

**Civil Society's Recommendations to the ASEAN Ministers Meeting (AMM) in the
Review and Amendment of the Terms of Reference (TOR) of the ASEAN
Inter-governmental Commission on Human Rights (AICHR)**

Jakarta, 16 July 2014

1. We, members of civil society organizations from Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic (PDR), Malaysia, Republic of the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Vietnam, gathered in Jakarta, Indonesia on 15-16th July 2014 for the *3rd Regional Civil Society Meeting for the Annual ASEAN Ministers Meeting (AMM)* with the aim of providing inputs from civil society to the AMM on the review and amendment of the Terms of Reference (TOR) of the ASEAN Intergovernmental Commission on Human Rights (AICHR).
2. We call for AMM to work in collaboration with civil society to provide platforms for dialogue and engagement. We believe that recognizing and engaging civil society is and must be an essential pre-condition in the democratically legitimate decision-making process of ASEAN as well as in AICHR. The engagement should ensure the guarantee for the respect, promotion, protection and fulfillment of human rights and freedoms for all people in the ASEAN region. We are convinced that engagement with civil society in all sectors is integral part in achieving the goal of the ASEAN Community.
3. We strongly believe that after five (5) years since its establishment in 2009, AICHR's mandates need to be improved, especially on the promotion, protection and ensuring the availability of remedies for the victims of human right violations, and that its working performance should be more independent, transparent, inclusive, accessible and accountable to the people in ASEAN.
4. We are convinced that this is inline with the aspiration of the ASEAN Head of States/Governments as stipulated in Paragraph 7 of the Cha-am Hua-Hin Declaration on the ASEAN Intergovernmental Commission on Human Rights (2009) to "strengthen the mandate and functions of the AICHR in order to further develop mechanisms on both the protection and promotion of human rights. The review and the subsequent reviews shall be undertaken by the ASEAN Foreign Ministers Meeting". We, therefore, propose two sets of recommendation a) the protection mandate to be included in the TOR of AICHR, and b) the process that will be undertaken by AMM in reviewing and amending the TOR of AICHR as follow:

a) On Protection Mandate of AICHR

- 4.1 We demand that AMM consider the inclusion of communication procedures in AICHR in order to receive, analyze and investigate individual petitions regarding human rights violations committed by State or business, as the central role of AICHR in its protection mandate.
- 4.2 We urge AMM to include a special procedures system that operates under a working group, special rapporteur or independent experts, that functions as the eyes and ears of the AICHR on all human rights situations in the region, and is vested with power including, but not limited to, being able to conduct country visits.

- 4.3 We strongly recommend that AMM strengthen AICHR's mandate in obtaining information from ASEAN Member States on the promotion and protection of human rights in accordance with Article 4.10 of the TOR of AICHR such as, but not limited to, a form of dialogue on all human rights situations where the State's and stakeholder reports are reviewed. All reports, dialogue and recommendations should be made accessible to the public.
- 4.4 We urge AMM to consider AICHR to have the power to provide an opinion on all human rights situations, both within ASEAN member states as well as of countries outside the ASEAN region.
- 4.5 We demand AMM to consider AICHR to develop an early warning system in order to prevent human rights violations from happening.
- 4.6 We urge AMM to include a mechanism in the TOR of AICHR that ensures the protection, integrity and safety of persons who cooperate with AICHR.
- 4.7 We encourage AMM to provide AICHR with the mandate to set standards and norms of human rights that are in compliance with international human rights law, norms and standards.

b) On the Process of Reviewing and Amending TOR of AICHR

- 4.8 We suggest that AMM assign an Independent High-Level Panel that consists of different sectors of ASEAN stakeholders; that takes into consideration gender and geographical balance including representatives of government and civil society as well as UN experts, former UN Rapporteurs and UN Treaty Bodies' Committee members from the region; that is vested with a well-defined mandate; that is accessible to the public; and that has a clear timeline.
 - 4.9 We believe that the review and amendment of the TOR of AICHR must be transparent, open, participatory and engage various stakeholders in every stage of the process. Having said this, we urge AMM to ensure that the working drafts be accessible to all including persons with disabilities. Public consultations should be meaningful and inclusive, especially for those who are vulnerable to human rights violations and/or have been marginalized.
 - 4.10 We urge AMM to ensure that the Independent High-Level Panel has an additional mandate to collect and consider the submission of inputs from stakeholders at both national and regional levels.
5. We reiterate our commitment to engage with ASEAN's process at both the national and regional levels. We believe this is one of the ways in keeping with the spirit and purpose of the ASEAN Charter: "to promote a people-oriented ASEAN in which all sectors of society are encouraged to participate in, and benefit from, the process of ASEAN integration and community building" (Article 1.13 of the Charter).