

OUTCOME DOCUMENT:
**ASEAN Intergovernmental Commission on Human Rights (AICHR)
Seminar on Promoting Corporate Social Responsibility (CSR) & Human
Rights in ASEAN**
Singapore, 3 & 4 November 2016

Introduction:

This document is prepared on the occasion of the *AICHR Seminar on Promoting CSR and Human Rights in ASEAN* held in Singapore from 3-4 November 2016. This was co-organised by ASEAN CSR Network (ACN) and the Singapore Ministry of Foreign Affairs (MFA), funded by AICHR, the Regional EU-ASEAN Dialogue Instrument (READI), the Swedish International Development Agency (SIDA) and the UN Development Programme (UNDP).

The conference successfully involved the participation of about 130 key stakeholders from across ASEAN and included representatives from government, businesses, academia, National Human Rights Institutes (NHRIs) civil societies and trade unions.

This outcome document represents the organisers' joint effort to reflect the recommendations, aspirations and commitments discussed at the Seminar. Its intention is to provide a constructive and forward-looking statement to ASEAN, in particular to show collective support for the development of an *ASEAN Regional Strategy on CSR and Human Rights* ("Regional Strategy"), as the appropriate next step for the business and human rights agenda in ASEAN.

This document was prepared by ACN on behalf of AICHR.

Objectives for the Seminar:

This two-day Seminar was conducted to discuss and agree on appropriate follow up actions to the [AICHR Baseline Study on CSR and Human Rights](#) ("Baseline Study") released in 2014, where one of the key [recommendations](#) was to launch an ASEAN-wide CSR-Human Rights Guideline in line with internationally-accepted business and human rights principles.

It aims to provide a platform for key stakeholders – i.e. government, businesses, NHRIs, civil society and trade union representatives – to discuss and identify appropriate follow-up actions to incorporate CSR into the work at their organisations and also shape human rights in the national and regional development agenda post-2015. These are the stepping stones to promote the Regional Strategy in ASEAN.

I. Our common vision

1. We – representing governments, businesses and civil society and other stakeholders – having met in Singapore from 3 to 4 November 2016, renew our commitment to the advancement of CSR and the promotion of human rights in our national and regional development agendas post-2015.
2. We thank the ASEAN Intergovernmental Commission on Human Rights ("AICHR") and other ASEAN organs and bodies, in taking the lead to facilitate multi-stakeholder dialogue and cooperation. We underscore the importance for governments, businesses and civil society, to work together to tackle ASEAN's key issues and challenges in business and human rights ("BHR").

3. We affirm the need for AICHR to develop and adopt a Regional Strategy, as drafted by ACN on behalf of all participants, as a fundamental step to advance the CSR & human rights agenda in ASEAN.
4. We further reaffirm our commitments to the Sustainable Development Goals, and the goals for sustainable development set out in the ASEAN Charter, and commit to public-private partnerships to promote sustained and inclusive growth, social development and environmental protection.
5. We resolve to take urgent action against key human rights challenges in ASEAN brought about by irresponsible business conduct, and are deeply concerned about cases where human rights have been traded off in the interest of short-term profits.
6. We recognise key international standards on BHR, in particular the [UN Guiding Principles on Business and Human Rights \(UNGPs\)](#), with its 3 key pillars highlighting the “State Duty to Protect”, “Corporate Responsibility to Respect”, and “Access to Remedy”, as a key framework for the promotion of human rights in ASEAN.

