

Summary Report

2023 AICHR Regional Dialogue: Sharing Good Practices on the Business and Human Rights in ASEAN

Thursday, 1 June 2023, online

Opening Session

1. **H.E. Prof. Dr. Amara Pongsapich**, Representative of Thailand to the AICHR gave her welcoming speech. The Regional Dialogue on Business and Human Rights (BHR) has been organised jointly as part of the Bangkok Business and Human Rights Week and the UN Responsible Business and Human Rights Forum. The presence of the ASEAN Economic Community Deputy Secretary General is proof that economic affairs and human rights are recognized. This also highlights the role of AICHR in achieving the mainstreaming of human rights across three ASEAN communities.
2. H.E. Pongsapich shared that this dialogue shall include perspectives from states, business communities, as well as relevant stakeholders working on various issues. The COVID-19 pandemic has impacted strategies and policies on labour and business. Based on previous AICHR dialogues on human rights, COVID-19, environment, and business, we should recognize the clear intersections of these themes, and their effects on the lives of ASEAN peoples. AICHR has agreed to form a working group to develop framework on environmental rights—which will inform our strategies and policies. The collaborative efforts of everyone participating in this regional dialogue will definitely achieve our long-term goals for the protection of human rights in the region.
3. **H.E. Wahyuningrum**, Chair and Representative of Indonesia to the AICHR welcomed the participants. Since 2014, the human rights body has been consulting various stakeholders on BHR. AICHR Thailand has been actively participating at the UN Forum on Responsible Business and Human Rights and the Bangkok BHR Week. AICHR is committed to promote the UN General Principles on Business and Human Rights (UNGPs). Businesses can create opportunities to enhance the lives and conditions of workers and entrepreneurs.
4. One of AICHR's mandate is to create common position and strategies through consultation with international, regional and local entities to promote and protect human rights. We aim at delivering UNGPs commitments and strategies. Corporate Due Diligence include four key components to reduce or eliminate negative business impacts on human rights. They also acknowledge community effects and results on people's lives and experiences. Human Rights Due Diligence (HRDD) is increasingly reflected in government policies and framework. However, they still differ in terms of implementation and commitment to international standards.
5. **H.E. Satvinder Singh**, Deputy Secretary General of ASEAN for AEC gave the opening remarks. He thanked AICHR for organizing a dialogue that brings together relevant

stakeholders to share good practices on BHR. ASEAN is on its way to become the fourth largest economy in 2030. This is a reflection of the hard work to bring business to full recovery. There is, however, an important need to integrate corporate accountability to human rights. Many ASEAN businesses are increasingly facing pressure to conduct in an ethical manner. We are thus expected to provide guidance on ways businesses can respect human rights throughout their operations. We are expected to advance responsible and sustainable business practices. H.E Singh stressed that human rights should be enjoyed for businesses to be successful. We have to do more to ensure widespread recognition of human and labour rights.

6. H.E Singh highlighted lessons learned from the COVID-19 pandemic. ASEAN must recognize that the most disadvantaged and vulnerable should be at the centre of recovery efforts. ASEAN has adopted the core principles on good corporate practices to foster region-wide regulatory conduct. Through various ASEAN bodies, we have seen alliances established to achieve inclusive business and sustainable work. They have increased awareness of business on their roles and responsibilities to human rights. Regular consultation is key to achieve this. As we get close to ASEAN Vision 2025, it is important for us to raise awareness and facilitate dialogue.

Session 1 | Global Trend in UNGPs Human Rights Due Diligence and Regional Implementation Progress

