



# AICHR - CACJ HIGH LEVEL ASEAN HUMAN RIGHTS DIALOGUE : THE RIGHTS OF ACCUSED PERSONS IN CRIMINAL CASES

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## **A. OPENING SESSION**

### **Remarks by H.E. Amb. Barry Desker, Representative of Singapore to AICHR & Chairperson of AICHR**

1. In his welcoming remarks, Amb. Desker underscored the importance of building the confidence of society on the justness of laws. It is only when the society knows that they will receive due process and that their human rights will be respected, only then they will have confidence and participate in the process of the law.
2. Amb. Desker congratulated the Council of ASEAN Chief Justices (CACJ) for the creation of its ASEAN Judiciaries Portal, which was launched in July 2018. The ASEAN Judiciaries Portal would allow the global community to learn about the ASEAN judiciaries and legal infrastructure in the region. He further added that much can be shared and learned between the AICHR and the CACJ, as long as we keep our minds open, and live up to the spirit of inclusivity and embrace a collaborative approach. He hoped that dialogue such as this will continue in the future.

### **Remarks by H.E. Edmund Bon Tai Soon, Representative of Malaysia to AICHR**

3. In his remarks, Mr. Bon noted that for the past nine years since its first inception, the AICHR has been fostering regional cooperation especially with the ASEAN sectoral bodies to strengthen the promotion and protection of human rights.
4. The previous AICHR Judicial Colloquium which was held in July 2017 in Kuala Lumpur threw up a number of recommendations, and that paved the way for the convening of this high level human rights dialogue, focusing specifically on the right of the accused persons in criminal cases. With high number of criminal cases processed every day, it cannot be gainsaid that the rights of an accused person in a criminal case are fundamental to ensuring that he or she receives a fair trial.
5. He underlined that certain fair trial rights are enshrined in the ASEAN Human Rights Declaration (AHRD). These include Article 20 of the AHRD on the presumption of innocence until proven guilty, and Article 5 on the right to an effective and enforceable remedy. While there are varying facets of fair trial rights, the international human rights law has guaranteed several other rights of the accused persons such as the right to a public hearing, the right to a speedy trial, the right to cross-examine witnesses, the right against self-incrimination, the right to legal aid and the right to counsel (just to mention a few). On this note, he anticipated a great opportunity for the AICHR and the CACJ to document the varying practices among the ASEAN member states in regards to the implementation of the rights of accused persons, publish it in the ASEAN Judiciaries Portal that serves as a legal resource database.
6. Mr. Bon further highlighted that the primary responsibility to protect human rights rests on each ASEAN member state, and that an independent judiciary plays an important role to interpret and apply laws in a manner that is fair, just and consistent with human rights principles.
7. Strengthening access to justice cannot be done in isolation with the broad vision of promoting just, peaceful and inclusive societies as enshrined under Goal 16 of the global development framework

namely the Sustainable Development Goals (SDGs). In relation to this global agenda, Mr. Bon emphasized that access to justice is a fundamental driver to achieve the SDG Goals. In fact, it is a driver through which other rights are realized. He added that access to justice, when and if granted, will enable ordinary citizens to communicate to the States to enforce their rights and to make the States accountable. The intersections between SDG Goal 16 and fair trial rights have not been fully explored. He therefore suggested participants to consider discussing these intersections at this Dialogue.

8. Mr. Bon concluded his remarks by encouraging the AICHR, the CACJ and other relevant bodies to continue exploring other possible areas for regional cooperation and collaboration to uphold the rights of the peoples in the region. The ASEAN leaders have always recognized that the AHRD is going to be a ‘living document’ for ASEAN bodies to appreciate and to take into account in their respective sectors. He hoped that the sustained regional human rights and judicial collaboration will be able to give meaning and life to the words of the AHRD.

## B. KEYNOTE ADDRESS

### By The Right Honorable Tan Sri Datuk Seri Panglima Richard Malanjum, Chief Justice of Malaysia

9. Chief Justice Tan Sri Richard began his keynote address by congratulating the AICHR and the CACJ for organizing this Dialogue, and that demonstrates a good testament of regional human rights cooperation between the two bodies. Though there are differences in how our judicial systems implement international human rights commitment, there are areas of commonality that bind ASEAN member states, and that's where the member states should work towards achieving mutual interest.
10. Each ASEAN member state has different human rights challenges, thereby requiring varying approaches suitable to her local conditions and circumstances. Dialogue's today provided an avenue for the member states to exchange ideas, to learn from each other and to discuss strategies to meet the challenges before them.
11. With respect to the rights of accused persons, Chief Justice Tan Sri Richard stressed that it must be linked to the concept of rule of law. The Universal Declaration of Human Rights (UDHR), for instance, has given the concept of rule of law a central place as "*...it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law*". Similarly, Article 14(3) of the International Covenant on Civil and Political Rights (ICCPR) provides that in civil and criminal cases, the accused has the right not to be compelled to testify against himself or to confess guilt.
12. In many countries, the concept rule of law forms the source of the rights of accused persons such as the right to be presumed innocent until proven guilty; the right against self-incrimination; the right to a hearing and effective remedy; the right to be informed on the grounds of his/her arrest; the right to counsel; the right to production before a magistrate; the right to bail; and the right to a speedy and fair trial.
13. Equally important is the principle of natural justice which embodies two essential rights, namely the right to be heard, and the rule against bias. In Malaysia's context specifically, these two principles form the basis of its criminal justice system.
14. With respect to access to justice, the Chief Justice Tan Sri Richard stressed that two elements are essential namely fair trial and effective remedy. To achieve universal access to justice, access must be provided to all, and in equal extent. Reasons hinder people to access justice are multifaceted – ranging from poverty, lack of information and resources, status of nationality, as well as the absence of legal aid. As such the United Nations General Assembly (UNGA) in June 2017 had decided to integrate "access to justice" into the global development framework SDGs, particularly under target 16.3 ("Peace, Justice and Strong Institutions") that aims to promote the rule of law and ensure equal access to justice for all.
15. Chief Justice Tan Sri Richard further shared that in Malaysia's system of government, the judiciary plays a critical role in upholding and enforcing the rule of law, with regards to the rights of accused

persons. It provides the necessary check and balance to the Legislature and the Executive in a functioning democracy.