II. **Commending Key Milestones in ASEAN’s Journey Towards CSR and Human Rights**

7. We acknowledge the ongoing efforts and progress made by ASEAN and its member-states towards a politically-cohesive, economically-progressive, socially-responsible and people-centred ASEAN community as envisioned in the [Kuala Lumpur Declaration on ASEAN 2025: Forging Ahead Together](#) adopted in 2015.
8. We commend in particular the [ASEAN Guidelines for CSR on Labour](#) adopted at the 24th ASEAN Labour Ministers Meeting on 15 May 2016. We recognise the importance of these new guidelines to promote fair labour practices in ASEAN.
9. We further commend the establishment of AICHR in 2009 and the unanimous affirmation of the [ASEAN Human Rights Declaration \(AHRD\)](#) in 2012, and efforts to ensure business and human rights are firmly placed in the ASEAN Agenda, including in the [ASEAN Political-Security Community \(APSC\) Blueprint 2025](#), [ASEAN Economic Community \(AEC\) Blueprint 2025](#), and [ASEAN Socio-Cultural Community \(ASCC\) Blueprint 2025](#).
10. We further commend the ongoing efforts by AICHR to promote business and human rights, in particular the Baseline Study to identify key challenges and opportunities among AMS, as well as the multi-stakeholder workshop to gather recommendations from businesses, governments and civil society, both of which were conducted in 2014.
11. We recognise the increasing number of companies that now incorporate human rights considerations in their upstream and downstream business strategies, particularly businesses which have enacted ‘Standards of Conduct’ on issues such as discriminatory treatment, child labour and forced labour.
12. We acknowledge the philanthropic culture of many businesses in ASEAN, and welcome this as a key starting point for more innovative approaches in CSR, while recognising that more work needs to be done to promote CSR and Human Rights in ASEAN.
13. We note the emergence of global frameworks and tools outside ASEAN which could enhance businesses’ commitments to human rights. These tools include, *inter alia*, [ISO 26000 International Guidance on Social Responsibility \(2010\)](#), the [Ten Principles of the UN Global Compact \(UNGC\)](#), [Global Reporting Initiative \(GRI\)](#), [OECD Guidelines for Multinational Enterprises \(2011\)](#), [Child Rights and Business Principles \(2013\)](#), and in particular the UNGPs.

The AICHR Seminar on Promoting CSR and Human Rights in ASEAN exceeded expectations in several respects, and the following points that were raised bear mention:

Key Takeaways from Seminar

III. Understanding BHR and CSR

14. CSR refers to the actual and potential human rights, social and environmental impacts connected to business activities, while BHR refers specifically to the actual and potential human rights impacts connected to business activities. It is a broad term encompassing issues such as corporate governance, human rights, fair labour practices, fair operating practices, women's rights, consumer rights, environment protection, anti-discrimination, rights in agricultural value chains and other relevant concepts.
15. The following are some of the relevant international and regional instruments recognised as key references for CSR and BHR:
 - 1) [Universal Declaration of Human Rights \(1948\)](#);
 - 2) [ILO Declaration on Fundamental Principles and Rights at Work \(1998\)](#);
 - 3) [UN Guiding Principles on Business & Human Rights \(2011\)](#);
 - 4) [Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy \(2006\)](#);
 - 5) [Ten Principles of the UN Global Compact \(2008\)](#);
 - 6) [ASEAN Human Rights Declaration \(2012\)](#);
 - 7) [ASEAN Guidelines for CSR on Labour \(2016\)](#);
 - 8) [OECD Guidelines for Multinational Enterprises \(2011\)](#);
 - 9) [Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights \(2011\)](#);
 - 10) [International Finance Corporation's Performance Standards on Environmental and Social Sustainability \(2012\)](#);
 - 11) [UN Declaration on the Rights of Indigenous Peoples \(2007\)](#);
 - 12) [Principles for Responsible Investment in Agriculture and Food Systems \(2014\)](#);
 - 13) [ISO 26000 International Guidance on Social Responsibility \(2010\)](#);
 - 14) [Women's Empowerment Principles \(2009\)](#);
 - 15) [Child Rights and Business Principles \(2012\)](#);
 - 16) [Global Reporting Initiative \(GRI\)](#);
 - 17) [Electronic Industry Citizenship Coalition \(EICC\) Code of Conduct \(2016\)](#);
 - 18) [Extractive Industries Transparency Initiative Standard \(2016\)](#); and
 - 19) Other globally recognised standards and Principles on CSR & Human Rights