7. **H.E. Prof. Dr. Amara Pongsapich**, Representative of Thailand to the AICHR moderated the session.
8. **Dr. Pichamon Yeophantong**, Chairperson of UN Working Group on Business and Human Rights spoke about “Global Trends in UNGPs on Human Rights Due Diligence.” The Working Group holds the mandate to disseminate and promote the UNGPs at the international and regional levels. The UNGPs represent global consensus and solidarity of states and business to promote and protect human rights. She shared that negotiations on the Corporate Sustainable Due Diligence (CSDD) directive have been happening in Europe. We can see a wave of compliance, and transform this into a mandatory practice. CSDD will definitely have a direct impact on supply and value chains in the Asia-Pacific region. The mix of voluntary and mandatory still exists, and they are significant for business transformation. At the global level, negotiations on standards are also happening.
9. Dr. Yeophantong highlighted the shift of discussions towards value chains. Impacts have trans-boundaries flow effects. This puts the importance of human rights on corporate accountability and business relationships. Furthermore, we also see shifts towards human rights and environmental due diligence. This is embedded in the ethos of the UNGPs. If companies contribute to the detriment of the environment, they impact the rights of people, too. By conducting human rights due diligence, companies should also consider effects in the environment. We also see trends in the development of National Action Plans (NAP). Implementation should be strengthened, which may take time. The making of legally binding instruments on BHR is underway. There are discussions around the nature of businesses and their accountabilities. ASEAN member states should be more active in these negotiations. We should also work together with other stakeholders, particularly those who are most affected.

10. **Dr. Harpreet Kaur**, Business and Human Rights Specialist, UNDP Bangkok Regional Hub gave her insights on “Trends of Human Rights Due Diligence Applications in the Asia-Pacific Region.” There has been a shift among companies in the region from a Corporate Social Responsibility (CSR) approach to a Business and Human Rights approach. More businesses are focusing on human rights due diligence, influenced by both regulatory and non-regulatory drivers. The responsibility of businesses to respect human rights is independent of but not isolated from the state's duty to protect human rights. States in the region are promoting human rights due diligence through various measures including regulatory compliance, incentives, transparency, and disclosure rules. For example, India has mandated reporting of human rights compliance. In Japan, the NAP inspired the guidelines on responsible human rights responsible supply chains. This includes the development of human rights policies, performing human rights due diligence, and establishing a grievance mechanism.
11. Uptake of human rights due diligence in businesses has been uneven across the region, with smaller enterprises and domestic companies lagging behind. The UNDP's Business and Human Rights Academy launched in 2022 has trained over 2000 companies across 30 countries, demonstrating a commitment to human rights due diligence in the region. We see that NAPs inspire regulations that create incentives and benefits for companies. These also encourage transparency and disclosure rules. Businesses still see it from a risk averse approach. We need to push companies to see it from a human rights risk perspective. Human Rights Due Diligence is slowly becoming the language of business and human rights in Asia.
12. **Mr. Dio Herdiawan Tobing**, World Benchmarking Alliance (WBA), shared his knowledge on “Social Dimension of Business Enterprises: Benchmarking for Progress.” The World Benchmarking Alliance (WBA) is a nonprofit organization based in Amsterdam and London. They publish publicly available benchmarks assessing companies on several elements related to ESG (Environment, Social, Governance) performances. These benchmarks are designed to incentivize companies to align with SDGs. The WBA has assessed 2000 companies worldwide, 664 of which were headquartered in the Asian region. These companies, by revenue, contributed to USD 46 trillion across the more than 80 Asian countries they are in. In ASEAN specifically, the WBA assessed 103 companies.
13. Mr. Tobing shared that the Social Transformation Assessment in 2022 featured 1000 companies. The three main indicators include respecting human rights, providing and promoting decent work, and ethical performance. There are a total of 18 Core Social Indicators to identify and assess obligations to BHR and SDGs. At the ASEAN level, only 11% are scored in the upper brackets, yet none scored between 15-20 points. Majority scored low with respect to their social-related commitments. Out of the 63 companies, more than 50 have not met basic standards of human rights. Mr. Tobing stressed that the trends require that NAPs must gain the buy-in of companies, and that compliance should be incentivized. Moreover, an enabling environment must be ensured for companies to stay obliged to BHR. In the region, companies have so much to learn and commit in terms of their social impacts. Groundwork is imperative to meet requirements.

