

SUMMARY REPORT

8-10 JUNE 2021

ONLINE

**AICHR-UN Joint Expert Meeting  
on Human Rights, Environment  
and Climate Change**





*A stuffed toy is seen in mud following the flood brought by Typhoon Vamco, in Marikina, Metro Manila, Philippines, November 16, 2020. REUTERS/Lisa Marie David*

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# SUMMARY REPORT

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## ***AICHR Workshop on Human Rights, Environment and Climate Change: Advancing rights-based approaches to environmental decision making including through environmental impact assessment mechanisms***

***8-10 June 2021, Online***

### **Introduction**

AICHR Thailand and AICHR Myanmar conducted AICHR Workshop on Human Rights, Environment and Climate Change: Advancing rights-based approaches to environmental decision making including through environmental impact assessment mechanisms, on 8-10 June 2021, online. The AICHR Workshop and AICHR-UN Joint Expert Meeting was held in partnership with Office of the United Nations High Commissioner for Human Rights (OHCHR), United Nations Environment Programme (UNEP), United Nations Children's Fund (UNICEF), and Economic and Social Commission for Asia and the Pacific (ESCAP). The Workshop has the overall objective of advancing

the protection and promotion of human rights and the environment in ASEAN, particularly in relation to three interlinked elements including: environmental decision-making, climate change, and impacts on vulnerable groups, in particular children and youth. The programme consisted of three consecutive half-day sessions. Over 90 participants attended the event, representing AICHR, ACWC, ASOEN, ASEAN Secretariat, government agencies from AMSs, UN agencies, NHRIs, academics, and CSOs from the ASEAN region.

## Day 1: Advancing Rights-based Approaches to Environmental Decision-Making

### Session 1: Opening and Keynote Address

1. **Prof. Dr. Amara Pongsapich**, *Thailand Representative to the AICHR*, welcomed and introduced participants to the three-day AICHR-UN joint programme. This has been part of the Priority Programmes/Activites of AICHR, leading by AICHR Thailand-AICHR Myanmar for 2021. This AICHR-UN Joint Expert Meeting is the collaboration to address issues related to the three themes of environmental decision-making, human rights and climate change and the right of children to a healthy and safe environment. For the first day, one key message is to empower stakeholders in ensuring sound and meaningful environmental decision-making.

#### *Keynote address by the UN Special Rapporteur on Human Rights and the Environment*

2. **Dr. David R. Boyd**, *The UN Special Rapporteur on Human Rights and the Environment*, praised the work that has been done for the environment in the region. We live in a world that has deteriorated the environment amid the pandemic. These global environmental challenges have severe impacts on several human rights, particularly the right to a clean, safe, and healthy environment, specifically for vulnerable peoples. It is key that a rights-based approach to environmental emergencies have to be taken. Furthermore, there are a number of initiatives to protect environmental human rights defenders from harms and abuse. The UN Committee on the Rights of the Child are coming up with a General Comments as well. There are a number of courts which are making governments accountable based on the right to a healthy environment. This compels states to take drastic measures to achieve sustainable changes. At the UN Human Rights Council, everyone's rights to a safe, clean, healthy and sustainable environment is being pursued. This is a result of 25 years of work and commitment. The ASEAN Human Rights Declaration includes the right to a healthy environment. This is on

top of a number of countries embracing this principle in their national legal systems.

3. Mr. Boyd has been producing a number of thematic reports related to the right to healthy environment, including a tool box to guide States in assuming the environmental obligations, particularly on legal mapping, ensuring access to justice. Recognition in national legal systems is important to improve implementation, increase level of participation, lower level of injustice and improve outcomes on the ground. This is a right that improves peoples' lives and enhances their dignity. He has written to all ASEAN Member-States to fully take a human rights approach to preventing and addressing environmental emergencies. He strongly encouraged ASEAN Member-States to develop and strengthen their mandate to protect the environment and to address related human rights issues urgently.
4. There are a number of climate change cases brought to the European Court of Human Rights. There is a lot of action in the space. In the ASEAN region, there are a number of challenges faced by environmental human rights defenders. He has also come up with guidance of safe water management and public participation in environmental management. Mr. Boyd shared that civil society has a central role to play. It does a terrific job in educating people and making states accountable. Furthermore, UN resolutions have catalyzed national action on safe, clean water—impacting marginalized peoples. From the litigation perspective, only four cases have referred to UN resolutions. Most are based on domestic legal systems.

#### *Presentation by Joint UN Entities on Objectives and Scope of the Meeting*

5. **Ms. Cynthia Veliko**, *Regional Representative OHCHR Regional Office for Southeast Asia*, commended the AICHR for taking the initiative of convening this meeting. She stressed on the significant intersection and interdependence of human rights and the environment. The exercise of human rights, such as access to justice and remedy are crucial for the environment. The right to a healthy environment is important for building efficient policies to protect people and planet,



*Residents on a rescue boat are evacuated from their flooded houses following Typhoon Vamco, in Rizal Province, Philippines, November 12, 2020.*

REUTERS/Lisa Marie David



but the lack of environmental and human rights norms undermines this. The COVID-19 stresses the urgency to actualize the right to a safe, clean, healthy and sustainable environment for the most vulnerable peoples. This will play in the flourishing of national economies and social practices.

6. In the ASEAN region, States have a clear obligation under human rights law. Many challenges still persist in the region. People must be able to hold duty bearers to account. States must step up to be more transparent, accountable and enable public participation to achieve agenda for the environment and human rights. Joint UN efforts have focused on alleviating the situation of vulnerable populations including environmental rights defenders. Since 2014, AICHR has taken leadership on human rights and environment. The Plan of Action between ASEAN and the UN has brought us to this three-day event.

## Session 2: Advancing Rights-based Approaches to Environmental Decision-Making

7. **Dr. Katinka Weinberger**, *Chief - Environment and Development Policy Section, UNESCAP* moderated this session. She highlighted a few points: Access rights are fundamental rights in general but also for the specific agenda. There is strong evidence that the provision of environmental rights as well as their protection are crucial for efficient environmental protection. Within ASEAN, some countries are high performers while some countries lag behind in terms of environmental decision-making and protection. From 2015-2019, at least 472 human rights defenders, journalists and others were killed in 24 ESCAP states. The defenders of environmental rights are especially at risk of killings, detention, and discrimination. We see fundamental challenges in the region that hinder sustainable development, including gender, civil society, and climate change. The COVID-19 pandemic has exacerbated this situation and the impact is disproportionately heavy on specific vulnerable groups, including women and children. Stakeholders must be on board in order to leave no one behind.

8. **Mr. Matthew Baird**, *UNEP's Consultant*, highlighted a summary of key good practices in ASEAN for better environmental decision making and presentation of commissioned UNEP report. Mr. Baird then presented summary of background paper on Access Rights in ASEAN, also reviewed the past work of AICHR on rights-based approaches to environmental decision-making, including through strengthening EIA in ASEAN and Recommendations for the establishment of a Joint Task Force. He then presented a briefing paper on 'Assessment of Access to Information, Public Participation and Access to Justice in Environmental Decision Making in Asia Pacific', which recognized various challenges when it comes to the environment and assessed the Aarhus Convention (UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters).
  - e. **Constitutional rights:** A regional approach provides the impetus for developing a stronger enabling environment; Experiences made in the Escazú Agreement reveal the remaining need for a regional agreement to ensure full enjoyment of environmental rights.
  
9. Mr. Baird proceeded to present the main summary of five groups of recommendations of the paper:
  - a. **Access to remedy:** Establish green courts; Strengthen judicial systems to ensure accountability; Adopt procedural rules for environmental cases; Ensure access to the justice system; and Establish right to compensation for damage. We have seen some of these five already implemented in a few countries.
  - b. **Access to information:** Define environmental information broadly; Secure free, prior, informed consent; Establish a clearing house of environmental information; Disseminate environmental information clearly; Restrict reason for denial (of access to environmental information).
  - c. **Public participation and decision making:** Conduct environmental and social impact assessments; Stakeholder identification; Create effective platforms for public participations. Regarding the latter, the use of mobile phones in Thailand is a positive development for e-participatory progress.
  - d. **Enabling a safe and healthy environment:** Introduce legislation specifically protecting the rights of environmental rights defenders and recognizing their role in environmental protection; Amend existing laws, such as defamation laws and trespass laws that are used by corporations against environmental defenders; Prevent and investigate promptly and impartially all extrajudicial killings and attacks against environmental defenders; Provide support to indigenous environmental defenders and expand the role of human rights institutions on the environment.
  
