights (OHCHR). The **Program** appears as **ANNEX 1**.
2. This activity was part of the AICHR Priority Programmes of 2022 that was approved by the 54th ASEAN Foreign Ministers Meeting (AMM) in 2021. It was a follow-up from the AICHR Consultation on the Implementation of Article 14 of the ASEAN Human Rights Declaration: Preventing and Countering Torture that was organised in 2020. This activity is aligned with the AICHR Five-Year Work Plan 2021-2025 on Priority Area 1.1: Facilitate the formulation of frameworks for human rights cooperation based on the AHRD under the Focus Area 1: Promote the full implementation of ASEAN instruments related to human rights to implement the AICHR’s Terms of Reference (TOR) and ASEAN Political-Security Community (APSC) Blueprint 2025.
3. This dialogue aimed to (a) provide a platform for sharing measures and building the capacity of relevant actors i.e., police, judges, prosecutors, lawyers, and other law enforcement officers as well as civil society organisations (where applicable) to contribute to the realisation of Southeast Asia as a torture-free region; and (b) develop elaborated Recommendation on the Implementation of Article 14 of the ASEAN Human Rights Declaration (AHRD) to include prevention, investigation of the allegation, prosecution, and rehabilitation.
4. This Dialogue was attended by ASEAN Sectoral Bodies (ASBs), ASEAN Entities, Organs, the Ministries of Justice, National Police, Foreign Affairs, National Human Rights Institutions, Institutions responsible for Witness and Victim Protection from ASEAN Member States (AMS), Civil Society Organisations with Consultative Status with AICHR and/or with relevant experience and expertise and Academe/Researchers, and UN Related Bodies (as observers). The complete **List of Participants** appears as **ANNEX 2**.

**DAY 1** 28 August 2023

**OPENING SESSION**

1. **H.E. Wahyuningrum**, Chair and Representative of Indonesia to the AICHR, presented the context, aims, objectives, and structure of the dialogue. She stated that there are over 75 on-site and online participants from the Southeast Asia (SEA) region and beyond. Considering the sensitive nature of torture, she mentioned the different house rules for discussion to avoid repercussions after the event. H.E. Wahyuningrum also discussed the different initiatives that the AICHR has pursued in addressing torture. Specifically, she reported that the AICHR now has a reporting mechanism in place. It has received a number of complaints and the member-states concerned have acted on such cases. H.E. Wahyuningrum noted that the design of the program involves perspectives from the AMS and other civil society organisations.
2. **Ms. Lorraine Finlay**, the Human Rights Commissioner of the Australian Human Rights Commission, gave a message. She emphasised the Australian government’s support for AICHR and ASEAN’s work on promoting and protecting human rights in the region. Its previous cooperation focused on disability rights and business and human rights. The dialogue was the first opportunity to cooperate on the prevention of torture. Ms. Finlay underscored the relevance of tackling the matter because not only is torture a moral issue, but it also is of great practical significance. It is ineffective and unreliable in the outcomes that are produced. It not only violates individual human rights. But also makes law enforcement and prosecutions more difficult. She further stated that torture ultimately undermines efforts to make communities safer and to build public confidence in police forces and law enforcement agencies. She also lamented that while there is an absolute prohibition on torture in international and regional conventions and even national law, the reality sees otherwise. Torture prohibition and prevention are complex and stating that it is not allowed is not adequate. She highlighted the importance of working together to address torture. Collaborative and multisectoral avenues are valuable in allowing states and civil society to learn from each other.
3. **Amb. Chilman Arisman**, the Representative from the ASEAN Political-Security Cooperation of the Ministry of Foreign Affairs of the Republic of Indonesia, also delivered a message. He emphasised that torture is one of the most blatant attacks against a person’s human rights and dignity. It has an atrocious impact not only on the victims and family members but the broader society. Indonesia has implemented activities that contribute to a torture-free country and the greater SEA region. This is in consonance with the United Nation Convention Against Torture (UNCAT) and Article 14 of the AHRD. Amb. Arisman stated that the ways forward include (a) exchanging experiences and best practices in existing torture prevention mechanisms and (b) focusing on the rehabilitation of victims. He also noted that torture is a cross-cutting issue and AICHR taking the lead in regional conservations is apt since it is the overarching body on human rights in the ASEAN.

**KEYNOTE SPEECH**

1. **Police Commissioner General Wahyu Widada**,Head of the Criminal Investigation of the Department of the Indonesian National Police (INP), speaking on behalf of the Chief of the INP, began the keynote speech by highlighting the shared commitment to upholding human dignity, justice, and human rights. He further expressed support for the united effort to prevent torture and AICHR’s campaign for Southeast Asia to be a torture-free region. Mr. Widada shared about the recent conduct of ministerial meetings on transnational crimes which resulted in the adoption of documents that reflect the commitment to realise human rights and fight transborder crimes. The Labuan Bajo meetings serve as catalysts for advancing law enforcement cooperation and indicate the significance of working together. Indonesia recognises the significant role that the police and other law enforcement agencies play in the protection of life, liberty, and security and the prevention of torture and inhumane and degrading treatment. Mr. Widada also recognised the work of civil society and academe in torture prevention which shows their collective will and effort. He underscored that the dialogue is not only an avenue to share best practices and substantial experiences but is also an opportunity to review existing coordination mechanisms and see how these can be improved. He expressed that it is imperative to establish a framework that recognises torture as a criminal offence and accurately reflects its gravity. He also noted that the police are a crucial part of creating greater safeguards for the prevention of torture by enhancing their professionalism and ethics in practice. Finally, Mr. Widada pointed out that realising Southeast Asia as a torture-free region requires not only policy changes and legal reforms but also shifts in societal attitudes and practices through education and fostering human rights values.

**SESSION #1: IMPLEMENTATION OF ARTICLE 14 OF ASEAN HUMAN RIGHTS DECLARATION (AHRD): SHARING PRACTICES, CHALLENGES, AND LESSONS LEARNT IN PREVENTING TORTURE IN ASEAN MEMBER STATES (PART 1)**