Open Forum

14. Dr. Yeophantong shared that the undertaking of HRDD should include business impacts on the environment. There are intersections between community rights and environmental degradation. The fight against environmental degradation is integral to HRDD. There is a need for a slight calibration of the company's understanding of this obligation. On the examples of legally binding instruments, it should be tailored based on the operating conditions. There needs to be a clear understanding of standards and non-negotiable principles. We also consider the reach of the binding instruments.
15. Mr. Natapanu asked about the impact of business during the COVID-19 pandemic. He highlighted how workers' migration have affected businesses during emergency situations. Dr. Yeophantong highlighted the short-term and long-term impacts on COVID-19. There is guidance on addressing emergency situations. Companies need to have a heightened awareness on human rights obligations. They need to constantly assess human rights implications. H.E. Siriban noted that there is still a lot of opportunity to expand awareness throughout the region and raised about ways to increase capacities of SMEs to meet demands on human rights.
16. Dr. Kaur shared that governments have been reaching out to UNDP on ways to work and promote ESG, as well as integrating the human rights principles. She shared that there have been questions about the target audience and participants of the due diligence reporting. HRDD is not a 'one size fits all' approach. Prioritization is a key element for the compliance of business, particularly when resources are being taken into account.

Session 2 | Advancement of BHR Agenda: Business Dimension

17. **H.E. Prof. Dato' Dr. Aishah Bidin, Representative of Malaysia to the AICHR** moderated the session. This session is aimed to present good practices and new initiatives from business dimension in the region and beyond.
18. **Dr. Netithorn Praditsarn**, Global Compact Network Thailand, shared ways forward to achieve BHR in Thailand and ASEAN. There is still a lack of understandings on human rights and corporate sustainable issues. Human rights obligations require further strengthening. Companies still need to acknowledge their impacts on the lives of affected peoples. Dialogues are imperative to establish the human rights languages with business people to be able to pitch human rights needs in the supply and value chains. There is a lack of full capacity for implementation. Dr. Praditsarn stressed that operationalization of human rights standards remains a challenge. Businesses are still confused where to start, and how to move forward. Amid shifts to mandatory requirements, companies are overwhelmed, and under-capacitated. We need to provide skills, knowledge, and more importantly, incentives.
19. Dr. Praditsarn shared that in Thailand, they have been already integrating reports, as mandated by the Stock Exchange Commission. It is important for us to make this happen, but we need to balance our efforts and resources. In terms of navigating the legal landscape, we are required to prepare our colleagues in keeping track of our impacts. He highlighted the impact of digital technology. Furthermore, Dr. Praditsarn stressed on a safe environment for peer learning, and contributing to sustainable solutions.

20. **Dr. Chi Do Quynh**, Asia Public Policy Director of Responsible Business Alliance (RBA), stressed that businesses are facing a number of requirements and challenges with regards to responsible business regulations. There are a number of regional and national guidelines on different due diligence standards. The RBA has been helping their members prepare compliance approaches. This includes conducting action research on bilateral policy dialogues, multi-stakeholder policy dialogue, good practices, and lessons learnt.
21. In terms of tools and guidelines, RBA examines trends and regulations that exist at the regional and national levels. This aims to help increase awareness, and relevant strategies for compliance. This brought about “RBA Voices”, which enables workers to amplify their complaints and feedback to their companies. Third party mechanisms also receive voices that are unaddressed internally. The tool is also being shared for free to the supply chain. Dr. Quynh shared their work related to regulatory themes on the environment. They have been developing the RBA emission management tool, to address impacts on energy and environment. Information from the tool is being transmitted to a central hub, and to buyers and supply chain.
22. **Georgia Worrall and Andy Hickman**, Representatives of Seafood Ethics Action Alliance (SEA Alliance), shared that they are a pre-competitive collaboration of retailers and businesses aiming to strengthen HRDD carried out in the global seafood supply chain. This industry has been highly risky particularly for labourers and migrant workers, as well as to the health of marine life. Members consist of companies mainly based in the UK. The role of a pre-competitive industry collaboration highlights opportunities to discuss common issues, and leverage joint learning leading to greater impact. This also provides ways to tackle issues as a collective. Key strategic areas include improvement of human rights due diligence, advocacy and engagement, and development of a fund which supports development projects on the ground. This is underpinned by robust commitment and action by member-companies.
23. Mr. Hickman shared that the Alliance has been advocating for compliance on relevant agreements. They have been supporting diverse project areas such as access to grievance mechanisms, ensuring decent work, and promoting responsible recruitment. This enabled collaboration via multi stakeholder efforts, and a match funding system. Ms. Worrall shared the drivers of corporate action. On top of reputational risk, HRDD mandatory requirements have emerged. Furthermore, there is an increasing pressure from investors, civil societies, and internal actors. Ethical consumerism is also on the rise. The SEA Alliance business commitments aim to attain transformative change in the seafood industry via a collective effort amongst industry leaders. They also want to bring about a support strategy for the fulfilment of commitment and action. Part of this is identifying and addressing barriers to achieving obligation.
24. **Ida Hyllested**, UNICEF’s Child Rights and Business Team, discussed her reflections on inputs and insights from a Child Rights’ perspective. Last year, the Child Rights and Business Principles were developed, aiming to transform impacts on children. We know that businesses directly affect the lives of young people. We look at the conditions of parents, and caregivers, as well as employee behaviour, and product presentation. These impacts are a blind spot for many businesses. Child labour and trafficking is still an alarming concern.

