



REPORT

Regional Workshop on Preserving Human Dignity by Preventing Torture and Ill-Treatment in ASEAN

**10 to 11 August 2015
Nusa Dua, Bali, Indonesia**



**Regional Workshop
Preserving Human Dignity by Preventing Torture and Ill-Treatment in ASEAN
Bali Indonesia 10 - 11 August 2015**



1.0 INTRODUCTION

The Regional Workshop on preserving human dignity by preventing torture and ill-treatment in ASEAN was initiated and organised jointly by the Representative of Indonesia to the ASEAN Inter-governmental Commission on Human Rights (AICHR), the Ministry of Foreign Affairs of the Republic of Indonesia, the Association for the Prevention of Torture (APT), and the Convention against Torture Initiative (CTI). The workshop aimed to promote constructive dialogue and strategic cooperation among ASEAN Member States (AMS) on a preventive agenda and had the following as its main objectives:

- 1.1 To improve the understanding among ASEAN Member States on the preventive approach in reducing the risk of torture and other forms of ill-treatment;
- 1.2 To promote cooperation amongst ASEAN Member States with international partners on a preventive approach.

The workshop was attended by several AICHR Representatives, representatives from AMS' government agencies relevant to torture prevention, ASEAN Sectorial Bodies, the Committee on the Prevention of Torture in Africa (CPTA), representatives of National Human Rights Institution (NHRI) of AMS, representatives of civil society organizations (CSOs), representatives of the UN and/or UN agencies, the APT, and the CTI.

The expert invited to share torture prevention experiences from the African region was **Mr. Lawrence Mute**, *Chairperson of the Committee for the Prevention of Torture in Africa and Commissioner of the Kenya Commission on Human Rights*.

APT was represented by board member **Jeehan Mahmood** (Maldives) who delivered opening remarks and participated as a panellist in session 2 on torture prevention in practice. Furthermore, *APT's Asia Program Officer*, **Shazeera Ahmad Zawawi**, provided an overview of "the preventive approach" in reducing risks of torture and ill-treatment during session 1; and acted as rapporteur during sessions 3 and 5.

The CTI was represented by representatives from the Permanent Mission of Indonesia to the UN, WTO and Other International Organisations in Geneva, namely **H.E. Ambassador Triyono Wibowo** and **First Secretary Caka Awal**, as well as **Project Officer Signe Lind** from the CTI Secretariat. H.E. Amb.



Wibowo delivered opening remarks and participated as a panellist in session 4 on “fostering cooperation to prevent torture and ill-treatment at a global and inter-State level”. Caka Awal acted as rapporteur during sessions 3 and 5.

APT had drafted background documentation for the workshop, including a paper on *Mapping out strengths and needs for a regional agenda on torture prevention* as well as a *Comparative chart for regional mechanisms on their roles and mandates to prevent torture*.

2.0 PROGRAMME CONTENT

The workshop consisted of the following sessions:

2.1 Opening session and welcoming remarks

Mr. Dicky Komar, Director for Human Rights and Humanitarian Affairs of Indonesia:¹

Mr. Komar underscored that as a State party to United Nations Convention against Torture (UNCAT), the Workshop was an opportune occasion for Indonesia to reaffirm its commitment to combat torture and ill-treatment in the country. He further states that the Workshop was also a collective commitment of ASEAN Member States to realize the right not to be tortured and to prohibit torture in all ASEAN countries.

Mr. Komar highlighted that Indonesia was one of five States – together with Chile, Denmark, Ghana, and Morocco – behind the Convention against Torture Initiative (CTI) aiming to achieve universal ratification of the Convention within a decade. Being part of the core group to the CTI had strengthened Indonesia’s sense of ownership of the UNCAT.

Finally, Mr. Komar stressed his firm belief that the collaboration between ASEAN Member States, CTI and the APT had a very real potential to contribute to the goal of making the UNCAT universally ratified within the next 10 years.

¹ On behalf of **H.E. Amb. Hassan Kleib**, Director General for Multilateral Affairs, Ministry of Foreign Affairs of the Republic of Indonesia.



H.E. Ambassador Triyono Wibowo, *Permanent Representative of Indonesia to the UN, WTO and Other International Organisations in Geneva:*

Amb. Wibowo focused his opening remarks on the CTI, which he described as a global initiative born to promote global ratification of the UNCAT. To reach its goal, the CTI would promote dialogue between governments and experts and raise awareness on the Convention itself through a “constructive, twinning, and inspirational” approach. Amb. Wibowo emphasised that the CTI does not name and shame but inspires and motivates.

Amb. Wibowo invited participants to view the Workshop as an opportunity for individual countries, as well as for ASEAN as a region, to contribute to the strengthening of national torture prevention efforts. He concluded by expressing his hope that the Workshop would lead to improved cooperation and understanding among all stakeholders involved on mutual efforts to prevent torture and ill-treatment.

H.E Tan Sri Dato’ Sri Muhammad Shafee Abdullah, *Chairperson of the AICHR and Representative of Malaysia to the AICHR:*

H.E. Tan Sri Shafee referred to the Universal Declaration of Human Rights (UDHR) as “the mother of all rights” and highlighted the prohibition against torture as being a particularly essential one. As a non-derogable right, the right not to be tortured was inherently owned by every human being.

For this reason, the AICHR had succeeded to underline this right in most, if not all, human rights documents of ASEAN constituting a strong foundation for the reiteration of the right not to be tortured in the ASEAN region.

Mr. Rafendi Djamin, *Representative of Indonesia to the AICHR:*

Mr. Rafendi underscored that the Workshop was a follow-up to the second Jakarta Human Rights Dialogue (JHRD), which had taken place nearly 3 years ago. Although not all ASEAN Member States were parties to the UNCAT, the prohibition on torture formed an integral part of the ASEAN Human Rights Declaration (AHRD), and therefore through it, such prohibition had been adopted by all ASEAN Member States.

Furthermore, a joint statement issued by the ASEAN Foreign Ministers had encouraged the AICHR to face all human rights challenges. Mr. Rafendi



further underlined that combatting torture and ill-treatment would indeed fall under the concept of “human rights challenges” and would therefore have to be addressed by the AICHR within the region.