1. **Ms. Le Thi Nam Huong**, the Assistant Director of the Human Rights Division of the ASEAN Secretariat, chaired this session.
2. **Ms. Sofia Alatas**, the Coordinator of International Cooperation at the Directorate General of Human Rights of the Ministry of Law and Human Rights of the Republic of Indonesia, was the first speaker for this session. She presented the existing national legal framework in the country which is compliant with existing international conventions and agreements on torture. She highlighted that the highest governing law of the country and the legal umbrella, its 1945 Constitution, expresses commitment against torture. The national police also adopted regulations to prevent torture. Despite stipulations on torture and physical violence, Ms. Alatas expressed that there is still a need to scrutinise the definition of torture―to properly determine whether a person’s act qualifies or constitutes torture―whether such act is deliberate or not. She also noted the need to further socialise or disseminate these laws since people cannot distinguish torture from the use of force.
3. The Government of Indonesia has the responsibility to provide protection to all citizens and promote and implement human rights. It is not the obligation of one agency alone but it necessitates cooperation and coordination within line ministries, agencies, and national commissions. She also noted that Indonesia has not ratified the Optional Protocol to the Convention against Torture (OPCAT). The academic paper that articulates such policy recommendations is still pending. However, capacity-building on torture prevention involving non-conventional participants continues. Training is converted to a Training of Trainers (TOTs) so local officials can conduct training for their peers. She also mentioned that the Ministry closely works with the LPSK and KuPP and that they intend to intensify cooperation and strengthen oversight. It is also crucial to deal with torture firmly. Ms. Alatas recommends that agencies engage in MOUs so acts of torture can be prevented. Socialising with the wider public is also helpful.
4. **Mr. Poengky Indarti**, the Commissioner of the National Commission on Police (Kompolnas) of the Republic of Indonesia was the second speaker. He first talked about the structure of his office which assists and advises the President. In line with the mandate of national reform, Kompolnas monitors the functions of the national police. Mr. Indarti reiterated that Indonesia has an existing legal framework that defines torture according to the convention. Its commitment to UNCAT has been integrated into legislation. They consider human rights as the main principle in prohibiting torture. There are specific regulations for the police which stipulate permissible and impermissible acts. Despite these laws in place, Mr. Indarti explains why torture is still being practiced in the country. It could be because of the militaristic mindset left by the colonial and New Order regimes. The police also used to be part of the military in the years 1961 to 1968. Recruitment, training, and deployment were done in militaristic ways. Going through Reformation, the police was mandated to change and it became a humanitarian unit that complies with the general legislation. Any personnel who has committed a crime will be investigated and punished under the general justice system. The Reformation also emphasised that there must be a change in culture within the police force—for them to be more human, not arrogant, must not present an image of a luxurious life, and foster good relations with Indonesian citizens.
5. However, Mr. Indarti expressed that changing a culture takes time. There are still certain responsibilities that are not being performed properly. The teaching of human rights principles and practices in the Police Academy is limited and insufficient. Drastic change cannot be expected especially since some police officers still apply prohibited acts, such as torture, to get information from alleged criminals. He also talked about the challenges that the NCP faces particularly them being understaffed which affects their ability to monitor the whole population of police officers. This is why they enjoin the public to immediately report any ill acts perpetrated by the police. The police also do not have enough equipment such as body and security cameras. Not all areas in Indonesia are equipped with CCTVs. Because of these challenges, some personnel may not be properly sanctioned for their ills. NCP makes recommendations for the recruitment of police personnel, e.g., they require human rights education and dissemination. They also check facilities, recommend wearing body cameras, and remind the police to be selective in detaining individuals since long detention usually leads to torture. The NCP also conducts research to understand cultural reforms and practices. They also encourage news coverage on how NPC can invite the public to identify and monitor cases of torture.
6. Mr. Indarti emphasised that public scrutiny and mass media can support what NPC does. There were some cases that went viral and the NCP coordinated with police units for follow-up. He recognised that the NPC has limited authority and is not vested with the power to investigate cases. Its budget, human resources, and infrastructure are also limited while the national police is a big organisation that has funds. In conclusion, Mr. Indarti stated that practices of torture still exist, legislations are not completely enforced, and internal and external supervision, equipment, and mechanisms for reward and punishment are likewise limited. His recommendations were the following: (a) zero-tolerance against torture; (b) improvement of supervision; (c) equip police officers with modern equipment; (d) increase rewards and punishment; (e) require cooperation from the national preventive mechanism; and (f) call on other ASEAN member states to ratify UNCAT.
7. **Ms. Susilaningtias**, Vice-Chair of the Witness and Victim Protection Agency of the Republic of Indonesia (LPSK), was the third speaker. She presented the legal basis of LPSK and the several governing legislations concerning torture in Indonesia. She shared the problems that their office faces based on the cases they handle and the assistance they provide to victims and witnesses. Torture was not recognised as a crime in the former Indonesian Criminal Code. Criminal indictment was on the crime of cruelty and not torture. The police also inherited the mindset from the colonial era and when they were previously under the military. They believe that torture must be done so perpetrators confess their crimes. The LPSK also encountered cases that were dealt with “amicably” and so the victims decided not to pursue the case in Court. Ms. Susilaningtias emphasised the importance of engaging various stakeholders in torture prevention. There were several cases in the Sumatra region where victims were frightened to report or give evidence. Most victims also do not know their rights. It is difficult to build the case due to lack of evidence even when visual evidence of torture is apparent. LPSK has also seen different forms of torture such as physical violence, psychological violence (e.g., children being forced to see their parents being subjected to torture), sexual violence (e.g., case in South Sulawesi where the victim was forced to perform oral sex to the investigator), and delay in justice (e.g., their dossier/brief lacks certain documents).
8. She also explained that LPSK is given the mandate to provide protection and assistance to witnesses. It was established due to public scrutiny and the prevalence of cases in 2008. Their protection programs for torture include the following: (a) physical protection (e.g., safe house, change of identity, relocation of victims of safer region); (b) right to justice collaborators; (c) restitution (although not one victim asked for this); (d) medical, physical, psychological rehabilitation; (e) right to funding (only temporary, limited, such as covering transportation costs); and (f) legal protection. LPSK has noted increasing cases of torture with more females as victims at the age of 22 and above. In response, LPSK pursues collaboration with other agencies and stakeholders for torture prevention. Since 2016, MOU with other Indonesian government bodies and national commissions (e.g. KUPP) has been pursued. Their activities include constructive dialogues with law enforcement agencies, oversight in detention facilities, and public dialogues and conferences. Ms. Susilaningtias proposed the following recommendations: (a) for the Indonesian government to ratify the OPCAT; (b) draft a law against torture since there is no detailed governing legislation; (c) change investigative methods by shifting to scientific methods and not rely on confession; and (d) increase public awareness on the rights of victims and witnesses of crimes.
9. **Ms. Andy Yentriyani,** the Coordinator of KuPP Indonesia and the Chair of the National Commission on the Elimination of Violence against Women of Indonesia (KOMNAS Perempuan), was the fourth and final speaker for this session. Her presentation centred on combatting torture with an inclusive perspective. She began by talking about the history and context of KOMNAS Perumpuan as a body established after the 1998 riots with a specific mandate on protecting the rights of women. Their office conducts documentation, strategic studies for policy recommendations, and public awareness activities. Torture, cruel, and inhumane treatment are priority issues of KuPP and they have the explicit mandate of overseeing the implementation of UNCAT. Ms. Yentriyani also presented the legal framework in Indonesia and mentioned the new law on sexual crimes that contains a specific provision on sexual torture. KOMNAS Perempuan also reports through UN human rights mechanisms with Indonesia set to participate in the reporting for UNCAT considering its last interaction was still in 2007. KuPP, on the other hand, is a collaboration to prevent torture and an initiative to establish a national prevention mechanism. It is composed of different government agencies and national commissions such as Komnas HAM, KOMNAS Perempuan, KPAI, ORI, LPSK, and KND (which focus on specific issues related to torture). The body is authorised to conduct monitoring of cases of torture.
10. Ms. Yentriyani presented the KuPP’s development in the past years. Beginning with the MOU for its establishment in 2017, its efforts for resource mobilisation in 2018, joint action in 2019 and its reorganisation amid the pandemic in 2020. They also conducted constructive dialogues, expansion, and stock-taking in 2023. KuPP is also currently developing a report that documents the experiences of Indonesia in implementing the UNCAT in the past 25 years. Its achievements include public support, strategic stakeholders’ support, knowledge and capacity-building, trust from strategic partners, and joint and independent monitoring. It also employs a comprehensive perspective and ensures a platform for collaboration. However, it has limitations in terms of resources. Each organisation struggles with an overwhelming workload and schedule. It hopes to grow the support and political will among national ministries and institutions and civil society organisations while also welcoming developments such as a new law on sexual violence and the new version of the penal code. Possible resistance may also threaten their efforts.
11. Ms. Yentriyani proposed the following recommendations: (a) use institutional platforms for greater awareness raising, capacity-building, complaint mechanisms and victim protection, constructive dialogue, and conduct of thematic study on inclusive perspective; (b) collaborate with external stakeholders for the endorsement of ratification of OPCAT, joint capacity-building for law enforcers and independent bodies, joint campaign for Anti-torture Day, provision of inputs or feedback to report, and a thematic study on gender-based torture; and (c) invite the public to provide information regarding practices of torture against women in Southeast Asia.
12. The speakers were asked to elaborate on the public hearings, particularly on its objectives and concrete outputs. In response, the representative from KuPP stated that public hearings are mainly conducted to obtain information about the practices of torture and cruel and inhumane punishment in Indonesia. It is also a platform for raising public awareness where they ask torture survivors to participate. They recently organised a public hearing in the Western region of Indonesia. KuPP will be organising 3 other public hearings for the rest of the regions. It also intends to hold a national public inquiry in October 2023. They are aware of the security needs of the victims and witnesses hence security measures have been employed. Findings from these public hearings will be incorporated into the 25-year report on UNCAT. It will also be endorsed to the Indonesian Government which is also in the process of crafting the report for the Committee on CAT.
13. The speakers were asked to talk about the accountability of perpetrators of torture. This is with the understanding that not only police nor civil servants must be held accountable. The speakers were asked to clarify what level of accountability can be sought and if it will only be limited to direct perpetrators. The representative from LPSK expressed that the definition of torture must be expanded. It must include cruel, inhumane, and degrading punishment. She reiterated the case in South Sulawesi. It is also important to acknowledge that there are different forms of torture. Punishment must not only be administrative, but criminal. The representative from Kompolnas, on the other hand, stated that all officials must be aware that torture is a crime. Accountability must include the superior of the police officer or personnel committing the crime. He cited a case where the superior was aware but did not do anything to prevent or correct the act.
14. The speaker from KuPP said that the definition of torture must be clarified. Torture must be viewed in a spectrum and in an inclusive point of view. Direct accountability and command and institutional responsibility must be ascertained. There are also existing derivative regulations on restitution which recognise that accountability is layered. Finally, the representative from the Ministry of Law and Human Rights expressed that the State plays a big role in torture practices. Hence, the ministry collaborates with other law enforcers or agencies and even conducts joint programs with the police and immigration. When the ministry recruits law enforcers for deployment to detention facilities, they go through a mandatory curriculum. They also draft directives in cooperation with other agencies.
15. The speakers were asked to clarify whether there are opportunities for civil society organisations to engage in the ongoing academic paper on OPCAT. The representative from KuPP stated that they conducted a training where the speakers were former torture victims. They also engage in UN mechanisms. They also conducted strategic and background studies with the involvement of civil society and the academe. Additionally, the public hearings in the regions of Indonesia can be a space where civil society can participate. The representative from the Ministry of Law and Human Rights said that inputs and data from the public are important in preparing reports and documentation. It is also open for collaboration with other units within and outside the government. Violations are also duly recorded.
16. In conclusion, Ms. Le Thi Nam Huong observed that Indonesia has a sophisticated legal framework or system for torture and torture prevention. She also posited that although only six (6) AMS signed UNCAT, there is the AHRD which contains a specific provision against torture, that can be considered the common ground in the region.

