

REPORT ON

**PREPARATORY MEETING: CONSULTATION OF THE
ASEAN NHRI FORUM**

and

**3rd MEETING OF THE HIGH LEVEL PANEL ON THE DRAFTING OF THE
TERMS OF REFERENCE (TOR) OF AN ASEAN HUMAN RIGHTS BODY**

**MANILA, PHILIPPINES
10-11 September 2008**

1. INTRODUCTION

- 1.1 The Meeting held in Manila at the Emerald Room of the Diamond Hotel on September 10, 2008 provided a venue for the discussion of the Human Rights Commissions of Indonesia, Malaysia, Philippines, and Thailand on their stand regarding the establishment of an ASEAN Human Rights Body. The Commission on Human Rights of the Philippines (CHRP) hosted the Meeting with funding support from the European Commission (EC)-assisted project on “Enhancing the Role of NHRIs in the Development of an ASEAN Human Rights Mechanism”.
- 1.2 Representatives from National Commission on Human Rights of Indonesia (Komnas HAM), Human Rights Commission of Malaysia (SUHAKAM), Commission on Human Rights of the Philippines (CHRP), and National Human Rights Commission of Thailand (NHRCT) attended the Meeting.
- 1.3 CHRP Chairman Leila M. De Lima welcomed the delegates and introduced the two new Commissioners of CHRP to the body. She then encouraged everyone to achieve the common interest of developing the Terms of Reference for the creation of the ASEAN Human Rights Body (AHRB).
- 1.4 Commissioner Lady Ambhorn Meesook of NHRCT chaired the Meeting. In her brief preliminary statement, she explained the importance of establishing a human rights body in ASEAN.

2. HIGHLIGHTS OF THE MEETING

- 2.1 Director Atchara Shayakul of NHRCT explained briefly the latest developments in drafting the TOR of the AHRB as appeared in documents for discussion. She also informed the meeting of the evolutionary approach adopted by the AHRB to accommodate the differences of ASEAN member states, which required clarification.
- 2.2 CHRP Chairman De Lima explained that the TOR to be drafted would be a blueprint. The four types of proposals can be easily put together as their essence and substance are basically the same.

- 2.3 Executive Director Jacqueline B. Veloria Mejia of CHRP shared to the group that the ASEAN NHRI Forum must be strategic in formulating the TOR. There are several groups that are also drafting their provisions to the TOR and it is a matter whether the ASEAN NHRI Forum will follow the same or have a different version. Exec. Dir. Mejia asked the group to examine the mandates of the AHRB that are common to all.
- 2.4 Commissioner Lady Meesook presented her concern to the body about the evolutionary approach. She encouraged the group to talk about principles and/or mandates as evolutionary approach that will not collide with the TOR of the AHRB. She stressed that it should be people's rights and not human rights that the group must fight for. She further explained that the functions of the office must be identified as well as having an appropriate name.
- 2.5 Chairman De Lima pointed out why she prefers the use of "human rights" instead of "people's rights". The term "people's rights" was used years before and with the current evolution, the term "human rights" is more appropriate.
- 2.6 Vice-Chairman Hesti Armiwulan of Komnas HAM expressed her appreciation to CHRP for conducting the meeting. She explained the importance of this meeting as it would clear the agenda for the High Level Panel (HLP) Meeting as well as setting a position of the ASEAN NHRI Forum on the issue of the TOR for the AHRB. In addition, there is a need to make a decision on the strategy of the ASEAN NHRI Forum to be presented during the HLP Meeting and who will present the position of the body.
- 2.7 SUHAKAM Officer Ms. Khoo Ying Hooi suggested that the body present a position paper of the ASEAN NHRI Forum on the draft TOR of the AHRB as this was similarly done in Bali last year. She added further to strengthen the role of the ASEAN NHRI Forum in the position paper to be drafted.
- 2.8 Chairman De Lima proposed to the body to pinpoint which of the mandates are non-negotiable as these are essential items.
- 2.9 The body identified the following as highlights of the Position Paper of the ASEAN NHRI Forum on the TOR of the AHRB:
- A. Role of NHRIs vs. ASEAN HR Body
 - Partner, cooperate, coordinate and assist in HR protection and promotion
 - Sharing human rights information
 - Monitoring treaty compliance at national level
 - To render expertise/assistance in the establishment of NHRIs in the ASEAN Member States that do not have a NHRI
 - B. Mandates – non-negotiable
 - Independence
 - Promotion
 - Monitoring (look into recommendations of treaty bodies)

- Protection function e.g. investigation (HR situation analysis of ASEAN sub-region as through country visits and other special procedures: Assessing the impact of the Blueprints for the ASEAN Communities – Political, Economic, Socio-Cultural)
- Elements of the Paris Principles with Evolutionary Process as additional feature
- Include in functional relationship > AHRB to coordinate with and involve NHRIs in monitoring HR situation and treaty compliance at the national level to start with visit to countries (reporting HR situation analysis of ASEAN sub-region such as through country visits, looking into recommendations of treaty bodies)