10. Mr. Baird further presented future approaches: Building consensus by countries; Highlighting the nexus with regional human rights initiatives; Setting up compliance and assistance mechanisms; and focusing on environmental human rights defenders. He briefly commented on AICHR's rights-based approach: AICHR has been very active over the past 8 years with regards to the environment and climate change, since the Workshop in Yangon in 2014. The important step of AICHR is a focus on issues such as climate change and to develop a task force for ASEAN Member-States. A tribute should be paid to the work of the AICHR Representatives from Myanmar and Dr. Seree Nontasoot, former AICHR Representative from Thailand, for their dedication. During the 2019 Workshop, the 10 points Recommendations, looking at a regional framework and a range of issues such as protection of the rights of environmental defenders, development of grievance mechanisms, strategic environmental assessments and more, were adopted. These are very important elements for future discussions about the AICHR's approach and assessment. In conclusion, Mr. Baird commended the extraordinary work of AICHR to the groundbreaking and leading work in promoting environmental rights and environmental governance, which has become a leading issue in the realm of environment.



Residents bathe, wash, and pump water in their destroyed village following the damage caused by Typhoon Vamco, in Rodriguez, Rizal province, Philippines, November 20, 2020. REUTERS/Eloisa Lopez

### **Interventions from ASEAN delegates**

11. Dr. Amara agreed with making the case a regional agreement, drawing from her own experiences with the Thailand's Human Rights Commission. Many complaints on transboundary issues were made back then. It is very challenging to work with national institutions, thus a regional agreement is very welcomed so that regional members agree on the same procedures and requirements, and collaboration can be made more easily. Dr. Amara however gave challenging example of the ASEAN Agreement on Transboundary Haze Pollution which took 12 years to successfully obtain 10 signatures. The second point is that looking at Mr. Baird's summary of recommendations, some of those points are also included in the UN Guiding Principles on Business and Human Rights (UNGPs). The UNGPs have 3 pillars, including Pillar 3 (Remedy). These pillars have been adopted, promoted, and gradually practiced globally, and access to remedy is something that everyone agrees on. For Mr. Baird's recommendations, Dr. Amara thought we could combine the UNGPs with this recommendation as it would help strengthen the recommendations.

12. Mr. Baird agreed that the UNGPs are very relevant and can be further incorporated, in particular with regards to remedies. One issue to be highlighted here was the establishment of operational grievance mechanisms, which is part of Pillar 3 of the UNGPs. We have seen the development of the EU Taxonomy for Sustainable Investment and the requirements of due diligence being proposed in the EU. That will have a significant impact on investment and trading opportunities between the EU and ASEAN, specifically for ASEAN if these issues become mandatory for trading partners of the EU.
13. One participant raised that we have been hearing a lot about the absence of legally-binding regulations, thus we have to count on the individual willingness of Member-States. The implementation itself carries certain challenges. We need to consider the role of civil society to work together with states and national human rights institutions to deliver at the regional level. Mr. Baird answered that this is a very important position in terms of how civil society can be effectively engaged, and certainly the work of AICHR in terms of recommendations for task force and discussions since the Yangon Meetings

in 2017 and 2019 very much focused on how to ensure the enhancing of civil society's role. There were many discussions about compliance and how communities can be engaged, and the question of whether and how technology would increase participation.

### Session 3

14. **Georgina Lloyd**, *UNEP*, moderated this panel discussion. She reiterated the need for continuous learning, and emphasized that there was an opportunity to learn from one another.
15. **Mr. David Barrio Lamarche**, *Economic Commission for Latin America and the Caribbean (ECLAC)*, shared about the Escazú Agreement and lessons from Latin America and the Caribbean. Mr. Lamarche's intervention had 3 points: What is the Escazú Agreement?; Why did the Agreement come to fruition?; What are the benefits and lessons learned of the agreement? The Escazú Agreement found its origins at the Rio+20, or Earth Summit in 2012, and it came to fruition in 2018. It is the region's first environmental treaty, it is the only legally-binding agreement stemming from Rio +20, and it is the most recent environmental document. Its provision is to protect human rights defenders and currently has 24 signatories. The Agreement is composed of 26 articles with a powerful objective: to guarantee the full and effective implementation of access rights. In addition to that, there is strong emphasis placed on the capacity building and cooperation. The ultimate aim of the treaty is to contribute to the protection of the right of every person now and in future to live in a healthy world.
16. Mr. Lamarche continued that the Agreement has 5 pillars: 1) access to information; 2) public participation; 3) access to justice; 4) human rights defenders protection; and 5) capacity building. Latin America and Caribbean are one of the regions most affected by climate change and environmental harm and prone to disasters. Although we are not the poorest, we are the most unequal region in the world, very much also in environmental terms. We are also one of the most dangerous regions in the world for defending the environment as two-thirds of all murders of environmental activists
- in the world occurred in this region. These driving forces motivated the adoption of the Agreement. The way the Agreement was negotiated was also worthy to mention: open, transparent, participatory. The Agreement needed to be flexible due to different realities and legal systems as well as different levels of development. In addition, there was a sense that everyone had something to win. It needed to be adapted to regional context. It required time, resources and capacity development. It needed to be realistic but also ambitious and it needed to be non-sanctionatory.
17. He further elaborated that the Escazú Agreement speaks about regional cooperation and partnership among and within states. No actor can successfully tackle environmental challenges alone. The environment is basis of our existence, hence everyone must have a say in it to be a part of the solution. This is even more important in the COVID-19 context. In terms of building forward better, this Agreement is significant. There are five benefits in setting stage for countries: 1) the Agreement levels the playing field and offers a common narrative and standard that is applicable to all; 2) It puts people and rights at the core of policies and responses; 3) It emphasizes groups in vulnerable situations which the pandemic has exacerbated; 4) It preserves life as it aims to combat the tragic track record in the region of attacks and harassments of environmental defenders; and 5) It strengthens environmental rule of law and due process. Thus, the Agreement is a people-centered approach in order to protect our planet and those who seek to protect it, including vulnerable groups. It upholds fundamental values, institutions and policies
18. Mr. Lamarche spoke of the lessons learned: First, this action is a driver of environmental stewardship. It is the inclusive treatment that puts people's needs at the center. It places us in a better position to deal with current challenges. It offers a road map, legal certainty, trust, legitimacy and it lays the foundation for effective environmental policies. Despite our dissimilarities and differences, this Agreement proves that partnerships are possible when finding a common goal. This Agreement can be meaningful to everyone as it demonstrates that governments and people from all walks

of life can work together for the dignity and prosperity of all. Mr. Lamarche hoped that this Agreement can become a source of inspiration for ASEAN.

19. **Ms. Joan Carling**, *UNEP Champion of the Earth*, discussed the principles of 'Free, Prior, and Informed Consent' (FPIC) and environmental decision-making. Ms. Carling first presented the global international standard-setting of FPIC for indigenous people relating to the environment and also the lessons learned and implementation of FPIC in the context of protecting human rights and the environment. The important articles under the United Nations Declaration on the Rights of Indigenous Peoples relating to FPIC and the environment can be found in Articles 10, 29 and 33. These are very important articles of the UN Declaration, which sets the context for indigenous people to be part of decision-making regarding lands, territories and resources because these are important to the wellbeing of indigenous peoples. Ms. Carling cited how FPIC is defined under the Indigenous Peoples Rights Acts of the Philippines (1997) in Chapter II, g): "Free, Prior and Informed Consent as used in this

Act shall mean the consensus of all members of the Indigenous Cultural Communities/ Indigenous Peoples to be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference and coercion, and obtained after fully disclosing the intent and scope of the activity, in a language and process understandable to the community". These are very important elements of FPIC. Particularly for indigenous peoples it should be in a form that is understood by these communities because many of people in remote areas do not understand national language or are illiterate.

20. Ms. Carling also mentioned the international institutions and organisations that have already adapted FPIC as part of their standard setting for good practice, e.g., the International Council for Mining and Metals (Indigenous Peoples and Mining); the OECD Due Diligence Guidance; and Safeguard Policies Statement of Multilateral Banks and Indigenous People (ADB, World Bank); the Equator Principles for Financial Institutions; and the UN Global Compact. Ms. Carling then proceeded to present the lessons learned



Activists carrying placards take part in a rally asking for climate justice and protest against Indonesian President Joko Widodo's statement at the UN Climate Change Conference (COP26), in Jakarta, Indonesia, November 5, 2021. REUTERS/Willy Kurniawan

and key steps: First, FPIC provides the framework for inclusive community decision-making of indigenous people. Clearly, environmental protection and sustainability is a major point under FPIC. Mining and agribusinesses using heavy chemicals, pollution and destruction of land and water are examples of projects that are controversial for indigenous people due to their environmental implications. It is also important to underline that environmental impacts should be fully disclosed and discussed with communities, requiring their meaningful participation. These are integral parts of FPIC.