Ms. Jeehan Mahmood, *APT Board Member and member of the Human Rights Commission of the Maldives:*

Speaking on behalf of the APT, Ms. Mahmood drew attention to the fact the Workshop was the first of its kind in the ASEAN region. She described the APT as an international organization focusing on building capacity and organizing trainings and in general encouraging ratification of the UNCAT globally.

Ms. Mahmood highlighted that APT over the years had been working in many of the ASEAN Member States but that the Workshop represented a unique opportunity to have a platform to strengthen collaboration at a regional level. The number and level of participants in the Workshop was a clear manifestation of the region’s commitment to address torture prevention.

2.2 Session 1: An overview of the “preventive approach” in reducing risks of torture and ill treatment

Shazeera Ahmad Zawawi – *Asia Pacific Programme Officer, APT:*

Whenever there is a risk of torture, the act is bound to happen. Prevention is therefore better than curing. With these words, Shazeera opened her intervention on the preventive approach in reducing risks of torture and ill-treatment.

Shazeera explained that the OPCAT expanded on the system of the UNCAT by obligating States to establish a national preventive mechanism. No State is immune to the risk of torture, which is why there was a need to be vigilant towards the existence of factors that would increase the risks of torture – such as unstable political environments, the lack of legislation criminalizing the act of torture, the lack of monitoring institutions, social/cultural discrimination, and corrupt justice systems.

Shazeera highlighted certain elements which could be useful when strengthening efforts to reduce the risk of torture:



- Establishment of social confidence towards treaty ratification. Six of ten ASEAN Member States were parties to UNCAT, which could be seen as an advantageous environment for fostering will to ratify.
- Encourage the enactment of legislation criminalizing the act of torture and improve investigation procedures.
- Establishment of oversight bodies, especially against detention facilities.

Shazeera introduced participants to the “House of Prevention” – an integrated, multi-stakeholder strategy composed of three inter-related components:

- **Legal Framework (the foundation of the house):** an effective legal framework should be in place which could be done through the ratification of international treaties, through prohibiting and criminalizing torture, and through the adoption of legal safeguards.
- **Implementation (the middle of the house):** the laws and regulations should be applied in practice through the adoption of procedural safeguards, training of public officials and fighting impunity.
- **Control Mechanism (the roof):** control mechanisms should be in place in order to check both whether the legal framework existed and whether it was implemented.

Shazeera concluded by providing suggestions to regional responses to prevent torture:

- Recognition of the role of oversight. NHRIs have been established in ASEAN countries mandated to monitor detention centres. This would generate an opportunity to create regional mechanisms for overseeing detention centres in ASEAN.
- State alignment with UNCAT and OPCAT.
- ASEAN’s institutional structure and policies: the long term protective mandate of AICHR would provide an opportunity to discuss how to formulate the framework of torture prevention in ASEAN.
- Regional human rights framework: Other regions including Africa had led the way in regional and inter-State cooperation to prevent torture. ASEAN should draw on their experiences.
- Mapping out best practices was furthermore highlighted as a constructive way forward which was however rarely seen done in ASEAN.



2.3 Session 2: Torture prevention in practice

Moderated by **Dr. Seree Nonthasoot**, *Representative of Thailand to the AICHR*

African Region: Mr. Lawrence Mute, Chairperson of the Committee for the Prevention of Torture in Africa and Commissioner of the Kenya Commission on Human Rights:

Mr. Mute provided an elaborate overview of torture prevention efforts in the African region.

The key human rights instruments used to ensure protection and promotion of human rights in Africa were the African Charter, which had been operational for over 30 years, and the African Commission, a body mandated to implement and interpret the Charter as well as to promote and protect human rights in general.

On protection issues, African commissioners were required to review periodic reports from Member States, and individual communications whenever a person felt his/her rights had been violated. Redress could be awarded, if commissioners found that rights had indeed been violated.

On promotion missions, relevant stakeholders were approached with a view to improve certain human rights situations. Furthermore, the Commission carried out fact finding missions and subsidiary missions. Mr. Mute informed that the CPTA was one of these subsidiary missions.

Article 5 of the African Charter prohibited torture and the CPTA was established for the sole purpose of ensuring the implementation of Article 5 in the region. However, Mr. Mute stressed that this piece of hard law was not enough to ensure the prevention of torture in practice.

For this reason, the Robben Island Guidelines had been formulated focusing on police arrest, police custody and prison conditions in Africa as well as on how to engage with States to ensure implementation.

Mr. Mute mentioned six areas that were particularly important to focus on in this regard:



1. Basic procedural safeguards for those deprived of liberty: right to impartiality, habeas corpus, detention in a place recognized under the law. Torture is highly likely to occur during the initial period of detention when the detainee is held incommunicado and denied access to relatives or a lawyer.
2. Safeguard during pre-trial process. The Robben Island Guidelines recognize that pre-trial processes can be long, sometimes go on for years or postponed indefinitely. To prevent torture during these prolonged periods, it is the responsibility of the State to safeguard prison conditions. This can be done by using the principles: respect, protect and implement framework where the State is required to implement minimum conditions in prisons, separating pre-trial inmates from convicted ones, juveniles from adult inmates etc.
3. Respecting the disability of an inmate. For example, a walking cane can be prohibited in prisons, but for a disabled person, a cane could be his only means to help him move from place to place.
4. Mechanisms of oversight should be independent and impartial. They would include NHRIs, Ombudsman institutions, police or parliament committees. Most of the African countries have NHRIs, but to be effective these must be established on the minimum criteria contained in the Paris Principles, including to be able to visit prisons unannounced.
5. Training and empowerment in order to understand not only what the law dictates but also how it can be implemented.
6. The inclusion of civil society in national torture prevent efforts as they are often more able to obtain and provide information of incidents of torture.

Mr. Mute concluded by stating that prevention is not easy but it is a continuous task. The goal to eradicate torture is ambitious and working towards this, we must not be discouraged to see that it is still happening – we just need more walk and less talk.

ASEAN: Mr. Rafendi Djamin, Representative of Indonesia to the ASEAN Intergovernmental Commission on Human Rights (AICHR)

Mr. Rafendi emphasised that torture is an integral part of crime against humanity if conducted in a widespread and systematic manner. Independently, torture is a gross violation of human rights if committed during peace time.