16. The Federal Constitution of Malaysia guarantees the rights of accused persons on several fronts. For instance, Article 5(1) of the Federal Constitution guarantees the right of a person not to be deprived of his life or liberty in accordance with the law. This right encompasses the right to be presumed innocent until proven guilty.
17. Article 5(3) of the Federal Constitution also guarantees the right to be informed of the grounds of arrest. This is particularly important to ensure that the accused person knows why he is arrested, and have adequate information to enable him to defend himself. Additionally, every arrested person is guaranteed of his right to consult and be defended by a legal practitioner of his choice. This right may be practiced in two separate scenarios, namely, consultation at the police station immediately upon arrest, and representation in court.
18. Chief Justice Tan Sri Richard further shared that in any case where a person cannot afford a lawyer, the hybrid legal aid system in Malaysia permits options for the accused person to access legal aid through government or private-led legal aid schemes – with minimal cost, or free of charge, depending on various criterions set by each of the legal aid providers. For death penalty offence, the Chief of Registrar’s Office of the Federal Court provides free legal aid service for the accused persons.
19. In the context of ASEAN, Chief Justice Tan Sri Richard emphasized that the ASEAN Charter provides that the ASEAN member states shall act in adherence to the rule of law, good governance and the principles of democracy and constitutional government, and with respect for fundamental freedom, the promotion and protection of human rights, and the promotion of social justice. As such, the ASEAN member states are expected to work in harmony to attain the expectations enshrined in the ASEAN Charter. One practical approach may be to identify commonalities among the member states in their respective justice system, and to build thereon common best practices in protecting the rights of accused persons in criminal cases.
20. In his closing notes, Chief Justice Tan Sri Richard noted that this gathering has provided the opportunity to ASEAN member states to engage and interact with each other, and explore ways to strengthen cooperation to advance the realisation of human rights for the peoples of ASEAN. It is hoped that this dialogue could be institutionalised, and to further build a regional common understanding on the rights of accused persons in criminal cases.

## **C. COUNTRY'S OVERVIEW ON THE RIGHTS OF ACCUSED PERSONS IN CRIMINAL CASES IN THE REGION**

### **The Honourable Justice Lee Siu Kin, Supreme Court of Singapore [Singapore]**

21. Opening his presentation, Justice Lee noted that Malaysia, Brunei Darussalam, Myanmar and Singapore have codes of criminal procedure derived from the colonial era Indian Code of Criminal Procedure. As a consequence, their respective justice systems are very similar, although each of these countries has made various amendments to their respective codes over the years.
22. Justice Lee informed that the rights of all persons, including those that are accused of crimes are generally found in three sources, namely the Singapore Constitution; ordinary Acts of Parliament; and the common law.
23. Under the Singapore Constitution, for instance, Article 9(1) provides that no person shall be deprived of his life or personal liberty save in accordance with law. The succeeding paragraphs of the same article also provide that where a complaint is made to the High Court that a person is unlawfully detained, the Court shall inquire into the matter and unless satisfied that the detention is lawful, order the production of the person and his subsequent release.
24. Article 9(3) of the Constitution also provides that where a person is arrested, he or she shall be informed as soon as may be of the grounds of his or her arrest and shall be allowed to consult and be defended by a legal practitioner of his or her choice.
25. Another important provision of the Constitution is Article 11, which embodies two fundamental precepts of criminal justice, namely, the principle of non-retroactivity and the rule against double jeopardy. Under the principle of non-retroactivity, a person cannot be punished for an act or omission that was not an offence at law at the time the act or omission was conducted. This is a fundamental feature of the rule of law, which requires that every person be allowed to plan his affairs on the basis of the laws as publicly and prospectively promulgated.
26. Under the rule against double jeopardy, it is guaranteed that a person who has been convicted or acquitted of an offence cannot be tried again for the same offence. This flows from the principle of finality, and it enshrines the principle that once the criminal process has run its course, that is the end of the matter, and no person may be subjected to the ordeal of multiple trials for a single offence.
27. On the subject of access to counsel, Justice Lee mentioned that all persons facing capital charges are assigned counsel by the State under the auspices of the Legal Aid Scheme for Capital Offences. Following a decision by the Government to provide funding for criminal legal aid, about 60% of needy accused persons now receive pro bono representation under the auspices of the Criminal Legal Aid Scheme run by the Law Society.
28. Justice Lee stressed that the existing constitutional provisions in Singapore provide an important and powerful bulwark against unlawful detention, and guarantee that the authorities cannot detain a person without sufficient grounds.

29. Justice Lee observed that the Criminal Procedure Code sets out in great detail the stipulations that have to be adhered to at every stage of the criminal process. It covers every step from the arrest of the accused to post-appeal applications. Justice Lee elaborated on the criminal case disclosure regime in Singapore, the objective of which is to create a “cards up” approach to litigation, which enhances the reliability and transparency of the criminal justice process in searching for the truth.
30. Under the common law, Justice Lee shared that over the years, the Singapore courts have held that there are certain requirements of fairness in the criminal process which cannot be abrogated. These include the so-called “fundamental rules of natural justice”, which are embedded in the notion of “law” in Article 9 of the Constitution.
31. To sum up, Justice Lee recapped that the various provisions governing the criminal justice process in Singapore work together to ensure that criminal litigation achieves its core purpose, which is to secure the conviction and punishment of the guilty and the acquittal and vindication of the innocent. It aims to achieve a just outcome by means of a fair trial.

**The Honourable Justice Collin Lawrence Sequerah, High Court Kuala Lumpur, Malaysia  
[Malaysia]**

32. Justice Collin shared the overview of the rights of accused persons in criminal cases in Malaysia from four dimensions namely (i) the right to counsel; (ii) pre-trial procedures; (iii) discovery of documents; and (iv) criminal trial procedures.
33. Under the right to counsel, Justice Collin noted that Article 5(3) of the Constitution states that where a person is arrested, he shall be informed as soon as may be of the grounds of his arrest, and shall be allowed to consult and be defended by a legal practitioner of his choice. The right to counsel is also reflected under the Criminal Procedure Code (CPC) (refer Section 28(A)), which states that, amongst others, a person arrested without a warrant shall be informed as soon as may be of the grounds of his arrest by the police officer making the arrest.
34. Justice Collin further shared that in order to overcome the backlog of pending criminal cases, and to promote the expeditious disposal of cases, a few provisions have been introduced through a series of amendments to the CPC. These include Pre-Trial Conference under Section 172A of the CPC. He informed that a pre-trial conference enables an accused, who must be represented by counsel, and the Public Prosecutor, but in the absence of any judicial officer, to meet before the case management process and discuss the merits of their respective cases to narrow down the issues of contention. This process must be held within 30 days from the date the accused was charged in court or any reasonable time before the case management.
35. Other than Pre-Trial Conference, amendments to the CPC also include the introduction of Case Management procedure under Section 172(B) of the CPC. This procedure guarantees that any case management is to be held within 60 days from the date the accused is charged. The amendments of the CPC introduced a Plea Bargaining procedure under Section 172(C) of the CPC, where the accused agrees to plead guilty in exchange for a reduced sentence. Delivery of documents procedure under Section 51(A) of the CPC provides for automatic disclosure by the prosecution to



the defence, the documents or materials that would form part of the prosecution's case before commencement of the trial.

