

The Current State of Women's, Children's and Migrant Workers' Rights in Southeast Asia: An Assessment of an Independent Body

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Preamble*

An assessment of an independent body on the issue of rights of women, children, and migrant workers in Southeast Asia requires a review of international human rights related instruments as well as a review of the situation in Southeast Asia. This paper will begin with a brief review of women and children related instruments as well as instruments on migrant workers. Then the role of human rights independent organizations, i.e., the Southeast Asian National Human Rights Institutions Forum (SEANF) will be examined including past activities together with future action plans.

1. Background on international human rights instruments related to women, children, and migrant workers in Southeast Asia

There are many international instruments available to deal with the cross-border international crimes which exploit human beings and violate human rights. In addition to the Universal Declaration of Human Rights, the most important instruments are: International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), International Convention on the Elimination of All Forms of Racial Discrimination (CERD), Convention on the Rights of the Child (CRC), Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT), International Convention for the Protection of All Persons from Enforced Disappearance (ICPED) and International Convention on the Protection of All Migrant Workers and Members of Their Families (ICPMW).

The ASEAN Charter with the three ASEAN Community Councils

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(Political-Security, Economic, and Socio-Cultural) was signed by the 10 respective heads of governments on November 20, 2007 and entered into force on December 15, 2008. At the 14th ASEAN Summit on February 28 – March 1, 2009 the ASEAN leaders adopted the Cha-am / Hua Hin Declaration on the Roadmap for the ASEAN Community (2009 – 2015) which includes the ASEAN Economic Community Roadmap to achieve ASEAN Community economic integration by the year 2015. In the same process, the ASEAN leaders also approved the ASEAN Political Security Community (APSC) Blueprint and the ASEAN Socio-Cultural Community (ASCC) Blueprint that reiterate the establishment of an ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) as an important measure to ensure equitable development for women and children. The following year, ACWC was established as a consultative intergovernmental body and an integral part of the ASEAN organization structure. From each government, two representatives (one for women and one for children) have been nominated and ACWC is now in operation. One reason for the speedy advancement of ACWC is because all of 10 ASEAN member countries have ratified both CEDAW and CRC.

With regard to rights of migrant workers, on January 13, 2007, at the 12th ASEAN Summit in Cebu, the ASEAN leaders adopted the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers. Article 22 of the Declaration tasks the governments to “develop an ASEAN instrument on the protection and promotion of the rights of migrant workers, consistent with ASEAN’s vision of a caring and sharing Community”. The ASEAN Foreign Ministers subsequently agreed to set up an ASEAN Committee on the implementation of the ASEAN Declaration on the Protection and Promotion of Rights of Migrant Workers (ACMW) to carry forward the regional work on migration. ACMW has created a Drafting Committee on the ASEAN Instrument for the Protection and Promotion of the Rights of Migrant Workers composed of representatives of four governments, i.e., Indonesia, Malaysia, the Philippines, and Thailand (SEANF 2010:10). The Drafting Committee is still working on the draft and seems to be hitting a dead-lock. One reason is because among the Southeast Asian nations, the Philippines is the only country who has ratified the International Convention on the Protection of All Migrant Workers and Members of Their Families.

2. Development and Human Rights Paradigms

Today, different people see human rights in different ways. Modern concept of human rights can be traced to traditional ideas and texts adopted at the end of the 18th Century. The intellectual origin of human rights lies in the concept of natural rights, which are inalienable, universal and applicable to all

human beings by virtue of their humanity. The 1776 American Declaration of Independence and the 1789 French Declaration of the Rights of Man and of the Citizen represent attempts to enshrine human rights as guiding principles in the constitutions of new states or politics. People are born free and equal in rights which are natural and inalienable. Fundamental rights are human dignity, liberty, freedom, equality, and non-discrimination. They are universal and are the foundation of freedom, justice and peace in the world.