Mr. Rafendi underlined that the UNCAT obligates a State to prevent torture within its jurisdiction. In order to create a torture-free environment and to ensure effective prevention, root causes of torture must be addressed through a holistic approach towards society to improve the fundamental understanding of torture.

Ratification and implementation of OPCAT was yet another important measure when addressing torture prevention. While a few ASEAN Member States had already ratified Optional Protocol to the Convention against Torture (OPCAT), many of the remaining States pointed to the obligation of establishing independent monitoring mechanisms as the reason for not ratifying. Indonesia, for example, had claimed difficulty towards OPCAT ratification due to its thousands of islands structure on which police posts had their own detention centres – making oversight nearly impossible.

Mr. Rafendi highlighted that some AMS interpreted torture in accordance with the Sharia Law. This was for example the case in Brunei Darussalam, and the provinces of Aceh (Indonesia) and Kelantan (Malaysia).

Furthermore, some military and police forces in ASEAN still argued that torture made interrogations easier, and that national laws had loopholes leaving room open for impunity towards perpetrators of torture.

Mr. Rafendi underscored that monitoring of detention centres was still the most effective way to prevent torture. In addition, interaction with regional human rights mechanisms furthermore played an important role in the prevention torture.

Another important issue that needed careful scrutiny in relation to torture prevention was the increase in the role of non-State actors, both during conflict and in peace-time.

Finally, Mr. Rafendi welcomed Viet Nam as the latest State-party to the UNCAT in the region and applauded Myanmar and Malaysia for studying the possibility of ratification.

National Preventive Mechanism (NPM): Ms. Jeehan Mahmood, APT Board member and member of the Human Rights Commission of the Maldives



Speaking as the representative of the NPM of the Maldives, Ms. Mahmood informed that the appointment of the Human Rights Commission of the Maldives (HRCM) as the country's NPM only happened after the Maldives became a democratic county in 2008 although the OPCAT had already been ratified in 2006.

It had been the APT that had initiated the discussions with relevant authorities about what institution would be the most appropriate as the country's NPM. The focus of the discussions had been the alignment of national laws with the OPCAT, including granting the NPM the right to conduct unannounced visits and access to persons and documents in detention centres. Furthermore, it had been essential to ensure that the Government would consider recommendations made by the NPM upon a visit and that recommendations could also be implemented through the judicial system.

The Maldivian NPM's main functions were:

1. To carry out monitoring visits. The NPM had already been able to visit all detention centres in the Maldives.
2. To analyse results against legislation and human rights principles and standards.
3. To address root causes of torture, including by entering into constructive dialogue with the State apparatus based on a no naming, no shaming approach.
4. To follow-up on trainings/recommendations in order to ensure progress.

Ms. Mahmood underscored that in order to be able to execute such a broad mandate, it was essential to have the right expertise. Aside from having experts from all relevant fields in the overall functioning of the NPM, the HRCM Act also enabled the NPM to bring experts on their visits.

The Maldivian NPM carried out visits to the following places of detention:

- Police custodial centres
- Rehabilitation Centres/Psychiatric Institutions
- Prisons
- Immigration Detention Centres
- Homes for people with special needs
- Juvenile Detention Centres

Objectives of the NPM visits:

- Identification of the incident and its root causes



- Elimination of potential torture caused by systems and procedures
- Follow-up and recommendations

Ms. Mahmood described the NPM's methodology with which they had been consistent and stringent since its adoption:

1. Documentation review.
2. Interviews with detainees and detention staff.
3. Observation of conditions of detention, including treatment, protection measures, material conditions, regime and activities for detainees, medical services available, special needs for special groups and situations.
4. Dialogue with Government officials and the agreement on a – confidential or public depending on the authorities' willingness to cooperate – timeline to shape the basis for the implementation of recommendations.
5. Self-analysis based on a 17 Factor Model which defined what works and does not work when it comes to successful implementation of recommendations. The Model had shown to be very useful in improving constructive dialogue with authorities.

Ms. Mahmood stressed that there is no perfect formula on how to address torture prevention but political will and grass root work was essential. In the Maldives, the anti-torture legislation had only entered into force in 2013 after the NPM had been functioning for 4 years. The NPM had in those four years been working to provide a solid ground for the realization of the legal framework.

Ms. Mahmood underscored that what had been essential for the functioning of the NPM was the availability of all elements of the House of Prevention. Furthermore, by ensuring full openness and transparency in their work, they had also ensured good and constructive dialogues with their government and policing counterparts.

Concluding remarks: Dr. Seree Nonthasoot, *Representative of Thailand to the AICHR*

Dr. Seree pointed to the two treaties that were commonly ratified in the region: the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The Convention of the Rights of Persons with Disabilities (CRPD) was the next to be regionally ratified.



Dr. Seree noted in that regard that there was still a long way to go for the UNCAT. AICHR had to play a much stronger role on raising awareness on the Convention, which was also part of the Commission’s mandate. Dr. Seree encouraged for the AICHR to be creative and think outside of the box when interpreting its mandate.

Some of the points made during the discussions of the session were:

Speaker	Key points
Malaysia NHRI (SUHAKAM)	Poor conditions of the detention centres are a reflection of the poor conditions of the staff – these conditions are borne out of the disjointed work from the government departments.
Indonesian Commission on the Rights of Women (KOMNAS Perempuan)	A people centred ASEAN must provide instruments to keep up the rights of the ASEAN people.
Philippines NHRI	<p>AICHR can play the role of a champion of ratification of Convention against Torture and OPCAT.</p> <p>It would be good for AICHR to identify what is holding each country back in regard to ratification of UNCAT and OPCAT. The concerns can then be address by APT and other relevant institutions. But first we need to clarify what are the obstacles.</p>
Representative of Indonesia to the AICHR	<p>The AICHR has the mandate to encourage ratification, which means it is the responsibility and discretion of the respective AICHR Representative to discuss with his/her government.</p> <p>Another mandate of the AICHR is standard setting, which means that ASEAN bodies relating to human rights could work together on prevention of torture.</p>



2.4 Session 3: Exploring good practices in ASEAN

Session 3 aimed to encourage participants to engage and exchange views about good practices on torture prevention in ASEAN. Based on the overview of the APT’s House of Prevention module provided during session 1, participants were divided into two separate groups to identify best practices on torture prevention in ASEAN.