**SESSION #2: IMPLEMENTATION OF ARTICLE 14 OF ASEAN HUMAN RIGHTS DECLARATION (AHRD): SHARING PRACTICES, CHALLENGES, AND LESSONS LEARNT IN PREVENTING TORTURE IN ASEAN MEMBER STATES (PART 2)**

1. **H.E. Wahyuningrum**, Chair and Representative of Indonesia to the AICHR, chaired this session. She noted that the questions from the first day of the dialogue can be tackled or covered under the Reflection session of Day 2. She then highlighted that the second session moves from Indonesia’s experiences to those of Thailand.
2. **Ms. Nareeluc Pairchaiyapoom**, the Director of the International Human Rights Division of the Department of Rights and Liberties Protection of the Ministry of Justice of the Kingdom of Thailand, served as the first speaker for this session. She first noted that Thailand is a signatory to the convention against torture as well as enforced disappearances. Her presentation focused on the national law that integrates the convention into the country which is the law on the prevention and suppression of torture and enforced disappearance (B.E. 2565 2022). It was officially announced in the Royal Gazette in October 2022 and was in force from February 2023. Ms. Pairchaiyapoom discussed the key chapters in the law, particularly the definitions of the 3 offences which are torture, cruel, inhumane, and degrading treatment (CIDT), and enforced disappearance, who can be considered victims, and the key government agencies and offices (e.g., justice, defence, foreign affairs, interior, attorney-general, police, special investigation, lawyers, etc. including experts on human rights, forensic science, forensic medicine, and psychiatry) that are tasked to implement the law. The law is known to have reformed the criminal procedure as it sets up new measures for government agencies particularly law enforcement to follow. These new measures include recording through video and/or audio of the arrest and detention process of any individual involved in any crime. This is required not only for the police and military but all law enforcement agencies. They are also required to notify the public prosecutor and chief district officer. A single form to record the information of the person in detention has been crafted. They are also expected to ensure the right of stakeholders to access information of the detainee (with exceptions, e.g., public security) by filing a motion to the local court. The detention facility is also obliged to immediately inform the Committee in case of death in custody and provide protection to the person who made such a report. In terms of prosecution, the Attorney-General must be informed so they can monitor and supervise the investigation.
3. Ms. Pairchaiyapoom also talked about the corresponding penalties while noting that penalties can be more severe when the crime is committed against vulnerable groups. It can also be reduced if the perpetrator participates in the legal process. The superior can also be included in the punishment if they were aware about the act and did nothing to prevent it. Before the implementation of the law, there were high-level dialogues with the different executives of the relevant agencies to ensure that the law was understood according to its intent and purpose. They also prepare draft regulations, forms, and guidelines as well as training of relevant stakeholders. They also developed an IT system (arrest.dopa.go.th) to ease the reporting of arrests. Ms. Pairchaiyapoom shared that they are proposing for the Thai government to withdraw its interpretive declaration on UNCAT considering that a new law has already been passed. It also proposed that the Thai government accede to be a party to the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED). Aside from these, they also aim to monitor the overall human rights situation, regularly report to the cabinet, the parliament, and the public, and evaluate the effectiveness of the implementation of the law.
4. Ms. Pairchaiyapoom articulated the following challenges and lessons learned: (a) the provisions on video recording and informing of arrests are too broad as they apply in all cases; (b) resources are lacking especially since different resources are needed for the procurement of body cameras, equipment, and file storage; (c) different practices exist among different agencies which cause confusion among law enforcement officers, for example, one prosecutor refused to use the centralised tool for reporting and required sending a separate email; (d) there are different levels of knowledge and understanding of the law; and (e) there is no clear definition and example of CIDT offence. They are still awaiting judgement by the Court.
5. A representative of the National Police of Thailand, followed. He began his presentation by stating that government officials and officers are facing significant difficulties and challenges since the new law on torture and enforced disappearances was passed. This is particularly true for the National Police Affairs which is the main agency that conducts arrests. He expressed that the requirement of continuous recording during arrest and consequently informing the Prosecutor’s Office are new practices that the police have not done before. These also require devices. Procurement is still ongoing but the law is already in effect. A public bidding for body cameras was done. The budget was taken from the Federal Government. The police also think that there is a rush in terms of timing. The existing budget was used to buy the initial devices and setup needed for the law. What makes this more difficult is the fact that the law covers all offences and arrests, whether the person is a victim of torture, enforced disappearance, CIDT, or not. While this process ensures that law enforcers do not harm the suspect, it entails significant costs. It is crucial to ensure the hardware from the camera to the file system which is larger than big data. The storage space that can be allotted for this purpose is also still being discussed. The IT Department recommended a limit of 6 months considering that all agencies are required to do the recording. The suggested 6-month limit, however, cannot reach the end of the case which usually takes more than 6 months. Aside from video recording, there is also the obligation to inform or report to the public prosecutor and chief administrator of the local area.
6. The Ministry of Interior developed a website and mobile application where reporting can be done. The police are trying their best to follow all procedures and follow all other laws in Thailand. On their part, the police are providing training to police officers and have incorporated the new law into the curriculum of police students. He also talked about the new dimensions in Thai law such as the military being subjected to civil law and its courts in case of offence. The commander can also be held accountable. He also noted that the law takes effect even in an emergency state and that there are no exemptions. He said that government agencies are experiencing the same struggles but the police want to act as the model. After his speech, he showed an informational video crafted by the Thai police to discuss the new procedure of arrest and reporting.
7. **Mr. Pittaya Jinawat**, a representative from the National Human Rights Commission of the Kingdom of Thailand, was the third speaker. His talk was mainly on the network of human rights protection in the country which is composed of different organisations and institutions within and outside government. He showed a map of this network with risk groups and victims at the centre. They also have multiple channels for reporting and access to assistance. The NHRCT is the central human rights governmental agency that is mandated to pursue human rights protection, promotion, research and development, coordination with other agencies, and investigation. They conduct activities such as public awareness and education which prioritise target groups, media production and dissemination, and other community-based initiatives. The NHRCT also conducts investigation which is more effective than other ministries whose impartiality may be affected since they are under political power or control. The NHRCT, on the other hand, is independent and can handle complaints, resolve disputes, and conduct inquiries. It also monitors the country’s human rights situation.
8. In terms of torture prevention, Mr. Jinawat talked about the national criminalisation for torture offences. They participate in the law development process by recommending relevant policy changes to the government, conducting research on investigation techniques, and coordinating with other agencies for remedy. They also work with media and other publications including campaigns such as ‘Careful Arrest’ and ‘Officers Can’t Do This’ which were published on traditional and new media. The NHRCT’s action plan on torture prevention for the years 2024-2026 includes mobilisation for change through policy mobilisation and shift in the public mindset, strengthening law enforcement through monitoring and training of law enforcement agencies and investigation of complaints, increasing the effectiveness of torture prevention by improving transparency in detention facilities, protection of vulnerable groups, and guidelines for prevention. He also shared that the Thai government is in the process of developing an NHRCT Torture Prevention Centre.
9. Mr. Jinawat shared a summary of practices, challenges, and lessons learned. He noted that legislation requires time and momentum. Public awareness must be raised continuously and various sectors must be engaged to build public support. Coordination among different sectors (e.g., national politicians, government agencies, CSOs, academe) is key. Challenges include the attitude that emphasises national security, crime control, and contextualism and minimises the rule of law and international human rights law and standards, resistance to change, secondary legislations that may conflict with the law, and the limited monitoring of enforcement. Overall, he cited the importance of learning, adapting, and flexibility. Strong human rights agencies, networks, and alliances are vital and their learning cycle must be considered.
10. The Q&A portion of this session was deferred due to time constraints. Questions were collected and answered on the second day of the event.