The struggle to reach agreement on what constitute human rights, after a long negotiated process taking place during the cold war was due to ideological differences among the contenders. According to Uvin:

The United States sought to limit the concept of human rights to civil and political ones, typically largely present in liberal market economies, while the USSR and its allies counter-argued that economic and social rights, in which communist countries claimed they were far ahead, were the very core of human rights. As a result, it took eighteen years, until 1966, for not one but two covenants to be adopted: one on civil and political rights, which as of late 2000 had been ratified by 147 countries, and one on economic, social, and cultural rights, to date ratified by 141 countries, not including the United States. Both of these covenants came into legal force by 1976. (Uvin, 2004:10)

The UDHR (1948) went beyond civil rights to embrace political rights and economic, social, and cultural rights. Hence, the separation into two covenants has created a sense that there are two levels of human rights. The civil and political (CP) rights have been recognized as the first generation and include freedom from torture, degrading treatment, and arbitrary detention; as well as freedom of speech, association, and religion. The second generation of rights consists of economic, social and cultural (ESC) rights such as the right to education, the right to an adequate standard of living, and the right to the highest obtainable standards of health. International law is clear in saying that all human rights, both CP and ESC rights, are indivisible and mutually reinforcing, and many scholars are deeply convinced of that as well. (Uvin, 2004:14).

Subsequently, many more human rights conventions and resolutions followed to provide more detailed statements and expand protection into new areas including rights of various groups of people. These additional conventions covering various dimensions of rights are considered the third generation of rights. Right to self-determination or right to development which cover collective and communal rights are also included. The third generation of rights reflect profound shift in human rights thinking, which had previously

been focused on individual rights exclusively.

The third generation of rights, specifically the Declaration on the Right to Development, adopted by General Assembly resolution 41/128 of 4 December 1986, brought about a turning point in development paradigm. In shifting from needs-based approach to rights-based approach to development, the boundaries between human rights and development disappear, and both become conceptually and operationally separable parts of the same processes of social change. Development comes to be redefined in terms that include human rights as a constitutive part. The two terms become meaningful if they are redefined in an integrated manner. By focusing on human rights, beneficiaries or participants become rights-holders.

In addition, the most recent addition to the human rights edifice consists of an extension not of claimants of rights but of duty-holders. According to Uvin:

“It seeks to bind non-state actors such as individuals, NGOs, international organizations, and especially multinational corporations. In traditional international law—the context within which the human rights edifice was constructed—only states are subjects of the law. Only states create international law, and only they are bound by it. To the extent that human rights law was concerned with the behavior of non-state actors, it was the state that was responsible for ensuring the correct outcome. It was up to states to prevent, investigate, and punish human rights violations committed by non-state actors within their territory. Individuals or corporations or NGOs could be objects of international law—their behavior could be proscribed by it, or they could be granted rights—but this always happened through the intermediary of states, who are the only subjects of international law. (Uvin, 2004: 15).

In other words, violations of rights may be carried out by both state as well as non-state actors. The traditional assumptions that states are the ones who violate rights in the civil rights context no longer hold. However, this does not mean that states are exempted from obligations. From 2 to 6 June 1986, a group of distinguished experts met at the University of Limburg in Maastricht, the Netherlands to consider the nature and scope of the obligations of states parties to the ICESCR (International Covenant on Economic, Social, and Cultural Rights). “The Limburg Principles” was the output of the meeting. However, the outcome of the meeting did not materialize. The Limburg principles remained only the principles with no recognizable evidence of its implementation.

Again, from 22-26 January 1997, another group of more than 30 experts met in Maastricht to elaborate on the Limburg Principles as regards the nature and scope of violations of ESC rights and appropriate responses and remedies. The participants unanimously agreed to produce a document called “The Maastricht Guidelines on Violations of Economic, Social and Cultural Rights”. Similar to civil and political rights, ESC impose three different types of obligations on States: the obligations to respect, protect and fulfill. Failure to perform any one of these three obligations constitutes a violation of such rights. The obligation to respect requires States to refrain from interfering with the enjoyment of ESC rights. The obligation to protect requires States to prevent violations of such rights by third parties. And, finally, the obligation to fulfill requires States to take appropriate legislative, administrative, budgetary, judicial and other measures towards the full realization of such rights.