The groups were presented to the following questions to lay the basis for the discussions:

- How does your government/organization approach the issue of torture prevention?
- Can you share some good practices on the issue of torture prevention?
- How would you cluster the identified good practices using the House of Prevention module?
- What role can your government/organization play in strengthening torture prevention efforts and fostering cooperation on the issue in the ASEAN region?

The rapporteurs of each group presented observations made during discussions at the end of session 3 and they were the following:

Legislative Framework	Implementation	Control Mechanism
<p>Enactment of elaborate anti-torture legislation including adoption of human rights laws, laws on protection of victims and witnesses as well as overall alignment of laws and recommendations to UNCAT standards.</p> <p>The inclusion of a clear definition of the crime of torture in national legislation in accordance with international standards and article 1 of the UNCAT.</p>	<p>Ensuring better understanding of the definition and content of the crime of torture.</p> <p>Strong political will is essential to implement torture prevention commitments.</p> <p>Increased cooperation with and between NHRI’s and other relevant stakeholders, including law enforcement authorities.</p> <p>A creative approach towards the issue of torture prevention by relevant authorities, including policing, judiciary</p>	<p>Ensure strong national monitoring mechanisms/national preventive mechanisms which should include the mandate to visit places of detention.</p> <p>Ensure constructive cooperation between control mechanisms and relevant authorities, including through the enactment of MoU’s.</p> <p>Increased focus on making torture prevention a priority issue for NHRI’s.</p>



	<p>etc.</p> <p>Increased focus on capacity building through training of law enforcement.</p> <p>Curriculum development by relevant government agencies.</p> <p>Development of tools to assist governments in their ratification and implementation processes.</p> <p>Increased focus on involving all relevant stakeholders throughout all processes of ratification and implementation.</p> <p>Increased focus on addressing language barriers in order to facilitate proper understanding of obligations and rights contained in UNCAT and OPCAT.</p>	
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2.5 Session 4: Fostering cooperation to prevent torture and ill-treatment.

Global and inter-State cooperation: H.E. Amb. Triyono Wibowo, Permanent Representative of Indonesia to the UN, WTO and Other International Organisations in Geneva and core group member of the CTI

CTI was the centre point of Amb. Wibowo’s intervention on fostering cooperation to prevent torture and ill-treatment from a global and inter-State perspective. Amb. Wibowo recalled the immediate objectives of the CTI: to identify challenges on ratification of UNCAT and OPCAT; to foster cooperation to tackling these obstacles; to provide assistance based on request from States; and to build networks with a view to achieving the CTI vision.



During the first year, focus had been on bringing the CTI to States' attention which had resulted in the CTI now being placed firmly on the international agenda.

Now, the aim and visions had to be put into practice which had been done by establishing the CTI Secretariat within the APT in Geneva, and by establishing the CTI Group of Friends consisting currently of 25 States and 14 experts and NGOs. Amb. Wibowo stressed that membership of the Group of Friends did not come with any specific obligations and that members were at any given time free to determine to what extent they would wish to engage.

Amb. Wibowo informed the workshop that the CTI worked at the multilateral level in Geneva and New York, but complemented this with a regional and bilateral approach. After the Bali workshop, similar events would be held in Poland, Costa Rica and Morocco.

The CTI would also organize study visits for non-States parties to identify steps necessary to ratify UNCAT and OPCAT. The CTI had hosted a delegation from Myanmar in Geneva in May of this year for one such visit which had been well-received by Myanmar government officials.

Amb. Wibowo stressed that while the CTI was aware of the challenges to ratification, it was the firm belief that by working together the goal of having global ratification of UNCAT before 2024 could be achieved.

On challenges, Amb. Wibowo highlighted the following:

- **Torture definition:** The need for some States to still align their national definition of torture with the definition in UNCAT. While States are free to widen the definition, the definition should not be narrowed.
- **Capacity building;** Resources should be focused on public education, legal reform, enhancing NHRI and those responsible of implementing UNCAT.
- **Reporting obligation;** The reporting obligation to the CAT was an obstacle for many States. However, the preparation process of the report should be seen as a useful method to improve coordination between national ministries and an opportunity to build capacities.

Finally, Amb. Wibowo stressed that in ASEAN, the AHRD should be the point of reference regarding ratification of UNCAT, and while five ASEAN Member



States were still not parties to the UNCAT, the workshop would hopefully inspire ratification in the years to come.

National cooperation: Mr. Severo Catura, *Undersecretary of the Presidential Human Rights Committee, Philippines*

Like all countries in ASEAN, the Philippines had seen its share of torture; both during the colonization and during the military dictatorship. Even after democratization, and the ratification of several international human rights treaties, including UNCAT and ICCPR, the practice of torture continued in the country. The practice of torture continued, for example, to be entrenched in the culture of the security forces and was also rampant among non-State actors, especially the paramilitary groups.

Mr. Catura informed that previously State action towards torture had been reactive focusing on victims instead of addressing the root causes. The Government had, however, shifted focus in recent times towards a more prevention-focused approach, but would need all the help it could get in order to effectively implement this shift.

National cooperation involved cooperation among all relevant State instrumentalities as well as cooperation between State apparatus, civil society organizations and the independent NHRI.

The National Preventive Mechanism (NPM) in the Philippines had been established by the Presidential Human Rights Committee (PHRC) so as to ensure compliance with treaty obligations. Furthermore, a Human Rights Action Plan had been adopted – which focused on the implementation of anti-torture legislation; institutionalization of prevention and protection mechanisms in the justice and security sectors; and dissemination of information on prevention of and protection against torture to security personnel and law enforcement officials.

To enable the smooth functioning of the NPM, a number of measures to advance inter-agency cooperation had been initiated, including dialogues at different levels and between relevant entities, e.g. police-military-church dialogues; anti-torture advocacy activities; and community-based dialogues with civil society organizations at grass root level.



However, Mr. Catura stressed that national cooperation did not happen as a matter of fact. Time was in many cases needed before bureaucracy could speak with one voice. Yet, despite difficulties, Mr. Catura reaffirmed that the Philippines wished to be the regional champion in terms of anti-torture campaigning, and was in this regard strengthening national cooperation to ensure that the country would become legitimate to bear that role and responsibility.