36. Justice Collin stressed that unlike civil matters, there appears to be a limited scope of discovery in criminal matters. The general provision that governs the production of property and documents in criminal proceedings can be found in Section 51 of the CPC. This provision gives power to the court to exercise its discretion to order production of any property for the purpose of any investigation, inquiry, trial or other proceedings upon application made by the accused person or the prosecution.
37. In his final point, Justice Collin noted that in Malaysia, the criminal trial is based on the adversarial system, and is conducted in accordance with the provisions of Section 178 of the CPC (High Court). The criminal trial procedures comprise two stages, namely prosecution stage, and defence stage. Under this two-stage process of trial, it is settled law that the burden of proof in a criminal case is on the prosecution where they have to first establish a prima facie case that the accused had committed the offence. Once a prima facie case is established, the accused will be ordered to enter his defence.

**The Honourable Justice Pg. Rostaina Pg. Duraman, Supreme Court of Brunei Darussalam  
[Brunei Darussalam]**

38. Justice Pg. Rostaina shared on pre-trial procedures applied in Brunei Darussalam. She began by sharing that any arrested person in the country must be informed the reason(s) of his or her arrest. Statement will be recorded without violence, inducement and any form of threat or oppression. These procedures are clearly stipulated under various Sections in the Criminal Procedure Code (CPC) of the country.
39. Upon arrest, investigation must be done immediately, without unnecessary delay. The accused has the right to his counsel immediately after the initial investigation has been conducted. When the accused is charged or officially informed that he may be prosecuted, he shall be served with a notice in writing.
40. With respect to arraignment and plea taking, Justice Pg. Rostaina shared that the charge will be read in the preferred language that the accused understood. Besides, the accused will be assisted by an interpreter assigned by the court, or from the relevant embassy to help explain the proceedings – where interpreters cost will be borne by the government.
41. Upon pleading guilty, the judge must ascertain the accused understands the nature and consequences of his plea. Sentence often delivered no later than one week after mitigation. The accused may also apply for bail. If bail is not granted, the accused is remanded into prison custody until trial.
42. With regards to the principle of presumption of innocence, the prosecution bears the burden of proof in a criminal case to prove its case beyond reasonable doubt. At this stage, the accused is presumed innocent. On matter related to exchange of documents or evidences, the Court usually

directs the prosecution to provide the accused with any relevant documents, exhibits and statements prior to the trial.

43. Justice Pg. Rostaina emphasized that all trials are conducted in open court, by fair and competent judges or magistrates. The judge or magistrate would not conduct trial which he has personal interest. The accused persons are also entitled to cross examine all witnesses.
44. Under trial procedure, Justice Pg. Rostaina underscored that upon the conclusion of the prosecution case, if the court does not receive the proper or sufficient evidence against the accused, there is only one course it can take: the court would record an order of acquittal. If the court finds there is a prima facie case against the accused, the accused is called upon to enter his defence, and has the option to remain silent or give evidence on oath. All evidences are to be taken in presence of the accused.
45. Any appeal from Magistrates' Court to High Court must be filed by 14 days from conviction or sentence. For appeal from Intermediate Court or High Court to Court of Appeal, it must be filed by 28 days from conviction or sentence. The accused will be given copies of proceedings (free of charge). Justice Pg. Rostaina also shared that for any capital offence, the accused can seek assistance from the Government for legal aid upon

#### **The Honourable Justice Phomsouvanh Philachanh, Supreme Court of the Lao PDR [Lao PDR]**

46. Justice Phomsouvanh began by sharing that Article 10 of the criminal procedure law (2017) of Lao PDR has stipulated 16 basic principles of criminal procedure law. These principles include amongst others such as the principle of legality; the principle of prohibition breaching citizens' rights and freedoms; the principle of presumption of innocence; the principle of equality of citizens before the laws and courts; the principle of independence of judges and other principles. In addition, Article 12 of the criminal procedure law prohibits any arrest, detention or search of any building without an order of the head of public prosecutor or the order of the people's court.
47. Similar to many other countries, criminal procedure law in Lao PDR guarantees the rights of accused persons on several grounds. First is the right to legal counsel. Every accused person has the right to access legal counsel, or other protectors such as parent, husband, wife or guardian. In the case where the accused or defendant is a child under 18 years of age, a deaf or mute person, an insane or mentally ill person, someone who does not know the Lao language, or someone who will receive the death penalty, that person must have a protector. If the accused or defendant has no protector, the people's court is required by law to appoint a lawyer.
48. Second is the right and obligation of the accused person or defendant. Under Articles 65 and 66 of the criminal procedure law, 2017, the accused person and defendant have the right to be informed of, and defend against the criminal charge against him. Justice Phomsouvanh stressed that the accused must also be allowed to give statement and submit evidence, and access to bail and other requests. While enjoying these rights, the accused person or defendant also have several obligations. Under Article 65, the accused person has obligations to appear according to an order of the head of investigator or the head of public prosecutor. Moreover, the accused person must also comply with the investigation-interrogation's regulations. Under Article 66, the defendant has obligations to appear according to summon of the court, to comply with the regulations and order of the court at the court hearing and responsible for the civil damages based on the law.

49. Unlike in other countries, Justice Phomsouvanh stressed that Lao PDR doesn't have a pre-trial procedure. According to Articles 164, 165 and 167 of the criminal procedures law, the court will receive the criminal case files (the criminal case dossier) for consideration based on the indictment of the head of public prosecutor only. The first instance court has to make decision within 30 days from the date of receiving indictment of the head of public prosecutor. In case of insufficient evidence, the criminal case file will be submitted to the public prosecution office for additional interrogation-investigation.

### **The Honourable Justice Dr. H. Suhadi, Supreme Court of the Republic of Indonesia [Indonesia]**

50. Justice Dr. H. Suhadi began by highlighting that the protection of the rights of accused persons in Indonesia is regulated extensively under various laws and regulations. These include Indonesia's criminal code, criminal procedural code and other regulations such as law on advocate, law on judicial power and law on legal aid.
51. Besides, protection on the right of accused persons in Indonesia is aligned with its international obligation under, amongst others, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); the United Nations Convention Against Corruption; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UN CAT); and the International Covenant on Civil and Political Rights (ICCPR).
52. In addition to these laws and regulations, Justice Dr. H. Suhadi highlighted that there are also other legal sources that further protect the right of accused persons in criminal cases. These include the Decision of Constitutional Court (No. 21 / 2014) – concerning the expansion of the object of pretrial, namely examining and adjudicating the validity of the determination of suspects.
53. Another important milestone on the protection of the right of accused persons is in relation to the protection of women. In 2017, the Chief Justice Supreme Court issued the Supreme Court Regulation (No. 3 / 2017) especially on women in conflict with laws.
54. Justice Dr. H. Suhadi noted that Indonesia's Criminal Procedural Code has included several rights of accused persons in criminal cases. These include the right for prompt examination by investigator; the right to be informed the reason of his/her arrest; the right to freely give information to investigator; the right to have translator; the right to obtain legal aid; the right to freely choose legal representative(s); the right to be heard in open trial; the right to present witness or person with special skills to provide favorable testimony; the right not to bear the burden of proof; the right to appeal the first level court.
55. There are several principles applicable in carrying out criminal cases in Indonesia. These include the principle of legality; presumption of innocence; the right to appeal; pre-trial procedure; right to legal aid; and the right to obtain compensation, restitution and assistance to victims of criminal acts.
56. In relation to woman in conflict with laws, Justice Dr. H. Suhadi noted that the Supreme Court Regulation (No.3 / 2017) aimed to further guarantee the rights of women in conflict with law, and to protect them from unconscious bias due to social, cultural norms and values which often put

women in unfavorable condition in criminal proceedings. Under this specific regulation, judges are prohibited to demonstrate any manner or make statement which degrade, blame and/or intimidate women in conflict with laws. Judges are also prohibited to question sexual experience or background of victims as a basis to acquit or punish the perpetrator; and not to make any statement or view which contains gender stereotyping.