**SESSION #3: IMPLEMENTATION OF ARTICLE 14 OF ASEAN HUMAN RIGHTS DECLARATION (AHRD): SHARING PRACTICES, CHALLENGES, AND LESSONS LEARNT IN PREVENTING TORTURE IN ASEAN MEMBER STATES (PART 3)**

1. **H.E. Prof. Dr. Aishah Bidin**, the Representative of Malaysia to AICHR, chaired this session. She emphasised that the dialogue is already the 4th event on torture which indicates continuous efforts to address the problem. The third session for the dialogue is focused on the experiences of the Philippines which is the first country in Southeast Asia to ratify UNCAT in 1986.
2. **Mr. Dennis L. Chan**, Chief State Counsel from the Department of Justice of the Republic of the Philippines, was the first speaker for this session. He underscored that the 1987 Philippine Constitution prohibits torture and ill-treatment. Philippine statutes also stipulate torture as a criminal act. The definitions in such laws are similar to the definitions in the UN Convention which further identify the elements of torture and even considers it as a war crime when committed under armed conflict. Mr. Chan noted a recent conviction in 2022 where police officers were found guilty of committing torture against an individual involved in a drug case in 2017. The said officers were dismissed from service. In the Philippines, criminal jurisdiction affords both direct accountability and command responsibility. Torture shall also be treated as a separate and independent crime. The Anti-Torture Act in the Philippines also follows the principles of non-derogability, non-refoulment, and the inadmissibility of torture-tainted evidence. In terms of redress and reparation, the Philippines provides two main legal remedies through judicial (e.g., prosecution of cases or independent civil action) and administrative processes (e.g., Board of Claims).
3. Mr. Chan also talked about the different prevention measures in the Philippines such as the Victim Protection Program and the DOJ Administrative Order No. 35 which requires training for law enforcement officers, prosecutors, and human rights workers on anti-torture laws and initiatives. They also established the Inter-Agency Review Panel on Illegal Drug Operations. Mr. Chan concluded his presentation with the ways forward, such as pursuing (a) disciplinary measures; (b) capacity-building initiatives; and (c) inter-agency review panel. Mr. Chan highlighted that the Department of Justice’s commitment is delivering real justice in real-time as the Philippines is one with ASEAN's commitment in promoting human rights.
4. **Mr. Richard P. Palpal-Latoc**, the Chairperson of the Commission of Human Rights of the Philippines, was the second speaker for this session. Mr. Palpal-Latoc talked about the CHR’s general mandate which includes protection, promotion, and policy as well as its specific mandates on torture prevention. He emphasised CHR’s visitorial powers over jails and other types of public and private detention, rehabilitation, and confinement facilities. They can inspect such facilities at any time unannounced and enjoy unrestricted access. Aside from this, CHR also extends legal aid and other forms of assistance to persons deprived of liberty (PDLs). The Prevention Cluster of CHR also monitors the visitation program and is tasked to implement torture prevention activities.
5. Mr. Palpal-Latoc shared the data on places of detention visited, PDLs assisted, and the types of assistance provided to PDLs and other service providers. The CHR also implemented its critical thrusts and priority programs which included a Torture Prevention Ambassador Project (2014–2015) that resulted in policy changes at the local and national levels in the areas of the treatment of prisoners and a human rights approach in handling detainees. They established the Interim National Preventive Mechanism in 2016 to 2021 composed of different stakeholders and sectors including civil society. The INPM advocated for laws that would integrate UNCAT into the Philippines especially since the country acceded to the optional protocol of CAT in 2012. It also generated substantial reports and formulated guidelines for the visits to places of detention. Due to budgetary constraints, however, CHR stopped the INPM and instead advocated for its formalisation through a law. CHR hopes to strengthen its visitorial mandate, its prevention programs, monitoring the implementation of the anti-torture law, and jail decongestion initiatives, as well as its advocacy work for the establishment of NPM. CHR also recently signed a MOA with the Bureau of Corrections (BOC) to designate human rights officers in BOC facilities.
6. They also conduct dialogues and meetings with different government agencies including the Bureau of Jail Management and Penology (BJMP) and Department of Social Welfare and Development (DSWD) as well as civil society and international organisations like the Association for the Prevention of Torture. It recently organised an advocacy activity ‘Basta Run Against Torture XIII’ to celebrate the International Day in Support of Victims of Torture. Part of this initiative was a symposium on torture prevention in the Philippine National Police Academy (PNPA) and Bureau of Corrections (BOC) and the launch of the CHR campaign on posting notices bearing its contact details in places of detention. Mr. Palpal-Latoc also shared that the CHR has activities to implement the Mental Health Act among its workers and clients. They were also able to craft a Torture Screening Tool and Torture Referral Guidelines for Bahay Pag-asa Facilities, which are shelters for children in conflict with the law (CICLs). Finally, CHR is conducting forums, meetings, and consultations to strengthen its support for the establishment of the NPM.
7. **Ms. Cristina Sevilla**, a representative from the World Organisation Against Torture (OMCT) Philippines, was the third and final speaker for this session. She expressed that the Philippines has a comprehensive legal framework in the Philippines and the legal definition of torture complies with the standards set forth by the UNCAT. Strong collaboration between the National Human Rights Institute (NHRI) and civil society organisations (CSOs) is also apparent. Despite these successes, there are still challenges and difficulties in the enforcement and implementation of the law. She cited the rehabilitation program of DSWD as one of the concerns—whether it exists or is adequate to improve the welfare of the victim. The compensation for torture victims according to the law is also severely limited. The ceiling is at PHP 10,000.00 (more or less 176 USD) which may not be just and appropriate compensation for the crime committed. The Oversight Committee is another concern as it has not been convened since its supposed establishment. Investigation and prosecution also need to be significantly improved by capacitating law enforcement on interview skills and techniques and not rely on torture.
8. She also noted that there are only 3 convictions so far. She also expressed the concern that victims of torture are often scared or afraid to come forward and report, but the criminal justice procedure is focused or reliant on the victim in order to prosecute. In this context, there is a need to be more innovative in how torture cases are investigated and prosecuted considering the dynamics of victimisation. Ms. Sevilla also emphasised the urgency of institutionalising a National Preventive Mechanism (NPM) as well as passing a law that protects human rights defenders particularly from civil society organisations who are often red-tagged, demonised, and labelled as enemies of the State. Finally, she noted that there must be a gender lens or gender dimension in torture prevention discussions and initiatives especially since gender-based torture exists. Women have distinct needs that require due diligence by the State.
9. The Chair of the Commission on Human Rights of the Philippines added that the CHR is advocating for the passage of the Human Rights Defenders Bill into law. It is also doing advocacy work in local governments and has noted that five (5) local government units (LGUs) have already passed ordinances on the protection of human rights defenders.
10. The speakers were asked to talk about how a climate of trust between the NHRI and civil society can be built or created. The speaker from OMCT Philippines, in response, stated that the accessibility of NHRI is crucial. She shared that civil society organisations were even allowed to conduct public demonstrations within the compound of CHR especially when it was difficult to get permits from local governments. On his part, the CHR Chair manifested the importance of neutrality and emphasised the bridging role of CHR between stakeholders.
11. To close the session, H.E. Prof. Dr. Bidin underscored the importance of buy-in from civil society. Torture is a human rights violation and it affects public dignity. Hence, the implementation of prohibition is vital.

**SESSION #4: IMPLEMENTATION OF ARTICLE 14 OF ASEAN HUMAN RIGHTS DECLARATION (AHRD): LESSONS LEARNT AND RECOMMENDATIONS IN PREVENTING TORTURE IN ASEAN MEMBER STATES FROM STAKEHOLDERS’ VIEWS**