3. Role of National Human Rights Institutions (NHRIs) as an Independent Body in Southeast Asia

The 1993 Vienna Declaration of Human Rights was instrumental to the establishment of national human rights institutes in all member states of the United Nations. In addition, in the same year the UN General Assembly also reaffirmed the importance of effective and independent national human rights institutions with broad mandates to promote and protect all human rights, in accordance with the Paris Principles relating to the status of the national human rights institutions under UN General Assembly Resolution 48/134 on 20 December 1993. Basically, NHRIs should be independent from the States administrative bodies, financially autonomous, have separate and permanent office, and having commissioners representing diverse sectors of society. Although previously loosely formed since after 1993, the International Coordinating Committee of NHRIs (ICC) was formally registered in Geneva in the year 2009 as independent non-government human rights organization. NHRIs are also organized in 4 regional groups, i.e., the Americas, the Africans, the European, and the Asia-Pacific Regions. Within the Asia-Pacific NHRIs Forum (APF) there are also sub-regional groupings such as the South Asia and the Southeast Asia Forum.

During early 2000’s NHRIs in Southeast Asia was organized under the name ASEAN NHRIs Forum (ANF). The Declaration of Cooperation was signed by the 4 NHRIs (Indonesia, Malaysia, Philippines, and Thailand) on 28 June 2007 in Bali and the Rules of Procedure was adopted in 2010 in Jakarta. However, after the formation of the ASEAN Intergovernmental Commission of Human Rights (AICHR) according to the ASEAN Charter, the name ASEAN

NHRIs (ANF) was changed to Southeast Asia NHRIs Forum (SEANF), allowing non-ASEAN members to join as well as avoiding confusion with AICHR. At present, there are 5 members: Indonesia, Malaysia, Philippines, Thailand, and Timor Leste.

Discussion on the role of NHRIs, specifically SEANF, on rights of women, children, and migrant workers in this section will be organized under two headings: (1) Past SEANF activities relating to trafficking of women, children, and migrant workers, and implication for future activities, and (2) Future activities on human rights and economic development, specifically Business and Human Rights, and the implication to rights of women, children, and migrant workers.

3.1 Past Activities Relating to Trafficking of Women, Children, and Migrant Workers in Southeast Asia

3.1.1 International Mechanism on Anti-Trafficking

Human trafficking is a well-known phenomenon in Asia. In terms of classification of migrants, many countries are country of origin; others are country of destination; while others are origin, destination and transit countries. Over the past years, the human trafficking has become transnational organized crimes involving international and local criminal networks. Individuals being trafficked include women and children as well as migrant workers. Some joined the criminal organizations voluntarily and others are forced into the system for the benefit of the agencies. Reviews of international human rights instruments related to trafficking include:

1. The Universal Declaration of Human Rights, Article 13 states: *(1) Everyone has the right to freedom of movement and residence within the borders of each state. (2) Every one has the right to leave any country, including his own, and to return to his country.*
2. The International Covenant on Civil and Political Rights, Article 12 states: *(1) Everyone lawfully within the territory of a state shall, within that territory, have the right to liberty of movement and freedom to choose his residence. (2) Everyone shall be free to leave any country, including his own. (3) The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant. (4) No*

one shall be arbitrarily deprived of the right to enter his own country.