57. The protection of accused persons is also regulated in Advocate Law (No.18 / 2013) which requires advocates to provide pro bono legal aid. According to Directives on Pro Bono Legal Aid issued by the Indonesian Bar Association in 2010, each registered advocate is required to spent 50 hours pro bono work every year. Justice Dr. H. Suhadi claimed that in reality, however, the implementation of pro-bono legal aid in Indonesia has not been effective despite having more than 30,000 registered advocates. The independent survey conducted in 2018 found that only 20.5% of advocates had reported their pro-bono activities.
58. In his final point, Justice Dr. H. Suhaidi stressed that similar to other countries, there are challenges in the protection of the right of accused persons in Indonesia. These include challenges that derive from the issues of legal substance (e.g., no sanction of potential abuse of power by law enforcement); issues with legal structure (e.g., lack of understanding on human rights instruments); and issues with legal culture (e.g., law enforcement perceives suspects/accused persons are guilty).

#### **The Honourable Justice Myo Tint, Supreme Court of the Union of Myanmar [Myanmar]**

59. Justice Myo Tint shared that criminal law in Myanmar aims to protect the interest of the society by preventing the commission of criminal offences. This principle also means to punish the offenders, and the person accused of an offence is presumed innocent until proven guilty.
60. An accused person has the right to communicate to his counsel in conditions which provide full respect for the confidentiality of their communication. Besides, the Constitution of the country guarantees the right of defence for accused persons in criminal cases.
61. In any case where the accused person is in police custody or detained by any other legal enforcement authority (before trial), there is no prohibition in law for the accused person to access his counsel. Similarly, the judiciary and any law enforcement authority has no obligation to ensure for the right to legal counsel for the accused person, except the offence punishable with death sentence.
62. On matter concerning legal aid, Myanmar has enacted Legal Aid Law (2016) which aims to provide effective legal aid to the accused persons. Section 25(a) of the Legal Aid Law provides that the legal aid provider shall carry out the legal assistance to the accused person, and to inform the families of the accused.
63. On pre-trial procedure and discovery of document, Justice Myo Tint stressed that the Constitution provides that no one shall be detained for more than 24 hours without a court permission. In any unlawful detention, the detained person may apply to issue the Writ of Habeas Corpus to the Supreme Court. The Code of Criminal Procedure, the Evidence Act, the Myanmar Courts Manual,

the Police Manual and other special laws clearly provide the discovery of documents and evidences.

64. On criminal trial procedure, Justice Myo Tint noted that all criminal prosecutions are mainly governed by the Code of Criminal Procedure (CRPC). Under this code, a criminal proceeding starts either by submission of a complaint to the court (a direct complaint procedure) or by making a police report known as the First Information Report (FIR). Under direct complaint procedure, Magistrate will examine the complainant upon oath. The Magistrate may dismiss the complaint if there is no sufficient ground for proceeding. If Magistrate views that there is a sufficient ground, the judge may issue summons for the attendance of the accused and will start the trial.
65. There are three kinds of trials in Myanmar. They are Summons Trial; Warrant Trial; and Summary Trial. After the examination of prosecution witness, the charge may be made against the accused. If the accused admits guilty, the court will proceed to convict him/her. When the accused does not plead guilty, the accused and his witness are examined and then the court may convict or acquit him according to the evidence.
66. In his concluding point, Justice Myo Tint restated that all criminal proceedings in Myanmar begin at the lowest level of the Court that has the jurisdiction to adjudicate the offence. The powers of each level of the Court to set punishments are diverse. The accused who dissatisfied with the decision of the Court of first instance, may appeal to the respective superior court until the Special Appellate Bench of the Supreme Court on a step by step basis.

## **D. SHARING SESSION ON THE RULE OF LAW AND HUMAN RIGHTS IN ASEAN**

### **By Professor David Cohen, Human Rights Resource Centre (HRRC)**

67. Professor Cohen began by sharing four important principles of the rule of law with respect to the protection of human rights. First is the principle where the government, including its officials and agents, are subject to the law under the Constitution and other legislations. Second principle is the availability, lawfulness and non-arbitrariness of laws and procedures for arrest, detention and punishment. Third is the access to justice and the process by which laws are enacted and enforced – they must be accessible, fair, efficient, and equally applied. The last principle regards to administration of justice by a competent, impartial, and independent judiciary and justice institution.
68. He stressed the importance of governance in which all persons, institutions, public and private entities including the State itself – are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and are consistent with international human rights norms and standards.
69. At the regional level, Professor Cohen noted that the ASEAN Charter reaffirms the regional grouping commitment to strengthen democracy, enhance good governance and the rule of law, and to promote and protect human rights and fundamental freedoms, with due regard to the rights and responsibilities of the ASEAN member states. Besides, Article 2 of the Charter provides that the ASEAN and its member states shall act in accordance with the principles to adhere to the rule of law, good governance, uphold the principles of democracy and constitutional government.
70. Further in his presentation, Professor Cohen posed a question on the role of organizations such as the CACJ and the AICHR in upholding the rule of law. With differing constitutional provisions and wide variation in defining the rule of law and its relation to human rights, good governance, and democracy among the ASEAN member states – it is a great challenge to achieve a rules-based ASEAN Community without consensus on the meaning of rule of law as stipulated in the ASEAN charter and the AHRD.
71. The right to fair trial is key to the subject of rule of law. Article 12 of the AHRD provides that every person has the right to personal liberty and security, and no person shall be subject to arbitrary arrest, search, detention, abduction or any other form of deprivation of liberty. Additionally, Article 14 of the AHRD provides that no person shall be subject to torture or to cruel, inhuman or degrading treatment or punishment.
72. Under Article 20(1) of the AHRD, it is guaranteed that every person charged with a criminal offence shall be presumed innocent until proved guilty according to law in a fair and public trial. The accused shall also be guaranteed his/her right to defence. Further, under Article 20(3), the AHRD guarantees that no person shall be liable to be tried or punished again for an offence for

which he or she has already been finally convicted or acquitted in accordance with the law and penal procedure of each ASEAN member state.

