



**Draft Report of the 2nd Technical Working Group (TWG) Online Meeting
the South East Asia National Human Rights Institution Forum (SEANF)
Cisco Webex, Jakarta, Indonesia
25-27 August 2020**

The South East Asia National Human Rights Institutions Forum (SEANF) consisting of the National Human Rights Commission of Indonesia (Komnas HAM), the Human Rights Commission of Malaysia (SUHAKAM), the Myanmar National Human Rights Commission (MNHRC), the Commission on Human Rights of the Philippines (CHRP), the National Human Rights Commission of Thailand (NHRCT), and the Provedor for Human Rights and Justice of Timor Leste (PDHJ), held the 2nd Technical Working Group (TWG) Online Meeting of the SEANF in Jakarta, Indonesia from 25-27 August 2020.

The main outcomes of the 2nd TWG were as follows:

1. Opening Remarks and Formal Introduction

- 1.1 Ahmad Taufan Damanik, Chairperson of Komnas HAM, welcomed the SEANF delegates participating in Day 1 of the 2nd TWG Online Meeting via the Cisco Webex application.
- 1.2 Ahmad Taufan Damanik noted that the Covid-19 pandemic has had severe socio-economic consequences and expressed his sincerest hopes that the pandemic will not negatively impact equal access to human rights for all. SEANF delegates were encouraged to continue to collectively strive towards upholding human rights in these challenging times, especially in relation to the rights of minorities, women and children, the indigenous community, and other vulnerable groups.
- 1.3 With the view of upholding the aforementioned rights and strengthening cooperation among SEANF members and delegates, the 2nd TWG Online Meeting of the SEANF 25-27 August 2020 will discuss substantive themes, such as the protection of children through guidelines to social media platforms and websites, anti-torture initiatives, and matters relating to the effective functioning of the SEANF secretariat. Additionally, the 2nd TWG Online Meetings seeks to discuss administrative and logistical issues relating to the endorsement of modalities and provisional agenda of the annual meeting SEANF agenda, such as whether events will be convened in-person or online. The discussion in 2nd TWG Online Meeting should answer challenges in the recession time. Moreover, asserting human rights principal to fight against pandemic.

2. Adoption of Agenda

- 2.1 Komnas HAM presented the Agenda for the 2nd TWG Online Meeting of the SEANF.
- 2.2 Komnas HAM informed that The Asian NGO Network on National Human Rights Institutions (ANNI) contacted by email to propose some joint program within SEANF.
- 2.3 There were no further suggestions or amendments from participants.

3. Adoption of the Report of the 1st Technical Working Group 2020

- 3.1 Komnas HAM noted revisions suggested by SUHAKAM in points 3.5, 5.2, 5.9, 5.11; MNHRC- point 7.2. Additionally, SUHAKAM suggested to convene an online meeting with the ASEAN Intergovernmental Commission on Human Rights (AICHR) to discuss topics relating to the impact of Covid-19 and human rights. SUHAKAM noted that they will follow-up on the matter with the AICHR representative of Malaysia.
- 3.2 SUHAKAM, proposed amendments to point 9.4 on the half day international seminar on NHRI and National Prevention Mechanism against torture.
- 3.3 CHRP noted amendments made on 'Opening Remarks' in points 1.1, 1.2, 1.3; 'Adoption of Agenda' – points 2.1, 2.2; 'Sharing of Major Developments and Activities since the 16th Annual Meeting 2019' points 3.1, 3.2, 3.3, 3.4, 3.5, 3.6; and 'Sharing on NHRI Roles at the times of Covid-19 Pandemic' point 4.2.
- 3.4 MNHRC suggested amending a word on point 3.3 from 'force ceasefire' to 'enforce ceasefire'.
- 3.5 NHRCT suggested minor changes in points 1.2 and 3.2 – amend to 'as well as human rights education'; amendments to the title of section 5 -NHRCT add 'to present', at the heading of point 5.5 add Guidelines on Torture Prevention; point 5.5 add 'NHRCT will inform the decision on the guideline before the Annual meeting', and point 10.1 – amended to 'until the outbreak of Covid-19 has dissolved'.
- 3.6 PDHJ clarified point 3.1 on Business and Human Rights and noted that the PDHJ has not implemented any activity relating to Business and Human Rights (BHR). However, there have been initial discussions on incorporating BHR into PDHJ strategic plans. Additionally, PDHJ has not received any technical assistance from the APT, but are exploring potential collaboration at this stage.
- 3.7 CHRP noted amendments under 'Adoption of the minutes of the 16th SEANF Annual Meeting' point 1.1; 'Sharing of Major Developments and Activities since the 16th Annual Meeting 2019' points 2.1, 2.2, 2.3, 2.4; 'Sharing on NHRI Roles at the times of COVID 19 Pandemic' point 3.2; 'Discussion of Issues Initiated by CHRP and NHRCT' points 4.1, 4.2, 4.3, 4.4; 'Updates on the SEANF Baseline Paper on the Rights of Older Persons and Advocacy at Regional and International Levels: Perspectives from the CHRP/CHRP, points 5.1, 5.2; 'SEANF Initiatives on the Rights of Migrants and Members of their Families in South East Asia' points 6.1, 6.2, 6.3, 6.4; 'Komnas HAM Update as the Chairman of SEANF' points 7.2, 7.3, 7.4, 7.5, 7.6; 'Komnas HAM to update the progress of SEANF website' points 7.7, 7.8, 7.9, 7.10; 'Discussion on the Modality of Technical Working Group 2 & SEANF Annual Meeting 2020 (NHRI Seminar NHRI and on Torture Prevention Mechanism)' points 8.1, 8.2, 8.3, 8.4, 8.5; and 'Other Matters' point 9.1.
- 3.8 The amendments above will be made to the draft report of the 1st TWG Meeting and the revised version will be circulated to SEANF members and to be adopted.