NHRI cooperation:

Commissioner Leah T. Armamento (on behalf of Hon. Jose Luis Martin C. Gascon, Chairperson), *Human Rights Commission of the Philippines*

Commissioner Armamento informed that the NHRI of the Philippines was an independent institutional body. A prohibition of torture was clearly included in the Constitution of the Philippines and after 22 years of hard work of mainly civil society organizations, the Congress had passed an anti-torture law providing life imprisonment to perpetrators of torture as well as murder and rape as a result of torture.

The anti-torture law also established a National Oversight Mechanism which was mandated to oversee all places of detention and criminal procedures. The mechanism had an undersecretary for the police, another one for the military; while the Ombudsman would sit as an observer.

The Presidential Human Rights Committee acted as a supplementary mechanism alongside the Witness Protection Program. The Department of Justice, Health and Social Welfare furthermore developed joint efforts to provide rehabilitation for victims of torture.

Mr. James Nayagam, *Commissioner, Human Rights Commission of Malaysia (SUHAKAM)*

Mr. Nayagam also commenced by stressing that the NHRI of Malaysia, SUHAKAM, was an independent institution as a result of the appointment coming directly from the King. SUHAKAM had been able to conduct visits without hindrance so far.

Mr. Nayagam described the functions of SUHAKAM as being the following:

- To promote awareness and provide education on human rights;



- To advise and assist the Government in formulating legislation and procedures;
- To provide recommendations regarding international instruments in the field of human rights;
- To inquire into complaints regarding violations of human rights.

Furthermore, SUHAKAM has been given a standing invitation to be present at court briefings so as to enlighten judges on obligations coming from international human rights treaties.

Mr. Nayagam proposed the following in terms of how to move forward:

- Cross training between national agencies both domestically and regionally;
- Networking
- Exchange of case studies
- Setting up a website
- Online training
- Site visits – to observe real situation in another country
- Case referrals – how NHRI's can help one another regarding cases involving ASEAN nationals;
- ASEAN Member States joint campaign to urge ratification of UNCAT
- Dialogue
- Meeting relevant Government agencies during cross-visits by NHRIs

2.6 Session 5: Exploring ways to move forward in ASEAN.

Based on the discussions that had taken place during the four previous sessions, in particular session 3, this session would revolve around discussing possible future focus areas for AICHR on the issue of torture prevention. Mr. Rafendi reminded participants that the overall objective was to encourage the AICHR to consider putting the issue of torture prevention as part of its priority programmes and/or issue of interest for the AICHR's work.

Some of the recommendations drawn from the discussions in the session were:

- Mini-UPRs in the shape of dialogue between ASEAN Member States and AICHR and peer-to-peer review between AMS;



- Make it possible to submit individual communications to ASEAN human rights bodies such as AICHR and ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC);
- Use the CTI Group of Friends as a platform of cooperation;
- Strengthen cooperation and resource sharing;
- Shift AICHR setup from reactionary to preventive;
- Be creative and innovative when formulating strategies on the prevention of torture;
- Campaign on zero tolerance for torture and ill-treatment in the region;
- Establish a network of practitioners specialized in torture prevention;
- Establish a sub-committee on torture prevention in ASEAN;
- Develop regional torture prevention guidelines similar to the Robben Island Guidelines.

3.0 LIST OF ANNEXES

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Annex I

Regional Workshop “Preserving human dignity by preventing torture and ill-treatment” in ASEAN

Hosted by the Representative of Indonesia to the AICHR and the Ministry of Foreign Affairs of the Republic of Indonesia, with support from the Association for the Prevention of Torture and the Convention against Torture Initiative

(10 – 11 August 2015, Bali, Indonesia)

1. Background

In 2013, the Representative of Indonesia to the ASEAN Intergovernmental Commission on Human Rights (AICHR) organized the 2nd Jakarta Human Rights Dialogue with the theme “Prevention of Torture in ASEAN”. Some of the key recommendations made during the Dialogue were to create a platform for ASEAN Member States (AMS) to discuss and plan future cooperation to address torture and ill-treatment in the region as well as to promote better compliance with international human rights standards among Member States. These recommendations are in line with one of AICHR’s mandates to raise human rights awareness and promote and encourage ratification of international treaties among ASEAN Member States.

There are various levels of framework and initiatives to prevent torture and ill-treatment in the region:

- i. Article 14 of the ASEAN Human Rights Declaration (AHRD) prohibits torture, cruel, inhumane and degrading treatment. The provision is a strong basis for ASEAN Member States to discuss prohibition and prevention of torture together and constructively without “naming and shaming”.
- ii. Cambodia, Indonesia, the Philippines, Thailand and Vietnam are States parties to the UN Convention against Torture (UNCAT) while Cambodia and the Philippines have also ratified the Optional Protocol to the Convention (OPCAT). The Philippines has enacted the Anti-torture Act in 2009 and countries such as Thailand and Indonesia are considering adopting similar national legislations. In the Philippines and Indonesia there



are ongoing discussions on the establishment of National Preventive Mechanisms, as obligated under OPCAT. Furthermore, National Human Rights Institutions (NHRIs) in ASEAN are regularly dealing with cases of torture and ill-treatment in detention places through visits, inquiries, and dialogues with authorities.

- iii. At the international fora, Indonesia along with Chile, Denmark, Ghana, and Morocco launched in 2014 the Convention against Torture Initiative (CTI) which is a 10-year inter-governmental global initiative to achieve universal ratification and implementation of the UNCAT. The CTI comes as a timely effort in the context of ASEAN due to the growing interest and commitment among ASEAN Member States to become States parties to UNCAT as well as OPCAT. CTI's presence in the workshop will be particularly important in showcasing the importance and added-value of inter-State cooperation in preventing torture.

Existing human rights frameworks and national efforts above call for broader exchange and more cohesive cooperation among ASEAN Member States to prevent torture and ill-treatment. Since 2013, no further regional discussions have been conducted on the subject of torture and ill-treatment.

Considering the importance of strengthening such cooperation, the Representative of Indonesia to the AICHR and the Ministry of Foreign Affairs of the Republic of Indonesia, in collaboration with the Association for the Prevention of Torture (APT) and the CTI have decided to organize a workshop for ASEAN regional stakeholders and international experts to discuss how torture and other ill-treatment could be prevented. The workshop aims to promote constructive dialogue and strategic cooperation among ASEAN Member States on a preventive agenda.

