



Fédération internationale des ligues des droits de l'Homme

ORGANISATION INTERNATIONALE NON GOUVERNEMENTALE AYANT STATUT CONSULTATIF AUPRES DES NATIONS UNIES, DE L'UNESCO,
DU CONSEIL DE L'EUROPE ET D'OBSERVATEUR AUPRES DE LA COMMISSION AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES

International Federation
for Human Rights

Federación Internacional
de los Derechos Humanos

الفدرالية الدولية لحقوق الإنسان

The President

Heads of State and Government
Member States of
Association of Southeast Asian Nations
ASEAN

Paris, 28th July 2009

Your Excellencies,

Following the ASEAN Foreign Ministers meeting in Phuket - Thailand and the approval of the Terms of Reference (ToR) for an ASEAN Intergovernmental Commission on Human Rights (AICHR), the International Federation for Human Rights (FIDH) is writing to you in order to express its concerns regarding the mandate of the new body, ahead of its launch at the next ASEAN Summit in October.

FIDH recognizes that the recent agreement and the approval of the ToR gave birth to the first human rights mechanism in Asia, the only region in the world not disposing such a mechanism. For this important achievement, FIDH and its members in the region congratulate ASEAN. Nevertheless, FIDH wishes to draw your attention to the mandate given to the new body as it raises serious doubts regarding its credibility. In spite of the strong and devoted mobilization of human rights organizations and civil society in ASEAN, the High Level Panel proposed a weak mandate. In addition, despite consultations with civil society by the High Level Panel on several occasions, the document was kept confidential until the very last moment.

FIDH denounces the clear lack of power of the future ASEAN Human Rights body and the efforts of some member States to undermine its protection mandate. We are convinced that the AICHR would never be able to reach the international standards if the principles of non-interference in domestic affairs (as stated in the articles 2.1b and 2.1c of the principles of AICHR) are maintained. Moreover, FIDH deeply regrets the absence of a formal mechanism of individual complaints, though present in other regional human rights mechanisms such as the African Charter of human and People's rights, the American Convention, the European Convention on Human Rights and the relevant judicial bodies. The fact that individuals cannot seize the commission in case of serious violations deprives the commission of an essential aspect of sources of information and gives it a simple consultative status. FIDH also regrets the absence of any reference to the possibility to conduct investigation missions and carry out on-site visits and report its findings. The new body may be unable to evaluate and qualify human rights situation, and to decide on monitoring and follow-up independent mechanisms.

FIDH

17, passage de la Main d'Or

Phone : +331 43 55 25 18, Fax : +331 43 55 18 80

fidh@fidh.org - <http://www.fidh.org>

Furthermore, FIDH deplores the rules of composition adopted for the AICHR. Most regrettable is that members are not independent from governments. Actually the Commission will be composed of officials chosen by Governments and accountable to them as stated in reference 5.1, “each ASEAN Member State shall appoint a Representative to the AICHR who shall be accountable to the appointing Government”. In addition to the obvious problem of independence that occurs, this composition rule may affect the credibility of the AICHR at the international level and among the ASEAN civil society, as FIDH seriously questions the intentions of Burma to appoint an expert with a human rights experience to the Commission.

Finally, FIDH is concerned over the evident lack of political will from some of ASEAN member States, despite the principles and the provisions of the Charter, signed by Heads of States and Governments. We express our deepest disappointment with the fact that the body's main duty is limited to enhancing public awareness on issues of human rights. We call for the reinforcement of this mandate, so that the protection dimension of this mechanism should be included and underlined in the clearest and strongest terms into the political declaration to be drafted in August in Manila. The declaration should lay down the foundations of the evolutionary approach that ASEAN confirmed it would follow regarding the mandate and the activities of the human rights body. According to FIDH, this process should be open, transparent and aiming at the effective implementation of the international human rights principles and standards. It should also give some real impetus to a process launched by ASEAN following the signature of the Charter to promote regional peace and stability through abiding respect for justice, the rule of law and human rights.

We thank you in advance for taking the present concerns into consideration and hope that the ASEAN will adopt a strong stance in that regard.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'S. Belhassen', with a long vertical stroke extending downwards from the end.

Souhayr Belhassen
President FIDH

Cc : - Dr. Surin Pitsuwan, ASEAN Secretary General
- Members of the High Level Group

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