4. Sharing of Major Developments and Activities since the 1st Technical Working Group 2020

4.1 PDHJ: During the period of May to August 2020, they received a total of 60 complaints which comprised of 20 human rights violations cases and 40 maladministration cases. Complaints were submitted by telephone, website, mail, email, or face to face.

- In monitoring and advocacy activities, PDHJ has been monitoring on people's rights to access to education, food, justice, health, information among others in several public places, such as market, port, airport, health centre, subsidy for household, public administration offices, assistance for vulnerable person, case handling, and so on. PDHJ closely monitored human rights and good governance during the State of Emergency that was caused by the pandemic. PDHJ also finalized and issued a report on quarantine station at the border of Timor-Leste and Indonesia. PDHJ also maintained regular monitoring of the human rights situation in prisons and detention centres.
- PDHJ concluded the investigation of 33 cases involving human rights violations and maladministration. However, 85 cases remain under investigation (45 human rights violation cases, 40 on good government violation cases). Moreover, these cases were followed up by submitted reports and recommendations to the relevant institutions.
- On 28 May 2020, PDHJ publicized legal opinions on the State of Emergency (SoE) which entailed a discussion on human rights and the extension of SoE measures. Further, PDHJ participated in a debate on the right to freedom and movement, freedom of assembly, and privacy and cautioned that most measures taken under SoE must be subject to normal process of law which considers constitutional framework and other laws of domestic regulatory system.
- On 18 June 2020, PHDJ submitted a statement against the proposal to criminalize defamation, and emphasized that the law fails to satisfy Article 19 of ICCPR. PDHJ called upon the government to consider that this criminalization violates provisions within the domestic constitution.
- PDHJ's Promotion team conducted five (5) promotional activities on 3 July 2020, from 13 to 17 July, on 24 July, and from 27 to 29 July 2020. This also included two (2) TV Talks shows where the PDHJ discussed their opinion on Government proposal to criminalize defamation and also the draft law of anticorruption.

4.2 NHRCT: has undertaken some important development and activities during June until August 2020. Mainly, the Commission attended the United Nations Virtual Forum on Responsible Business and Human Rights from 9 to 12 June 2020.

- On 15 and 22 June 2020, NHRCT held a meeting to prepare recommendations, measures or guidelines for the promotion and protection of human rights in the issue on problem and systematic solving of sexual violence against school children by teachers or educational personnel on 15 and 22 June 2020. The meetings aimed for hearing and sharing the experiences and views from various sectors working in the promotion and protection of child and youth on the issues, including: problem and its consequences, child protection laws and mechanisms, educational institutions' preventive measures and assistance, justice for children, remedial measures and guidelines, roles and functions of the media, as well as the suggestions, measures or guidelines for the promotion and protection of human rights.
- The NHRCT held a workshop for hearing and sharing opinions on the issue on the amendments of the Criminal Code and other laws related to the termination of pregnancy in accordance with the principles of human rights on 6 August 2020. The workshop invited the related government agencies, Federation of Medical and Public Health Professions and civil society organizations working on the rights of child and families to discuss in order to provide recommendations, measures or guidelines for the promotion and protection of human rights as well as recommendations for improving laws, regulations or orders related to termination of pregnancy in accordance with human rights principles. This recommendation aimed to submit to the National Assembly, the Council of Ministers and other relevant agencies.

- The NHRCT also established Working Group (WG) to study impacts of structural policies in Bangkok. It is aimed to study the impact on the traffic of the MRT Pink Line mass rapid transit project currently under construction in Bangkok and Nonthaburi Province. The NHRCT also explores a survey on the traffic impacts in order to support the formulation of recommendations for measures of the promotion and protection of human rights to be submitted to relevant governmental agencies.
- On 13 July 2020, the NHRCT organized an activity on the occasion of the NHRCT 19th Anniversary of its establishment by giving a special speech via online on the topic “Two Decades of the NHRCT and Towards” and a press meeting on the summary of the important development and activities of the NHRCT in 2019 - 2020 by the Chairperson of the NHRCT.
- On 6 - 7 August 2020, the NHRCT, in cooperation with Internal Security Operations Command (ISOC) Region 4, organized in Pattani Province the training on human rights in the southern border provinces for the operational level government security officials in the areas. The training aimed to provide the operational staff to obtain knowledge and understanding of human rights principles as well as to apply the human rights principles in their duties.
- The NHRCT has launched the Youth Standing Up for Human Rights Project. It is the human rights programs and innovations competition invited students at the secondary and university levels to participate in with the aims to strengthen the youth learning process through the contest on concept design and work plan to produce the innovative works to promote human rights under the topic “Human Rights and the Situation of the COVID-19”. The contest application was closed on 31 July 2020. It has a total prize of 1,710,000 Thai Baht and the winning team will receive a royal award.
- The selection of the fourth batch NHRCT is still ongoing. Currently, the Senate has passed resolutions approving 4 members of the fourth batch NHRCT, while other three additional National Human Rights Commissioners need to be selected and approved. According to the Organic Act of the National Human Rights Commission B.E. 2560 (2017), at least 5 members must be approved from the Senate before the new batch NHRCT able to commence performing their duties. Lately, the NHRCT Selection Commission issued the new Announcement of the Selection of Additional National Human Rights Commissioner(s) between 29 July 2020 to 26 August 2020 in order to initiate the new selection process of the other two National Human Rights Commissioners.