IV. The Urgency to Address CSR and Human Rights in ASEAN

16. While CSR has been officially embedded in all three components of the ASEAN 2025 Blueprint, the concept is still not well-understood within business circles in ASEAN.
17. Businesses need to go beyond the understanding of CSR as philanthropy, charity and volunteerism, and not to employ the banner of CSR for self-serving and 'fashionable' reasons. They must understand that CSR is not about how money is spent (on charitable purposes), but rather about how the money is made (by adopting responsible business practices for the benefit of society).
18. Businesses and governments need to look beyond CSR and Human Rights in voluntary terms, and to take concrete steps to protect and respect human rights, as well as to remedy abuses resulting from business activities.
19. Businesses need to recognise that human rights measures are to prevent future profit loss from labour turnover, damage to reputation and other such consequences, caused by human rights violations or allegations.

20. Key human rights challenges in ASEAN raising concerns include the unlawful trafficking and mistreatment of migrant workers, abusive work environments, land conflicts and land-grabbing, discrimination against religious or ethnic minority groups, child labour, forced labour, transboundary haze pollution and other relevant issues.
21. Business industries most at-risk to human rights issues in ASEAN include agriculture, manufacturing, fishing, construction, entertainment, forestry, tourism, domestic work and mining and other extractive industries. Vulnerable and under-represented groups are also at risk, including migrants, indigenous peoples, children, women, religious and ethnic minorities and persons with disabilities.
22. Negative environmental impacts brought about by irresponsible business conduct include water, land and air pollution, loss of biodiversity, poaching, deforestation, degradation of marine environments, food security issues and transboundary haze pollution.
23. There are growing challenges in CSR following further regional integration, due to increasing trade flows and the setting up of the ASEAN Economic Community (AEC), with the need to pay greater attention to adverse impacts and risks, such as the trafficking of migrant workers and unsustainable forms of foreign direct investment (FDI).
24. Recognition can be paid to ASEAN Member States (AMS) for their forward-looking steps to promote CSR and BHR, including the following examples:
 - a. Thai companies emerged top in a [study conducted by ACN on the state of sustainability reporting in ASEAN](#) by the top 100 companies in 4 ASEAN countries
 - b. Myanmar has over 300 signatories to the Ten Principles of the UNGC, presenting the largest number of companies and fastest growing record in ASEAN
 - c. Malaysia was the first country in ASEAN to embark on the drafting of a National Action Plan (NAP) through the Human Rights Commission of Malaysia (SUHAKAM)
 - d. Indonesia's National Human Rights Commission (Komnas HAM) and the NGO ELSAM made recent announcements to draft a NAP

V. Recognising the need for a Regional Strategy to promote business and human rights

25. All stakeholders are committed in their support of AICHR to mainstream business and human rights principles across all ASEAN pillars.
26. There is a need for ASEAN and all stakeholders – governments, businesses, civil society, academia, trade unions, and others – to have a strong commitment to develop a Regional Strategy in line with international standards.

VI. Reaffirming the Role and Expectation of States to promote CSR & Human Rights

27. Governments should ensure greater progress in mainstreaming CSR and Human Rights, recognising that the promotion of CSR and Human Rights and the pursuit of economic development are mutually reinforcing endeavours.
28. Governments should fulfil their duty to protect Human Rights through the following measures:

Policy Development

- a. Develop a National Action Plan (NAP) for Business and Human Rights in an open, transparent, inclusive and participatory manner. The process should involve civil society and businesses, as well as ensure that rights-holders and affected communities have equal opportunities to shape the NAP process, content, and the identification of priority areas;
- b. Create an overall body to coordinate inter-ministerial efforts to address CSR and Human Rights issues at the national level;

- c. Strengthen capacity building and provide clear guidance for businesses on how to address CSR and Human Rights issues, enabling for example the publishing of manuals and guidebooks;
- d. Provide incentives (including tax incentives) to encourage the necessary reforms, including for SMEs;
- e. Provide official certification for supply chain practices that adopt CSR and Human Rights safeguards;
- f. Provide a safety net for vulnerable and under-represented ASEAN groups (such as migrant workers);
- g. Promote and monitor inbound foreign direct investment (FDI) to address adverse human rights impact on host communities; and
- h. Ensure that issues related to CSR and Human Rights are included in bilateral and multilateral trade agreements.

