

**POSITION PAPER OF
THE NATIONAL HUMAN RIGHTS INSTITUTIONS OF
INDONESIA, MALAYSIA, PHILIPPINES, AND THAILAND
ON TERMS OF REFERENCE OF
THE ASEAN HUMAN RIGHTS BODY**

Submitted at the meeting with the HLP on 11 September 2008

The Network of four National Human Rights Institutions (NHRIs) in Southeast Asia is comprised of the Human Rights National Commission of Indonesia (Komnas HAM), the Human Rights Commission of Malaysia (SUHAKAM), the Commission on Human Rights of the Philippines (CHRP), and the National Human Rights Commission of Thailand (NHRCT).

The Network congratulates the High Level Panel (HLP) on the Drafting of the Terms of Reference (ToR) of the ASEAN Human Rights Body (AHRB) on their engagement with the civil society organizations and the existing NHRIs in the process of drafting the ToR, and hopes that the meaningful dialogue will continue in the spirit of co-operation and sincerity towards the establishment of the AHRB.

In May 2008, the Network proposed and submitted the ToR of the AHRB to the ASEAN Secretariat, and in light of the recent development, it highlighted the important elements which should be seriously considered by the HLP as follows:

General Principles

The AHRB should be an independent deliberative body that provides an effective level of promotion, protection and monitoring of human rights throughout the ASEAN region. The formation of the AHRB should be undertaken in a transparent and participatory manner, as well as an inclusive process of consultation with all stakeholders, including the NHRIs and the civil society.

Mandates

Independence of the AHRB must be ensured, taking into account the minimum standards as stipulated in the Paris Principles.

The AHRB should have both promotion and protection functions. The AHRB should also have, at the initial phase, a role to monitor the implementation of international human rights obligations and the respective treaty bodies' recommendations at national level of ASEAN Member States.

The protection function of the AHRB should include human rights situation analysis of the ASEAN sub-region, which can be undertaken through country visits and the assessment of the impacts of the Blueprints for the ASEAN Communities i.e. Political and Security, Economic, and Socio-Cultural.

Assurances of Efficiency and Effectiveness

The AHRB should be adequately supported in terms of funds, staff members and facilities.

The Relationship between the AHRB and the NHRIs

The AHRB and the NHRIs have a complementary role in promotion and protection of human rights in the region. As such, the AHRB should work in partnership with existing NHRIs, particularly in monitoring human rights situations and treaty compliance at the national level. In addition, the AHRB should coordinate with and involve the NHRIs in its activities at the national level. The NHRIs can render expertise and advice in establishing a national human rights institution in ASEAN Member States which still do not have one.

In Member States with existing NHRIs, the selection of the AHRB Members should involve the active participation of the NHRI.

The Network emphasizes the importance of continuous engagement and cooperation with the HLP towards the finalization of the ToR.