4.3 **CHRP** shared on the rights to freedom of movement regarding pandemic Covid-19. The right to freedom movement may be restricted in the time of public health emergency. The commission reminds the Philippines government and the public that there are specific grounds for restricting the right to freedom of movement, and that the same should only be done in accordance with international human rights standards and related laws. Besides, CHRP issued the advisory to remind all duty-bearers as well as private individuals, of their obligation to respect and to protect the right against discrimination of all people associated with Covid-19. The advisory was issued amid the report of discrimination committed against health and other frontline workers.

- Children protection form online sexual abuse and exploitation during Covid-19- CHRP commended the efforts of their law enforcement authorities, particularly the Women and Children Protection Centre of the Philippines National police for their efforts to protect children from online sexual violence or exploitation, especially during this crisis and their continuing cooperation with foreign child protection partners to curb online sexual abuse and exploitation of children (OSAEC) in the country. CHRP scrutinized the importance of children protection from online sexual abuse or exploitation since Philippines is one of the potential destinations for online abuse perpetrator.
- CHRP issued a statement after they investigated the news report of a woman dying of childbirth complications after being turned away by several hospitals. As the Gender Ombudsman under the Magna Charta of Women and Pursuant to the Responsible

Parenthood and Reproductive Health Act, the commission urged the Department of Health to issue appropriate protocols and guidelines for all health care facilities in attending to the needs of pregnant mothers and babies. CHRP issued several letters which recommended that government relief packs include reproductive; developed online platform which collates all reports on abuse (anonymity was priority). Marked decreased in reporting of gender-based violence due to pandemic.

- Regarding on the rights of older persons, the CHRP commended the Department of interior and Local Government (DILG) in adopting a right-based and non-discriminatory policy that respects the freedom of movement of older persons in areas under community quarantine an, at the same time, installed protective measures for older persons. The DILG does not only tackle the content of public health and human rights in the comprehensive response to the Covid-19 pandemic, but it also demonstrated the process in developing the policy as it was undertaken in collaboration with older persons through non-government organisation. CHRP noted that project of vice-president to establish dorms for medical personnel must be supported.
 - On the rights on the migrant workers issue, CHRP has been improving Overseas Filipino Workers (OFW) study and migrant complaint portal. Based on the Office of the High Commissioner for Human Rights (OHCHR) report that suggests acute impunity and overarching focus on public order and national security, CHRP has implement a broader approach which incorporates human rights based approach. CHRP hoped to block reintroduction of law on death penalty. Relegates to executives the decision to impose penalty on the basis of suspicion and not probable cause.
 - Follow-up action OHCHR report on Philippines human rights situation, CHRP shared three-focused programs prior to Covid-19 were exacerbated by pandemic. On 534% over congestion dire during pandemic – issued advisory note/statement, detainees released in accordance to government guidelines, but also high number of deaths presumably due to Covid-19 and higher in places of detention (incubators).
- 4.4 MNHRC: The Commission is reviewing MNHRC law, as called for in the review of MNHRC status in 2015 by the Sub Committee in Accreditation of the GANHRI, MNHRC is in the process of reviewing the MNHRC enabling law. Having held several rounds of consultations with relevant government agencies and CSOs, MNHRC has submitted the amendments to the authorities. The internal procedures for the amendments are yet to be completed. Besides that, MNHRC is planning to open a new branch this year in Ayeyarwaddy Region, considering the receipt of many complaints from that region. The MNHRC also plans open two more branches in other regions during the Commission's current term of five years. With UNDP assistance, the Commission is upgrading the IT infrastructure of the Commission and, as part of this, communications capacity of the current two branches in Mandalay and Nay Pyi Taw were enhanced in July. The MNHRC is in the process of establishing a media unit in the Commission and Hopes to appoint another communication officer.
- The MNHRC has conducted a total of 42 visits to prisons, detention centres, jails and places of confinement. The findings have been communicated to relevant government entities together with the Commission's recommendation. Additionally, a total of 1.177 complaints have been examined and visits to the scenes of human rights violations have been made and the report on the visits has been submitted to the President Office. The MNHRC has been granted by the Union Election Commission the local observer status at the forthcoming general elections on 8 November 2020. MNHRC issued 9 further public statements on various themes under its mandate, including the protective activities of the MNHRC, and the General Election to be held on 8 November 2020.
 - The MNHRC has engaged with certain CSOs through online discussions on Business and Human Rights, on Land Law Reform, regulation of Private security and question of digital rights. Similarly, talks on PWD and LGBT were held at the Commission. In cooperation with NGOs and CSOs, the Commission has organized training workshops

on child rights, rights of persons with disabilities and women and girls' rights for the Commission staff at the office of the Commission.