1. **Mr. Adrian Gilbert**, the Acting Counsellor for Development of the Mission of Australia to ASEAN, chaired this session.
2. **Mr. Wong Yan Ke**, the Case Management and Campaign Coordinator of SUARAM Malaysia, was the first speaker for this session. He first introduced SUARAM which translates to People’s Voice of Malaysia as a non-government organisation that started out as a solidarity group among families of victims of detention without trial until it was formalised into a human rights organisation. Its programs and initiatives include monitoring and documentation of human rights violations; case management; capacity-building for lawyers and young professionals, rights workshops, hope-based communication workshops, and legal training on remand proceedings and advocacy activities like intervarsity debate during school orientations, human rights exhibitions, cartoon competition especially among secondary school students, music festivals, public forum, documentary and animation videos, rights pamphlets, and theatre; and publications including an annual Human Rights Report that is being used by diplomats and thematic reports in partnership with OMCT on the state of PDLs during the COVID-19 pandemic. After explaining SUARAM’s approaches, he then showed one of their advocacy videos which showcases a sample case of torture in Malaysia.
3. Mr. Ke then talked about the contributing factors toward torture, such as the (a) culture of impunity among perpetrators considering the low prosecution rate, lack of check and balance and accountability systems, lack of human rights training, lack of relevant legislation, and the fact that Malaysia has not ratified UNCAT; (b) arbitrary detention and chain remand, with the police exploiting the loophole that victims can just be transferred to a different police station or district or investigated under a different offence; (c) without judicial oversight; and (d) victims are unaware of their rights. Even with this reality, Malaysia has improved significantly—from the Internal Security Act, which allowed longer periods of detention without trial, already abolished. SUARAM is now pushing for mandatory training on human rights in police academies.
4. Mr. Ke noted that the NHRI in Malaysia lacks investigative and disciplinary powers and has limited power to conduct spot checks since prior notice is required. Law enforcers and officials can easily invoke public or national security during fact-finding or investigation. They can also choose not to respond in case of question. Mr. Ke likened the NHRI to a ‘toothless tiger’. He expressed the need to ratify UNCAT and enact an Anti-Torture Law or amend the penal code. It is also essential to establish the Independent Police Complaints and Misconduct Commission (IPCMC), one that is truly independent and is able to exercise investigative and disciplinary powers. Judicial oversight is also crucial to prevent torture. Legal awareness workshops need to be regularly done with stakeholders.
5. **Mr. Jerbert M. Briola**, a representative from Task Force Detainees of the Philippines (TFDP), #SafeInCustody Project Coordinator, and A3T Execom member, was the second speaker for this session. He noted that they are a network of civil society organisations and human rights defenders in the Philippines. He also expressed that their work would have been different and better if there was an enabling environment. Unfortunately, human rights defenders are usually vilified and red-tagged. It is also difficult to change the mindset of the public and the perspectives of state authorities on the issue of torture. TFDP has been using hope-based communications and campaigns to build trust among state authorities and ensure that their messaging does not isolate the State. He also underscored how a strong sense of community is vital in preventing torture especially in the early detection of cases. It is important to mobilise the public toward a better understanding of human rights and freedom from torture. The general public often associate these issues with politics and prefer not to partake or participate in conversations. Hence, empathy and compassion must be developed. A community that respects human rights and condemns torture creates a more vibrant community.
6. Mr. Briola talked about their engagement with the NHRI and how it is sustained. The NHRI does not consider civil society organisations and human rights defenders as enemies but as partners. He also talked about the current model of the NPM being proposed for institutionalisation. He further expressed that the implementation of laws is not perfect hence media and detention monitoring must be pursued. He also called on CHR to convene the Oversight Committee on Torture which is supposed to be a strategic platform for evaluating the implementation of the law and for generating appropriate policy recommendations. He also shared about the capacity-building initiative for medical professionals and legal experts on the Istanbul Protocol which is useful in documenting torture cases.
7. Mr. Briola also expressed the value of engaging international and regional mechanisms for advocacy work and lobbying. The UN Subcommittee on Torture (UN-SPT) will visit the Philippines in the latter part of 2023. The TFDP intends to engage this body through the submission of reports, high-level meetings, and social media. He also further expressed that utmost political will is necessary to convince ASEAN Member States to institute measures that criminalise torture. Their network is also advocating for a torture-free trade treaty. Finally, Mr. Briola noted that regional civil society formations with expertise and experience on the ground must be tapped and maximised by AICHR and other similar bodies in realising a torture-free region.
8. **Mr. Nid Satjipanon**, a representative from the Association for the Prevention of Torture (APT) Thailand, was the third speaker and final speaker for this session. He introduced APT as an organisation that was founded in 1977 by Jean-Jacques Gautier under the name Swiss Committee against Torture. The founder believed that torture happens behind closed doors, hence, monitoring what happens behind those closed doors is imperative. The focus of his presentation was not only APT’s work in Thailand but in the entire ASEAN region. APT’s approach primarily hinges on bringing actors, institutions, and stakeholders such as government, NHRIs, and civil society organisations together. They emphasise the importance of collaboration and multi-stakeholder engagement. In fact, APT’s slogan is ‘together, we can prevent torture’.
9. Mr. Satjipanon shared one of APT’s commissioned works entitled ‘Does Torture Prevention Work?’, a 2016 research that includes experiences and data from Indonesia and the Philippines. This study recommends important reforms in detention procedures and promoting safeguards. It also found that the risk of torture is greatest in the first hours of police detention which usually involve investigation and interrogation. This means that the most effective way to address the problem is to institutionalise safeguards in these stages. APT is working to disseminate the Méndez Principles on Effective Interviewing for Investigations and Information Gathering to the UN General Assembly, the ASEAN, and other key international and regional mechanisms. It intends to move away from the culture of interrogation to gathering reliable and accurate information using a human rights-based approach. Its foundations include science, law, and ethics. It highlights that the interview is only a part of a bigger system and must contain legal safeguards. It also points out that the needs of the vulnerable must be considered. Building the capacity of law enforcers and ensuring accountability help its effective implementation.
10. Mr. Satjipanon also talked about APT’s Torture Prevention Village which is an open-source database of torture prevention training modules launched in 2021. He also shared about the #SafeInCustody Project with civil society partners from Thailand (CrCF), the Philippines (TFDP), and Malaysia (SUARAM). This 3 and ½ year-program aims to increase transparency in the exercise of police authority. Its recent highlights include operational workshops in integrating the Méndez Principles into police academy/training curricula, campaigns in schools, high-level meetings with key stakeholders to formulate frameworks and action plans, development of online training modules, and even youth mobilisation activities using creative modalities such as art and music festivals. In conclusion, Mr. Satjipanon identified the challenges, opportunities, and lessons learned from APT’s experience. It is important to understand the local country context in formulating interventions. Ownership by national actors is crucial. International organisations cannot just come in and dictate what they want to happen. Relationship, trust-building, and synergies among government, NHRIs, and civil society are crucial in this process. Finally, Mr. Satjipanon cited the potential and benefits of hope-based communication in advocacy work.
11. The speakers were asked to elaborate on the impact of the phenomenon of shrinking civic space on their work and their collaborations with NHRIs and other government institutions. The representative from the APT stated that it depends on the strength of civil society organisations and how those strengths can be amplified. It can focus on creative actions or maximise its strong relationship with the NHRI. The representative from TFDP, on his side, expressed that they are not cowed by the continued shrinking space in the Philippines. They modify their tools and strategies to include creative means in order to address contending narratives on human rights, specifically those that view human rights defenders as individuals and groups that exist to simply criticise the State. Digital space shows this skewed narrative. It is important to reframe messaging from combative (e.g., stop torture, no to impunity) to hope-based communication (e.g., human rights for all).
12. He also said that it is vital to mobilise support from the international diplomatic community and various sectors. The representative from OMCT also added that aside from this narrative, human rights defenders are also targeted through Strategic Lawsuit Against Public Participation (SLAPP) and other outrageous cases being filed. She further expressed that one case against a prominent human rights worker already sends a chilling message and contributes to this shrinking civic space. Finally, the representative from SUARAM shared that increased populism and polarisation in Malaysia despite its potential for progressive politics has resulted in people not engaging in deeper discussions of issues. Freedom of expression and speech are supposed to be weapons to hold politicians accountable. It is crucial to link our initiatives with democracy and greater civil liberties. While noting ASEAN’s non-interference principle, he stated that more conversations and decisive actions on intense human rights violations must be done. It is important that the members of the ASEAN condemn wrong acts.

**DAY 2** 29 August 2023

**SESSION #5: IMPLEMENTATION OF ARTICLE 14 OF ASEAN HUMAN RIGHTS DECLARATION (AHRD): SHARING PRACTICES, CHALLENGES, AND LESSONS LEARNT IN PREVENTING TORTURE IN ASEAN MEMBER STATES (PART 4)**