25. There is an urgent need for inclusion of child rights in the BHR ecosystem. We should ensure the voice of children and young people are included in the negotiating table. Furthermore, they have to be part of implementation, research and grievance mechanisms. Child rights considerations should be integrated in the existing policies and processes. Ms. Hyllested said that it is imperative that gaps are addressed to make the world a safe place for children throughout the region and beyond.

Open Forum

26. Ted Tan asked if businesses want to talk about ESG issues amongst themselves, would it lead to mutual back-patting. In comparison, the UPR at the UN level incorporates some space for critical viewpoints to be conveyed via the interactive dialogue session participated by the CSOs. Dr. Praditsarn shared that the safe space should not be complicated. They offered dialogues that are safe, which provides confidence to ask questions, without judgement. These platforms serve as an opportunity to ask for recommendations and referrals.
27. H.E. Aishah asked about the remedy advocated by SEA Alliance. Access to justice is one of themes that AICHR is prioritizing. She wanted to know ways to integrate access to remedies, particularly for labourers and child rights. Mr. Hickman shared that they are working to develop a remedial action plan. Their learning is to actively collaborate with CSOs and trade unions. Ms. Worrall highlighted the need for feedback from members and stakeholders on the ground.

Session 3 | Advancement of BHR Agenda: Labour Dimension

28. **H.E. Wahyuningrum**, Chair and Representative of Indonesia to the AICHR moderated the session.
29. **H.E. Mr. Chuop Narath**, Deputy Director General of Labour of Ministry of Labour and Vocational Training of Cambodia and ACMW Chair, spoke about “Implementation Progress of framework under the “ASEAN Consensus on the Protection of Rights of Migrant Workers by AMS.” The ACMW focuses on the fulfillment of the rights of migrant workers and their families. Part of their activities include workshops on existing framework on children and education and the prevention and investigation of trafficking in persons. These workshops focus on building solidarity and sharing of best practices. They have also conducted public campaigns on safe migration and women migrations. Research has also been conducted on migrant worker rights-based standards for employment contracts.
30. H.E. Narath highlighted the upcoming ACMW Meeting to be hosted virtually by Cambodia to focus on exploration of cooperation, as well as existing activities. The ASEAN Forum on Migrant Labour (AFML) has become a platform for ASEAN to engage with employers. It centres on themes and issues related to migrant workers, and ways to advance the Cebu Declaration. The 15th AFML hosted by Cambodia stressed on themes related to economic recovery and ways to minimize development impacts of labour migration. Among others, ACMW is planning to host workshops on labour protection, increase public awareness, and a regional conference on migration

policies. They seek to collaborate with SOMHD on addressing health risks of migrant workers. They will also follow up on the ASEAN Compendium Migrant Workers' Education.