21. The studies should involve indigenous peoples so that their perspectives are acknowledged early onwards. Information should be provided in an accurate way that is understandable to indigenous communities so that they can make their own decisions. They need complete and accurate information. Furthermore, FPIC requires serious consultations. Whatever views come out does not mean there is a decision or consent. This is just part of a decision-making process. Consent is more on the collective decision. The proper implementation of FPIC is important to avoid conflicts. The legal recognition of indigenous people and their land is not a requirement of FPIC. Companies cannot hide behind their opinion that indigenous people are not legally recognized so companies can simply go ahead with their projects. Women and youth should be part of decision-making to ensure their rights, perspective, needs and priorities are fully accounted for. Finally, FPIC serves as a social license to operate. Standard setting is as important in the context of ASEAN where almost all countries have indigenous peoples who live in vulnerable areas, particularly in relation to environmental protection.
22. **Ms. Lia Mai Torres**, *Asia-Pacific Network of Environment Defenders (APNED)*, gave her insights on creating an enabling environment for participation in decision-making. One of the important key players is environmental human rights defender (EHRD) as individual who strive to protect human rights relating to the environment, including water, air, flora and fauna. These include farmers, indigenous peoples and more. During our ongoing climate crisis, these defenders have become more and more important, yet they

remain vulnerable to attacks and killings. In 11% of cases globally, EHRD contributed to halt environmentally-destructive and socially-conflicted projects, defending the environment and livelihoods.

23. Ms. Torres spoke of a successful environmental court case in Thailand where 1,000 villagers sued a plastic recycling company that was polluting the local environment and negatively impacted the villagers' health. In Cambodia, sand exports were banned. Mongolia passed a law protecting human rights defenders. These and many more cases are best practices, thanks to the work of EHRD. Ms. Torres presented ongoing challenges. Given that Southeast Asia has about a quarter of the total number of EHRD killings, much work needs to be done given the broad range of environmental issues. Ensuring that EHRD can do their work and are able to have public participation and open discussions without the possibility of reprisal is key. Especially at the grassroots level they should be part of consultations and collaboration processes. Lastly, policies to protect and uphold binding EHRD laws nationally and regionally are important. We hope that more recognition can be given to EHRD.

#### Open Forum

24. Several participants asked questions to Mr. Lamarche to learn more about the successful practices of ECLAC with regards to mechanism of public participation. Mr. Lamarche answered that throughout the different phases that the Agreement experienced, there was a common understanding that the public needed to be an equal negotiating partner at the table. "The public" was defined as any individual person and member of society to be allowed to participate. And this was quite innovative from the beginning because it was agreed that all meetings would be open and webcast. And people did not even have to be from the region to participate. One participant asked how in the Escazú experience the consensus was reached with parties that opposed the human rights proposals, i.e., what kind of concession did

they have to make? Mr. Lamarche replied that in all negotiations, there were different positions and common understandings. It was very progressive, but it took time. We needed to build trust among stakeholders and negotiators. No country was against human rights per se but there were different understandings in how to deal with the legal nature. What comes first: the form or the content?

25. One participant asked Ms. Carling that given the consultation under FPIC does not require the recognition of a legal entitlement, what does this mean for the strengthening of consultation processes? Ms. Carling answered that there are already laws and frameworks regarding this matter. Any decision concerning the environment requires the perspectives of those using our resources (everyone), those protecting our resources (indigenous peoples and others), and our future generations who have a right to access these resources, too. One participant asked that since many of the most vulnerable people are illegal (e.g., who moved across borders without realizing or were ignorant of laws) and discriminated due to ethnicity, who would stand up for them? How could the process start if there are no such parties? Ms. Torres answered that this is a matter of transboundary issues. As a solidarity network, we think it is important that there are groups that these people can talk to. There are UN mechanisms and representatives that can be asked for help and advice. But I think it would be helpful to have a policy in the region when it comes to transboundary issues.
26. Next question: Regarding accessibility of environmental information, could Mr. Lamarche provide information whether there are any legal restrictions of accessing confidential information of public projects in the Caribbean and Latin America under the Escazú Agreement? Mr. Lamarche answered that this is not absolute. There can be restrictions. The Agreement is very clear on "may", hence it is not mandatory. But the Agreement establishes a two-tier possibility in Articles 5 and 6 in case a country does not have a national regime, but there are certain things that still need to be respected.

## Session 4

27. **Ms. Yuyun Wahyuningrum**, *Indonesia Representative to the AICHR*, moderated the session. She congratulated AICHR Thailand Representative and the UN to continue their commitment of environmental matters in the region.
28. **Dr. Georgina Lloyd**, *UNEP*, talked about Resolutions from the APFSD (Asia Pacific Forum on Sustainable Development) and linkages to AICHR work on SDG 16. Dr. Lloyd said that the core elements of procedural rights for the environment are found in SDG Goal 16. It sets the framework for peace, and justice for all and strong institutions. The procedural rights in environmental decision-making are at the heart of the rule of law. These procedural rights support inclusive societies and promote sustainable pandemic recovery, among others. There are 5 targets under SDG 16 that are particularly relevant for our discussion. We can make these linkages stronger in the dialogue. Dr. Lloyd briefly discussed SDG 16 targets 16.3-16.10: These SDG targets echo many of the key points we have been discussing today. This can support resilient societies in their aim of environmental protection. SDG16 supports the rule of law and there are clear intersections between the environment and human rights. If successfully implemented, SDG 16 can help in the reduction of environmental crime, end of exposure to pollution and other harmful things, and overall human wellbeing.
29. The report of the 8th Asia Pacific Report on Sustainable Development highlighted various things, including the importance of public participation and the role of human rights defenders. There were 4 recommendations from the roundtable on SDG16: Firstly, to uphold fundamental freedoms and ensure public access to information, to prioritize data accountability, freedom of expression, protect journalists and EHRD, and ensure that national legislation protects them. Second, to ensure equal justice for all, to explore innovation in e-justice while ensuring equality for all and to promote access to legal advice. Thirdly, to strengthen environmental rule of law to effective legal frameworks, strong institutions and to provide a safe enabling environment for EHRD including indigenous

peoples. Fourth, to strengthen inclusive and participatory representation, among others. The outcomes of the roundtable focused attention on key actions for Asia-Pacific. Those key actions are many things we have already mentioned including protection of those at risk with a focus on youth and indigenous peoples. Furthermore, strengthening safeguarding mechanisms; building upon innovation; increasing access to justice in the region including access to justice in a virtual space during a pandemic; and the importance to recognize that local communities are partners and can support governments to reach the 2030 SDGs.

30. **Ms. Hitomi Rankine**, *UNESCAP*, focused her talk on Stakeholder Mapping and Engagement. At ESCAP, we work hard to place environmental rights into the context of empowerment and delivery of the 2030 Agenda. To that end, we have consulted with more than 600 stakeholders in the region. There is a link behind environmental rights and better environmental performance. Environmental performance is much better in countries with than in countries without environmental rights. We heard about the strong presence of legislative mandates for public participation in constitutions etc., and this trend is increasing. ESCAP made a dot-poll at the Asia Pacific Forum for Sustainable Development in 2016, showing there is a good level of legislative mandate for participation. Some of the challenges faced by stakeholders (based on experiences from Aarhus Convention implementation in states that have been challenged in meeting their obligations), e.g., economies in transition, were found in the 7 spheres of: public administration (e.g., systems put in place); civil society (e.g., lack of resources); media (e.g., public trust); legal system (e.g., vast corruption); political system (e.g., elite and other capture); the public (e.g. lack of safe space/ fear of reprisal).
31. Engaging vulnerable and marginalized groups needs special attention. A planning and assessment tool for meaningful engagement can support better Environmental Impact Assessment (EIA) delivery. If we are to move forward towards an effective agreement, we need to consider how to involve stakeholders. How do we engage with the UN system

around some of these issues? This is an important question to ask. Broad engagement strategies are, for example, Build ownership and define path for regional agreements (with AICHR WG, ASLOM, ASEAN Cooperation on Civil Service Matters); Impactful, credible ASEAN Agreement and supportive guidance (Environmental defenders, media associations, ministries of environment etc.); Build awareness and momentum for change (Supreme audit bodies, educators, ASEAN Association of Parliamentarians etc.); Strengthen institutionalization and capacitate national systems (public officials, judiciary and lawyers, civil society, educators, supreme audit bodies, parliamentarians).

***Plenary discussion on how AICHR and AMSs can collaborate with UN agencies to further explore rights-based approaches for environmental decision making***

32. Dr. Lloyd revisited the points of engagement under the AICHR Five-Year Work Plan. There are many initiatives to integrate human rights into environmental issues, including Task Force Meetings for an Effective Environmental Assessment in ASEAN Member-States. Ms. Yuyun explained that the issue of environment has been integrated into AICHR's Work Plan including capacity building. It is AICHR's responsibility to bring all communities together, i.e., ASEAN Socio-Cultural Community, ASEAN Political-Security Community and ASEAN Economic Community, on the environment and climate change.
33. A participant from FORUM-ASIA shared her own experience pointing out that shrinking civic space is really a key issue in this region. Her reflection for an environment dealing with repressive legislation and laws is key for creating an enabling environment for all of us. Building on Ms. Hitomi's point on civic space, she further shared a reflection on civil society role that a key prerequisite for a safe and enabling environment in decision-making is repealing repressive legislation. In FORUM-ASIA's experience, we have seen repressive laws hamper and delegitimize women rights/human rights defenders and CSOs operations, and limit freedom of speech, peaceful assembly and association. This ultimately undermines an enabling environment we all aspire for.