1. **H.E. Amb. Yong Chanthalangsy**, the Representative of Lao PDR to AICHR, chaired this session. Before the start of the session, he recapped the discussion from Day 1. He stated that the process cannot be done overnight and the challenge of how to achieve the objective of a torture-free region remains. He also expressed that the present generation is living in an increasingly violent society and that this must be considered in formulating initiatives to prevent torture.
2. **H.E. Muong Khim**, the Deputy Director of the National Police of the Kingdom of Cambodia, was the first speaker for this session. He began his presentation by stating that Cambodia has ratified important international conventions against torture and on the treatment of prisoners. Its national legal framework (i.e., Constitution, Criminal Code, Code of Criminal Procedure, and Law on Prisons) is in place and contain provisions against torture. Cambodia is working to prevent and combat torture and CIDT. This makes it easier for the National Police to complete their work. H.E. Kim also reiterated Art. 31 of the Constitution of Cambodia which recognises and respects human rights as stipulated in the UN Charter, the UN Declaration on Human Rights, and Covenants on Women and Children’s Rights. He also emphasised that their fundamental law prohibits coercion, physical and other acts, that aggravate the punishment of detainees. It also declares that confessions arising from physical and psychological coercion should not be accepted as evidence of guilt.
3. He also noted that Cambodia became a state party to UNCAT in November 1992 and signed the OPCAT in April 2007. In 2009, the National Anti-Torture Mechanism, consists of relevant ministries, institutions, was established and later on reorganised in 2017 as the National Committee Against Torture and CITD. It is now multi-sectoral and involves various stakeholders including judges, lawyers, etc. In order to ensure that everyone understands the roles and purpose of the committee as well as international legal standards, the Committee encourages active participation, training, and outreach activities. They also aim to strengthen protection, especially in the processes of arrest, investigation, and detention involving the Cambodian National Police. H.E. Kim underscored that the National Police plays a large part in the implementation of Art. 14 of the AHRD. He said that Cambodia has been successful in its mission to prevent torture, cruelty, and inhumanity. The leaders of the National Police monitor reports and the performance of subordinates and also work closely with the Committee in capacity-building activities.
4. Despite these achievements, there remain challenges such as (a) lack of capacity and knowledge from some local law enforcement officers, but are improving because of continued training; (b) police officers who have been trained transfer to another unit, and replaced by new officers who are yet to be trained; and (c) some detention centres are yet to be equipped with security cameras and some officers do not have body cameras. H.E. Kim proposed the following recommendations: (a) promote and educate officials on international legal standards; (b) encourage cooperation with National Committee to organise training for police at the district and commune level (especially since the sub-national level has more issues); (c) closely monitor handling of suspects in the 48-72 hours by specialised units in the National Police; (d) investigate cases where there are allegations or suspicions; and (e) discipline officials in accordance with the law. H.E. Kim ended his presentation by stating that Cambodia takes torture prevention seriously and that severe penalties for acts of cruelty and torture are imposed.
5. **Ms. Sok Wisal**, the Prosecutor and Director of Prosecution Affairs of the Ministry of Justice of the Kingdom of Cambodia, was the second speaker. As a prosecutor whose specialty is the law, her presentation focused on the country’s legal framework. She emphasised that all laws in Cambodia mandate protection. Torture and CIDT are considered criminal offences and their penalties depend on severity. The general penalty is 7-15 years of imprisonment. But this increases to 10-15 years when the victim is a woman or comes from a vulnerable group. In cases where the perpetrator is a police officer or a law enforcer, aside from imprisonment, they are also removed from their position or function. Ms. Wisal also elaborated on the criminal jurisdiction. She noted that law enforcers usually think that finding evidence is difficult and often resort to the use of force.
6. Hence, it is important to be thorough in protecting persons in detention. Security cameras or CCTVs are a good step but may not be enough since they cannot catch every corner or premise of the facility. She also talked about the roles of prosecutors in torture prevention. They have the right to check detention centres without prior notice. When there is evidence of torture, the persons responsible will be held accountable and punished. She also mentioned the National Committee on Anti-Torture which is a special mechanism and an independent committee. While it is great progress, she notes the need for more updates and reform to make it more effective. Ms. Wisal also shared that victims of torture and acts of cruelty do not need to go through court procedures as the Criminal Court can set both the penalty of the perpetrator and the remission for the victim. Finally, she stated that torture-obtained evidence or any evidence gathered under physical or mental duress cannot be admitted in Court.
7. **Mr. Vanhnakone Chanthapanya**, the Head of the Division of Administrative and Cultural-Social Law under the Department of Law of the Ministry of Justice of Lao PDR, was the third speaker. He began by discussing the history and context of LAO PDR’s commitment to prevent torture. It ratified UNCAT and signed the AHRD in 2012. His presentation mainly focused on the rights and freedoms of Lao citizens in criminal proceedings. The concepts and principles in UNCAT and AHRD have also been integrated into the fundamental law of Lao PDR. The Constitution recognises that all Lao citizens are equal and they are vested with the right to complain and lodge such complaints to the authorities concerned and the Court. Lao PDR’s Penal Code (2017) also underscores that penalties are not aimed to degrade human beings. Acts of torture, especially against women and children, are crimes.
8. Lao PDR also has several statutes such as Criminal Procedure Law (2017), Anti-Violence Against Women and Children Law (2014), Juvenile Criminal Procedure Law (2013), Protection of the Rights and Interests of Children Law (2006), and Development and Protection of Women Law (2004) which grant their rights and liberties, especially freedom from torture, force, or coercion. Such laws also establish protection and cooperation mechanisms to assist victims. In conclusion, Mr. Chanthapanya stated that while the UNCAT and AHRD have been incorporated into their laws, there are still difficulties and obstacles in implementation especially in terms of human resources, mechanisms, and materials. Lao PDR needs to obtain more lessons and experiences from other countries, especially from the ASEAN region.
9. **Mr. Inpong Louangpanya**, a representative from the Anti-Human Trafficking Department of the Ministry of Public Security of Lao PDR, served as the fourth and final speaker for this session. He started his sharing with a discussion of relevant policies in Lao PDR, particularly noting the improvement of the National Committee on Anti-Trafficking in Persons (NCATIP), composed of different ministries, that crafted an action plan that is currently being implemented. He also emphasised that Lao PDR’s national laws are based on key international conventions such as the UN Convention against Transnational Crimes, Palermo Protocol, CEDAW, CRC, and ACTIP. Mr. Louangpanya then talked about Lao PDR’s regulations, procedures, and processes in terms of prosecution and victim protection. It is important to inform offenders of their rights and find evidence without forcing offenders to admit guilt during the investigation. In the period of detention pending court order, relatives and families can visit them or take them to the hospital for treatment in case of illness.
10. During the implementation of the judgement in the jail facility, the government provides training in line with their skills while serving a sentence. They also conduct different types of public awareness activities on TIP on social media and campaigns for villagers, students, workers, schools, and factories. Various government officers and private sector actors are also engaged in capacity-building activities. Lao PDR also provides compensation for victims while also coordinating with non-government organisations or civil society for shelter, legal assistance, and medical services. In conclusion, Mr. Louangpanya noted the key challenges such as limited understanding of law enforcement which can be addressed by promoting greater public awareness and international cooperation in advocacy and capacity-building.
11. The speakers from Lao PDR were asked about the terminologies or terms used in their laws and if it is better to change ‘all citizens of Lao’ to ‘all persons’. They were also asked about the remedies available for non-citizens of Lao. The representative from the Ministry of Justice clarified that the rights of non-citizens are also respected in Lao PDR. Their law also mentions non-citizens and in practice, citizens and non-citizens are treated equally in criminal proceedings. They are also able to enjoy freedom according to the law and protection mechanisms are also available for them. The Session Chair also added that Lao PDR follows the principle of equal treatment in the law. The representative from the Department of the Ministry of Public Security, on the other hand, stated that they cover or provide protection for all victims. People from overseas who are victims in Lao PDR receive assistance and protection from the government.
12. The speakers were asked to clarify how victims of torture or their families can file complaints for acts of torture when there is no clear evidence (e.g., corruption or manipulation of a case involving a drug mule). The representative from the National Police of Cambodia reiterated that forced confessions are inadmissible in Court and cannot be used as evidence to convict a person. When there is evidence of coercion or violence, these officers will be held accountable. The key point is evidence—evidence of beating, bruises, or injuries—clear evidence is necessary to prosecute officers. When the suspect is at the Prosecutor's stage, Cambodians can file a complaint against abusive officers by informing the Prosecutor that the statement is invalid because they were forced to confess.
13. After 24 hours of detention, the person needs a lawyer or advocate to support him/her during the process. It is important to maintain confidentiality. After the meeting, the lawyer can write a note to the Prosecutor. They can list down how the suspect was treated and their injuries and address the Prosecutor for proper action. The representative from the Lao PDR Ministry of Justice stated that all Lao PDR citizens have the right to lodge complaints against the authorities concerned. There are penalties for the acts of coercion and torture. He also noted that criminal proceedings must be transparent.