2. Objectives of workshop

- i. To improve the understanding among ASEAN Member States on the preventive approach in reducing the risk of torture and other forms of ill-treatment.
- ii. To promote cooperation amongst ASEAN Member States with international partners on preventive approach.



3. Host and implementing partners

The workshop is hosted by the Representative of Indonesia to the AICHR and the Ministry of Foreign Affairs of Indonesia, with support from the APT and the CTI.

4. Time and venue

The workshop will take place at **Courtyard Marriott Hotel, Nusa Dua, Bali**, on 10 – 11 August 2015.

5. Participants

The workshop will involve participants as follows:

- AICHR Representatives
- Relevant ASEAN Sectoral Bodies/Organs/Entities
- Representatives from government agencies of ASEAN Member States (such as Ministries of Foreign Affairs and Ministries of Justice or Attorney General Offices)
- Experts from the European and African regions
- The ASEAN Secretariat
- Representatives of National Human Rights Institutions from ASEAN Member States and Timor Leste
- Representatives of countries spearheading the CTI (Chile, Denmark, Ghana, Indonesia and Morocco)
- Representatives from Civil Society Organization from ASEAN Member States focus on torture and ill-treatment issues.
- Representatives from Fiji – member of the CTI Group of Friends and in the process of ratifying UNCAT – and Timor Leste
- Regional and International organizations.

6. Workshop Programme

The workshop will take place for 1 ½ days followed by a half-day private meeting for AICHR Representatives and invited ASEAN Sectoral Bodies/Organs/Entities. The agenda of the private meeting will be determined by the AICHR – with the overall aim to discuss how the AICHR could consider taking forward issues explored in the workshop in AICHR's future regional initiatives.



Annex II

PROGRAMME

DAY ONE (10 August/Monday)	
Time	Agenda
0900-0930	<p><u>Opening Session</u></p> <p>Welcoming Remarks:</p> <ol style="list-style-type: none"> H.E. Amb. Hassan Kleib, Director General for Multilateral Affairs, Ministry of Foreign Affairs of the Republic of Indonesia – Delivered by Mr. Dicky Komar, Director of Human Rights and Humanitarian Affairs, Directorate of Human Rights and Humanitarian Affairs, Ministry of Foreign Affairs of the Republic of Indonesia. H.E. Amb. Triyono Wibowo, Permanent Representative of Indonesia to the United Nations, WTO and Other International Organisations in Geneva speaking on behalf of the CTI core group H.E. Tan Sri Muhammad Shafee Abdullah, Chairperson of AICHR and Representative of Malaysia to the AICHR Mr. Rafendi Djamin, Representative of Indonesia to the AICHR Ms. Jeehan Mahmood, APT Board Member and member of the Human Rights Commission of the Maldives <p><u>Venue:</u> Palma, Courtyard Marriott Nusa Dua Bali</p>
0930-1030	<p><u>Session 1:</u></p> <p>An overview of the “preventive approach” in reducing risks of torture and ill treatment.</p> <p><u>Presenter:</u> Ms. Shazeera Ahmad Zawawi, Association for the Prevention of Torture</p> <p><u>Moderator:</u> Mr. Rafendi Djamin, Representative of Indonesia to the AICHR</p> <p><i>Interactive Dialogue</i></p>



	<p><u>Venue:</u> Palma, Courtyard Marriott Nusa Dua Bali</p>
<p>1030-1100</p>	<p><i>Group Photo</i></p> <p><u>Venue:</u> Stage Area, Palma Meeting Room, Courtyard Marriott Nusa Dua Bali</p> <p><i>Coffee Break</i></p> <p><u>Venue:</u> Foyer, Courtyard Marriott Nusa Dua Bali</p>
<p>1100-1245</p>	<p><u>Session 2:</u> Torture Prevention in Practice</p> <p><i>Panel Discussion</i></p> <p><u>Panelists:</u></p> <ol style="list-style-type: none"> 1. <u>African Region:</u> Mr. Lawrence Mute, Chairperson of the Committee for the Prevention of Torture in Africa and Commissioner of the Kenya Commission on Human Rights 2. <u>ASEAN:</u> Mr. Rafendi Djamin, Representative of Indonesia to the ASEAN Intergovernmental Commission on Human Rights 3. Ms. Jeehan Mahmood, APT Board member and member of the Human Rights Commission of the Maldives <p><i>Interactive Dialogue</i></p> <p><u>Moderator:</u> Dr. Seree Nonthasoot, Representative of Thailand to the AICHR</p> <p><u>Venue:</u> Palma, Courtyard Marriott Nusa Dua Bali</p>
<p>1245-1400</p>	<p><i>Lunch</i></p>



	<p><u>Venue:</u> MoMo Cafe, Courtyard Marriott Nusa Dua Bali</p>
1400-1515	<p><u>Session 3:</u> Exploring good practices in ASEAN Please refer to the appendix for modalities of session 3.</p> <p><u>Venue:</u> Palma, Courtyard Marriott Nusa Dua Bali</p>
1515-1545	<p><i>Tea Break</i></p> <p><u>Venue:</u> Foyer, Palma, Courtyard Marriott Nusa Dua Bali</p>
1545-1630	<p><u>Session 3 (Continued)</u></p> <p><u>Venue:</u> Palma, Courtyard Marriott Nusa Dua Bali</p>
1800	<p><u>Welcoming Dinner</u> and Launch</p> <p>In conjunction with the launch of the UNCAT Training of Trainers Manual for Law Enforcement produced in a joint collaboration between the Ministry of Law and Human Rights of the Republic of Indonesia and the APT.</p> <p><u>Presenters:</u></p> <ol style="list-style-type: none"> Mr. Encik Sofyan, Director of Human Rights Complaint Service, Ministry of Law and Human Rights of Indonesia Ms. Jeehan Mahmood, APT board member and member of the Human Rights Commission of the Maldives <p><u>Venue:</u> KLAPA Restaurant Jl. New Kuta Beach Pecatu Indah Resort Kuta Selatan, Badung, Bali</p>