73. Challenges to fair trial are many. These include unpredictability and uncertainty in trials. To strengthen predictability and certainty in any trial, it is important that any drafted laws are consistent with the existing laws and regulations. Conflicting laws or conflicts between law and administrative regulations or local decrees or regulations may undermine the rule of law.
74. To ensure a fair trial, he further added that the presumption of innocence and burden of proof on prosecution are also important in sensitive cases such as counter-terrorism, corruption, blasphemy, criminal defamation, *lese majeste* as well as environmental issues. It is particularly important for the accused to have access to competent defense counsel and adequate resources. Access to legal aid is also crucial for accused persons who are unable to afford legal representation.
75. Professor Cohen stressed that enhancing judicial training on issues impacting judicial impartiality and the competent and consistent interpretation and application of laws are crucial so as to achieve predictability and certainty in legal outcomes, particularly in sensitive or controversial cases where outside pressures may be exerted. Meanwhile, adequate protection for judges, witnesses, and litigants must be guaranteed.
76. Transparency is another important aspect especially on judicial decisions on the basis of publicly available final judgments that provide the accused persons with a well-reasoned justification of outcomes based upon accurate and consistent analysis of legal and factual issues.
77. On the principle of equality before the law, Professor Cohen stressed the importance of the application of laws equally to all members of society regardless of economic, social, political, ethnic, religious, or gender status or affiliation. In several countries, the principle of equality before the law has been challenged where the dissident, marginalized, or vulnerable populations suffer the most from collective discrimination.
78. Professor Cohen shared that factors affecting impartiality and independence of judicial proceedings range from many issues such as corruption; executive or political influence on judges, prosecutors and lawyers; unclear separation of powers; differing conceptions of impartiality and independence especially on sensitive issues involving religion, political dissent and gender-based violence; and negative public perception towards the justice system.
79. Moving forward, Professor Cohen noted that there are opportunities to truly create a rules-based ASEAN Community in the region. To achieve this, the CACJ and its working groups have the potential to play a very important role to maintain the impartiality and independence of judicial practices among the member states. The member states may also work together in establishing and/or strengthening specific mutual legal assistance measures. In the meantime, the AICHR is encouraged to continuously engage and connect the member states to work in harmony and work towards achieving the set visions of the ASEAN Charter and the AHRD.

80. Professor Cohen also suggested that the ASEAN and its member states rethink how they define and implement a rules-based community. He also posed a question if there is a need for the regional grouping to consider moving from declaration (referred to AHRD) to a “hard law”. He added that it is also important for the ASEAN to establish an effective mechanism for monitoring and compliance among its member states.
81. In his closing remarks, Professor Cohen encouraged the CACJ and the AICHR to steer and play a leadership role in the region in developing an ASEAN approach to harmonize the rule of law and human rights framework aligned with international legal obligations of the member states. The CACJ, the AICHR and other relevant sectoral bodies must ensure that the ASEAN Charter is implemented effectively, and continuously uphold the principles of democracy, good governance and human rights and fundamental freedoms.

**Open Session Chaired by H.E. Amb. Barry Desker, Representative of Singapore to AICHR & Chairperson of AICHR**

82. Amb. Desker congratulated Professor Cohen for his exceptional presentation, and encouraged participants to engage in the open session with specific question and/or reflection in relation to fair trial, rule of law and the rights of accused persons. Prior to opening the floor for question, Amb. Desker posed a question on the rise of populism and growing sceptism of international institutions, and how to balance between the power of the state and the rights of individual?
83. Professor Cohen [Human Rights Resource Centre – HRRC] responded that though he has no specific answer for such a question, he stressed that the very essence of the debate surrounding the rights of accused persons in criminal cases is that the criminal trial always focuses on the individual. As such it is unavoidable that the current debates on the rights of accused persons in criminal cases are often linked to the right of fair trial and other related human rights.
84. The Right Honourable Chief Justice Menon [Singapore and Chair of CACJ] pointed out that the protection of human rights will have to involve multiple agencies, and not just the judiciary. Additionally, he stressed that it is important to be aware that different people will have different understandings on the meaning of the rule of law, particularly as we move away from framing the discussion at a very high level of generality. Human rights concepts can be phrased at differing levels of generality. At different levels of generality, there are different levels of agreement. It may be easy to obtain consensus on the meaning of the rule of law at a high level of abstraction. For instance, everyone will agree that fair trials and good laws are important. However, we have to frame the discussion at the right level of generality in order to make any real progress in this area. At a more specific level, it is difficult to get a consensus on what the rule of law means as a concept or even as a goal, since there is no universal definition and there are inevitably differences in opinion especially amongst societies of different legal traditions. For example, different member states will have different interpretations of what the right to counsel entails.
85. In this regard, Chief Justice Menon noted that while we can agree on what is good about human rights, it would be difficult to agree on the precise scope of the definition of the rule of law and human rights. This does not however mean that we should not strive towards a landing point in which we can achieve the right balance. Chief Justice Menon then proceeded to discuss the role of



the CACJ in promoting the rule of law within such a context. He noted that the institutional competence, role and mandate of the CACJ and the AICHR are not the same. There are matters that the CACJ and the AICHR can and cannot do in the discharge of their mandate. Chief Justice Menon shared that since its first inception as an ASEAN body, the CACJ has been focusing on a number of initiatives. These include, firstly, the establishment of the ASEAN Judiciaries Portal which was launched in 2018. The portal demonstrates CACJ's vision to promote the value of transparency and to provide visibility of the legal systems of ASEAN member states. The portal contains major cases and judicial decisions of the respective ASEAN member states, and it is envisaged that the portal will be populated with more information such as further information on the judiciary of each member state, the investment climate of each member state and so on.