**SESSION #6 TOWARD THE REALISATION OF SOUTHEAST ASIA AS A TORTURE-FREE REGION: SHARING PRACTICES, CHALLENGES, AND LESSONS LEARNT IN PREVENTING TORTURE**

1. **Mr. Rayyanul Muniah Sangadji**, Coordinator for Law and Human Rights, Ministry of Foreign Affairs of Indonesia, chaired this session. He highlighted that the session intended to gather insights on best practices in torture prevention from different regions outside ASEAN.
2. **Dr. Rully Sandra**, a Counsel of the FRR Law Office, was the first speaker for this session. She clarified that the FRR Law Office is one of the few local non-state actors involved in training and capacity-building activities for the defence and security sector in Indonesia. Her organisation has conducted a study that sought to understand the investigation techniques and practices in Indonesia. They found that the investigation stage was most vulnerable to torture. The operationalisation of the principle of presumption of innocence is extremely difficult at the local level. This makes investigation a bottleneck in torture prevention. They also found that local rank officials believe that humane treatment will affect the effectiveness and efficiency of investigations and only white-collared crimes should be treated humanely.
3. Based on their baseline study, surveys, and discussions, Dr. Sandra identified three types of police officers in Indonesia. One, the oblivious, thinks that there is nothing wrong with the present practices of the police and that they are already in compliance with human rights standards. Second, police officers who see some shortcomings but do not think that change is needed. The third, and perhaps smallest in number, are those who recognise that some practices need to be changed or improved. To address these problems, the organisation promotes the adoption of the Méndez Principles, a soft law recognised by the UNHRC, in properly officiating investigative interviews. Dr. Sandra pointed out that the police need to understand that there are asymmetrical power relations and power structures during investigation. It is also crucial to remember that police officers are human beings affected by hermeneutical and prejudicial factors during professional interviews. There are emerging models and approaches that seek to innovate investigation (e.g., Norway’s Creative Model and UK’s Peace Model) but this remains an uphill battle in Indonesia.
4. Dr. Sandra cited some ways forward and recommendations: (a) police officers must understand that their job is to protect and safeguard human rights; (b) leadership support is crucial; (c) more commitment to change, knowledge, and capacity-building; and (d) require documentation of all interviews through official recording. She also stressed that human rights cannot only be operationalised from a legal perspective. Other disciplines are also valuable. Psychologists and linguists can help testify that the model is good. Finally, Dr. Sandra talked about a pilot project in one district in Central Java where they prepared an investigation room in compliance with the Méndez principles as well as the conduct of training for officers on the new model.
5. **Ms. Lorraine Finlay**, the Human Rights Commissioner of the Australian Human Rights Commission (AHRC), was the second speaker. She premised her sharing by stating that all countries, whether developed or developing, are working on the same goal. It is important to learn from each other and work together since no one can address torture alone. Torture is a critical violation of human rights. Ms. Finlay then proceeded to discuss Australia’s context and experiences in torture prevention. She stated that torture is criminalised in domestic law and is punishable with 20 years imprisonment. Its definition is also according to the elements of UNCAT and applies to private detention facilities as well. Australia follows the principles of universal jurisdiction, non-derogability, and non-refoulement. The law applies to any person, regardless of nationality and anywhere in the world. In cases outside of Australia, written consent from the Attorney-General is needed.
6. Torture cannot be qualified under any circumstance. Anti-torture and extradition laws do not allow sending nationals back to their home country when there is threat of torture. Australia also has various forms of redress and rehabilitation. At the Commonwealth level, complaint mechanisms and independent units are in place to ensure due diligence. At the State and Territory levels, there are also mechanisms for assistance. Civil society and non-government organisations play a central role in providing services to victims, in restoring their dignity, and establishing pathways for recovery. She also emphasised that torture-tainted evidence is inadmissible to legal proceedings. This shows that effective prosecution and criminal justice systems go hand in hand with human rights. Ms. Finlay postulated that high integrity and public confidence lead to effective prosecution and better law enforcement outcomes. However, there are still challenges in torture prevention. While complaint mechanisms are good, the better approach is preventing ill-treatment.
7. However, the range of bodies designed for monitoring is not available or activated at all levels. She revealed that some states in Australia do not have NPMs. Navigating federalism also poses a similar issue. There are different levels of government with overlapping functions and responsibilities. Cooperation and proper coordination are needed between the federal government and state governments. The Australia NPM network can be a good platform for this. It is also crucial to embed opportunities to share experiences and lessons.
8. **Ms. Barbara Bernath**, the Secretary-General of the Association for the Prevention of Torture (APT), was the third and final speaker for this session. She expressed that the dialogue is a good follow-up to the 2020 activity. Ms. Bernath articulated that APT works in the highest moments of risk for torture and with multiple stakeholders or sectors such as NPMs, CSOs, and state authorities across countries. She also expressed that the implementation of safeguards in the first hours of detention is most effective in torture prevention. Safeguards include legal safeguards, access to medical doctors, immediate notification of family, and informing individuals of their rights.
9. Ms. Bernath then discussed APT’s framework for addressing and preventing torture which is called the “House of Prevention”. The foundation is the legal framework which entails absolute prohibition of torture and criminalisation of law as a specific offence. It is also vital for the legal safeguards to be enshrined in the law. But beyond the law, standard operating procedures (SOPs) and internal directives must reflect such safeguards. Specific processes and procedures must be clarified. The walls are the different yet interrelated aspects of implementation. Leadership involvement is key in implementation. It is important for leaders of organisations such as the police to reaffirm the message that torture is absolutely prohibited and not tolerated. Safeguards need to be reflected and implemented to show that change is needed or possible despite difficulties. Training about the legal framework is also vital. It is not effective to simply orient stakeholders about the standards. Training should be practical in approach and focused on the operationalisation of the law on the ground. Interpersonal skills must be developed. It is also vital to operationalise key concepts and principles such as presumption of innocence.
10. APT also promotes the Méndez Principles which moves away from interrogations to scientific interviews. Stakeholders also need to be trained how to build rapport, open minds, and ask questions to enable the collection of accurate information. Procedural safeguards are also important such as the audio or video recording of interviews. Additionally, it is also helpful for the interviewer to document the interview himself. Finally, complaint mechanisms in case of violations must be in place. The judiciary plays a key role in deciding on these cases especially in ensuring the exclusionary rule.
11. The final part is the roof which refers to independent and external control mechanisms. This is where the work of NHRIs and NPMs becomes relevant. They must be vested with the powers to go to detention centres and interact with state authorities to discuss their practices and articulate their challenges. The rule of law and democratic structures must support these mechanisms. Ms. Bernath cites Latin America’s experiences where they are moving away from monitoring facilities and institutions to monitoring procedures and standards. She concluded her presentation by reiterating that the legal framework is important but operational training is also very crucial in torture prevention.
12. The speakers were asked to elaborate on the operationalisation of the exclusionary rule referring to torture-tainted evidence, whether it is a matter of defence or requires separate criminal proceedings to determine inadmissibility. The speaker from the Australian Human Rights Commission (AHRC) responded that the burden of proof switches or shifts to the Prosecution to prove that evidence was gathered through lawful means. It is not the task of the defence. The speaker from the Association for the Prevention of Torture (APT) expressed that the exclusionary rule is one clear example of the gap between the law and practice. While she cannot speak for a specific country, she expressed that it is important to raise awareness within the judiciary and law enforcers. Practices must be duly informed. She also added that according to the jurisprudence in European Courts on Human Rights, the burden of poor is shifted to the Prosecution to prove that they have acted lawfully, not the victims proving that they have undergone torture. The implementation remains challenging. Finally, the speaker from FRR Law Office lamented that while inadmissibility is supposed to be a fundamental principle, in reality, some judges do not share the same perspective. Judges sometimes forgo the exclusionary rule. They usually summon the NHRI and seek their expert opinion.
13. The speakers were asked to comment on the inclusion of immigration practices in understanding torture prevention since most discussions are within the context of criminal proceedings. The speaker from the AHRC agreed and expressed that vulnerable groups who require protection are usually excluded from conversations and processes. It is important to tap immigration protection networks including civil society and community and consider the roles that NHRIs play in highlighting these issues. The speaker from APT recognised that torture within the context of immigration is happening in secrecy. She added that legal frameworks and protection mechanisms are usually weak and unclear. But she also expressed that visibility is the first step. More advanced steps can be taken when problems in immigration detention are already recognised. Finally, the speaker from the FRR Law Office stated that it is important to advocate for human rights and the use of scientific and effective investigation instead of using rather confrontational and aggressive messaging where police officers may feel defensive. She also lamented that there must be something fundamentally wrong in society for people to think that being treated humanely is a privilege instead of a norm.
14. The speakers were asked whether state compensation can effectively deter officials from committing acts of torture. In response, the representative from the AHRC expressed that victim assistance and prohibition of retribution are in place. But it is not simply about giving money or financial assistance to victims, it is vital to provide holistic and multidimensional assistance and rehabilitation.
15. The speakers were asked to clarify the mechanisms for redress and repatriation and how the needed funds are raised. The representative from the AHRC stated that mechanisms are already at different levels but the support and assistance are not the same. Funding may come from multiple sources such as the Victims of Crimes Fund which is derived from money confiscated in criminal jurisdictions that are redirected to support victims. It may also come from civil society or non-government organisations. The speaker from APT clarified that they are not working on a specific case but they do recognise that reparation is an important element in the entire torture prevention mechanism. Complaints may be filed in independent mechanisms. The speaker from the FRR Law Office, on the other hand, highlighted that compensation must be accessible for victims and justice-seekers.
16. The speakers were asked to elaborate on the element of leadership support, particularly which institutions and at what level. The representative from APT responded that law enforcement is highly hierarchical. It is important to go for the highest leadership possible and gather support from ministers, commissioners, or chiefs. She cited Nigeria as an example where the President affirmed zero-tolerance for torture. She also noted that pilot training is good but buy-in from leadership is equally crucial.
17. The speaker from Indonesia was asked to talk about the prospects of applying the Méndez Principles in the country. She stated that the prospects are quite mixed but recently, she has become more optimistic since they have received more positive feedback or response from trained police officers. Some may think that change is impossible because they do not have complete information. But after seeing the possibilities, they become more supportive. She expressed positive prospects not only for Indonesia, but the whole ASEAN region.
18. The speakers were asked to comment on the necessity and prospects of ratifying the UNCAT and whether or not ratification must come first before passing relevant legislation. The representative from APT cited the importance of changing how campaigns are presented. It is more effective to use positive messaging as seen in APT’s #SafeInCustody campaign. It is also more helpful to focus on the benefits for society and institutions. People need to acknowledge that it is a long process as evidenced by Thailand’s 15-year journey of passing a law on torture. She also stated that awareness-raising is urgent for societies where violence and corporal punishment are considered acceptable in society. Putting torture into the agenda takes time but it is possible. It is also beneficial to engage with international cooperation mechanisms. The representative from AHRC, on the other hand, expressed that it is more important to continue best practices, whether treaties are ratified or not. She also agreed that when there is public doubt on treaties, it is more effective to focus on benefits of treaty ratification. She also noted the benefits of learning from others, their expertise, UN bodies, and countries. Do not focus on state obligations alone, but on the opportunities and benefits that treaty ratification creates.
19. The speakers were requested to clarify whether the legal framework in the ASEAN recognises acts committed by private actors, with the acquiescence of state actors or lack of state diligence, constitute torture. The representative from APT noted that even acts of torture committed by private actors constitute torture in the international perspective. The representative from the AHRC said that laws stipulate that the act must be committed by a public official.
20. The AICHR Representative of Lao PDR manifested a rejoinder. He expressed that it is important to maximise ASEAN mechanisms and not engage too much in provocative methods. He said to “change the system within the system” and take into consideration that we are in a highly violent context. He also reminded the body to take note of their constituency in crafting more advocacy and education activities.
21. The Session Chair noted that the challenges and gaps as shared by the speakers can be very fundamental as they pertain to the areas of the law and its practice. He also stated that training, capacity-building, and sharing of experiences are needed.