- The Commissioners gave human rights lectures at training courses of the Government, including the military, police, civil service and fire brigades.
- MNHRC's own Universal Periodic Review (UPR) report has been prepared and submitted to the UPR Committee. The MNHRC is now beginning to collect information and data for the preparation of MNHRC's ICESCR Report. With regard to the review of MNHRC status at the expected GANHRI meeting, the Commission is making necessary preparations. It might be a task that needs to be coordinated with the APF in due course. A High-Level Dialogue with APF was convened virtually from 3 to 6 August 2020.
- A new e-government department with 17 staff has been established. In this connection, trainings on IT are under plan with UNDP assistance. The MNHRC staff has now increased with the recruitment of 12 new clerical level staff.

4.5 **SUHAKAM:** In March 2020, OHCHR had selected Malaysia to take part in a global study on good practices emanating from the UPR process. SUHAKAM is pleased that a UPR Monitoring Matrix which was jointly developed by the Ministry of Foreign Affairs, SUHAKAM, United Nations Country Team (UNCT) in Malaysia and CSOs has been further populated to map out the UPR recommendations to the National Human Rights Action Plan (NHRAP) activities and SDGs goals as well as assign indicators to monitor the progress of implementation for each UPR recommendation.

- On 30 June 2020, SUHAKAM met with the Human Resources Minister to discuss migrant rights issues, the expected impact of COVID-19 pandemic on workers including job losses and employer/employee issues, and ways to better connect SUHAKAM complaints mechanism with the MoHR Departments.
- In June and July 2020, SUHAKAM developed a series of policy briefs on COVID-19 and its Impacts on Human Rights in Malaysia which included the following: COVID-19 and Civil Rights in Malaysia; COVID-19 and Freedom of Speech and Information in Malaysia; COVID-19 and Women's Human Rights in Malaysia.
- On 22 July 2020, SUHAKAM met with the Director General of the Legal and Parliamentary Affairs Division (BHEUU), Prime Minister's Office to discuss the strengthening of SUHAKAM by way of amendment to SUHAKAM Act, ensuring sufficient funding and resources for SUHAKAM, tabling and debate of SUHAKAM Annual Report in Parliament, the role of SUHAKAM in Law Reform processes and review/implementation of the National Human Rights Action Plan (NHRAP).
- As part of the APF Blended Learning Course on Mainstreaming the Human Rights of Women and Girls, SUHAKAM provided input on key issues for women and girls as a result of COVID-19 and its response. SUHAKAM also conducted a survey on the impact of COVID-19 on its female staff and results were published and released on 23 July 2020.
- On 24 July 2020, SUHAKAM facilitated a virtual signing ceremony of a Memorandum of Understanding (MoU) on Statelessness Issues in Sabah with SUHAKAM, Komnas HAM and CHRP as official Parties was held via Zoom. On 3 August 2020, a briefing session was held with the Deputy Minister (Parliament and Law) on the mandate, role and function of SUHAKAM in the country. On 4 August 2020, SUHAKAM organized a Re-Accreditation 2021-2026 Consultation with civil society organizations (CSOs), non-governmental organizations (NGOs), past Commissioners, representatives of the Bar Council and AICHR.
- In August 2020, SUHAKAM entered into a partnership agreement with the International Federation of Journalists (IFJ) and National Union of Journalists Malaysia (NUJM) on a multi-year Strengthening Malaysia's Media for Change project, supported by the European Union. On 10 August 2020, SUHAKAM met with the Dewan Rakyat Speaker (House of Representatives), Datuk Azhar Azizan Harun to discuss about the Select Committees relating to human rights and Parliament Reforms among others.
- Due to the COVID-19 pandemic and Movement Control Order (MCO) in place, SUHAKAM continued to carry out its SUHAKAM Bersama Masyarakat (Community

Dialogue), Youth for Rights: Awareness of Human Rights Education, Human Rights Literacy programmes and programmes with Islamic Religious agencies in Malaysia online and the live-feed was shared onto SUHAKAM's Facebook page.