86. Secondly, the CACJ is also keen on promoting judicial education, training and capacity building with the objective of raising the standards of the ASEAN judiciaries. Additionally, the CACJ also aims to provide a forum for cross-border family justice disputes, in matters such as custody and divorce, given the increasing prevalence of transnational families within ASEAN. It is also engaging its members across the region in the strengthening of case management processes such as in relation to the service of process across jurisdictions and promoting the enforceability of judgments within ASEAN.
87. Chief Justice Menon noted that these are examples of some areas of common interest in which the ASEAN judiciaries can engage and work together, especially since there is not a lot of scope for disagreement in these areas. But there are limits to what the judiciaries can do, especially in the area of coming to a consensus on the meaning of the rule of law. This is because the mandate of judges is limited to deciding cases which are brought before them and they cannot create common rules, which instead falls within the purview of the legislature. There is thus a need to look to other agencies particularly in the executive and legislative arms which have the institutional capacity to influence changes in relation to human rights matters, such as the AICHR, and other ASEAN sectoral bodies such as the ASEAN Senior Law Officials Meeting (ASLOM).
88. H.E. Dinna Wishnu [Indonesia] stressed that it is important for the CACJ, the AICHR and other ASEAN bodies such as ASLOM to align and fully embrace the common values and norms as outlined in the ASEAN Charter. All ASEAN member states are committed to uphold and protect these values and norms, and that become the foundation of the AICHR's works and programmes.
89. She further claimed that despite the different nature of our role and mandate, there are connections between the CACJ and the AICHR that could permit us to work together on certain areas of mutual interest. First, there is a tendency among the ASEAN member states that only high-profile cases brought to higher courts, while other cases such as conflicts involving human rights defenders are not given the proper place for judgement. Secondly, some people are considered vulnerable and at risk of abuses more than others. These include children being victims of trafficking in persons and cases involving irregular migrants. Certainly, the judiciaries have the role to play to ensure that these segments of vulnerable societies are protected sufficiently.
90. Dr. Thi Da Oo [Myanmar's Representative to ASLOM] supported the claim by H.E. Dinna that despite the different nature of our work and mandate, there are areas in which the CACJ, the AICHR and ASLOM should work together to strengthen our efforts to protect the rights of accused persons. ASLOM is open for any future legal cooperation with the CACJ and the AICHR either in the forms of forum or any platform to exchange views on matters concerning human rights.

91. With respect to issues concerning the marginalized and vulnerable segments of population such as children, women, people with disabilities and victims of trafficking - Dr. Thi Da stressed that it would be meaningful if the CACJ and the AICHR could also look into the possibility of allowing these segments of vulnerable people to provide their grievances, or to submit their file and/or to appeal if their rights being violated.
92. The Right Honourable Chief Justice Richard [Malaysia] agreed that particular attention must be given to strengthen the rights of vulnerable people including irregular migrants. However, he cautioned that the State is also responsible to address social and security issues brought by these irregular migrants. Hence, the balance between protecting their rights and maintaining state's security and harmony must be discovered and practiced. Chief Justice Richard also noted that the present forum allows ASEAN member states to 'compare notes' on how human rights are protected in each country. The AICHR can consolidate the approaches in each ASEAN member state and inform each member state where the gaps are, and from there, each country's respective government has an important role to play. There is a limit to what the courts can do – it can rely on its sense of justice but if the law is not in place, there is nothing much which can be done.
93. H.E. Edmund Bon [Malaysia] congratulated all presenters by highlighting important issues concerning the rights of accused persons in the region. He recommended that issues and narratives presented in this forum should be documented, and the outcome of this should serve as the basis for our future collaboration. AICHR Malaysia as the organizer is willing to document all the resources presented in this forum and to be shared to all presenters for comment and approval, before the AICHR and the CACJ come into a consensus on what should be the next step.
94. He also noted that today's presentation is not complete as it does not represent 10 ASEAN member states. As such, he suggested that the other four countries namely Cambodia, Lao PDR, the Philippines and Viet Nam are also given the opportunity to submit their respective national legal framework on the rights of accused persons – to be included in this documentation. On matter concerning the standard procedure, the AICHR will first compile presentations resources from all 10 ASEAN member states, and get the presenters or country's representatives to add and approve it to be tabled at AICHR's meeting. Thereafter, a copy of such document will be shared to the CACJ for its further deliberation. If there is a necessity for the CACJ and the AICHR to co-publish and make this document a public resource, we shall work towards achieving it.

## **E. PLENARY: IDEAS AND RECOMMENDATIONS BY THE AICHR & CACJ**

### **Chaired by the Right Honourable Sundaresh Menon, Chief Justice of Singapore and Chair of CACJ**

95. Chief Justice Menon supported the AICHR Malaysia's initiative to collate the presentations made by each ASEAN member state on the rights of accused persons in criminal cases in their respective country. The AICHR may engage the other four ASEAN member states' judiciaries (Cambodia, Lao PDR, the Philippines and Viet Nam) who were unable to present their respective country's overview so as to complete mapping out all 10 ASEAN member states' legal infrastructure and practices. From the mapping, broad levels of commonalities may be identified and AICHR may wish to identify specific areas within the areas of commonality which it would like to focus on. From there, there is a range of modalities in which the matter could be taken forward. One area is judicial training, and in this regard, the record of proceedings could be given to CACJ for further deliberation on whether it should divert any of its training resources to any specific areas.
96. Chief Justice Menon stressed, however, that any follow up or new initiative requires the CACJ's collective decision in its regular meeting. Chief Justice Menon therefore suggested that the AICHR complete the document and submit it to the CACJ for their further deliberation.
97. Chief Justice Menon also suggested the AICHR to continuously engage other relevant bodies such as the ASLOM and the ASEAN Law Association (ALA) through education, training, capacity building and consultation. The AICHR may engage in dialogue with the ASLOM on the possibility of developing an instrument such as a model law dealing with common standards on the treatment and rights of accused persons in the region. AICHR may also wish to consider how it can assist states in achieving compliance and closing gaps. The AICHR may also consider inviting or organizing dialogue and programmes with enforcement agencies that deal with criminal cases.
98. Chief Justice Menon welcomed the suggestion from the AICHR to continue the dialogue with the CACJ on other areas of human rights – subject to the agreement by all members of the CACJ. In the meantime, he recommended that the CACJ and the AICHR continue their judicial cooperation in the areas of capacity building, training and education on issues of mutual interest concerning human rights. In order to do that, there will be a process in which the CACJ might need to go through such as getting agreement from members of the CACJ for subsequent judicial cooperation as a matter of protocol.
99. H.E. Dinna Wishnu [Indonesia] acknowledged the important role played by the judiciaries in handling and managing cases with respect to the accused persons in criminal cases. She further shared that this is an area where the AICHR does not directly deal with, and that makes the AICHR reliance to information and expertise from the judiciaries. With the expertise that the judiciaries have – the CACJ and the AICHR can explore the possibility of co-organizing series of training sessions for the members of the judiciaries, and other related enforcement and prosecution officials.