## Closing Session

34. **Dr. Amara Pongsapich**, *Thailand Representative to AICHR*, delivered the closing remarks. Based on our earlier workshops organized mostly in Myanmar (this today is the 5th workshop), we have discussed many issues on environmental rights, assessment, transboundary issues etc. At the end of the last Workshop in Yangon in 2019, the Workshop recommended to establish a joint task force or working group within the ASEAN Secretariat to advance the 10 points that were agreed on. These points include access to information, access to remedy, public participation etc. Based on the 2019 recommendations, AICHR Myanmar has submitted a priority program which was already approved. This is one of the activities that we can carry on in the future.
35. Today we heard about Escazú Agreement and we talked about the framework and principles on human rights and the environment. And we heard the talks about the Asia Pacific Forum on Sustainable Development. It is very clear now that if we set up a task force, we have plenty to learn from - not only about the outcome of the Escazú Agreement but also the difficulties taking place during the drafting process. The question was asked how to reach agreements, and we were given detailed insights on how we need to negotiate and the process that will take a long time. We learned from experience of others and we have to move forward with those lessons.
36. With the intention of setting up a working group on a regional agreement and lessons learned from earlier works from other regions and UN activities including the Asia Pacific Forum on Sustainable Development, etc., we can strengthen our work and incorporate all those existing tools to make the agreement strong. With that conclusion, Dr. Amara would like to have participants' support in agreeing with the recommendation that AICHR moves forward to request or set up with the ASEAN Secretariat to establish a joint task force or working group to work on the regional agreement.



Activists carrying placards take part in a rally asking for climate justice and protest against Indonesian President Joko Widodo's statement at the UN Climate Change Conference (COP26), in Jakarta, Indonesia, November 5, 2021. REUTERS/Willy Kurniawan



Activists carrying placards take part in a rally asking for climate justice and protest against Indonesian President Joko Widodo's statement at the UN Climate Change Conference (COP26), in Jakarta, Indonesia, November 5, 2021. REUTERS/Willy Kurniawan



## Day 2: Climate Change and Human Rights

### Welcoming Remarks

37. **Dr. Amara Pongsapich**, *Thailand Representative to the AICHR*, welcomed everyone to the second day of the Workshop, focusing on Climate change and Human Rights. She stressed that climate change is currently very alarming. Despite initiatives, the implementation and commitments remain weak. In light of ASEAN's 2025 Vision, there is a need to promote a mechanism to coordinate a human rights-based approach to address environmental issues. There is a need to further discuss the protection of the rights of vulnerable people in light of environmental emergencies. We need to enhance working relationships with ASEAN Sectoral Bodies, as well as, with various stakeholders, on human rights and the environment.

### Session 1: Setting the Stage – Regional Situation and International Commitments

38. **Michele Bachelet**, *UN High Commissioner for Human Rights*, in her video message stressed that climate change is a reality in every region in the world. The human rights implications are catastrophic. We are burning up our future, literally. Hunger has increased, which has already led to 250,000 deaths per year. Environmental emergencies have led to social tension and grave inequalities. The economies of all nations and political and cultural fabrics are already being impacted. We live in an era of tremendous innovation, hence this can reverse emergencies and enhance commitments to human rights and protect peoples who are most at risk. Businesses have also be involved. A healthy environment is equally as important as our basic rights to live in dignity.

### Climate Change in ASEAN: A Regional Overview

39. **Dr. Vong Sok**, *Head of Environment Division, ASEAN Secretariat*, shared that ASEAN was established in 1967 with the aim to accelerate economic growth, cultural development and promote regional peace

and stability. There are a number of sectors involved under the Socio-cultural community, including the Environment. ASEAN works to enable Member-State's commitment to global agreements related to development and the environment, such as the SDGs and the Paris Agreement. The ASCC Community Vision is also being pursued. It envisions the achievement of a sustainable environment in the face of social changes and economic development—particularly through the lens of human rights, rules-based collaboration and the benefit of community building. Human rights is a very clear priority. This Vision is complemented by other regional blueprints related to political-security and economic development. It is key to empower people to enable inclusive institution, equal access for all, protect human rights. There is a need to do more, and there are guidelines which can support efforts.

40. The ASCC Blueprint of 2025 calls for more sustainable efforts to achieve strategic measures to address climate change. This covers mainstreaming climate change risk management on sectoral planning, strengthening human and institutional capacity, strengthening global partnerships and national efforts. The ASEAN Strategic Plan on the Environment (ASPEN) sets a number of sustainable priorities to guide the region in attaining its goals and targets. The Institutional Framework for ASEAN Cooperation on Environment has also been established to enable efficient work and delivery of outcomes and impacts. Dr. Sok shared that climate change in the region is alarming. The Mean temperature is expected to rise by 2100. Sea levels have also risen. There have been an increase in natural disasters. The impact and risk of climate change on people, resources and the environment has to be given greater attention. It is endangering the lives of vulnerable people, their livelihood and gains that achieved by local and national governments in light of development and human rights.
41. The ASEAN Working Group on Climate Change (AWGCC) has come up with an Action Plan focusing on Adaptation, Mitigation, Long Term Planning, Climate Modeling, Climate Financing, Technology Transfer, and Cross-Agency Coordination. The Climate Change Report is being

finalized. Issues of vulnerable groups are being mainstreamed, in order to understand impacts of climate change and inform future policies and actions at the national and regional levels. ASEAN has been consulting with Think Tank, International Organizations to reflect on ways to effectively address issues faced by marginalized sectors. Furthermore, a Climate Finance Strategy was established to find entry points for government to provide resources to mitigate risks and harms. ASEAN has also been planning to engage key stakeholders in discussing progress and key concerns through a Climate Change Partnership Conference. It is also involved in cooperation towards the UNFCCC COP 26—including raising awareness, conduct high level meetings and forging partnerships.

42. Dr. Sok stressed that climate change is a cross-cutting issue. It touches on themes related to Sustainable Cities, Environmental Education, and cross-sectors on Forestry, Energy, Transport, Gender, Economic Development, Human Rights, Disaster Risk Reduction. This highlights ASEAN's commitment to achieving a collaborative effort to address environmental emergencies. In 2018, Singapore hosted the Special ASEAN Ministerial Meeting on Climate Action. This led to inputs to the Talanoa Dialogue of UNFCCC COP 24, reaffirmed commitment to the Paris Agreement, and galvanized regional action to address climate change. It has been stressed that climate change remains to be a priority of ASEAN. Furthermore, ASEAN recognizes the issue of climate change and impacts of societies. It has been addressing emergencies guided by a roadmap and frameworks. It looks forward to strengthened multi-sectoral collaboration amongst all actors and at all levels. Dr. Sok stressed that this can be achieved through an inclusive approach and by enabling the protection and promotion of human rights.

#### ***Climate Change, International Human Rights Conventions and Human Rights Mechanism***

43. **Dr. Seree Nonthasoot**, *Member of the UN Committee on Economic, Social and Cultural Rights and former Thailand Representative to the AICHR*, shared that in 2013 the issue of climate change has been identified as a common agenda between AICHR Thailand and Myanmar. He congratulated AICHR for

the continued work. Dr. Nonthasoot spoke that currently, there are nine human rights treaties that are in force, but only CEDAW, CRC and the CRPD are the common treaties embraced by all ASEAN Member-States. The most excited milestone is a statement by five human rights treaty bodies, CEDAW, CESCR, CMW, CRC and CRPD, based on a report released in 2018 by the Intergovernmental Panel on Climate Change concerning global warming of 1.5 degrees Celsius. It has been shared that rights are directly impacted by Climate Change. These bodies expressed the need to prevent foreseeable human rights harms, state responsibility to implement policies to reduce emission, phase out fossil fuels, promote renewable energy. Dr. Nonthasoot stressed that businesses have to also be regulated. He also mentioned the need to offer complementary protection for migrants displaced by natural disasters and man-made emergencies. Human rights due diligence must be mandated. States also have the responsibility to protect and defend the rights of the environmental human rights defenders at all time.

44. In terms of treaty bodies, treaty body committees will make sure that climate change and related concerns are included in State reports. They have also produced General Comments related to climate change such as the Right to Water, Right to Health, Right to Adequate Food, Right to Adequate Housing. Dr. Nonthasoot said that none of the ASEAN Member States have signed the Optional Protocol on Communications. He is hoping that treaty bodies work closely with Special Rapporteur on Climate Change Indicators. The AICHR can be more active in encouraging government to put issues of climate change on State reports to the treaty bodies.