31. **Patuan Samosir**, Senior Director, Organising and Projects, International Trade Union Confederation (ITUC) Asia Pacific, shared insights on "Migration, Business and Human Rights." The ITUC is the global voice of working people. They represent 60 million workers across Asia-Pacific. In the face of threats from recent global trends, a new social contract is needed. We have witnessed how governments and the prevailing systems are not adequately built to overcome multiple crises. Societies must be built on democratic values and participation. The new social contract is founded on a new model to achieve fundamental transformation, and will mainstream human rights due diligence.
32. ITUC demands for a fair labour migration framework, and ratification and full implementation of ILO core conventions. It denounces the exploitation of migrant workers across all types of labour market. They seek the government to mandate due diligence, and work with the ILO to promote the concept of constructive industrial relations. They also encourage trade unions to engage actively in dialogue with stakeholders. Strategies include fair recruitment campaigns, bilateral partnerships amongst trade unions, legal assistance, and ending force migration. The number of ratifications of relevant conventions on labour migration is low in ASEAN. ITUC has been pushing more states to commit to these international standards. They are also increasing awareness on forced labour, in pursuit of the elimination of practices harming migrant workers. Their vision of the world is where workers are respected, and are not left behind.
33. **Peppi Kiviniemi-Siddiq**, Senior Regional Migrant Protection and Assistance Specialist, IOM, spoke about "Remedy to possible labour violations for migrant workers." IOM's work on labour migration is anchored on the UNGPs. The Global Compact on Migration has collectively agreed on priority principles. Labour migration occurs in a number of corridors in the Asia Pacific region. The region hosts 42 million migrants. Key sectors include construction, agriculture, manufacturing, domestic, fishing, seafood, services and hospitality. According to the most recent study, there are 28 million victims of forced labor throughout the world; 15 million of which are in the Asia Pacific. Migrant workers are three times more at risk of trafficking and labor migration.
34. Vulnerabilities to modern slavery remain high. This is exacerbated by governments failure to create a protective environment. The Philippines, however, has been working to establish justice and protection systems for migrant workers. Risk factors are present throughout one's migration journey. During recruitment, recruitment fees and debt bondage are still practices, with a lack of transparency and freedom of choice. As for workers employment, there are decent work deficits and exploitation, discrimination and abuse of irregular migrants. Ms. Kiviniemi-Siddiq shared that the UNGPs are significant to address multiple challenges. Workers must be able to enjoy state based judicial mechanisms, non-judicial mechanisms (mediation, arbitration, and negotiation), as well as business grievance mechanisms (remediation, counselling, negotiation, and compensation.) But there are plenty of barriers for migrants in accessing remedies. This includes high costs of legal assistance, slow and inefficient processes, lack of information on migrant workers' rights, language barriers,

discriminatory attitudes, restriction of movement, lack of written evidence, irregular legal status, unclear statutory responsibility, and fear of retaliation. Despite this, there is momentum towards remedy. There is a need to develop partnerships with private sectors, trade unions, government and civil society actors.

35. **Prof. Surya Deva**, UN Special Rapporteur on the Right to Development focused on “Right to Development and Workers in the Supply Chains.” In the ASEAN region, there are more than 10 million migrant workers, of which 7 million are from the region. We also need to take into consideration the critical number of women and girls. Labour migration are crucial to the economies of both countries of origin and destination. We should understand their contributions to our societies. They are made vulnerable by the imbalances of power and distribution of wealth and resources. The right to development (based on the Vienna Declaration and 1986 Declaration on the Right to Development) focuses on our right to social, political and economic development. Holistic development is a key principle. This does not only affect an individual, but his/her/their families and communities. Decent work is at the core of this theme.
36. We need to think of a new framework of development. We need to establish a human right-based economic approach. Government should look at creating decent work, whereby workers are able to actively inform their needs and wants. Cooperation at the international and regional level is crucial. In relation to companies, payment of living wage is critical. Furthermore, women and girls are affected by pay gaps and lack of participation, and access to effective justice systems. We have to look at systemic challenges. Trade unions have a significant role in addressing imbalances of power. They should be an ally of workers. They have resources and platforms to raise voices and rouse solidarity. A fundamental shift in perspectives in key.