3. More, specifically, Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the UN Convention against Transnational Organized Crime, Article 5 Criminalization states: *(1) Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offenses the conduct set forth in article 3 of this Protocol,[human trafficking—recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation....] when committed intentionally.*

4. On issue of children, there are the Hague Convention on Child Abduction and the ILO Convention No. 138, on Minimum Age for Employment. Furthermore, the ILO Convention on the Worst Forms of Child Labour (No. 182), Article 3, states that the Worst Forms of Child Labor shall include: *All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced compulsory recruitment of children for use in armed conflict; the use, procurement or offering of a child for prostitution, production of pornography or pornographic performances; the use, procurement or offering of a child for illicit activities, in particular for the production and trafficking of drugs; work which , by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.*

3.1.2 Collaborative Mechanism on Anti-Trafficking: A Case Study of ILO-IPEC Projects in the Mekong Region

There are 4 projects related to trafficking of women and children in the Mekong Sub-region. They are:

- ILO International Programme on the Elimination of Child Labour (ILO-IPEC) Project supported two collaborative projects: (1) Community Empowerment to Combat Trafficking in Children and Women for Slavery, and (2) Prevention and Combating Trafficking in Children and Women for Forced Labour and Sexual Exploitation.
- ILO-IPEC and the U.S. Department of Labour collaborated to support project on development of national policy and implementation of action programmes in 6 pilot provinces in Thailand.

- Collaboration of ILO Mekong Subregional Project to Combat Trafficking in Children and Women and UN Inter-agency project to combat trafficking in children and women on project titled “Labour migration and trafficking within the Greater Mekong Subregion” (2001).
- ILO Mekong Sub-regional Project to Combat Trafficking in Children and Women (2003-2008). There are many sub-projects to investigate trafficked cases in different parts of the countries in the Mekong Sub-region.

The above-mentioned project was essential in bringing about bilateral Memorandum of Understanding on Trafficking of Children and Women between partner countries within the Mekong Sub-region. Memorandum of Understandings are tools to adopt at national, bilateral and multi-lateral or regional levels.

(1) National and bilateral level

To combat human trafficking problem, it was found that, in addition to government agencies, non-government organizations have been playing vital roles in dealing with the issue. However, implementing agencies need to collaborate more systematically. In 2003, three types of MOUs were signed, i.e., MOU between GO/NGO collaboration, MOU to support collaboration among GOs, and MOU to support collaboration among NGOs.

MOUs signed bilaterally focused on two issues: (1) Migrant labor and (2) Women and children.

Migrant Labor: In case of Thailand, three MOUs between Thailand and its neighboring countries have been signed. (1) Thailand and Lao PDR on Employment Cooperation signed on 18 October 2002 in Vientiane, (2) Thailand and Cambodia on Employment Cooperation signed on 31 May 2003 in Ubon Ratchatani, and, (3) Thailand and Myanmar on Employment Cooperation signed on 21 June 2003.

Children and Women: Since Thailand is located on a centrally strategic position, MOUs on Trafficking of Children and Women were signed between Thailand and its neighboring countries. The MOU between Thailand and Cambodia was signed on 31 May 2003, between Thailand and Lao PDR was signed on 31 July 2005, and between Thailand and Vietnam was signed on 24 March, 2008. However, MOU between Thailand and Myanmar was signed more recently on 24 April 2009 at Nay Pyi Taw. The objectives are to identify collaboration efforts between policy and implementing agencies in each

country. The efforts to rescue, repatriate, and re-integrate returning individuals back to society. However, research reports indicate that despite the MOU, the process has not been very successful. The re-integration process turned out to be the most complex and sensitive process. Furthermore, it is evident that despite the MOUs signed, the problem has not been abated.

In addition, there are many more bilateral MOUs signed with countries in the North. Many Southeast Asian countries which are countries of origin for trafficking of women and children signed MOUs with countries in the North which are destinations of the women. At present, Southeast Asian countries such as the Philippines, Vietnam, and Thailand have signed MOUs with Japan, the Republic of Korea, Germany, and the United Kingdom.