- SUHAKAM has been working on drafting its 2021-2026 Strategic Plan and Statement of Compliance for its upcoming Re-Accreditation in 2021 which are near completion.
- 4.6 Komnas HAM: Convened the 1st TWG SEANF Meeting virtually from 12 to 14 May 2020. Participants comprised of 33 delegations and 22 observers from SUHAKAM, MNHRC, CHRP, PDHJ.
- On Settlement on Gross Violation on Human Rights issue, Komnas HAM received investigation files restoring on the case of Paniai, Papua (2014) for the second time since 11 February 2020. At this stage, Komnas HAM is continuing to promote the pro-justice legal process through the political will of the President of the Republic of Indonesia and the Attorney General.
 - Komnas HAM identified seven (7) priority issues were identified during the plenary session meeting convened on 11-12 June 2020. The issues were Human Rights Violations related to Agrarian Conflict; Settlement of Gross Human Rights Violations; Institutional Arrangements; Intolerance and Violent Extremism; Access to Justice; Violence Action by State Apparatus and Community Groups; and Freedom of Opinion, Expression, and Association.
 - On 12 June 2020, Komnas HAM confirmed its new organizational structure for the 2020-2022 year period. Komnas HAM noted that this period marked the half term of a 5-year assignment before the rotation of tasks and responsibilities of the Commissioners.
 - Komnas HAM was invited to participate as a panellist at the UN Virtual Forum on Business and Human Rights from 9 to 11 June 2020. Participation entailed sharing its experience in facilitating business related human rights violation remedies through use of its mediation mandate. From the 25 to 26 June 2020, Komnas HAM facilitated a Public Discussion Webinar Series themed 'Mechanisms for the Arrest and Detention of Women Prisoners in Papua: An Overview' and 'The Arrest and Detention of Children in Demonstrations: An Overview International Day in Support of Victims of Torture (public discussion webinar and press conference).
 - Receiving an estimated 8.000 cases relating to agrarian conflict every year, mainly pertaining the land rights of indigenous people, land dispute between civil society, corporation, and infrastructure, Komnas HAM acted as mediators for the ancestor's graves sealing case on 20 July 2020. Additionally, Komnas HAM acted as mediator between the local government and indigenous community on 6 August 2020.
 - Komnas HAM gave a statement during CEDAW Pre-sessional Working Group for the 78th Session. Provided Country specific information on 14 July 2020.
 - Komnas HAM, SUHAKAM, and CHRP signed MoU on Statelessness Issue in Sabah which was held on 24 July 2020 virtually. As the follow up, on 5 August 2020, Komnas HAM initiated a press conference with the Sovereign Migrant Workers Coalition.
 - From the 12 to 13 August 2020, the Chairperson of Komnas HAM was invited by The Embassy of the Republic of Uzbekistan in Indonesia as the speaker in the Samarkand Forum.
 - On 13 August 2020, Komnas HAM facilitated a Focus Group Discussion themed 'Affirming Peace in Aceh based on Women's Experiences on 15 years of experience in MoU Helsinki'. On 18 August 2020, Komnas HAM participated in a National Webinar themed 'Caring for the Peace of Aceh: Reflections of 15 Years of Mou Helsinki' which included the participation of Indonesia's ex vice-president.

5. Open Discussion

- 5.1 Commissioner of CHRP Karen Gomez-Dumpit expressed gratitude to NHRCT for their assistance in facilitating initiatives to support a detainee in Pakistan currently facing the death penalty.

5.2 Deputy Director of MNHRC Zay Yar Linn noted that the sharing of developments by each SEANF member is encouraging and is beneficial as it serves to circulate valuable information and ideas which may be useful in developing similar initiatives in local context. Requested that copies of presentation are circulated to allow each member to learn about respective best practices in-depth.

6. SEANF Guidelines for use of SEANF social media platform and the approval of guidelines

6.1 NHRCT noted that the commission has developed a co-management tool for SEANF Social Media to form of Guidelines consisting of 7 (seven) articles. NHRCT suggested that the Permanent Secretariat should be owner and manager of the platform. Emphasizing on the SEANF fundamental principle of cooperation, NHRCT suggested that Working Group members and their respective National Human Rights Institutions will have a duty to consider the dissemination of information and the quality of publications on the social media platform in accordance to their respective internal procedures.

6.2 SUHAKAM raised concerns in regards to item 3.2 (2), and item 5.1 of the SEANF social media platform guidelines as said items may affect SEANF's capacity to be responsive and issue statements in a timely manner to address current issues. There may be delays in attaining Working Group approval. SUHAKAM suggested that each member should be responsible for their own post and that Working Group approval should only be required in matters relating to common issues among members.

6.3 MNHRC noted that if the intention is to submit guidelines to annual meeting, members must find a way to discuss the issue with funding and resource persons. MNHRC suggested setting a deadline to guideline to receive comments and inputs relating to the guidelines.

6.4 CHRP agreed with concerns raised by SUHAKAM and proposed timeline set in order to provide comments within a particular time. The recommended timeline would entail as followed :

- Two (2) weeks from 2nd TWG Meeting, for the NHRI to designate a member to the Working Group;
- Within the month of September, circulating the final draft for fine tuning and finalization by the Commissioners to prevent lengthy discussion during its presentation for approval during the annual meeting; and
- Presentation and Approval of the Guidelines during the Annual Meeting.

6.5 Additionally, CHRP recommended that while waiting for official approval of guidelines and SEANF Secretariat documents, there are discussions which need to be publicized and SEANF members must agree on how information will be posted. CHRP suggested that while waiting for the finalization of the guidelines, SEANF members should consider an agreement on required fundraising as additional human resources will be required for development or maintenance of platforms.

6.6 Komnas HAM noted that the discussion fundraising on social media has been addressed in a previous meeting where it was agreed that Komnas HAM will host the SEANF website. However, Komnas HAM is still in the process of developing the website. Further, Komnas HAM noted that since SEANF has yet to come to an

agreement in regards to external funding, Komnas HAM will provide the budget for 2020 and 2021.