Open Forum

37. Ted Tan stressed that migrant workers are vulnerable mainly due to their status as sponsored workers. This means that they are under the control of their employers. Domestic workers are especially more vulnerable in this aspect. Ms. Kiviniemi-Siddiq said that in ASEAN there is so much irregular labour migration. We should not consider labour status for providing access to the justice system. Dr. Deva shared that he is also a migrant worker himself, but one who is privileged. A critical number still see labour migration as a means to an end. Instead, they should be viewed by states and businesses as an integral component for economic, social and political growth.
38. H.E. Narath shared that ACMW is willing to cooperate with ACWC and AICHR to work on furthering the rights of migrant workers. Mr. Samosir shared that trade unions are crucial for negotiating the rights of migrant workers. The lack of a collective voice adds to the issue of power imbalance. Carmelita Nuqui shared that the AMFL is a tripartite plus CSOs platform with various programmes, services and activities for the migrant workers in all ASEAN member states.

Session 4 | Advancement of BHR Agenda: State Dimension

39. **H.E. Long Sonita**, Alternate Representative of Cambodia to the AICHR moderated the session.
40. **Ms. Nareeluc Pairchaiyapoom**, Director, International Human Rights Division, Rights and Liberties Protection Department, Ministry of Justice, Thailand, spoke about “The Role of State in Advancing the BHR Agenda.” Since 2016, Ministry of Justice has been appointed to conduct strategies and activities related to NAP on BHR. They were able to propose the NAP to the parliament in 2018. The Thailand’s NAP key priorities are labour, community, land and national resources, human rights defenders, and cross border investment and multinational enterprise. In each key priority area, government obligations are specified, as well as their links to national strategies and UNGPs. For labour, they focused on reforming legal frameworks on labour management system, fair wages, sexual harassment, rights of children, migrant workers, and tackling forced labour and trafficking. On community, land and natural resources, they seek to engage with relevant stakeholders for environmental management. They are also building the capacity of communities, particularly indigenous and minority populations.
41. Thailand has worked on collaborating human rights mechanisms, and developed definitions and measures to protect rights defenders. Cross border investment and multinational enterprise priority includes furthering responsible business conduct, and respect for human rights. Ms. Pairchaiyapoom shared that voluntary measures for business were developed and disseminated. This includes raising awareness and promoting guidance on eliminating discrimination and abuse in business affairs. HRDD and Social Impact Assessment are also key strategies to be conducted by state and businesses. In terms of challenges, they have to involve more SMEs to comply with obligations. They also seek to digest lessons learned from different business sectors. Incentive for business is a necessary action for improved compliance to human rights. Thailand has given human rights awards. They also are consulting ways to provide tax incentives, as well as inspiring the procurement of eco-friendly products.
42. **H.E. Assoc. Prof. Eugene Tan Kheng Boon**, Alternate Representative of Singapore to the AICHR, shared his views on “Singapore Transboundary Haze Pollution Act, 2014.” He shared that BHR is about lives and livelihoods. We have a right to breathe air that does not sicken or kill us or harm our economic status. The Transboundary Haze Pollution Act (THPA) seeks to impose criminal and civil liability on conduct of any entity that causes or contributes to transboundary haze pollution in Singapore by burning land and forests outside the country. Section 4 provides the extraterritorial application, and section 5 imposes liability related to contribution to haze, condones conduct by another entity, or manages another entity which engages in or condones such conduct. Section 6 imposes a statutory duty on entities not to engage in conduct with causes and contributes to haze. The maximum fine for offenses is SGD 100,000 every day, which is a maximum fine of SGD 2 million. If an entity is given notice to comply, one will be fine for failure to follow.
43. H.E. Tan Kheng Boon shared that extra territoriality is a double edge because of the maintenance and respect for national sovereignty. Moreover, the act does not provide courts to determine if a foreign state is responsible for transboundary pollution. On the positive note, this provides businesses an opportunity to review and monitor their impacts on the environment. Transboundary pollution is a result of a series of deliberate acts. Nudging companies to be more mindful and proactive about preventing transboundary pollution is, therefore, imperative. Furthermore, a multi-stakeholder

approach is needed to bring about responsible business and multiple tools to respect, promote and protect human rights. H.E. Tan Kheng Boon stressed on the significance of bilateral and multilateral cooperation within the ASEAN Framework. The 2002 ASEAN Agreement on Transboundary Haze Pollution will and should continue to play a role in addressing this critical issue.