However, in terms of trafficking of women, exploitative practices have been observed from both sides. Trafficked women and children may be exploited by the clients who acquired the women; but there are also cases when the clients who paid for the women felt that they have been exploited by the women. During the workshop organized by the National Human Rights Commission of Korea in early 2011 in Seoul, many Korean men protested that they have been cheated by women from some of the Asian countries.

(3) Multi-country or regional level memorandum

At the regional level, when member states involved both the sending and receiving countries, MOUs can serve as a tool for collaboration and negotiation between the different stakeholders. There are different forms of agreements initiated at multi-country level. One of the first attempts made was the signing of the MOU on Coordinating Mekong Ministerial Initiative against Trafficking (COMMIT) on 29 October, 2004. Examples of other initiatives are:

Migrant Labor in the Mekong Sub-region: Thailand Nationality Verification Project: In order to solve the issue of undocumented migrant workers from the neighboring countries, since 2008/2009 Thailand required migrant workers to register which means that they need to have a clear nationality. Since many migrant workers who have been trafficked and are involved with criminal organizations and corrupt officers, the process met with resistance. The Lao PDR and Cambodian governments collaborated with the Thai Government to assist their migrant workers and agreed to establish registration offices at the border towns. The Myanmar government did not provide such service in the beginning; but after some negotiations, the Myanmar registration offices are now established along the Thai-Myanmar border. The process is on-going and the deadline is in 2012.

3.2 SEANF Projects on Rights of Women, Children, and Migrant Workers

During 2008-2010, SEANF was supported by the European Union under grant titled, “Enhancing the Role of National Human Rights Institutions in the Development of an ASEAN Human Rights Mechanism”. During the period, the four members include Komsu Nasional Hak Asasi Manusia Indonesia (KOMNAS-HAM), Suruhanjaya Hak Asasi Manusia Malaysia (SUHAKAM), Commission on Human Rights of the Philippines (CHRP), and the National Human Rights Commission of Thailand (NHRCT). The four commissions collaborated on five projects, i.e., Human Rights Education, Migration, Human Trafficking, ESC Rights, and Terrorism. Two projects related to rights of women, children, and migrant workers are discussed here.

(1) SEANF Protocol Against Trafficking of Women and Children

The project on human trafficking of Southeast Asia National Human Rights Institutions Forum (SEANF) resulted in the signing of Memorandum of Understanding Against Trafficking of Women and Children on March 30, 2010. The four countries in Southeast Asia with National Human Rights Commission are Indonesia, Malaysia, Philippines, and Thailand. The objectives are: (1) To prevent and combat trafficking of women and children in Southeast Asia and in other regions in the world; (2) To strengthen cooperation amongst the member institutions in the area of trafficking of women and children; and (3) To foster cooperation amongst national human rights institutions in the world to address trafficking.

The MOU is applied to support the process of monitoring or strengthening the efforts, where appropriate, of the States of Member Institutions, to enable trafficked women and children to get access to legal remedies, and other forms of intervention. However, up to date, not much progress has been observed. Even within SEANF, Malaysia and Indonesia still have problems to be negotiated. Within ASEAN, Malaysia and Cambodia also have labour conflicts to be solved. Migration of the Rohingya from Myanmar and Bangladesh to Southeast Asia (Malaysia, Indonesia, and Thailand) and Australia turned out to be serious problems faced by Immigration Offices of many countries in the region. They are stateless since most are not recognized as the citizen of the country of origin. Most Rohingya migrants are considered trafficked victims, even if they came voluntarily. The case of Rohingya migrants need to be dealt with at the regional level. Many more trafficking problems need

to be dealt with jointly and the issue of trafficking of women, children, and migrant workers is now included in the SEANF strategic plan.