### **Open Forum**

45. A participant asked why ASEAN isn't negotiating as a block at the Framework on the Convention on Climate Change (FCCC) and on issues of climate change, and how can we benefit from a regional effort to addressing climate emergencies. Dr. Sok said that ASEAN is just an observer at the FCCC, this is why it is more difficult to enter negotiations. Moreover, the diversity of economic development status makes it difficult to reach a common, regional position

and leverage at the global level. They are currently with UN agencies to achieve current priority.

46. A participant wanted to know more about the outcomes of the previous ASEAN workshops on climate change, and how can ASEAN act collaboratively on the impacts of environmental emergencies. Dr. Nonthasoot shared that a regional approach to climate change is being developed for years. This is more economical and strategic as well. There are tangible cross border impacts in ASEAN. Hence, these dialogues serve as reminder for national and regional stakeholders that there are issues that should be taken from a regional approach. The AICHR should continue working with UN Bodies. It has yet to meet with UN Treaty Bodies.
47. A participant is curious how to address the impact of climate change issues in conflicted areas. Dr. Sok said that this goes beyond the role of his division. He also stressed that the protection of people should be prioritized and that security must be established. In the case of Myanmar, they are continuing to work with national government in terms of advancing the climate change agenda. In terms of cross-pillar initiatives, Dr. Sok said that AICHR has taken some initiatives that involves other ASEAN agencies. These allow for dialogue and possible collaborations. It is key that partnerships are forged and further strengthened. Funding has also been an issue, which effects how initiatives are being run.
48. Dr. Nonthasoot further commented that the Siloed Approach/Structure with ASEAN has prevented agencies to work effectively with each other. He looks forward to the review of the ASEAN Vision 2025, while we also need to be reminded that ASEAN can develop its own agenda and policy on climate change. A participant shared that the ASEAN Negotiating Group on Agriculture has been working on food security and agriculture. They also touch on issues related to climate change. He also mentioned that the AHA Centre has a risk management review. The silos within the regional association have to be addressed to prevent any redundancies, address bureaucracies and gaps in information. We need to maximize and learn from existing regional efforts and to prevent from reinventing the wheel.



Children play in the floodwaters after heavy rains in Bekasi, near Jakarta, Indonesia February 25, 2020. Antara Foto via REUTERS/Yulius Satria Wijaya

## Session 2: Stakeholder Engagement: Key elements and actors relating to climate change and human rights in ASEAN

### Gender Dimension in Climate Change

49. **Ms. Theresa Bjork**, OHCHR, moderated this session.
50. **Ms. Inkar Kadyrzhanova**, Regional Adviser on Gender and Climate Change, UN Women, shared that climate change deepens existing inequalities and is impacting basic human rights. Human Rights violation and gender inequalities increase with climate change. The most affected are already suffering at the margins. There are already legal frameworks that recognize the intersectionality between human rights, climate change and gender empowerment. Still, so much still has to be done. In the Fifth Assessment Report of the United Nations Intergovernmental Panel on Climate Change it has been highlighted that those marginalised continue to be impacted by multidimensional inequalities. Those who are not integrated in society continue to be abused, harmed and made vulnerable. Discrimination continues to derail coping capacity and disable people from claiming their rights.
51. The lack of women's empowerment is embedded in inequalities such as gendered social norms and values, significant biases in legal structures, increasing rates of gender-based violence as well as low political representation. Women suffer from lack of power and ownership in decision-making in relation to natural resources. They are unable to be heard and express their voices. Climate change can often reinforce, perpetuate and increase gender inequalities. They suffer from loss of livelihood, higher risk of human trafficking and exploitation. Ms. Kadyrzhanova said that women also reported high levels of physical, emotional abuse. Women are more vulnerable to death caused by both natural and man-made environmental emergencies. This has become a more systemic and structural trend.
52. There are a number of global frameworks with cover gender empower in light of climate change. They reflected provisions for gender mainstreaming for risk reduction efforts and climate change mitigation. Efforts lead to greater alliance of policy and improved coordination. Gender links all global provisions such as SDGs, Paris Agreements, Sendai Frameworks, and the Addis Ababa Action Agenda. She highlighted call of the

five human rights treaties to State-Parties to include their climate change commitment in their reports and in the implementation of their human rights obligations. The Beijing Action Plan has been used to assess progress in achieving the provision on gender mainstreaming. Unfortunately, there is still a lot to be done in the area of environmental protection and climate change. She appreciates efforts made by ASEAN in addressing environmental emergencies.

53. Ms. Kadyzhanova shared UN Women's Report on Climate Change, Gender Equality and Human Rights in Asia. They applied the intersectional human rights-based approach to addressing climate change. It is important to mainstream an intersectional lens. Women are not a homogenous group of people. They have multiple identities that define their vulnerability and level of power in their respective societies. Women's agency has to be taken into consideration when identifying interventions and spaces for participation. The report is based on gendered and human rights implications, best practices and means to integrate gender transformative and human rights-based approaches. Recommendations from the report include the formulation of holistic policies in tackling climate change, human rights violation and gender inequality, ensure multi-stakeholder cooperation, prioritization of actions that address social and gender inequalities. There is also a need to support research to inform evidence-based policies. There are only a few best practices and policies that embody gender mainstreaming in climate change efforts.

#### ***The Role of CSOs in Climate Action***

54. Mr. Nithiyananthan Nesadurai, Climate Action Network (CAN) South-ASEAN Network, focused his talk on his project to support the integration of human rights based approach in climate change advocacy. He spoke that CSOs were well aware of the dangers of climate change and impacts if these issues are not adequately address. CAN's goal is to achieve social and racial justice. It aims to inform and influence local and national government agenda. At the global level, it focuses on influencing negotiation at the UN Climate Change Conference. CAN works with partners outside its network to bridge an alignment in

various rights and gender agenda. This is to mainstream pressure on government to end environmental vulnerability and emergency. It wanted to put people at the centre of climate change agenda. Emphasis is now given to resilience building and capacity building in light of impacts of climate change. Inequalities have prompted actions to shape a new normal. Thus, it is important to empower communities to fight for a better world. Policies have to be informed from the bottom-up. Driving CAN's work are three components: Technical expertise, worldwide coverage, diverse and interdisciplinary membership and collaboration.

55. Mr. Nesadurai stressed that their efforts are centered on human rights, gender empowerment and equality and equity. They aim to raise climate ambition in national agenda related to FCCCs. They also seek to occupy spaces in technical groups on the environment. They also are involved in presenting a statement at the ASEAN Working Group on Climate Change Meeting in 2020. In Indonesia, Philippines and Vietnam, members have formed alliances with universities, government agencies to promote greater efforts to influence policies and legal framework. They have been involved in low carbon development. They have been engaging with the UN OHCHR. They will continue to widen and deepen membership and collaboration amongst peoples to combat further emergencies caused by climate change.

#### ***Climate Justice and the Rights of the Future Generation***

56. Ms. Sharifah Norizah, UNEP Major Group for Children and Youth Representative, shared that climate justice is a concern for all. Spreading environmental awareness is key to proceeding with solutions. Eco consciousness leads to empowerment of peoples. Pollution continues to harm our environment and communities. We need to rethink plastic usage and waste in our daily routines and practices. It is indeed a source of public health emergencies. Grassroots initiatives are needed to solve this protracted problem. Toxic chemicals continue to destroy our landscape and seascape. Children and youth should be taught about urban farming and gardening to understand and contribute to environmental sustainability. Holistic

paradigms should be taught at a very young age. They should learn how to be sustainable consumers as well.

57. There are still a critical number of communities that do not have access to clean water. We need further support for local initiatives that successfully address issues that continue to impact vulnerable communities. According to WHO, by investing in clean water, children can benefit from cleaner, better health. We also need to focus on solving intergenerational, transboundary climate injustices. All individuals and organisations should be at the core of measures. Southeast Asian youth expect business community to invest in green efforts and measures. Climate crises cannot be solved by a single person or in silos. Do not let anyone take environmental sustainability for grant. We have to start now and keep on running our advocacy. We need to support efforts through social media as well.

#### **Open Forum**

58. A participant asked whether there are any frameworks that could be used to ensure environmental policies and practices which demonstrated or accommodated gender-based realities and lived experiences. Ms. Kadryzanova said the UN Women focuses on addressing gender-based stereotypes and determines gendered impacts of environmental issues. They also look at available resources and the removal of any forms of gender based discrimination. There are reports that examine masculine and feminine norms. She said that she will be sharing resources.
59. Others also wanted to know about plans of CAN-SEA on collaborating with ASEAN and instances when children and youth voices are heard and what are the challenges when addressing or negotiating climate change measures and commitment. Mr. Nesadurai shared that engaging with ASEAN has been one of its priorities. They seek to strengthen this further, starting with the ASEAN Working Group on Climate Change. We need to know where our advocacies fit in the ASEAN structure. Ms Norizah shared that demonstrations have been initiated by youth. Education at the community level should be

fortified. Social media has also been used to effectively spread important issues that young people face in light of environmental emergencies. Governments should be open to learning from young people, and how climate change can be solved on the ground.