6.7 Agreeing with CHRP and SUHAKAM, Komnas HAM endorsed the idea that each member should appoint representatives to attend a Working Group on the matter. Komnas HAM suggested to host the Working Group within the next two weeks. Each representative will be tasked to report the discussion to their respective commissioners.

6.8 In response to SUHAKAM, NHRCT explained that the Working Group approval mechanism (item 3.2(2)) was designed to respond to inquiries quickly. NHRCT agreed that swift cooperation is required to ensure that item 3.2 (2) of the guideline is effective. In regards to point 5.1, NHRCT noted that organizations operating within Thailand must comply with constitution and domestic laws. However, NCHRT also notes that although Thailand promotes freedom of expression as guaranteed by article 19 and 20 of ICCPR, members of the Working Group must be responsible for ensuring that their posts do not contravene their respective domestic laws and constitution.

7. Updates on SEANF Anti-Torture Guidelines

7.1 **NHRCT** referred to 16th SEANF Annual meeting in October 2019 in which SEANF members agreed to approve the draft SEANF guidelines on torture prevention ad referendum, pending the NHRCT's approval due to lack of quorum in according to the Organic Act of the NHRCT B.E. 2560 (2017) - 'Organic Act'. The NHRCT opines that anti-torture guidelines contains details which implicitly oblige the NHRCT to act inconsistently with the Organic Act and has impeded implementations.

7.2 **MNHRC** noted that despite the consensus decision to adopt the guideline was made on 16th annual meeting, the NHRCT seems to be facing difficulties with its constitution. However, MNHRC encourages SEANF members to explore avenues which could allow members, whether directly or indirectly, to utilise the guidelines.

7.3 **CHRP** seeks clarification with regards to which provisions of the current guidelines are considered inflexible or not in alignment with local laws for the purposes of revision. Additionally, CHRP suggested separability clause which severs inconsistent provisions within the guideline but allows the guidelines to remain applicable.

7.4 **SUHAKAM** noted that the guidelines are not legally binding in nature.

7.5 In response to CHRP, NHRCT noted that, although the guidelines are considered soft law, the commission opines that part of the guideline is still required to comply to their domestic laws. The NHRCT will draft proposal to be presented at the upcoming annual meeting which is set to be convened in two months (end of October or beginning of November 2020).

8. Baseline Papers on the Migrant Workers in South East Asia

8.1 CHRP noted that a joint-activity as well as the draft of a baseline paper was proposed during the last TWG of the SEANF. In regards to the joint-activity, the pandemic has exacerbated the human rights situation in the Philippines and the CHRP has released a statement. The draft of the 2010 paper will be circulated pending approval from commissioners at this stage.

8.2 CHRP proposed that between now and annual meeting in two months, CHRP will communicate online and share documents in Google drive with SEANF members to

- allow TWG participants and commissioners time to revise the documents before the annual meeting.
- 8.3 The 2010 paper was drafted with the consultation of SUHAKAM. However, at this stage, human resources are limited. Therefore, the paper may not be completed within 2020. As such, CHRP suggested that it is a good opportunity to implement membership wide initiatives with the support of other NHRIs and GANHRI.
 - 8.4 CHRP shared its online compendium which acts as a repository for documents and reports concerning migrant rights - Migrant's rights observatory online. In its website, stakeholders and right holders have access to information. This three-year initiative, funded by the European Union, has piloted four thematic human rights concerns: indigenous, gender, climate, and migrants. The site currently stores 39 documents such as international conventions and agreements of NHRIs on migrant rights. It also houses Supreme Court cases concerning migrant workers which is being analysed into a policy paper that will be used to accurately advise governments of the gaps in regulation and policy implementation. Further, the site provides an analysis of complied cases through visualisation of data. CHRP observed that documents don't operate in silo and that they have determined a pattern in the types of violence and cases.
 - 8.5 The importance of this baseline study cannot be understated as it compiles narrative reports which are submitted to UN agencies, and charter-based bodies in the UN and the assembly through global compact of migration. Additionally, there is a need to quantify the progress of executive bodies in vernacularizing international obligations guaranteed by treaties into domestic law. CHRP's visualization of Supreme Court cases resulted in the identification of indicators which will be useful for the monitoring of government compliance to international provisions. This initiative relied heavily on the conceptual framework of the OHCHR. At this stage, the CHRP has identified 8 (eight) overarching indicators which are divided into stages of migration. The CHRP has identified several important indicators -that the social cost of migration also includes 'families left behind'; that most Overseas Foreign Workers (OFWs) are women working in the service sector- domestic work; and while the Philippines has a robust regulatory framework and has ratified many international conventions/frameworks, receiving countries may not have ratified to conventions. There is lack of harmonization and bilateral cooperation has resulted in gaps which continue to negatively affect OFWs. While the Philippines has adopted laws and modified policies, implementation still needs improvement.
 - 8.6 CHRP asserts that socio-economic integration should be a priority as OFWs often struggle with unemployment as there are no sustainable or decent jobs which can be accessed upon return to home country. Additionally, CHRP suggests that SEANF members should consider the issue of 'wage theft' - migrant workers sent home without full salaries or without salaries with no recourse to redress. A potential solution may be for SEANF members to consider endorsing the 'Urgent Justice Mechanism for repatriated migrant workers' which comprises of three main concepts - to establish international claims commission, compensation fund, and reforming national justice systems.
 - 8.7 CHRP raised the concern that although the baseline study and indicators have been useful in developing recommendations to their government, most ministerial agencies often work in silo according to their own documentation and case management system. Consequently, it is difficult to gain access to numbers and data. In order to address this issue, CHRP is seeking to develop a national level standard to monitor migrant rights. CHRP research suggested that OFWs have increasingly accessed social media since the onset of the pandemic. As such, CHRP is looking to develop a publicly accessible social platform which will allow the commission to receive complaints and provide legal assistance. CHRP pointed out that this initiative may prove to be effective as the CHRP has signed a Memoranda of Understanding on statelessness. During their action plan, the CHRP hopes to develop referral system with the cases compiled.