C. Should have an office to support the work of the AHRB

D. On the establishment of a Commission on Women and Children as identified in the Vientiane Action Programme – The meeting discussed the question of whether the CWC would be under the general umbrella of the AHRB as a sub-commission or be established separately. SUHAKAM is of the position that the Commission on Women and Children should be ideally under the general umbrella of the AHRB to avoid the duplications of work in the future. However, it will not object if the Commission comes to establish before the AHRB. [Malaysia and Indonesia are of the position that it should be under the general umbrella of the AHRB, while the Philippines and Thailand have no objection on the creation of a separate CWC. Thus, the body agreed that this item be omitted in the position paper and that when the HLP will ask for the position of the NHRIs, each HR Commission will give its respective position.]

3. POSITION PAPER OF THE NHRIs OF INDONESIA, MALAYSIA, PHILIPPINES, AND THAILAND ON TOR OF THE AHRB

The position paper was outlined to contain the following: General Principles; the important elements of the AHRB's mandates; assurances of the body's efficiency and effectiveness; and the relationship of the AHRB with the NHRIs. (See separate Position Paper)

September 11, 2008

4. PRESENTATION OF POSITION PAPER AT THE HLP MEETING

On behalf of the ASEAN NHRI Forum, Commissioner Lady Meesook discussed the position paper at the 3rd Meeting of the High Level Panel on the Drafting of the Terms of Reference (TOR) of an ASEAN Human Rights Body on September 11, 2008 after which the paper was submitted. Copies of the paper were also distributed to the members of the HLP as well as the CSOs in attendance. She concluded her presentation with a declaration that the four NHRIs in ASEAN are very willing and ready to work with the HLP in the drafting of the TOR of the AHRB.

The Panel had several questions for the NHRIs, CSOs and the RWG to respond to. The Panel also requested that their responses to the issues raised be submitted officially in writing to the Panel secretariat. The questions include the following:

- 4.1 Definition of Human Rights in the ASEAN
- 4.2 ASEAN context of human rights as a different concept
- 4.3 Use of the term People's Rights versus Human Rights
- 4.4 What is the value added of the AHRB
- 4.5 What is the difference or relationship between this body with other bodies to be created per previous agreements, to include new developments such as the ASEAN Declaration of Migrant Workers Rights?
- 4.6 What should be the relationship of the body with NHRIs and with other similar institutions?
- 4.7 How should the evolutionary process be approached?
- 4.8 On reporting mechanisms, how do you balance this with the current problems of countries reporting to many UN organs and bodies?

5. WRAP UP MEETING

At the request of Commissioner Lady Meesook, the ASEAN NHRI Forum delegates held a concluding meeting at 1:00 p.m. to discuss some steps forward and other pending matters. The agreements were as follows:

- 5.1 HLP Meeting in Bali in November – The body agreed to continue to engage with the HLP and considered to attend its next meeting scheduled in November in Bali, Indonesia. Travel and per diem allowances under the EC grant will be granted to NHRI delegates who would agree to be covered by said funding support. Komnas Ham will provide the CHRP the programme and budget for this activity to be included in the request for reallocation.
- 5.2 Budget for the 5th ASEAN NHRI Forum in Bangkok – It was clarified that the EC grant will cover the travel and per diem of the NHRI participants from Indonesia, Malaysia and Philippines, and invited speakers such as former Commissioner Enny Soeprapto, representatives from countries establishing their NHRIs, such as Cambodia. Thailand as host will provide for the meeting cost as its counterpart contribution. The EC Project Secretariat will disburse the budget for the travel and per diem of the foreign delegates. It was requested that the list of invitees and NHRI delegates to be funded should be already be available as early as September for budgetary purposes.
- 5.3 Separate Fund Disbursement Arrangement for SUHAKAM and NHRCT – The Administrative and Financial Guidelines issued at the Kuala Lumpur Side Meeting of the ASEAN NHRI Forum will not apply to SUHAKAM and NHRCT as they have opted not to receive funds directly from the EC project. Instead, the Project Secretariat will disburse the funds in the activities that the two NHRIs will be implementing under the joint projects of the other NHRIs.
- 5.4 Komnas HAM has already identified activities to engage with its national working group on the establishment of an ASEAN Human Rights Mechanism that will be covered by the EC grant.

- 5.5 Commissioner Lady Meesook thanked everybody for their cooperation and support for the successful conduct of the meeting called on short notice, and cited in particular the efforts of Director Atchara in coming up with the documents for the meeting, and the assistance of the EC Project Secretariat from the CHRP and the rest of the group.

Prepared by the CHRP