#### ***Business and Climate Change from a Business and Human Rights Perspective***

60. **Commissioner Roberto Eugenio T. Cadiz**, *Focal Point on Business and Human Rights, Commission on Human Rights of the Philippines*, spoke about the nexus between climate change, human rights and business. Climate change adversely impacts the whole gamut of human rights. It is also a business issue because of its anthropogenic dimension on climate change—direct impact on peoples’ lives and means of living. It is the duty of States and responsibility of Businesses to respect and protect human rights. During the previous climate change inquiry, it was found that the greatest challenge to the economy is how to make transition from dependence of fossil fuel to a reliance on clean, renewable and sustainable energy. All acts of obstruction and derailment of this transition are immoral and illegal. This must be established by domestic legal frameworks guided by international standards. As for the role of companies and corporations in addressing climate change, they have been obstructing ways to derail efforts such as financing political actors and agenda to withdraw from the current climate agreement. This behavior has harmed the globe.
61. The greatest duty of States is to create a policy environment that would incentivize and encourage the scaling up of renewable energy and discover best practices. This also means no incentives and tax breaks for corporation who continue to rely on fossil fuel. Government financial institutions and international banks should focus on the development of sustainable means to achieve renewable energy use. Carbon producers should be held liable and be banned from selling carbon fuel. This will reduce negative human rights impacts and will benefit public health and address inequalities. Ms. Bjork echoes that climate change is indeed a business issue. She added that we should use the pandemic as an opportunity to reset

our behaviors and practices towards the environment.

### ***Climate Change and Human Mobility in ASEAN***

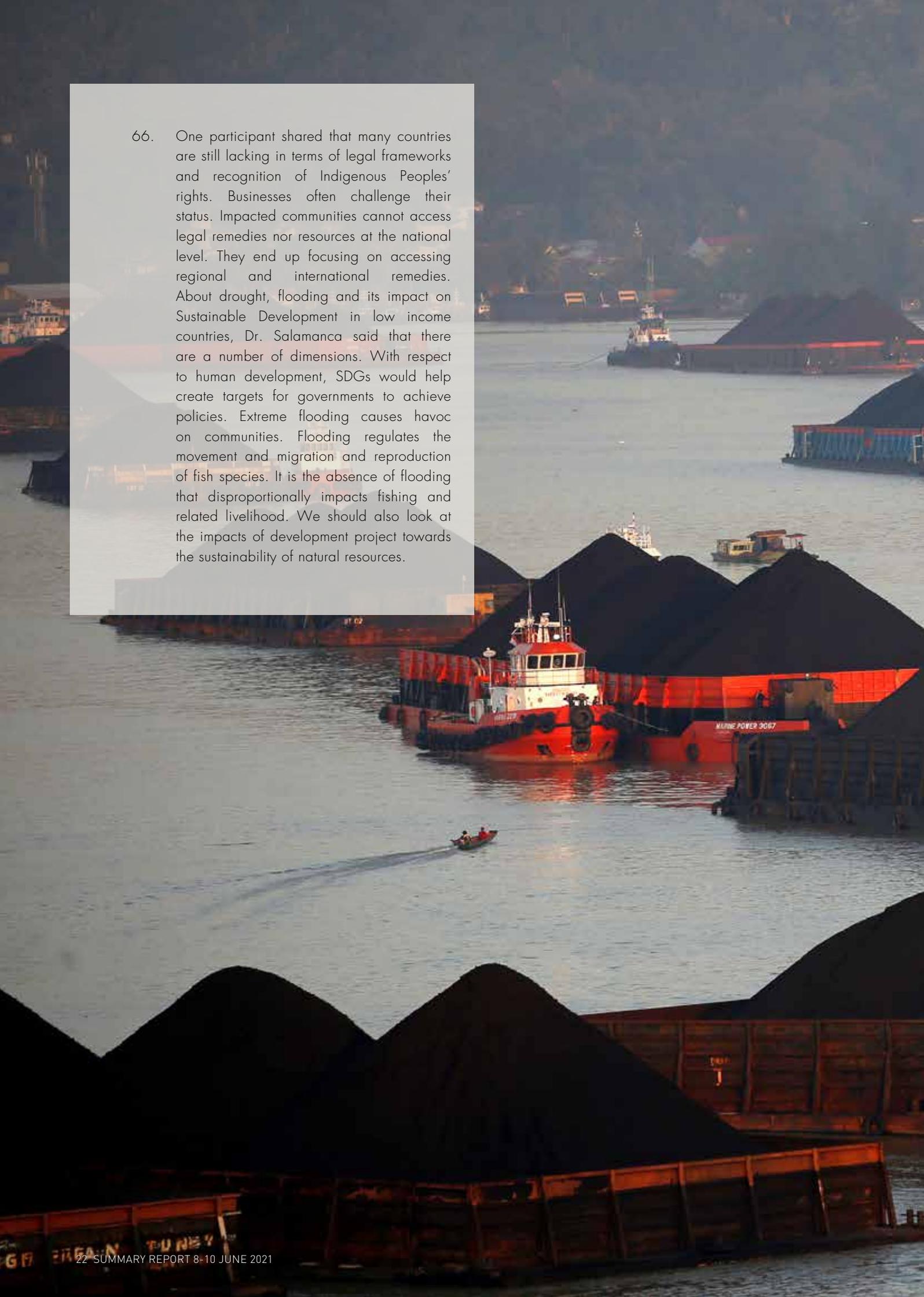
62. **Mr. Albert Salamanca**, *Stockholm Environment Institute (SEI)*, shared the report published by the Internal Displacement Monitoring Center (IDMC) on the new displacements in 2020. 76% of displacements are caused by disasters. With respect to global temperature increase, it will still change by 2.7 degrees despite commitments to agreements. We are on track to a warmer world. Since 2008, much of the disasters that caused internal displacement were floods and storms. Risks are a function hazards and are caused by both climate change and non-climate change factors. Communities have been developing and implementing coping mechanisms. If they fail, many resort to migration—which further increases risks. We also need to be mindful of immobile households, that are not resilient and are more vulnerable. We need to focus on a person’s agency. This is affected by the resources and the choices available to a person or community. When it comes to voluntary migration, it is usually temporary. Based on a recent study, climate induced migration is not prevalent among poor households. Moreover, it tends to be more prevalent for long distance domestic moves than local or international moves. Slow onset climate changes (such as droughts) are more likely to induce increased migration than rapid onset changes (such as flood).
63. In terms of asylum migration, climate conditions are weak predictors of asylum migration. Political violence is viewed more as a consideration. We need to look at the political situation of a country. At the ASEAN context, extreme floods are never the sole cause of long terms migration, but they are frequently a source of annoyance and hardship to migrants. Policy needs to acknowledge the range in floods and relationship of people with these floods. Based on UNESCAP, drought accounts for an average of annual losses—which contributes to damages and disempowerment. Countries with low human development index are greatly affected by droughts. There are no mention of migrants, migration and displacement in the ASEAN Agreement on Disaster Management and

Emergency response and its 2021-2025 Work Programme. However, they are discussed thoroughly in the ASEAN Risk Monitor and Disaster Management Review published by the AHA Center. The Siloed approach to working on various issues in ASEAN had made it incredibly challenging to align regional efforts on climate change, migration and human rights.

### ***Open Forum***

64. Participant raised an idea about setting up multi-stakeholder alliances for climate change and its potential effects. He also wanted to know more about the inclusion of climate change in the report National Human Rights Commission of the Philippines. He asked about the importance of building capacities of human rights bodies on climate change advocacy. UNEP has launched a course on Environmental Rights and NHRIs. A question was asked about ways to overcome addressing losses and challenges from a rights-based approach. In response, we need to look at the local and regional perspective. Human Rights as an agenda is missing in the global agenda for climate change. We need to advocate for rights mainstreaming in national risk mitigation and adaptation initiatives. Adaptation is key to address challenges at the regional level. We need to bring in existing mechanisms to discuss and act on impacts of climate change.
65. To answer question on the work of CHR on climate response, Commissioner Cadiz highlighted the initiative by GreenPeace, which was the first effort to raise climate change as human rights issues. CHR accepted the case, and turned it into a global hearing. They believe that this must be discussed in collaboration with international stakeholders. They have also been able to propose to start establish protocols, which NHRIs can collaboratively use to address environmental emergencies. CHR has already developed a model set of protocols for NHRIs to collaborate efficiently. This will create more gravitas and support for inquiries and advocacies within and amongst NHRIs. There is a need for a parallel national and regional capacity building to tackle impacts, particularly those of transnational nature. With this, NHRIs can be more ambitious and inspired to tackle issues.