9. Findings on the Human Rights Defender Inquiry

- 9.1 CHRP established and opened a report in pursuit of a resolution by its commissioners calling for the inquiry of the situation of human rights defenders in the Philippines. The process of resolution, conducted objectively, was based on several factors: evidence-based fact finding, it was non-adversarial, dialogic, voluntary, and principles of due process were observed. The resolution findings concluded that there is a threat against human rights defenders and noted that the life, liberty, and security of Human Rights Defenders (HRDs) is at risk to varying degrees when performing their obligations. The findings also concluded that these threats distort the human rights concept within the country and takes form in several ways:
- 9.2 Public vilification conducted by government officials -to cast HR defenders in a negative light as person(s) with the agenda of destabilizing the State; Red-tagging – HR defenders tagged as communist/ rebel groups. This has the effect of pushing HR defenders operate underground not operate within the democratic space; Profiling of surveilling HR defenders- not illegal per se but this mechanism is misused as it should only be implemented formally as an anti-criminal strategy. These activities may be used as a weapon to be used against HRDs and are usually accompanied by death threats and intimidation; Militarization of government- worrying trend of appointing former military officers into civilian government agencies. This is not illegal but has the effect of leaving disproportionate level of power the political prerogative of the executive branch. Additionally, it may propagate a culture of authoritarianism often adopted by officers during their time in service of the military; Weaponization of the law against HRDs – there are allegations of governments using means to operate beyond of the rule of law. For example -cases have been filed against HRDs which are often eventually dismissed by courts. Another example is the use of the overly broad and vague provisions within the anti-terrorism act- the term ‘provoke or intimidate the government’ leaves room for misinterpretation and has allowed the government to curtail certain civil liberties.
- 9.3 The government has failed to meet its international obligations guaranteed by the UN Declaration on the Rights of Human Rights Defenders. The points above contribute to the shrinking of civic space and the climate of impunity in the Philippines. Objective recommendations based on findings of the inquiry: Combat impunity – investigate all allegations of criminal acts against HRDs. Prosecute and punish all those guilty of such acts; Enforce the doctrine of command responsibility for all violations against HRDs – hold superiors of individuals committing extra-judicial killing accountable; Prohibit violations against HRDs – red-tagging, vilification etc; refrain from harassing journalists and HRDs with libel, slander or any other criminal and civil cases to discourage or prevent them from speaking truth to power; Prevent the abuse of state organs to curtail media licensing, taxation, and franchise; Grant journalists and HRDs full access to information on matters of public concern -guaranteed under constitution; Expedite court processes for the quick resolution of human rights violation cases; do not sabotage network-building of HRDs.
- 9.4 CHRP noted that non-state actors are equally responsible for the respecting the rule of law in their quest for human rights. Where non-state actors transgress the law, there is no excuse for the State to commit extra-judicial killings, enforced disappearances, torture, or any other form of human rights violations. Such acts destroy the moral fabric and foundation of the rule of law. In addition, presentation and publication will be circulated to all SEANF members.

10. Open Discussion

10.1 MNHRC asked whether the CHRP plans on following up the recommendations and monitoring the implementation of the recommendations.

10.2 CHRP: publishing reports/sending copies to relevant agencies of government. Have efforts within congress in areas such as advocating certain changes in anti-terrorism law to make it less prone as a tool to be used to violate human rights. Appeal to conscience of the government and emphasize our commitment to international conventions such as the ICCPR.

10.3 Komnas HAM: noted that this is also a prominent issue in Indonesia and that it has established a special task force to address issues relating to violations against HRDs

10.4 PDHJ : sent the baseline paper on the Rights of People with Disabilities in Southeast Asia to Komnas HAM which has been adopted in 16th Annual Meeting in October 2019 . PDHJ requested Komnas HAM to distribute the paper to SEANF members and make it accessible to the public by uploading it to the SEANF social media.

11. Establishment of SEANF Permanent Secretariat (Discussion Host Country Agreement)

11.1 Komnas HAM noted that the HCA was drafted based on SEANF Rules of Procedures 2017. Zero draft has been submitted to SEANF members. However, Komnas HAM is currently in the midst of significant structural amendments of the zero draft HCA as a result of recent consultations with MoFA. However, Komnas HAM is currently in the midst of significant structural amendments of the zero draft HCA as a result of recent consultations with MoFA.