(2) SEANF Paper on Migrant Workers 2010

SEANF policy paper published in 2010 recognized the complexity of the migrant worker issues faced by member countries at the national and regional levels. The paper strongly believes that the human rights perspective should be at the center of the policy discussions and drafting of the ASEAN Instruments to protect the rights of migrant workers. ASEAN should use the principle of ‘national treatment’, which is defined as non-discriminatory treatment that ensures migrant workers receive treatment no less favorable than the treatment accorded to nationals. This principle should be explicitly stated in relation to wages and conditions of work for migrants, and respect to the terms and conditions of work contracts. All aspects of laws and regulations should be equally applied to migrant workers, with special attention to those relating to wages, labour, housing, social protection, access to grievance handling and legal procedures, and judicial redress insofar as they are not inconsistent with the contract of employment. The SEANF believes that the Instrument should comply with all the major international human rights treaties and relevant ILO Conventions such as CRC, CEDAW, ICESCR, and ICCPR, thereby guaranteeing migrants’ rights to freedom of movement, freedom of association and collective bargaining (SEANF, 2010: 5-6). In conclusion, the SEANF Report made recommendations to the 4 respective governments and has a set of recommendations for AICHR’s work in this area.

To date, neither AICHR nor ASEAN member States, have succeeded in establishing a commission to deal with issues related to migrant workers. In the SEANF strategic plan for 2012-2016, the issue of trafficking of women and children and migrant workers are combined in the same project.

(3) SEANF Future Activities on Business and Human Rights

As has been mentioned earlier, the Declaration on the Right to Development was endorsed by the United Nations General Assembly in 1986. In the same year a group of experts confirmed that Rights to Development is an extension of the International Covenant of Economic, Social and Cultural Rights (ICESCR) as is evident in the document adopted by the General Assembly titled “Limburg Principles on the Implementation of the ICESCR. The 1993 Vienna World Conference on Human Rights reaffirmed that Rights to

Development is universal and cannot be violated and is part of the fundamental rights. Rights to Development cover economic, social, and cultural rights with the aim toward the continuous well being of the people on the basis of participation as well as equal and fair distribution of benefits. There are only 10 articles in the Declaration covering basic concepts and the roles of the states. To further strengthen as well as bring about the realization of Rights to Development, the UN General Assembly again adopted the Maastricht Guidelines on Violations of Economic, Social, and Cultural Rights in 1977, 10 years after the adoption of the Limburg Principles in 1986. The Maastricht Guidelines identified clearly the obligations of the states in respecting, protecting, and fulfilling the economic, social, and cultural rights of the people. The states have the obligation to respect and not violate rights of the people, the obligation to protect rights of the people from being violated by third parties, and the obligation to fulfill the rights of people through rules, laws, and regulations, as well as providing financial and other support. The states obligation to fulfill require that the states have the obligation to conduct or implement projects and programs to provide services to the people according to human rights standard. The states also have the obligation to result, meaning that states must be able to bring about concrete output in providing fundamental rights and protect people from facing human rights violations.

In 2005, the UN Secretary General Kofi Annan appointed Prof. John Ruggie as his Special Representative on the issue of human rights and transnational corporations and other business enterprises. In 2008, the Special Representative of the Secretary General (SRSG) proposed a “three pillars” framework to address business and human rights. The framework covers: (1) the State’s duty in international law to protect citizens from the violation of human rights by transnational business; (2) the corporate responsibility to respect human rights; and (3) the need for access to effective remedies including through appropriate judicial or non-judicial mechanisms. The Special Representative held many consultative meetings and beyond the Human Rights Council, the Framework has been endorsed and employed by individual governments, business enterprises and associations, civil society and worker’s organizations, national human rights institutions and investors.

It is clear that the framework follows the Maastricht Guidelines with some adjustments. While the Maastricht Guidelines suggested that States have obligation to “Protect, Respect, and Fulfill”, the Ruggie Framework, expanded further that in addition to states obligation to fulfill (through obligation to conduct or implement and the obligation to result), states need to be clear on its obligation to provide effective remedy to people whose rights have been violated. The third pillar “Remedy” is substituting the “Fulfill” pillar which focus on the states obligation to provide infrastructure and services to fulfill the

basic and fundamental rights of the people. The “Remedy” obligation brings in the dimension of reconciliation and compensation.