66. One participant shared that many countries are still lacking in terms of legal frameworks and recognition of Indigenous Peoples' rights. Businesses often challenge their status. Impacted communities cannot access legal remedies nor resources at the national level. They end up focusing on accessing regional and international remedies. About drought, flooding and its impact on Sustainable Development in low income countries, Dr. Salamanca said that there are a number of dimensions. With respect to human development, SDGs would help create targets for governments to achieve policies. Extreme flooding causes havoc on communities. Flooding regulates the movement and migration and reproduction of fish species. It is the absence of flooding that disproportionately impacts fishing and related livelihood. We should also look at the impacts of development project towards the sustainability of natural resources.





*An aerial view of a clearing at a forest in Indonesia's Sumatra island, August 5, 2010.*  
REUTERS/Beawiharta

## *Plenary Discussion: Towards CoP26 - Role of AICHR and Regional International and Domestic Institutions in Supporting Rights-based Climate Action*

67. Mr. Victor Bernard, Raoul Wallenberg Institute, shared that climate change is posing an immediate threat to human rights and freedoms. This has led to increase in sea levels and to livelihoods, particularly of vulnerable peoples. The UN Special Rapporteur asserted the need to protect the right to a safe environment. Human Rights law is important to addressing impacts of climate change. AICHR is an important actor in advancing the climate change agenda. Climate cases are quickly emerging and we need to emphasize on creating environments that could support governments to comply with global and regional commitments. Human Rights mechanisms have set linkages between human rights and environmental protection. ASEAN has taken crucial steps to strengthen policies and actions related to environmental rights. It is imperative to harmonizing information, managing transboundary challenges and strengthen collaborations at the regional, national and local levels.
68. Mr. Bernard stressed that there is significant convergence between human rights and socio-cultural agenda in the region. The blueprint promotes indigenous knowledge and capacity to address environmental emergency. Cross-ASEAN collaboration is taking place such as thematic studies and working groups. There is still a need to activate efforts on human rights and climate change. We need to focus on intersections on other issues such as business, gender, etc. We need to move beyond workshops, and focus more on attaining sustainable programmes and partnerships. This will integrate and leverage human rights-based outcomes. ASEAN's strength is in its convening power. It can convene statements and action to forge common agenda for human rights and the environment. They can also focus on capacity building and facilitate knowledge exchange at the national and regional level. Funding and resource distribution can be done in collaboration with CSOs. Furthermore, AICHR can play a leading role

at the UN Environmental Action Summits. The youth can be tapped to advance agenda and negotiations with government.

69. Dr. Seree Nonthasoot shared that we need to explore how we could mainstream human rights due diligence. Businesses are already heated up in terms of compliance. In Thailand, companies are obliged to report on their contribution and measures. We have not seen mechanisms or standards to measure compliance to green policies. AICHR can set the protocol and be able to open access to information. Disclosure can be explored further by the Commission. He agrees that ASEAN does have the convening power, which strikes siloed working environment out. The UN-ASEAN Plan includes the integration of gender, human rights and the sustainable development.
70. Dr. Vong Sok shared that there are some progress at the national, local and regional levels. This has been achieved in collaboration with CSOs and other stakeholders. He stressed that ASEAN needs to get some specific and practical recommendations—such as a means to consult and reach out to grassroots communities. This can enable a bottom-up approach to policy design, implementation and evaluation. The Environment Division is open to further discussions. Mr. Bernard agreed that we can also work on both top-down and bottom-up approaches. ASEAN should focus on enabling collaboration amongst national actors—such as Action Plan proponents and officers. Enforcement will need to focus on standard setting. Coordinate effort will enhance ASEAN credibility in the global stage.

### **Closing Remarks**

71. Dr. Amara Pongsapich, Thailand Representative to the AICHR, expressed that the meeting has become an opportunity and served as an inspiration for a multi-sectoral platforms to mainstream and actualize human rights-based approaches to the environmental issues. Discussion have been diverse and fruitful from the perspective of various experts and stakeholders. We also heard about recommendations on what should be done next. AICHR as an overarching body working



*Phon Tongmak, a rubber tree farmer (back), rows a boat in floodwaters in his rubber plantation with his friend at Chá-uat district in Nakhon Si Thammarat Province, southern Thailand, January 18, 2017. REUTERS/Surapan Boonthanom*

on human rights in the region, will work to establish linkages between human rights and climate change. The AICHR Five Year Work Plan and ASEAN-UN Work Plan include priority programmes and activities related to this theme. We will try to use these as starting point, as well as integrate recommendations from the workshop to mapping stakeholders and work with them more fruitfully.

## Day 3: Strengthening Children's Rights to a Safe, Clean, Healthy and Sustainable Environment in ASEAN

### *Session 1: Opening Remarks*

72. **Dr. Amara Pongsapich**, *Thailand Representative to the AICHR*, welcomed all participants to the Workshop centering on Strengthening Children's Rights to a Safe, Clean, Healthy and Sustainable Environment in ASEAN. This topic is aligned with AICHR's Five-Year Work Plan under priority area to achieve strategies to protect the rights of vulnerable peoples. During the first decade after the adoption of ASEAN Charter, ASEAN bodies worked in silos.

With the ASEAN Community Vision 2025, which articulates ASEAN goals in achieving cohesive working relationships amongst Agencies and Bodies within the Association, there have been efforts to show commitment towards Children's Rights. AICHR has convened annual Regional Consultations and Youth Debate to show their commitment to children's rights. This event today is conducted in partnership with relevant UN bodies working on Children's Rights and the Environment. There have been efforts to align the SDGs and Children's Rights to a healthy environment. The expected outcome of this meeting is to help support governments and enhancing working relationship within AICHR and with other relevant ASEAN Bodies.

### **Keynote Address**

73. **Ms. Louise Mabulo**, *UNEP Young Champion of the Earth*, shared that it is key to connect with other stakeholders and build transitions from current practices to inclusivity and access for children in the region and beyond. We need to pave the way for better policies for the next generation. Last year, a number of natural disasters exacerbated impacts already caused by COVID-19. The environment

was already inhospitable for children. Ms. Mabulo shared that she stepped forward to help communities and make sure that lives are made better in the context of disasters. There has to be better aid given to children in light of environmental emergencies. Her generation are inclined to take action where they can see real change. We need inclusive participation and achievement of human rights for all. Ms. Mabulo stressed that the future we envision should be our today. We need to bring children closer to a reality. Furthermore, we need to translate Principles and Policy Guidances to realities and practice. As youth, it is vital to put a face on these documents. A human rights of children's access to justice is imperative. They must be able to contribute to solutions and be freed from fear. She dreams of future where climate is not manipulated by people and that children are able to claim all their rights.

**Overview Presentation of the Guiding Principles and The Process of Developing Them**

74. Ms. Seon Mi Choi, UNICEF, expressed her gratitude to Dr. Amara for working on this issue since last year and to AICHR for organizing this online Workshop. Ms. Choi highlighted that no group is more vulnerable to environmental harm than children. It is seen as the greatest intergenerational injustice passed on from one to the next. As of 2019, 33 percent of Southeast Asia's population is under the age of 19. There are numerous impacts of climate change on Children happening as we speak. There is a need for more evidence and data to identify root causes and achieve solutions. There are 100 million children live in areas in Asia that are at high or extremely high risk of tropical cyclones. More over, 58 million children are estimated to be living in drought severity. Increasing temperatures have been affecting children's ability to learn and prospects to be healthy. Children are exposed to air pollution levels above WHO standard. Southeast Asia has some of the highest deforestation rates which affect children's nutritions and exacerbate illness such as fever and respiratory infection. There are massive challenges when it comes to waste management as well.

75. Ms. Choi shared that it is important to see the connections made between children and environment protection. CRC has provisions on environmental pollution (Art. 24) and education to respect for the natural environment (Art. 29). At the ASEAN Level, there are a number of document that have laid the foundation for Children's Rights to a Healthy Environment since 2010, including the ASEAN Human Rights Declaration. We need to address the lack of normative and practical guidance on applying child rights in the environmental context at the international, regional and national levels. State have requested UN and development partners to support children and their participation. It is imperative that stakeholders working on children and environmental rights have to converge and collaborate.

76. Ms. Choi reported that child rights experts, youth leaders and environmental experts met and worked together to develop the Principles and Policy Guidance for Children's Rights to a Healthy Environment in ASEAN. This is key to achieve solutions and sustainable action on the ground. The document contains both general principles and specific principles. Nine General Principles were prioritized—such as Right to be born and grow up in a healthy environment, freedom of expression, age-appropriate information, environmental education, protection from adverse impacts of business activities, access effective remedies, and protection from threats, harassments in light of their work and advocacies. Guidance are targeted to help states, businesses and other stakeholders who find the document helpful to their work and lives.