44. **H.E. Amb. Yong Chanthalangsy**, Representative of Lao PDR to the AICHR spoke about “Business and Human Rights in the Lao PDR.” He stressed on the level of commitment of his country, as well as the challenges they are facing in conducting BHR. The country is facing a lot of burdens in the face of a number of obligations to mainstream human rights. This has taken a toll on ways to align their legal frameworks at the national level. It also highlighted the effects of standards and policies on the lives and livelihood of people. From 2015-2020, the national assembly adopted 105 laws, which created pressure on various sectors. Lao PDR has ratified numerous international treaties as members of the global communities. This is a big challenge that they are undergoing.
45. H.E. Chantalangsy said that the Lao PDR government is willing to cooperate with dialogue partners to abide by new regulations on trade and commerce. They have been learning from ASEAN neighbours on best practices, as well as inspiring cooperation to sort out multiple challenges. In terms of BHR and dealing with companies, the government has been pushing them to comply with obligations. For big companies, they are requested to conduct economic and social impact assessments. Moreover, human rights and labour are a significant aspect of this report. An environmental impact assessment is also performed by business entities. Interestingly, Lao PDR also pushes for heritage impact assessment, to enable natural and man-made resources to be protected. These reports will inform action plans on ways forward, such as resettlement of affected communities.

Open Forum

46. Ms. Pairchayapoom said the role of the state is important to put the human rights agenda forward. She highlighted emerging issues at the global and regional levels. Hence, regular updating of strategies is important to make significant changes. We have to collaboratively prepare for any challenges that may come our way. H.E. Tan Kheng Boon stressed that the state should be the promoter and protector of the people from the excesses of capitalism. A multi-stakeholder approach is imperative to realize business and human rights in the long run.
47. H.E. Chantalangsy shared that there are a lot of emerging issues that are coming up. We have no choice but to confront these challenges. Our dialogue partners continue to come up with standards and frameworks for us to comply. We need to have more elaborate discussions on ways to accommodate them.

Session 5 | Promises and Challenges of HRDD: Perspectives from CSOs and Other Stakeholders

48. **H.E. Mr. Hans Mohaimin Siriban**, Philippine Representative to the AICHR moderated the session. It is aimed to present intersection of the UNGP Human Rights Due Diligence and the ASEAN Consensus on the Protection of Rights of Migrant Workers.
49. **Mr. Pochoy Labog**, Southeast Asia Researcher and Representative of Business and Human Rights Resource Centre (BHRRC), shared that the Centre tracks human rights violations linked to businesses, focusing on the areas of natural resources, labour, and technology and human rights. They publish these findings on their website, which has become a comprehensive collection of business-related human rights reports and articles. The organization prioritizes corporate accountability and interacts directly with corporations, noting that under the UNGPs, businesses have a responsibility to respect human rights throughout their value chains. They have an innovative company response mechanism wherein they reach out to businesses implicated in human rights allegations and request a response before publishing the allegation on their website. Their work also includes issuing briefing papers and maintaining a “know-the-chain” benchmark, a resource for companies and investors to understand and address forced labour risks within their supply chain, which is particularly relevant for migrant workers.
50. Through this benchmarking, they assessed companies in three sectors (ICT, Apparel and Footwear, Food and Beverage) and discovered significant deficiencies in transparency and recruitment practices. For example, in the ICT sector, 92% of companies did not disclose information on the percentage of women workers, and 90% did not disclose information on the percentage of migrant workers. For the Apparel and Footwear sector, only 30% disclosed their data on women workers, and only 8% disclosed data on migrant workers. He shared that the ASEAN Consensus on the Protection of Rights of Migrant Workers is a good starting point in establishing migrant worker rights in the region. Several provisions are crucial to protecting these rights, including access to justice, freedom of association, pre-departure orientation and education, and recruitment practices. States and companies can further improve and protect human rights through due diligence, including mandatory legislation, worker engagement in due diligence processes, greater supply chain transparency, and improved recruitment practices.
51. **Dr. Andika Wahab**, Institute of Malaysian and International Studies, shared that the ASEAN Consensus on the Protection of Rights of Migrant Workers has substantial deficits on the articulation of rights. There is always a provision on subjecting provisions under national law. With respect to migrant rights, the ASEAN Consensus loses an extra territorial element. The state is still the source of changing ways in treating migrants. Based on his observation, the Philippines seems to be most committed to protect the rights of migrant workers. The ASEAN Consensus has not fully been leveraged with relation to other economic agreements. Commitment on migrant workers agenda is reduced to development, and not rights nor trade. Dr. Wahab also stressed that there is no explicit provision on human rights due diligence.
52. ASEAN has missed the chance to govern businesses to perform due diligence. While some large enterprises have started to conduct their obligations, this has not trickled down to their supply and value chains. Its sphere of influence is quite limited. Furthermore, the document focuses on the formal justice system to address migrant workers’ concerns and needs. This means that we may overlook trust issues faced by workers, which is fuelled by fear of retribution. We should focus on strengthening