11.2 PDHJ had an informal discussion with APF. Sub regional office and MoU funded by Qatar government but raises issues of independence. APF does not think it is suitable as Qatar is a sub-regional office. SEANF is a consensus based on institution by nature - unlikely to work. Autonomy under threat with suggested sub regional Qatar office MoU format. Important to gain immunity for staff, raises issues relating to rules of procedure of SEANF – who will be director executive? Nationality of staff etc. SEANF is a consensus based institution by nature -unlikely to work. Autonomy under threat with suggested sub regional Qatar office MoU format.

11.3 CHRP does not agree – maybe discuss alternatives while HCA draft in progress - requested clarity on how SEANF can resolve the issue of possible unilateral termination regarding the Host Country Agreement? Additionally - how can we ensure independence and autonomy as NHRIs?

11.4 SUHAKAM noted that they don't see grounds for concern with the HCA. The zero draft gives immunity, privileges, and premises. Bound by laws no matter which modality. Independence is as good as independence of individual NHRIs. No need more delays. Don't need to be part of APF secretariat sub-branch.

12. Komnas HAM to update the progress of SEANF website

12.1 Komnas HAM has been already developing the SEANF website design by empowering internal resources on budget plan and human resources. In this meeting, Komnas HAM offered three mock up website layouts and SEANF logo to SEANF members.

12.2 Komnas HAM held internal meeting and has received offering by third party for the development on the website. Komnas HAM is seeking information on the SEANF profile, activities, publications of SEANF members, and stakeholders such as the APF, AICHR, and GANHRI.

12.3 Komnas HAM is still working to rearrange budget to develop the SEANF website. During the meeting, Komnas HAM suggested a working group for the SEANF website and its development in more detail (date to be confirmed). Addition to this, Proposed content was presented in the meeting. The layout consisted of seven (7) headings:

mandate of SEANF; Charter; Mandate of each SEANF member; SEANF reports/presentations/studies; position papers, resolutions, advisories, reports, or other publications of member NHRIs; and UN submissions and periodic reports. The IT department of Komnas HAM suggested that the SEANF website should be dynamic instead of static and mock layouts would be sent to SEANF members for reviewing and inputs. Yet, the domain addresses relating to SEANF has been taken (SEANF.org/SEANF.asia are already taken).

12.4 CHRP supported for the new SEANF website and would retrieve files and documents from old SEANF website and would send it to Komnas HAM as soon as possible.

13. Discussion on the Modality of SEANF Annual Meeting 2020

13.1 Provisional agenda- Komnas HAM proposed four days of annual meeting (initially three days but also includes international seminar on torture prevention and a seminar on statelessness in SEANF member States convened prior to the annual meeting which will take one full day). Draft of this agenda has been circulated to all SEANF members.

13.2 SUHAKAM noted that it due to the pandemic, the annual meetings will most likely have to be facilitated online and three hours for each session is reasonable. In addition, the seminar on statelessness in Sabah and the seminar on torture prevention should be conducted in the afternoon back to back with the Annual Meeting.

13.3 Proposal on the seminar on stateless in Sabah: Side Event in Conjunction with SEANF Annual Meeting 2020- to engage in dialogue and identify regional solutions (collaborations) in Sabah to improve the situation for stateless person(s). This seminar will look into root causes such as historical factors, enablers, and the role of regional actors. One of the core objectives is to enhance the role and cooperation of regional and international organisation as statelessness is a cross-border issue.

14. Other Matters

Discussion on the engagement of SEANF with AICHR

14.1 Komnas HAM reported that AICHR Representative of Laos has already approve to held informal meeting with SEANF. AICHR Indonesian Representatives suggested SEANF to send letter and proposal to AICHR Chair to get scheduled meeting since their meeting will be rescheduled in November 2020. However, according to the AICHR Indonesian Representative which tried to table the meeting but no direct response from AICHR chair. A follow-up letter to confirm the meeting may be necessary. Komnas HAM was waiting for Laos to agree to have a meeting with both organizations. Based on the communication, Laos has given approval to meet SEANF and AICHR.

14.2 MNHCR has engaged with all organization and gave good recommendation to hold internal meeting with AICHR. MNHCR suggested to contact Chairman of AICHR. However, meeting in an informal setting may send a wrong message to third parties. MNHCR suggests directly writing a formal invitation to the chair of AICHR.

14.3 SUHAKAM gave the opinion about informal dialogue with AICHR and supported Komnas HAM to follow up. SUHAKAM opines AICHR is more open to informal dialogues if they don't have a formal agenda. It is difficult to get all 10 AICHR to reach a consensus.

14.4 SEANF Chairman considered SUHAKAM' inputs to set the informal meeting agenda

15. Discussion on the ANNI's Formal Meeting

SUHAKAM gave opinion about informal dialogue with ANNI and supported Komnas HAM to follow up. Komnas HAM suggested that it might be held online informal discussion within SEANF members.

16. Closing Remarks

The Vice Chairperson of Internal Affairs of Komnas HAM, Munafrizal Manan stated that SEANF has made a progress on several aspects, among others: the decision to create

Working Group on Social Media and Website, progress on Permanent Secretariat SEANF, and SEANF website. Komnas HAM committed to encourage the works of SEANF before handing over the SEANF Chairmanship to SUHAKAM.

Jakarta, 25 August 2020
Komnas HAM Secretariat