

VIII. Regional Human Rights Mechanisms

Regional Protection in Southeast Asia

Strengthening the ASEAN Human Rights Mechanisms

The Association of Southeast Asian Nations (ASEAN) was established in 1967 with the common goal of accelerating economic, social and cultural development, promoting regional peace and stability and to promote greater cooperation and mutual assistance among Southeast Asian States. Since 1993 human rights has been a point of discussion for ASEAN and in 2009, the sub-regional body established the ASEAN Intergovernmental Commission on Human Rights (AICHR). This was followed in 2010 by the establishment of the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC). The terms of reference for the AICHR clarify that its mandate is to be primarily promotional and advisory in nature and does not capacitate it to receive individual complaints or conduct investigations. This coupled with the practice of non-interference and consensus in ASEAN has render it to be an ineffectual regional human rights mechanism.

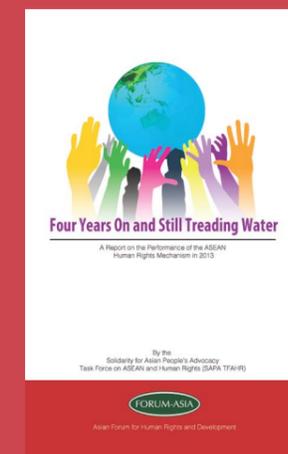
This is clearly illustrated by the continuing failure of AICHR to address the case of Sombath Somphone, a Laotian HRD who was disappeared more than 2 years ago and its failure to condemn mass-rights violations committed in Burma, including reports of widespread and systematic sexual and gender-based violence in Kachin and Northern Shan States and against the Rohingya.

In 2014, AICHR initiated an assessment of its performance as the basis of an ASEAN review of AICHR's terms of reference. In order to push for an effective review of the terms of reference, FORUM-ASIA joined the call with other CSOs for a substantial, participatory and transparent review that would give the AICHR a broader mandate as well as more independence.

FORUM-ASIA conducted several activities, to complement this call, including addressing the **26th Regular Session** of the HRC in an oral intervention and also initiated and co-signed an open letter addressed to the **47th ASEAN Foreign Ministers Meeting** in August, along with 48 other organisations. FORUM-ASIA also participated and provided input on the review of the terms of reference during AICHR's regional consultation and workshops.

The Regional Consultation on ASEAN and Human Rights is a civil society initiative led by FORUM-ASIA and SAPA TFAHR. The Regional Consultation serves as a platform for strengthening engagement with the ASEAN Human Rights Mechanisms and for discussing the human rights situation in the ASEAN region. The First Regional Consultation on ASEAN and Human Rights was held on 26-28 August 2007 in Kuala Lumpur and resulted in the creation of the SAPA TFAHR.

In November, FORUM-ASIA and KontraS, organised the **7th Regional Consultation on ASEAN and Human Rights in Jakarta**. The Consultation provided a platform for dialogue and solidarity as well as coordination among civil society actors in the ASEAN region to discuss and rate AICHR's and the ACWC's performance on the promotion of human rights. It also saw the launch of a report on the same by FORUM-ASIA and the Solidarity of Asian People's Advocacy – Task Force on ASEAN and Human Rights (SAPA – TFAHR). This 4th report entitled, **“Four Years On and Still Treading Water”**, critiqued AICHR's performance record and offers recommendations on how this might be improved. The report finds continuous gaps within the work of the AICHR and the ACWC in implementing their mandates and work plan, such as limited engagement with CSOs, and constant silence on the human rights situation in the region.



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Regional Initiative for a South Asia Human Rights Mechanism

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At the national and regional level throughout Asia there exists varying degrees of protection against human rights abuses. Where such rights have been violated, recourse at a national level through judicial mechanisms are invariably the starting point for human rights protection.

Given the gravity of the challenges faced by South Asia, domestic institutions single-handedly are not in a position to guarantee the protection of human rights as enshrined in national constitutions, domestic legislation and international law. Africa, Europe, the Americas and Southeast Asia, all benefit from an additional layer of protection and promotion of human rights at the regional level. South Asia conversely, from Afghanistan to the Maldives, lags behind other regions in offering its people further protection through a mechanism that would be capable of addressing human rights where national mechanisms have failed or are incapable of doing so.

In light of these realities, FORUM-ASIA has sought to rally civil society in the region around a call for the establishment of a South Asian Human Rights Mechanism (SAHRM) through the activities of the Regional Initiative for South Asian Human Rights Mechanism (RI-SAHRM), where FORUM-ASIA acts as secretariat. The RI-SAHRM was created subsequent to a sub-regional platform held in Nepal in 2010 and 2011 with the mission to advocate for, and help create an environment conducive for the establishment of a South Asian Human Rights Mechanism.

FORUM-ASIA together with its members and a Task Force consisting of eminent personalities from the region, convened several consultations at the national and regional level bringing together NGOs, rights-activists, academics, NHRIs and parliamentarians to address challenges and obstacles to the protection of human rights at the national and international level. These forums enabled like-minded groups and individuals to come together with a view to creating unity of purpose and partnerships across the region, often in territories where such unity has not existed at a governmental level.

Four such consultations were organised in 2014, in Kabul, Afghanistan; Lahore, Pakistan; New Delhi, India; and Dhaka, Bangladesh. Similar consultations are planned for 2015 in Bhutan – the Maldives – and Sri Lanka. FORUM-ASIA also partnered with INSEC and the Asian Democracy Network (ADN) in utilising the People's SAARC gathering in November to galvanise support for a regional mechanism.

Task Force for the Regional Initiative for a South Asia Human Rights Mechanism

The Task Force was created in 2012 during the RI-SAHRM National Consultation (3-4 December 2012) in Bangladesh, to provide leadership and strategy. It is comprised of seven eminent persons from the region: Dr. Sima Simar (Afghanistan); Dr. Mizanur Rahman (Bangladesh); Dr. Rinchen Chopel (Bhutan); Mr. Miloon Kothari (India); Mr. Subodh Raj Pakyurel (Nepal); Ms Hina Jilani (Pakistan) and Mr. Ibrahim Ismail (the Maldives).

Advocating for a Regional Human Rights Mechanism at People's SAARC

The People's SAARC (South Asia Association for Regional Cooperation) is a forum where non-government voices come together in the SAARC region and foster cooperation and solidarity at the people-to-people level.

FORUM-ASIA co-organised with its member organisation INSEC and partners ADN and RI-SAHRM a side event called "Regional Human Rights Mechanism: Inter-regional Dialogue on ASEAN and SAARC (Experience from ASEAN and Efforts from SAARC)" that involved a comparative study of the ASEAN human rights mechanisms with efforts to establish a mechanism in South Asia.

People's SAARC parade in Kathmandu, Nepal