	A shuttle will be provided by the Organizing Committee, which will be on standby at the Hotel Lobby starting at 16.50 hrs.
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DAY TWO (11 August/Tuesday)	
Time	Agenda
0900-1015	<p>Session 4: Fostering cooperation to prevent torture and ill-treatment.</p> <p><i>Panel Discussion</i></p> <p>Panellists:</p> <ol style="list-style-type: none"> 1. <u>Global and inter-state cooperation:</u> H.E. Amb. Triyono Wibowo, Permanent Representative of Indonesia to the United Nations, WTO and Other International Organisations in Geneva and core group member of the CTI 2. <u>National cooperation:</u> Mr. Severo Catura, Undersecretary of the Presidential Human Rights Committee, Philippines 3. <u>NHRI cooperation:</u> <ul style="list-style-type: none"> • Com. Leah T. Armamento (<i>on behalf of Hon. Jose Luis Martin C. Gascon</i>, Chairperson), Human Rights Commission of the Philippines (CHRP) • Mr. James Nayagam, Commissioner, Human Rights Commission of Malaysia (SUHAKAM) <p><i>Interactive Dialogue</i></p> <p><u>Moderator:</u> H.E. Mr. Srun Thirith, Representative of Cambodia to the AICHR</p> <p>Venue: Palma, Courtyard Marriott Nusa Dua Bali</p>
1015-1045	<p>Coffee Break</p> <p>Venue:</p>



	Foyer, Palma, Courtyard Marriott Nusa Dua Bali
1045-1200	<p><u>Session 5:</u> Exploring ways to move forward in ASEAN</p> <p>The workshop rapporteurs will present a general workshop summary as well as observations made during the group discussion under session 3.</p> <p>The introduction will be followed by a plenary discussion under the theme of session 5.</p> <p><u>Rapporteur:</u></p> <ul style="list-style-type: none"> - Mr. Caka Alverdi Awal, Permanent Mission of the Republic of Indonesia to the UN in Geneva - Ms. Shazeera Ahmad Zawawi, Association for the Prevention of Torture <p><u>Moderator:</u> Mr. Rafendi Djamin, Representative of Indonesia to the AICHR</p> <p><u>Venue:</u> Palma, Courtyard Marriott, Nusa Dua, Bali</p>
1200-1230	<p><u>Closing Session</u></p> <p>Remarks:</p> <ol style="list-style-type: none"> 1. Mr. Rafendi Djamin, Representative of Indonesia to the AICHR <p><u>Venue:</u> Palma, Courtyard Marriott Nusa Dua Bali</p>
1230	<p><u>Lunch</u></p> <p><u>Venue:</u> MoMo Cafe, Courtyard Marriott Nusa Dua Bali</p>
1400-1700	<p><u>Private Meeting</u> for AICHR Representatives and relevant invited ASEAN sectoral Bodies/Organs/Entities, Government Representatives, and NHRIs from ASEAN Member States</p> <p><u>Venue:</u> Palma, Courtyard Marriott Nusa Dua Bali</p>



Annex III

AICHR REPRESENTATIVE

NO.	NAME	COUNTRY	DESIGNATION & ORGANISATION
1.	Mr. Mr Srun Thirith	Cambodia	Representative of Cambodia to the AICHR
2.	Mr. Rafendi Djamin	Indonesia	Representative of Indonesia to the AICHR
3.	Mr. Somlith Khantivong	Lao PDR	Alternate to Representative of Lao PDR to the AICHR, Deputy Director-General, Department of Treaties and Law, Ministry of Foreign Affairs of Lao PDR
4.	H.E. Tan Sri Dato' Sri Muhammad Shafee Abdullah	Malaysia	Chair of the AICHR, Representative of Malaysia to the AICHR
5.	Dir. Lorena P. Banagodis	Philippines	Alternate of the Representative of the Philippines to the AICHR, Acting Director, United Nations and International Organisations Office, Department of Foreign Affairs
6.	Dr. Seree Nonthasoot	Thailand	Representative of Thailand to the AICHR
7.	Mr. Pham Thanh Bang	Viet Nam	Designated Representative of Viet Nam to the AICHR (Embassy of Viet Nam in Indonesia)



ASEAN SECTORAL BODIES/ORGANS/ENTITIES

NO.	NAME	COUNTRY	DESIGNATION& ORGANISATION
8.	Ms. Lily Purba	Indonesia	Representative of Indonesia to ACWC for Women's Rights
9.	Ms. Doeuk Han	Cambodia	Designated Representative of Vice-Chair of ACWC, Director of International Cooperation, Ministry of Women's Affairs of Cambodia
10.	Ms. Aye Aye Moe	Myanmar	Designated Representative of Chair of ACMW Deputy Director, Department of Labour Myanmar
11.	Ms. Gerardine V. Paguibitan	Philippines	Assistant Chief Analyst, SOMTC Philippines, SOMTC Lead Shepherd for Trafficking in Persons

GOVERNMENT AGENCIES AND ASEAN MEMBER STATES

NO.	NAME	COUNTRY	DESIGNATION& ORGANISATION
12.	Mr. Chou Heng	Cambodia	Deputy Director General of Cambodia Human Rights Committee -CHRC
13.	Mr. Sofyan	Indonesia	Alternate to Director General of Human Rights, Ministry of Law and Human Rights of Indonesia
14.	Mr. Andi Taletting Langi	Indonesia	Sub Head Division of Human Rights Education, Ministry of Law and Human Rights of Indonesia
15.	Ms. Vini Hygieani Waluya	Indonesia	Head of Section on Covenant of Civil and Political Rights, Directorate General of Human Rights,



			Ministry of Law and Human Rights of Indonesia
16.	Ms. Elizabeth Adriana Panggabean	Indonesia	Staff, Directorate General of Human Rights, Ministry of Law and Human Rights of Indonesia
17.	Mr. Khamphoy NAOPHACHANH	Lao PDR	Officer, Secretariat Lao National Steering Committee on Human Rights, Department of Treaties and Law, Ministry of Foreign Affairs
18.	Mr. Andika Wahab	Malaysia	Ministry of Foreign Affairs of Malaysia
19.	Mr. Thant Sin	Myanmar	Director International Organizations and Economic Department Ministry of Foreign Affairs
20.	Mr. Severo Catura	Philippines	Undersecretary of the Presidential Human Rights Committee,
21.	Ms. Nareeluc Pairchaiyapoom	Thailand	Justice Officer from the Rights and Liberties Protection, Ministry of Justice.
22.	Mr. Khuat Bao Trung	Viet Nam	Ministry of Public Security