In its resolution 8/7 the Human Rights Council extended the Special Representative’s mandate until June 2011, asking him to “operationalize” the Framework and agreed that the recommendations should take the form of “Guiding Principles”. According to the Clause 11 of the Report:

The Guiding Principles addressing how Governments should help companies avoid getting drawn into the kinds of human rights abuses that all too often occur in conflict-affected areas emerged from off-the-record, scenario-based workshops with officials from a cross-section of States that had practical experience in dealing with these challenges. In short, the Guiding Principles aim not only to provide guidance that is practical, but also guidance informed by actual practice (UN General Assembly, 2011).

The Ruggie Framework and the Role of SEANF

In 2008, the UN Human Rights Council unanimously adopted a resolution welcoming the report of Prof. John Ruggie’s “Protect, Respect, and Remedy” Framework. The UN High Commissioner for Human Rights, Navi Pillay further supports the proposal for International Coordination Committee of NHRIs (ICC) to adopt the framework fully. She sees that the core functions of NHRIs is to address the critical human rights issues at the national level through promotion of the rule of law and ensuring accountability. Thus, the ICC, in the 10th Biennial Conference in Edinburgh during 8-10 October, 2010 issued “The Edinburgh Declaration” whereby NHRIs agree to actively consider promoting and protecting human rights as they relate to business, based on their mandates under the Paris Principles. The NHRIs also agree to undertake activities, commencing in 2011, in coordination with the ICC Working Group on Business and Human Rights and with the support of the Office of the High Commissioner for Human Rights, to organize a workshop on business and human rights in each ICC Region during 2011. In this respect, the Asia Pacific Region held a workshop in Seoul during 11-13 October this year. The Danish Human Rights Institute was responsible for conducting the workshop. Two Asia-Pacific Forum members of the Working Group on Business and Human Rights are the Philippines and Indonesia. For SEANF another workshop is planned for the end of November this year.

The SEANF Strategic Plan (2012-16) also identified Business and Human Rights as one of the theme for joint activities. Detailed activity plans will have to be developed. Clearly, rights of women, children, and migrant

workers will be included under the “Protect, Respect, and Remedy” Framework.

4. Conclusion

This paper attempts to discuss regional cooperation of NHRIs on the issue of trafficking of women, children and migrant workers in Southeast Asia. Case studies and examples are used to demonstrate the different levels of cooperation and different initiatives which took place. Despite the many attempts of the different forms of collaborative efforts, countries in Southeast Asia have been graded poorly in the U.S. Department of State Trafficking in Persons Report 2010. Most are ranked at Tier 2, Tier 2 Watch List, or Tier 3. The report adopted the methodology of in-depth interviews of different stakeholders collected by the embassies in the country. Three factors by which to determine whether a country should be on Tier 2 (or Tier 2 Watch List) versus Tier 3 are: (1) the Extent to which the country is a country of origin, transit, or destination for severe forms of trafficking; (2) the extent to which the country's government does not comply with the minimum standards and, in particular, the extent to which officials or government employees have been complicit in severe forms of trafficking; and (3) what measures are reasonable to bring the government into compliance with the minimum standards in light of the government's resources and capabilities to address and eliminate severe forms of trafficking in persons.

SEANF, as a collective NHRIs will support each NHRI and empower NHRIs in joining hands to deal with human rights violations within the country and the region. It is expected that the SEANF Strategic Plan will lead to a more directive goal on the issue of rights of women, children, and migrant workers. Eventually, most of the countries in Southeast Asia will be able to move up the ranking scale and be recognized as countries whose governments, civil society, and human rights organizations all work together to improve the human rights situation in their respective countries.

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