100. She highlighted that there is another potential area of collaboration that the CACJ, the AICHR and ASLOM could look into especially in the area of protection and the role of state in ensuring and fulfilling the rights of accused persons in criminal cases.
101. H.E. Amb. Desker [Singapore] supported the suggestions made by Chief Justice Menon, as well as other representatives for future collaboration between the CACJ and the AICHR. He however highlighted that as a matter of procedure, it is also important that the AICHR to get views from all Representatives who were not present at this dialogue.
102. The Honourable Chief Justice Richard [Malaysia] expressed that Malaysian judiciary is fully supportive to any future collaboration between the CACJ and the AICHR, together with other ASEAN sectoral bodies - to further strengthen the rights of accused persons in criminal justice system in the region.
103. The Honourable Justice Phomsouvanh [Lao PDR] emphasized that in any criminal procedure, it often begins with police investigation, followed by preparation and submission of public prosecution's report. He stressed that judges are only making decision. Hence, he suggested that in any future collaboration or dialogue on the rights of accused persons – it is important that other stakeholders especially the police force and public prosecutors are also invited to provide their views.
104. H.E. Edmund bon [Malaysia] reiterated AICHR Malaysia's commitment to compile and document presentations and suggestions throughout this dialogue. He noted that it is a standard practice by the AICHR to document each programme it organizes as a summary record, and to be presented in AICHR's meeting for approval. Once the summary record is approved, the summary record will then be sent to the CACJ for the same process (for approval).
105. Since four other ASEAN member states (Cambodia, Lao PDR, the Philippines and Viet Nam) were not present in the dialogue, he stressed that it is important that we give opportunity for these countries to submit their country's legal framework. Once receiving their country's legal framework, he suggested the AICHR (through AICHR Malaysia) to compile it together with other countries to be published either in soft copy or hard copy for future reference. He acknowledged that the publication of this document (i.e., format of publication) would require approval from Representatives of the AICHR, as well as the CACJ.

## **F. FINAL OBSERVATION & CONCLUSION**

### **Final Observation by the Right Honourable Sundaresh Menon, Chief Justice of Singapore and Chair of CACJ**

106. In his final observations, Chief Justice Menon noted that from the country presentations, 10 broad areas of commonality among the ASEAN member states with respect to the rights of accused persons in criminal cases, as well as the criminal justice system dealing with the accused persons could be observed. However, he noted that the precise scope of these commonalities might differ from one to another country. The AICHR might want to consider if there are any specific areas within the ten areas of commonality which it would like to focus on, when engaging the member states, the CACJ, as well as other stakeholders such as the ASLOM. These 10 areas of commonality are:-

- the right to counsel;
- the right to be informed on the ground of his/her arrest;
- the right to access documents;
- the right to speedy trial and the right to time limits after arrest;
- the right to bail;
- the right to presumption of innocence;
- the right to cross-examine witnesses;
- the right to legal aid or scheme;
- the prohibition of double jeopardy; and
- the right to non-retroactive punishment.

107. Chief Justice Menon informed that there is a range of possible modalities such as awareness raising, training and capacity building initiatives which the AICHR could leverage to collaborate with the ASEAN judiciaries across the region. As for the CACJ, Chief Justice Menon stressed that judicial education and capacity building are two key priorities of the ASEAN judiciaries. The AICHR may consider looking at proposing a capacity building initiative with the CACJ on subjects that both parties agree.

108. Other than that, the AICHR may also consider exploring the possibility of organizing a dialogue with ASLOM to discuss the possibility of developing an instrument at the regional level, or a model law dealing with common standards for the treatment of accused persons in the criminal justice system. The Chair recommended the AICHR to examine the current trend on compliance among the ASEAN member states with respect to the rights of accused person. Some member states may have difficulty complying with the expected standards, and hence the role of AICHR is necessary to support the member states to ensure full adherence to the standards.

## Closing Session by the Right Honourable Sundaresh Menon, Chief Justice of Singapore and Chair of CACJ

109. In his closing remarks, Chief Justice Menon highlighted that there is already a broad consensus among the ASEAN member states on the level of principle on certain fundamental precepts with respect to the rights of accused persons in criminal cases. For example, all member states agree that persons accused of crime(s) should have, amongst others, the right to be told of the charges against them and the right to challenge the evidence brought against them, including by cross-examining the prosecution's witnesses.
110. Chief Justice Menon noted that despite this broad level of consensus, there is simultaneously a great diversity in the ways that each member state gives expression to these core principles. This does not come as a surprise because as a region, we do not associate ourselves naturally with any particular legal tradition. Judges, practitioners and scholars across the region grapple with legal principles and laws from a wide array of legal systems and sources in their daily work. It is for that reason that there is considerably variance in the specific ways that our countries have approached the subject of the rights of accused persons and the legal safeguards necessary for a fair trial. We must recognize that as a reality that we have to deal with.
111. Chief Justice Menon further observed that despite its diversity, the ASEAN member states still meet on a foundational plane in their shared commitment to justice, fairness, and equality. Our shared values provide us with a common language with which to discuss the vital issues that confront all of us. Our differences sharpen our focus on the weight of competing considerations that we have to be mindful of. This is ASEAN's strength and is captured well at Article 2.1(g) of the Terms of Reference of the AICHR which calls for "...*respect for different cultures, languages and religions of the peoples of ASEAN, while emphasizing their common values in the spirit of unity in diversity*". The Charter of the CACJ, which was approved in July 2018 and will come into effect in 2019, also contains the same focus on cooperation within a framework of respect and diversity. Article 1 of the CACJ's Charter, for instance, provides that the objectives of the Council are, amongst others, to provide a regular forum for ASEAN Chief Justices to exchange views on common issues and share best practices; and to facilitate judicial cooperation, in order to promote equitable and effective access to justice.
112. Chief Justice Menon further noted that the judicial task is immeasurably enriched through continuous learning and exchange of views not just from each other, but also from lawyers, academics, or members of civil society, both within and outside of the law, who have the ability to offer insights that the judicial branch would not otherwise have. Over the past years, the CACJ has organized a number of conferences and training sessions in the areas of family justice and judicial education, and it will continue to do so in the future. If the AICHR considers that engagements such as these with the CACJ are helpful, proposals may be made and will be considered carefully by the CACJ.
113. Chief Justice Menon observed, however, that the AICHR is different from the CACJ in several important and critical respects. Whereas AICHR's terms of reference contemplate a role for the Commission in the development of strategies for the promotion and protection of human rights as well as common approaches and positions on human rights matters of interest to ASEAN, the Charter of the CACJ does not envisage a similar advocacy role for the Council. And, indeed, judges cannot be advocates; they do not govern or formulate policy or articulate what the law

ought to be. Rather, the role of judges is to say what the law is, and they are only empowered to do so in the context of an actual dispute before the courts. This is a fundamental constraint arising out of the nature and function of the judicial role, and it is not one which judges can individually, or the CACJ can collectively transgress. Chief Justice Menon noted that while judges cannot be lobbied to take positions, what they can and must do is to listen intently, to keep an open mind and to educate themselves on all the concerns which may bear on an issue, in order that they can be properly informed of all the relevant considerations, should an actual case come up for decision before them.