**SUMMARY OF DISCUSSION**

1. The Human Rights Division of the ASEAN Secretariat presented their synthesis of the dialogue. They noted the common modalities and mechanisms, challenges, and recommendations.
2. In terms of modalities, it can be gathered that national laws and mechanisms need to be in place for torture prevention. It is important for countries to align their statutes with the international legal framework on torture as well as involve a variety of stakeholders within the government and civil society in these mechanisms.
3. In terms of challenges, it can be noted that in some countries, there is still no clear definition of torture. Torture is also mainly conducted during the investigation process and is often seen as mere ill-treatment. As a consequence, offenders only receive ethical or administrative penalties and the punishment does not reflect the gravity of the act. Victims are also reluctant to report and are usually unaware of their rights. Aside from these, law enforcers also usually find it difficult to implement their duty due to lack of resources (e.g., no body camera, insufficient data storage). Different agencies also have different practices and different knowledge and capacity. The culture of impunity, forced confession without judicial oversight, lack of relevant legislation, reliance on torture as method of investigation, and politicisation of efforts all contribute to the prevalence and persistence of torture.
4. The following recommendations were noted: (a) implement zero-tolerance against torture; (b) enhance supervision and monitoring mechanisms and processes; (c) ratify the OPCAT by all ASEAN Member States; (d) draft a specific national law on torture with a clear definition of the act; (e) enhance rewards for law enforcers who implement torture prevention measures and increase punishment for violators or perpetrators; (f) change investigation methods; (g) implement awareness-raising and capacity-building activities; (h) improve complaint mechanisms and coordination among relevant agencies and stakeholders; (i) conduct thematic studies on the topic using an inclusive perspective; (j) procure hardware needed for the video recording including storage capacity for the files; and (k) build trust between and among civil society, NHRIs, law enforcement, and government agencies.

**REFLECTIONS**

1. **H.E. Wahyuningrum**, Chair and Representative of Indonesia to the AICHR, manifested that the AICHR will organise a capacity-building activity on the Méndez Principles guided by the insights and recommendations collected from the dialogue.
2. **Ms. Glenda Litong** of the University of the Philippines was the first to share her insights and takeaways from the activity. She expressed that being a torture-free region would lie on how torture and CIDT are defined compared to other acts. It is important to highlight that such acts are perpetrated by state agents. This distinction is not merely an academic exercise but a crucial aspect of the operationalisation of torture prevention. Ms. Litong also noted that criminalisation is the most common approach. She asked how we can ensure that definitions are clear enough to guide the actions of an individual. She further asked how the ASEAN defines ‘torture-free’ and what the corresponding paramaters are. To level off and establish a common understanding of torture, training and capacity-building must be done. She also noted that torture is prohibited in times of peace and war and developing a strong sense of community is also important. Public safety must be achieved within the framework of human rights as torture has not achieved its supposed goals.
3. Ms. Litong expressed that a victim-centred approach—believing the victim on what she or he has gone through at the hands of state agents—especially vulnerable individuals—may be beneficial in torture prevention. It is also crucial to recognise cross-sectional vulnerabilities and expand agency and autonomy of individuals, not only their participation in consultations. She also expressed that reparation is an acknowledgement by the State that something went wrong. Ms. Litong also pointed out that torture is committed in a continuum of violence by state agents—from surveillance to arbitrary arrest to detention to torture or CIDT or sexual violence to enforced disappearance or extrajudicial killings. Proper complaint mechanisms and proper investigation must be institutionalised. The existence of the law is not enough. Due process must be followed. To achieve all these, political will and commitment at the ASEAN level are needed. On the part of each Member State, they must pursue institution-building, resource gathering and management, budgeting, monitoring, and implementation with the community within the framework of the rule of law and development.
4. **Ms. Gayethri Pillay**, the Head of Secretariat of the Convention against Torture Initiative (CTI), followed. She emphasised that their organisation is advocating for the universal ratification of UNCAT and also crafts improved recommendations on the convention. They do these in a diplomatic, constructive, and encouraging manner instead of naming and shaming and other confrontational methods. They also encourage states to learn from one another since many states share similar challenges. It is also helpful to check whether synergies can be created with other regions, for example, on efforts to establish torture-free zones in Asia-Pacific. The ASEAN must also decide whether being ‘torture-free’ is a political aspiration or an objective that needs to be achieved. Ms. Pillay also noted that while political will is important, capacity-building on a technical level is also crucial. She also expressed the impact of all ASEAN Member States ratifying the UNCAT as it shows the world that, indeed, the ASEAN is a torture-free region. Finally, Ms. Pillay highlighted that buy-in from various levels (i.e., nationally, regionally, and internationally) is crucial and CTI is willing to support ASEAN in all ways possible.
5. H.E. Wahyuningrum, Chair and Representative of Indonesia to the AICHR, expressed that common standards on remedy mechanisms for victims of torture may be considered by the ASEAN.

**CLOSING SESSION**

1. **H.E. Wahyuningrum**, Chair and Representative of Indonesia to the AICHR, delivered the closing remarks. She stated that the dialogue was an apt manner to commemorate the 75th anniversary of the UDHR and the 11th anniversary of the AHRD. She also described the discussion to be rich and has been successful in taking stock of the implementation of important agreements and action plans on torture prevention. Even in these progresses, there are still challenges and many other things that need to be done. Establishing or refining the legal framework needs to be coupled with changing of attitudes, behaviours, and mindsets which can be done through dialogues and capacity-building.
2. H.E. Wahyuningrum also pointed out that these efforts do not have to be done in hierarchy. It is important to continue what is already being done. The declaration that ASEAN is a torture-free region is not about assessing ratification but checking the procedures, efforts, and contributions to prevent torture on the ground. She then concluded her message with an acknowledgement of the speakers and participants for their efforts and openness in partaking in formal and informal discussions. She also commended the hard work of the organisers particularly the support of the AHRC, Australian Aid, OHCHR, and all AICHR representatives.