ASEAN SECRETARIAT

NO.	NAME	COUNTRY	DESIGNATION& ORGANISATION
23.	Ms. Desi Hanara	Indonesia	Technical Officer AICHR, AIPA, ASEAN Foundation & Entities Associated with ASEAN Division



EXPERT OUTSIDE THE REGION

NO.	NAME	COUNTRY	DESIGNATION& ORGANISATION
24.	Mr. Lawrence Mute	Kenya	Chair of the Committee for the Prevention of Torture in Africa, Commissioner of the Kenya Commission on Human Rights
25.	Ms. Elizabeth Kyalo	Kenya	Assistant to the Chairperson Committee on the Prevention of Torture in Africa

MINISTRY OF FOREIGN AFFAIRS OF THE REPUBLIC OF INDONESIA

NO.	NAME	COUNTRY	DESIGNATION& ORGANISATION
26.	H.E. Amb. TriyonoWibowo	Indonesia	Permanent Representative of Indonesia to the United Nations and International Organisations in Geneva
27.	H.E. Amb. Ibu Said	Indonesia	Indonesian Ambassador to Denmark
28.	Mr. Dicky Komar	Indonesia	Director for Human Rights and Humanitarian Affairs, Ministry of Foreign Affairs of Indonesia
29.	Mr. Caka Alverdi Awal	Indonesia	First Secretary, Permanent Mission of Indonesia to the United Nations and International Organisations in Geneva
30.	Mr. Chandra Widya Yudha	Indonesia	Director for ASEAN Political and Security Cooperation Ministry of Foreign Affairs of Indonesia
31.	Ms. Renata Siagian	Indonesia	Deputy Director, Human Rights and Legal Affairs, Directorate General of ASEAN Cooperation, Ministry of Foreign Affairs of Indonesia



32.	Ms. Rikianarsyi Arrasyidinta	Indonesia	Human Rights and Legal Affairs, Directorate General of ASEAN Cooperation, Ministry of Foreign Affairs of Indonesia
33.	Ms. Nur Fadhilah	Indonesia	Finance Officer, Ministry of Foreign Affairs of Indonesia

NATIONAL HUMAN RIGHTS INSTITUTIONS

NO.	NAME	COUNTRY	DESIGNATION & ORGANISATION
34.	Mr. Abdul Haris Semendawai	Indonesia	Chairperson of The Indonesian Witness and <i>Victims</i> Protection Agency (<i>LPSK</i>)
35.	Mr. Robi Suryadi	Indonesia	Staff of the Indonesian Witness and <i>Victims</i> Protection Agency (<i>LPSK</i>)
36.	Mr. Saepudin	Indonesia	Staff of the Indonesian Witness and <i>Victims</i> Protection Agency (<i>LPSK</i>)
37.	Ms. Roichatul Aswidah	Indonesia	Commissioner, National Human Rights Commission of Indonesia (KOMNAS HAM)
38.	Ms. Yuniyanti Chuzaifah	Indonesia	Commissioner, Women's National Commission of Indonesia (KOMNAS Perempuan)
39.	Mr. James Nayagam Gnaratnam	Malaysia	Commissioner National Human Rights Commission of Malaysia (SUHAKAM)
40.	Mr. U Soe Phone Myint	Myanmar	Commissioner Myanmar National Human Rights Institution
41.	Ms. Peeyanuj Thitipatana	Thailand	Director, International Human Rights Cooperation Unit 2, National Human Rights Commission of Thailand (NHRCT)
42.	Ms. Nongyao Obsuwan	Thailand	Director, Human Rights Protection Unit 6, National Human Rights Commission of Thailand (NHRCT)



43.	Mr. Santi Latifi	Thailand	Human Rights Officer, National Human Rights Commission of Thailand (NHRCT)
44.	Hon. Leah C. Tanondra-Armamento	Philippines	Commissioner Philippines Commission on Human Rights

NATIONAL CIVIL SOCIETY ORGANIZATION

NO.	NAME	COUNTRY	DESIGNATION& ORGANISATION
45.	Mr. Moh. YusofHalim	Brunei Darrusalam	Head Legal Brunei Council on Social Welfare
46.	Mr. Muhammad Hafiz	Indonesia	Human Rights Working Group (HRWG)
47.	Mr. Wahyu Wagiman	Indonesia	Institute for Policy and Research (ELSAM)
48.	Mr. Sevan Doraisamy	Malaysia	Suara Rakyat Malaysia (SUARAM)
49.	Ms. Josephine A. Lascano	Philippines	Executive Director, BALAY Rehabilitation Centre
50.	Mr. Sinapan Samydorai	Singapore	Director for ASEAN Affairs, Think Centre
51.	Mr. Dhiramedhist Lueng-Ubon	Thailand	Researcher of Cross-cultural Foundation (CrCF)

INTERNATIONAL/REGIONAL CIVIL SOCIETY ORGANIZATIONS

NO.	NAME	COUNTRY	DESIGNATION& ORGANISATION
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52.	Ms. Alexandra Cherkasenko	Kyrgyzstan	Associate Legal Officer - Central Asia Open Society Justice Initiative
53.	Ms. P. Maelanny	Indonesia	Program Manager International Committee of the Red Cross (ICRC)

ORGANIZING TEAM

NO.	NAME	COUNTRY	DESIGNATION& ORGANISATION
54.	Ms. Jeehan Mahmood	Maldives	Board Member, APT
55.	Ms. Signe Lind	Denmark	Project Officer, CTI
56.	Ms. Shazeera Zawawi	Malaysia	Project Officer, APT
57.	Ms. Dian Anshar	Indonesia	AICHR INDONESIA/HRWG
58.	Ms. Nurul Aini	Indonesia	AICHR INDONESIA/HRWG
59.	Ms. Wike Devi	Indonesia	AICHR INDONESIA/HRWG
60.	Mr. M. Kukuh Dewantara	Indonesia	HRWG
61.	Mr. Ken Ndaru	Indonesia	Note taker