informal grievance mechanisms. Dr. Wahab highlighted the limited engagement of civil society organizations, with respect to HRDD. Usually, their participation with corporations is on an ad-hoc basis. Social networks can be maximised for ways forward. This is also a means to achieve community ownership of mechanisms, and most importantly, their rights. Knowledge and technology transfer leads to sustainable empowerment of affected peoples. Furthermore, HRDD should be integrated in the current sustainability scheme.

53. **Ms. Aleksandra Lasota**, IOM, Partnership and Programme Coordination, was glad to see migrant workers rights at the heart of presentations and discussions. There are 170 million migrant workers throughout the world. Thailand is a key destination of nearly half of migrant workers coming from the Southeast Asian region. We cannot effectively discuss and realize HRDD without the inclusion of migrant workers' rights. HRDD is about people that are impacted by business operations. UNGPs do not highlight the rights of migrant workers. However, the ASEAN Consensus has provided guidance on the duties of the state, but does not mention any requirement for employers to undertake HRDD.

54. IOM has worked with different companies to improve their internal systems to safeguard the rights of migrant workers. Ms. Lasota stressed that the ASEAN Consensus and the ASEAN CSR are a good start to ensure the mainstreaming of HRDD. Member-states should consider the roll out of compliance amongst industries within their countries. They can also drive a proactive response to the EU directive. This will be key to achieving business competitiveness, and promoting human rights of workers. IOM offers a set of tools on ethical recruitment and due diligence, which is already being used by business and associations. In addition, they have guidelines to help companies to elevate migrant worker management systems to comply efficiently with international standards. She stressed that in light of growing economies, we should look at the feasibility of HRDD mainstreaming in the region.

Open Forum

55. Mr. Labog shared that the ASEAN Consensus is a good starting point for the respect of migrant workers' rights. However, we see that much is to be done in terms of implementation. He hopes that this will evolve into a document that inspires compliance to international human rights standards. Ms. Lasota shared that the ASEAN Consensus provides a road map to achieving the rights of migrant workers. During the last two decades, concepts around this are evolving throughout the world. We need to see this as an opportunity for ASEAN and its member states to gain momentum on this critical issue.

56. Dr. Wahab shared that what is important is that someone needs to start the ground running. There will also be a chain/domino effect on other states. Moreover, companies can produce impacts and changes in policies. Ted Tan shared that measuring progress is a difficult task, and there is a plethora of resources and publications being made every year. This makes it difficult for people to catch up.

Closing Session

57. **H.E. Prof. Dr. Amara Pongsapich**, Representative of Thailand to the AICHR thanked all participants for a fruitful and promising sharing of knowledge and discussions. She said that the dialogue succeeded in highlighting intersections between and amongst pillars and stakeholders. States have to prepare to cope with emerging issues leading to the new normal. We learned of practices conducted by businesses on respecting human rights. Newcomers may be reluctant, but they are invited to be on-board.
58. The dialogue provided opportunities to discuss themes beyond conventional roles and responsibilities of states and businesses. We were able to expand the scope to monitoring human rights due diligence processes. We learned that there are CSOs and academics in assessing standards and compliance. We heard about the role of international organizations to help businesses and states in fulfilling human rights obligations and requirements. She hopes that the future collaborations will take place towards improved human rights and business governance in ASEAN.