Legal and Regulatory Enforcement

- i. Enforce national legislation aimed at requiring business enterprises to respect human rights, including legislation on non-discrimination, fair labour practices, environmental protection, property ownership, land titles, privacy and anti-bribery – recognising the [Transboundary Haze Pollution Act \(2014\)](#) enacted by Singapore as an example;
- j. Provide clarity on legislation governing these areas, and to periodically assess such legislation to ensure they provide necessary coverage in evolving circumstances;
- k. Prioritise taking action against *grievous* breaches when enforcing the relevant legal and regulatory framework;
- l. Reduce corruption, bureaucratic ‘red tape’ and unnecessary regulatory hurdles to ensure businesses can continue to operate in a responsible manner, as well as to ensure equal treatment in dealing with all business entities – irrespective of whether the entity is a State-Owned Enterprise (SOE), foreign company, Small Medium Enterprise (SME) or other forms of companies; and
- m. Encourage businesses to ensure corporate transparency in their human rights impacts, and promote the use of formal or informal reporting to communicate these impacts.

Stakeholder Engagement

- n. Strengthen inclusivity by regular consultation with stakeholders both within and outside the government, and engage the wider population more generally in efforts to promote CSR and Human Rights;
 - o. Consider recommendations by NHRIs or relevant government bodies to provide guidance on CSR and Human Rights;
 - p. Encourage the sharing of best practices between companies through forums, seminars and other such platforms, as well as provide recognition for outstanding companies which meet high standards;
 - q. Enlist the cooperative efforts of civil society with a CSR and/or Human Rights focus; and
 - r. Recognise that governments have a role to play in the state-business nexus, and it is particularly important for state-owned or controlled enterprises, as economic actors, to play a leading role and ensure that all commercial transactions with the state have a high level of respect towards human rights;
29. Governments should also take appropriate steps to ensure effective remedies are rendered to affected stakeholders, in cases where infringements on human rights have been identified. Remedies should include:

- a. *State-based judicial mechanisms*, including an effective court independent of pressures from the state or businesses, and unhindered by corruption, to adequately carry out its duties in the judicial process. Furthermore, governments must take steps to ensure that certain groups, such as indigenous peoples and migrants, benefit from the same level of legal protection that applies to the wider population;
 - b. *State-based non-judicial grievance mechanisms*, such as mediation-based, adjudicative or other rights-compatible processes; and
 - c. *Non-state-based grievance mechanisms*, particularly operational-level grievance mechanisms administered by enterprises, external experts, or other relevant bodies;
30. Governments should ensure that all remedies are in accordance with international standards such as the UNGPs, and found to be legitimate, accessible, predictable, equitable, transparent, rights-compatible, and a source of continuous learning to prevent future grievances. Specific actions taken could include the reduction of barriers to claimants, and capacitating public investigators and prosecutors to take on human rights cases in relation to corporate entities.

