

Solidarity for Asian People's Advocacy (SAPA)  
Task Force on ASEAN and Human Rights

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**PRESS STATEMENT**  
**27 October 2010**

On the first year of AICHR

**AICHR:**  
**A window dressing for ASEAN's Commitment to Human Rights!**

Launching of the Civil Society Report  
On the Performance of the AICHR on its 1st Anniversary

One year since the ASEAN Inter-governmental Commission on Human Rights (AICHR) was inaugurated in on 23 October 2009, we, the Solidarity for Asian Peoples' Advocacy Task Force on ASEAN and Human Rights (SAPA TF-AHR), have prepared a report to review the performance of the AICHR in its first year, as part of our commitment to follow up and push forward the improvement of human rights in ASEAN. Our review encompasses several dimensions: the AICHR's core documents, structure, institution building, implementation, handling of cases, and external relations.

In releasing this report, we realize that the AICHR is a new body that seeks to address the long-standing human rights problems in the entire ASEAN region. We, however, regret to observe AICHR's apparent negligence in attending to some achievable goals that the body has set for itself this past year. There are several important findings worth highlighting:

First, we find fundamental flaws in the core documents of the AICHR – namely the Term of Reference (ToR) – which suggest that the AICHR has a defective mandate to start with. Hereditary resemblance to ASEAN is inscribed in the core documents in a manner that interferes with time-efficient and productive operation of the AICHR. The non-interference principle, the consensual decision making practice, and the cultural-relativist bias for “regional particularities” all comprise what has been called the “ASEAN Way” which the AICHR has apparently inherited. The problem is further complicated by the ToR's prioritization of human rights promotion over the urgent need to provide protection mechanisms. In its first year, AICHR has operated within the framework of its flawed founding architecture and has not demonstrated any apparent effort to address or overcome them.

In terms of institution building, we noted a lack of commitment from the ASEAN Member States to ensure sufficient resources for the AICHR. This is manifested in, first, an absence of a full fledged support for an independent AICHR secretariat, and, second, a lack of fiscal autonomy to control its own programmes.

When examining the “work” that AICHR performed, one cannot help but wonder: what has AICHR done and for whom? The easy but unfortunate answer to this is “we don’t know”, as very little information has been made available to the public on the series of regular and informal meetings of the AICHR this past year. AICHR has been reluctant to hold any form of interface or dialogue with civil society at the regional level.

We also regret that the absence of the Rules of Procedure is frequently used as an excuse to avoid engagement with external stakeholders, including the National Human Rights Institutions and civil society organizations in ASEAN countries.

Even though the AICHR adopted its Five Year Work Plan, the process of implementation has been painfully slow. More time is needed for planning and decision making among the AICHR representatives. The ‘consensual way’ in their decision making has prevented the AICHR from a prompt delivery and speedy programme planning of any activity in its agenda. There is no better example of this than the delay of the adoption of the Rules of Procedure. What should have been a core institutional mechanism of the Commission has stayed on the AICHR’s table since its first official meeting in Jakarta in May 2010. The absence of the Rules of Procedure does not only show that the AICHR lacks initiative but also is slow in fulfilling its tasks.

Another impact of the absence of the Rules of Procedure is the inability of the AICHR to respond to a number of human rights violation cases submitted to some of its Representatives. Without agreed-upon modalities, the Representatives cannot place the cases on the table of discussion, let alone act in response to them.

One year since its inauguration, the AICHR could not just hide behind its structural limitation. Instead of taking its fundamental flaws as given, the AICHR should employ a critical review of its own mandate for improvement. Moreover, the AICHR should identify entry points in its ToR to concretely promote and protect human rights in ASEAN countries.

We believe that the AICHR cannot keep working in secrecy. They have to start dealing with civil society and other stakeholders of ASEAN. Without this, the AICHR will be not more than just the “window-dressing” of ASEAN in its commitment to human rights.

In conclusion, in commemorating the AICHR’s first year, through the launching of the Report on the Performance of the AICHR, we want to urge the AICHR and the Member States of ASEAN:

1. AICHR should allow civil society to observe the meetings of the commission for transparency and accountability.
2. AICHR should make information more accessible to the public through websites, press releases, and consultation meetings about their meeting agenda, Work Plan, and decisions made.
3. AICHR should engage and consult with civil society organizations and other stakeholders, especially national human rights institutions in a broad and meaningful manner at the national and the regional level.
4. AICHR should immediately develop and adopt its Rules of Procedures (or the Guidelines) to facilitate effective decision making and the operation of the Commission.
5. AICHR should carry self-assessment on their founding architecture to improve its capacity to work independently and effectively.
6. The Member States of ASEAN should ensure the process of selecting members of AICHR to be transparent and participatory for the independence and effectiveness of the AICHR.
7. The AICHR should have its own secretariat to carry out the commission's decisions and implement day-to-day activities.

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SAPA Task Force on ASEAN & Human Rights

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