114. It was further emphasized that this does not mean that the judiciary's role in the protection of rights is unimportant. By contrast, it is when the judiciary is conscientious and faithful in always saying what the law is that it can be the ultimate bulwark against unconstitutional legislations or excesses in administrative action. As the country presentations have revealed, there is already a strong legal infrastructure of domestic and international laws which – if faithfully and robustly implemented – would provide significant safeguards for accused persons. What is necessary is for these laws to be faithfully pronounced and enforced and there is much that the courts can and must do, within the confines of its constitutional role, to ensure that the criminal justice system operates fairly.
115. In his final remarks, Chief Justice Menon noted that judges, prosecutors, lawyers, academics and members of civil society are all servants of a higher cause, which is justice. Even though they all play different roles, the proper discharge of their functions is not a matter of winning or losing, but of discharging a public duty to uphold justice.

**ANNEX 1**

**Programme**

<b>Time</b>	<b>Subject</b>
<b>Day 1 (10 December 2018)</b>	
18:30 – 20:30	Welcome Dinner hosted by the Right Honourable Tan Sri Datuk Seri Panglima Richard Malanjum, Chief Justice of Malaysia
<b>Day 2 (11 December 2018)</b>	
08:30 – 09:00	<b>Registration</b>
09:00 – 09:30	<b>Opening Session</b>  Welcome Remarks by:- <ul style="list-style-type: none"> <li>• H.E. Amb. Barry Desker, Representative of Singapore to AICHR &amp; Chairperson of AICHR;</li> <li>• H.E. Edmund Bon Tai Soon, Representative of Malaysia to AICHR</li> </ul>
10:00 – 10:30	<b>Keynote Address</b>  By the Right Hon. Tan Sri Datuk Seri Panglima Richard Malanjum, Chief Justice of Malaysia and Member of CACJ
10:30 – 11:00	<b>Group Photo &amp; Coffee Break</b>
11:00 – 13:00	<b>Country's Overview on the Rights of Accused Persons in Criminal Cases</b> <ul style="list-style-type: none"> <li>• The Hon. Justice Lee Seiu Kin (Singapore)</li> <li>• The Hon. Justice Collin Lawrence Sequerah (Malaysia)</li> <li>• The Hon. Justice Pg. Rostaina Pg. Hj. Duraman (Brunei Darussalam)</li> <li>• The Hon. Justice Dr. H. Suhadi (Indonesia)</li> <li>• The Hon. Justice Phomsouvanh Philachanh (Lao PDR)</li> <li>• The Hon. Justice Myo Tint (Myanmar)</li> </ul> Open discussion
13:00 – 14:00	<b>Lunch</b>
14:00 – 15:00	<b>Sharing Session on the Rule of Law &amp; Human Rights in ASEAN</b>  By Professor David Cohen, Human Rights Resource Centre (HRRC)
15:00 – 15.15	<b>Coffee Break</b>
15.15 – 16.30	<b>Plenary: Ideas and Recommendations by the AICHR &amp; CACJ</b> Chaired by the Right Hon. Sundaresh Menon, Chief Justice of Singapore and Chair of CACJ
16:30 – 17:00	<b>Final Observations / Conclusion of Dialogue</b> Chaired by the Right Hon. Sundaresh Menon, Chief Justice of Singapore and Chair of CACJ
17:00	Close



**ANNEX 2**

**List of Speakers and Participants**

**Speakers (Arranged by Session)**

H.E. Amb. Barry Desker	Singapore
H.E. Edmund Bon Tai Soon	Malaysia
The Right Hon. Tan Sri Datuk Seri Panglima Richard Malanjum	Malaysia
The Right Hon. Sundaresh Menon	Singapore
The Hon. Justice Lee Seiu Kin	Singapore
The Hon. Justice Collin Lawrence Sequerah	Malaysia
The Hon. Justice Pg Rostaina Binti Pg Hj Duraman	Brunei Darussalam
The Hon. Justice Phomsouvanh Philachanh	Lao PDR
The Hon. Justice Dr. H. Suhadi	Indonesia
The Hon. Justice Myo Tint	Myanmar
Mr. David J. Cohen	Human Rights Resource Centre (HRRC) / Singapore

**Participants (Arranged by Country / Organization)**

The Hon. Hajah Eryy Sufitriana Hj Abdul Rahman	Brunei Darussalam
H.E. Dinna Wisnu	Indonesia
Ms Mia Padmasari	Indonesia
Mr Endy Kami Imanuel Ginting	Indonesia
Mr Salman Luthan	Indonesia
Mr Aria Suyudi	Indonesia
Mr Iman Luqmanul Hakim	Indonesia
Ms Hilda Ekawati Suherman	Indonesia
The Right Hon. Khamphane Sithidampha	Lao PDR
The Hon. Chanthanom Sirivath	Lao PDR
Mr Soulasack Phichit	Lao PDR
The Hon. Justice Tan Sri Idrus bin Harun	Malaysia
The Hon. Justice Dato' Abang Iskandar bin Abang Hashim	Malaysia
The Hon. Justice Mohd Nazlan bin Mohd Ghazali	Malaysia
The Hon. Justice Dato' Indera Haji Ab Karim bin Haji Ab Rahman	Malaysia
The Hon. Justice Datin Zalita binti Dato' Hj. Zaidan	Malaysia
The Hon. Dato' Sri Latifah binti Haji Mohd Tahar	Malaysia
The Hon. Datuk Aslam bin Zainuddin	Malaysia
Dato' Mah Weng Kwai	Malaysia

Mr Mohd Aizuddin bin Zolkeply	Malaysia
Mr Edwin Paramjothy A/L Michael Muniandy	Malaysia
Mr M. Bakri bin Abdul Majid	Malaysia
Mr Zamri bin Bakar	Malaysia
Mr Azman bin Ahmad	Malaysia
Ms Dayang Ellyn Narisa binti Abang Ahmad	Malaysia
Ms Suzarika binti Sahak	Malaysia
Ms Firdaus binti Isa	Malaysia
Mr Syahrul Sazly bin Md Sain	Malaysia
Dato' Ahmad Rozian Abd Ghani	Malaysia
Ms Shahbanu Farah Abdul Rakesh	Malaysia
Ms Nurul Aliaa Md Nor Azman	Malaysia
Ms Chan Sze Zest	Malaysia
Dr. Andika Ab.Wahab	Malaysia
Justice Mr. Aung Kyaw Moe	Myanmar
Justice Mr. Thaung Htwe	Myanmar
Dr. Thi Da Oo	Myanmar
Ms Zhang Junyu	Singapore
The Hon. Justice Chao Hick Tin	Singapore
Mr Tan Chun Wen, Scott	Singapore
Mr Soh Wen Yan, Darryl	Singapore
Ms Lim Sai Nei	Singapore
Ms Du Xuan	Singapore
Ms See Ying Xiu, Alison	Singapore
Ambassador Nguyen Thi Nha	Vietnam
Mr Andrew Curiel	U.S. Embassy- Malaysia
Mr Andrew Leyva	U.S. Embassy- Malaysia
Mr Diman Simanjuntak	U.S. Mission to ASEAN
Mr Keith Doxtater	ASEAN-USAID PROSPECT
Ms Zullia Saida	ASEAN-USAID PROSPECT