VII. Reaffirming the Role and Expectation of the *Private Sector* to promote CSR & Human Rights

31. Businesses should – irrespective of their size, sector, operational context, ownership and structure – to obey the ‘do no harm’ rule as a general practice in all business activities, whether it is directly linked to their operations, or as a result of their business relationships with other parties. Businesses operating in ASEAN are obliged to adopt responsible practices and comply with all applicable laws and international and regional standards on CSR and Human Rights, particularly the aforementioned frameworks.
32. The common understanding of CSR should go beyond philanthropy, corporate giving, volunteer efforts and compliance, and should closely examine how businesses manage their economic, social and environmental impacts, as well as their relationship in all key spheres of influence, such as the workplace, marketplace, supply chain, community, and public policy. Businesses should also recognise their accountability not only to their shareholders, but to other stakeholders such as their employees, consumers, suppliers, local communities, policy-makers, and society at large.
33. There is also an increasing demand and role for businesses to contribute to sustainable development, realising the shrinking role and resources of government to adequately address socio-economic problems.
34. Businesses should fulfil their responsibility to respect human rights through the following practices:
- a. Embed human rights into their core business and operational policies and processes, including their sourcing policy and supplier code of conduct;
 - b. Enacting a policy commitment to fulfil their responsibilities – including a public statement endorsed by senior management (the CEO and the Board) – which communicates the expectations of personnel, business partners and other parties directly linked to the company’s operations, products or services;
 - c. Conducting corporate reporting to record their impacts on human rights, in accordance with internationally-recognised standards such as GRI reporting, recognising that there is a growing demand from investors to assess a business’ long-term viability and exposure to risks;
 - d. Conducting human rights due diligence processes to identify, prevent, mitigate and account for how they address human rights impacts, including the adoption of the following measures:
 - i. Act on findings to prevent potential impacts and remedy actual impacts;

- ii. Track the effectiveness of response measures;
 - iii. Increase transparency by communicating externally how impacts are addressed; and
 - iv. Ensure stakeholder engagement throughout the process.
 - e. Join like-minded associations or business networks with a focus on CSR, and engage in joint activities with other businesses to build trust with the public.
35. Where infringements on human rights have been identified, businesses should take urgent action by:
- a. Communicating to affected and external stakeholders the extent of the human right impacts, mitigation processes and remedies;
 - b. Enabling the remediation of any adverse human rights impacts to which they contribute, by operational-level grievance mechanisms, cooperation with judicial mechanisms; and
 - c. Ensuring that all remedies are in accordance with the UNGPs and found to be legitimate, accessible, predictable, equitable, transparent, rights-compatible, and a source of continuous learning to prevent future grievances, and to ensure that grievance mechanisms are ‘jointly-owned’ with rights-holders and is community-driven.
36. Government-related economic actors should also play heightened roles to promote CSR and Human Rights:
- a. *National Chambers of Commerce* should channel human rights into corporate business core values, including the adoption of the following measures:
 - i. Establish reporting platforms where stakeholders can access data on human rights footprints of companies;
 - ii. Incentivise companies through recognition and publicity, providing accreditation or ranking systems; and
 - iii. Offer capacity building through training courses and sharing of best practices, in particular to SMEs and sub-tier suppliers.
 - b. *National Stock Exchanges* should also play a role to strengthen CSR and Human Rights, serving not only as a platform for raising capital, but also to help investors make responsible investment decisions, including the adoption of the following measures:
 - i. Require the inclusion of human rights risks in Initial Public Offering (IPO) documents and the annual reports of listed companies; and
 - ii. Encourage financial investors and banks to demand for the integration of human rights into risk management and performance reporting.
 - c. *Investment promotion agencies* should develop both host and home state measures to ensure respect for human rights by MNCs, including the adoption of the following measures:
 - i. Condition government approval/support on the implementation of specific human rights measures;
 - ii. Adopt transparency and disclosure requirements;
 - iii. Adopt due diligence guidance and/or requirements; and
 - iv. Establish oversight mechanisms (on the administrative or operational level).

VIII. The Importance of Multi-Stakeholder Engagement

37. There is value in regular and open discussions between stakeholders who make up the CSR and Human Rights movement – including CSOs, NHRIs, affected communities, businesses, trade unions, investors and the government. Open platforms are required to enable stakeholders to openly discuss challenges and ways to overcome them, and

contribute to increased trust and better relations in the workplace and communities. Forums, roundtables and other capacity-building strategies are useful opportunities to build this culture of openness and engagement.

