



**Public Consultation on the Proposed ASEAN Human Rights Body**

11 March 2009

Singapore

Held at the Asia-Europe Foundation, Singapore

The two-and-half hour open consultation was attended by almost 50 representatives from civil society groups, academics, the business sector, the diplomatic corps, and government representatives.

Organised by the Singapore Working Group for an ASEAN Human Rights Body (MARUAH) the discussion had the following objectives:

1. To share information on the ASEAN Human Rights Body (AHRB)
2. To gather views and perspectives for further advocacy
3. To raise awareness on matters related to ASEAN and human rights

The first half of the session focused on mapping out the road towards setting up the AHRB. Two past ASEAN Secretary-Generals, Ambassador Ong Keng Yong and Ambassador Rodolfo Severino, presented their views. Both presenters made similar points, as follows:

- Building an institution such as the AHRB was a challenge and remains to be so in a region where the member countries have diverse political systems.
- But the situation is improving as the focus is shifting to a more people-centred ASEAN, and human rights issues and governance cannot be neglected. There is also a greater readiness to engage civil society organisations and advocates on human rights.
- Ambassador Ong emphasized that the process was evolutionary, due in part to the ASEAN way of consensus building.
- The acceptance to set up an AHRB is historical with its beginnings from the Joint Communique of 1993 to the Bali Concord II processes in 2003.
- Ambassador Ong, who is also the Director of the Institute of Policy Studies, likened the role of the AHRB as being between a gentle policemen and a teacher for rights education.
- Ambassador Severino, who is also the Head of the ASEAN Studies Centre at the Institute of South East Asian Studies, praised the inclusion of good governance, democracy, social justice and the rule of law as core principles within the ASEAN Charter. These values will then guide the establishment of the AHRB.

- Whilst encouraging civil society organisations (CSOs) to engage government officials at a national level, Ambassador Severino reminded participants to moderate their expectations of the AHRB in consideration of the ASEAN way of decision-making by consensus.
- Both speakers emphasised the need for civil society engagement with government bodies. Ambassador Ong added that civil society groups need to also focus on practical ideas that can be readily translated into tangible outcomes.
- They also said that the CSOs have to perform their role of advocating for change, while governments will also have to adjust to more engagement.

The next session was specifically on the Terms of Reference (TOR) of the AHRB. This discussion was led by Ms Braema Mathi, chairperson of the Singapore Working Group for an ASEAN Human Rights Mechanism (MARUAH), who made the following points:

- ASEAN is an alien concept to the ordinary citizen. Yet there is a possibility for an AHRB that affects their lives. Civil society is trying to engage ASEAN. But ASEAN as an entity has not bothered to make itself known to the ordinary people. So it is “crunch time” for ASEAN member countries to make ASEAN relevant and it is natural for civil society actors to want more, though CSOs also hear the need to be part of the step-by-step approach.
- There was a confidence-building opportunity between ASEAN member countries and civil society actors through the release of the draft TOR. But this was derailed when members decided not to release the draft TOR, (perhaps inadvertently) signalling a lack of trust where the work of CSOs is concerned.
- As the draft TOR have not been officially released, Ms Braema picked up certain areas for discussion and also shared a document with the participants, highlighting these concerns:
  - I. Under Purposes, the terms seem to contradict one another. For instance, there is a provision to heed cultural and religious particularities of the people in the region, but to also uphold international human rights norms as prescribed by international instruments.
  - II. Under Principles, the terms seem to contradict the Purposes, as there are provisions for countries to respect each other’s independence and sovereignty and observe the non-interference principle.
  - III. As an example, the incident of the uprising by the monks in Myanmar in September 2007 was cited, to query how this principle could be observed against the purpose of the AHRB.
  - IV. On the structure of the AHRB, the comment was made that the body was inter-governmental, with no clear indication that it could evolve into an independent body in due course.
  - V. On Mandate and Functions, the terms imply a stronger emphasis on promotion of human rights seemingly at the expense of protection, even if there is some reference to annual reports.

- VI. On the Composition of the AHRB, there were concerns on a rotating Chair and the need for stability in the early years of shaping the AHRB. There were also concerns on how the representatives will be chosen and any dismissal process that will be built into the TOR.
- VII. On Modality, concerns were raised on referring matters to Article 20 in the ASEAN Charter which left the decision-making to the ASEAN Summit in its consensus-seeking manner, when the Charter was fundamentally intended to implement a rules-based approach for ASEAN.
- VIII. A shorter review period of three years was suggested, to maintain some dynamism for change.
- IX. Suggestions were made to call the Body an Advisory Council, a Council or a Commission.
- A deep concern was also raised, about ASEAN's track record on implementation, and whether and how the AHRB would be different and how the AHRB would be managed once established.
  - The AHRB can only be as good as a Declaration on ASEAN Human Rights, which remains a document that has not been promulgated.
  - The AHRB and the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children, as well as the ASEAN Instrument on the Protection and Promotion of the Rights of Migrant Workers, will all need to eventually be equal entities.
  - There is a need to review the ASEAN blueprints, to ensure that human rights is mainstreamed across all communities.

The final Question and Answer session was held under Chatham House Rules as imposed by the Chair of the session, Dr Cherian George. It was done in good faith, to encourage an open discussion. Some key issues that came up during this session include the following:

- Concerns that the universality of human rights might fall prey to an Asian concept of human rights.
- A communitarian conception of the Universal Declaration of Human Rights, that all ASEAN countries agreed to.
- Consensus-building among ASEAN countries in terms of the AHRB and trust that it will act when human rights are severely violated.
- Setting up of National Human Rights Institutes in all ASEAN countries.
- Relevance of ASEAN to the man on the street.
- The principle of non-interference.
- Building up trust between government and the people.