38. *Civil society organisations* and *UN agencies* have a significant role to play in supporting businesses and the government in the CSR and Human Rights agenda, including to:
 - a. Provide financial and technical assistance to raise awareness and understanding of CSR and Human Rights issues among governments and businesses;
 - b. Provide guidance to governments through manuals and guides – in particular those provided by the *UN Working Group on Business and Human Rights*, which publishes materials in various languages;
 - c. Empower marginalised, vulnerable and affected communities to defend and claim their fundamental human rights by:
 - i. Building capacity to document human rights impacts, propose responses and engage actors for fair and timely remediation; and
 - ii. Building capacity to develop and propose community-led approaches to due diligence and access to remedy – for example, the [Getting It Right](#) Tool by the Canadian organisation Rights and Democracy, and [Community-Driven Operational Grievance Mechanisms](#) by EarthRights International;
 - d. Potentially form a caucus to fulfil the following functions:
 - i. Share knowledge and information on specific policy proposals and developments to increase transparency;
 - ii. Identify and consult on potential priority areas and issues relating to vulnerable and under-represented communities; and
 - iii. Raise awareness and understanding on CSR and Human Rights of the public and the media
39. *Academics* can also support the CSR and Human Rights agenda, including to:
 - a. Bring together relevant stakeholders in a neutral environment
 - b. Lend credibility to CSOs in situations where there is tension between businesses, governments, CSOs and other stakeholders
 - c. Educate future business and policy leaders
40. *National Human Rights Institutions (NHRIs)* play a significant role, including to:
 - a. Work with relevant ministries to conduct baseline studies to identify gaps in existing national laws and regulatory frameworks
 - b. Provide recommendations to national governments to formulate and enforce policy and regulatory frameworks
41. ASEAN bodies with a significant role to play include:
 - a. *ASEAN Business Advisory Council (ABAC)*, as some CSOs have suggested for ABAC to hold regional events to build a business culture to respect human rights
 - b. *AICHR*
 - i. Representatives from AICHR affirmed that the promotion of CSR and Human Rights has always been one of its key focuses, recognising its role as a key driver for advancing this agenda.
 - ii. Representatives from AICHR further affirmed that it will continue its commitment to work with AMS to translate policy into national documents.
 - iii. Some CSOs have suggested for AICHR to take on specific actions, such as: Holding an annual event for country exchange of experience in establishing NAPs, and conducting a study on the potential human rights impact of the ASEAN Economic Community (AEC) and increased intra-ASEAN FDI

IX. Next Steps: Regional Strategy

42. The formulation of a Regional Strategy is necessary:

- a. To fulfil the aspiration of the ASEAN Charter, the ASEAN Community Vision 2025, the terms of reference of AICHR and the AHRD, among other ASEAN Instruments;
 - b. To support businesses in ASEAN to mainstream CSR and Human Rights in all aspects of their operations; and
 - c. To promote and enable CSR and responsible conduct among businesses in ASEAN and their stakeholders in order to achieve sustainable, equitable and inclusive social, environmental and economic development.
43. Governments of AMS are encouraged to take leadership in enabling responsible business conduct, with instruments such as NAPs as a good vehicle and starting point to signal their commitments.
44. Businesses are encouraged to recognise that they can be a force for good, and must operate with responsible business practices for ASEAN to enable a conducive environment for ASEAN to achieve its goals on sustainable development.
45. Trade unions, civil society and other stakeholders should continue its efforts to socialise CSR and Human Rights in the private sector, and continue to engage governments and businesses to achieve this objective. In this way, they can promote tripartism, bipartism and socialise the ASEAN Guidelines for CSR on Labour.
46. AICHR / ASEAN should identify a body or organisation to take a coordinating role for this effort, taking into account the ASEAN CSR Network (ACN), in order to fulfil the following needs:
- a. To enable collective action, among governments, businesses and civil society, to carry out the Regional Strategy
 - b. To act as a capacity builder by engaging governments, businesses and civil society in formal teaching on CSR implementation, for instance, providing support for the development of NAPs
 - c. To act as a platform for networking, the exchange of best practices and to facilitate peer-to-peer discussions in ASEAN
 - d. To act as a repository of ASEAN knowledge on CSR through case studies, and being the focal point of research on the practice of CSR in ASEAN
 - e. To assist AICHR in coordinating the next steps for the CSR and Human Rights agenda, particularly the development of a Regional Strategy to encapsulate the action points in this Outcome Document.

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