## Session 2: Participation, Education, Pollution, Climate Change and Loss of Biodiversity

### **Policy Guidance: Participation in Decision-Making and Access to Information**

77. Ms. Patricia Moore, UNICEF, shared that there are specific requirements that children have that do not necessarily apply to adults. The CRC have three articles that promote the access to be heard in judicial and administrative proceedings (Art. 12), freedom of expression to seek and receive information of all kind in the media of their choices (Art. 13) and freedom of association and peaceful assembly (Art. 15). We need to be sure that Principles and Policy Guidance identify intersecting identities and realities—addressing vulnerabilities and challenges faced by children. Hence, the term Children of all Groups and Backgrounds is used and mainstreamed throughout the document.
78. Ms. Moore gave example of Principle 2 which highlights Children of all Groups and Backgrounds are agents of change. They have the right to freedom of expression, association and peaceful assembly. They also have the rights to meaningful participation in decision making on all issues related to their rights to a healthy environment. The succeeding principles aim to support the implementation of Principle 2. Principle 10 provide children's ability and rights to participate in decision making at all levels of public governance and advocate for and defend their rights to a healthy environment. Principle 11, which is derived from CRC, highlights the importance of establishing platforms for children to participate in decision making process, reflect children's concerns in outputs of process and design and access appropriate budget. Principle 2 asserts respect and encourage initiatives led by Children of all groups and backgrounds. There is a need to assist and support those who provide guidance to children.
79. In term of access to information, Principle 3 provides that right to age-appropriate information be in inclusive and accessible formats and language. Age-appropriate is the operative word—in order to effectively send message across. Principle

13 focuses on producing, promoting and disseminating information on children's rights to a healthy environment. Furthermore, available information needs to be compiled systematically. Principle 14 centres on the creation of transparent mechanisms for gathering and sharing data. Access should be done through child-friendly, inclusive and through media of the child's choice. We need to also be mindful of children with disabilities that require specific needs and technologies. Principle 15 pursues the enhancement of public access to information that is critical for children's rights to a healthy environment.

80. It has to be stressed that approaches and actions should be centred on the best interest of the child. Moreover, Policy Guidance have been developed for various stakeholders. States, in particular, should develop clear and protective protocol for children's participation, create and sustain safe spaces for children, and provide independent accountability mechanisms. There is a need for strategic Environmental Impact Assessment (EIA) for children's participation. It is important to ensure that adult stakeholders know how children's feedback is used, and that children are also able to know how their voices are taken into account. When it comes to access to information, there should be a centralized database and website in child-friendly format. There is a need to engage child and others in generating data for them. We need to let children know how to access information on their rights to a healthy environment—particularly in areas where there is weak or no internet connects. Laws and regulations of public access to information should include effects on children of pollution, loss of diversity. We also need legal awareness on children's right to a healthy environment.

### **Policy Guidance: Environmental Education, Play and Recreation**

81. Ms. Patricia Moore, UNICEF, stressed that environmental education and play and recreation are crucial to children. These two issues are key to the development of a child and who he/she/they could become. The CRC has two articles on these themes: Article 29 on the education of the child directed to the development of respect for the natural environment and Article 31 on the rights of

the child to engage in play and recreation activities appropriate to the age of the child. Environmental Agreements and treaties contain particular provisions on educational and public awareness mechanisms.

82. General Principle 4 is on the rights to education of all children of all groups and backgrounds—which shall develop respect for the natural environment. Principle 16 provides the compulsory environmental education curriculum and out of school programmes. Principle 17 stresses on environmental education, which is accessible for all children. Principle 18 focuses on the development of environmental education materials, promotion of environmental education extra-curricular activities and provision of community-based environmental programs in both rural and urban settings.
83. Principle 5 particularly espouses the right to play in a safe, clean, healthy and sustainable environment. It is supported by Principle 19 wherein all levels of government should ensure equitably accessible, safe, clean, diverse and healthy green spaces for children to play. Hence, these principles have to be established in laws and policies—in collaboration with children. We need to focus on early childhood education and care as promoted by ASEAN twenty years ago.

### ***Plenary Discussion***

84. **Mr. Chhorvirith Theng**, *Cambodia Representative to the ACWC*, added that we need to include religious groups as a duty bearer as they can play a crucial role in promoting social norms and practices related to children's rights and participation. Participants wanted to know more about implementation, specifically in light of regional agreements. One asked if a standalone document is required or not. Ms. Moore said that the iterative process will take a long time. It is important to refer to existing policies. Dr. Lloyd shared that it is vital to have direct reference to vulnerable groups such as children. A set of principles that looks at procedural and substance elements that cover the rights of children is also vital. Governments have been asking for guidance on achieving child-centred approach to achieving substantive rights.

There are different silos that work on specific child rights issues such as education. There is a need for a standard/guidance that aligns everyone's work.

### ***Policy guidance: Pollution, Climate Change, Loss of Biodiversity***

85. **Dr. Georgina Lloyd**, *UNEP*, shared that children's rights and human rights and environmental issues are integral to the full enjoyment of other basic rights and the protection of the environment and natural resources. Air pollution and water pollution and other harmful environmental disaster threaten to cause deteriorating effects on children and their ability to claim their rights. There is a need to gain the ability to empower rights-holders and ensure the accountability of duty-bearers. She continued that Principle 6 is the general principles on the right to be protected from all forms of environmental degradation. It also provides the right to benefit from the sustainable use of natural resources in children's surrounded environment. Children are more susceptible to environmental harms but they should also contribute to actions and processes. There is a need to align and reform laws, policies and regulations to ensure environmental protection standards. There are number of countries that provide constitutional provision on environmental rights. Principle 21 is about adopting and building measures to build capacity and ensure accountability of duty bearers. Principle 22 focuses on the significance of protection of children from all forms of pollution and access to affordable, reliable, timely and clean technology and services.
86. Principle 23 highlights the best interest of the child should be at the centre of policy design, implementation and evaluation. Children are the silent sufferers of environmental degradation. Hence, environmental due diligence has to be integrated and performed at all times. Principle 24 centred on the protection of children from all types of harm linked to environmental hazards. Children are trying to process and address all the harms that they face and experience. It is, therefore, important that support services are available to children who are victims of environmental harm. This is recognized as well in the General Recommendations in the

ICCPR. Furthermore, Principle 25 pursues the protection of children from transboundary environmental harm in ASEAN's shared ecosystem. This process should involve civil society organisations, business groups and other stakeholders. Dr. Lloyd reiterated that approaches and actions should be centred on the best interest of the child. Policy guidance for states include the need to monitor risks for children, invest in environmental fees and taxes, as well as raise awareness. There is a need to audit public and private investment program and projects. It is also crucial to implement transboundary accountability mechanisms to prevent further environmental impacts on children.

### **Plenary Discussion**

87. **Ms. Patricia Moore**, *UNICEF*, moderated this discussion. She stressed that Principle 6 also promotes that children should benefit from environmental resources.
88. One participant asked about how to collaborate with youth on playing their role in light of policy implementation. There have been a lot of silos in relevant departments. She is curious how to ensure streamlining and collaboration of the bodies. Dr. Lloyd stressed the critical role of youth and children in sustaining discussions and identify action points at the local, national and regional levels. We need to ensure that next steps should provide spaces for children and youth participation. Meetings like these are crucial to make people aware about work being planned and are being done. At the national levels, dialogues amongst ministries should be established and conducted regularly and consistently.
89. Participants agreed that young people are at forefront of advocacy at the global level, such as the FCCC COP. A question was raised on how ASEAN youth can be connected to these global youth movements. Dr. Lloyd said that it is crucial to reach out to youth constituencies such as the ASEAN Youth Caucus. Stakeholder consultation mechanisms can also be tapped. Children and youth outside the urban areas have to occupy and actively drive existing regional and global spaces. They should be supported by governments and civil society organizations alike. Mr. Chhorivith supported the idea of

ensuring diverse participation of people on the ground. He wanted to know on which level will these principles and guidelines be adopted. He said that it is best that they are recognized and implemented at the national level. Dr. Lloyd said that ideally action should be taken at all levels. We need to explore potential ways forward on how these principles and guidance be implemented at the ASEAN level. The Special Rapporteur said that work being done at the ASEAN level is vital to the global process. This is really at the forefront of achieving children's rights to a safe, healthy environment. One participant built on the point of generating and supporting collaboration between ASEAN, UN and CSOs. He wanted to explore possible connection particularly with children and youth. He suggested the setting up of a working group. Dr. Lloyd said that this is a suggestion that can be explored.

### **Session 3: Business, Enforcement and Access to Justice**

#### **Policy Guidance: Business and Children's Rights to a Healthy Environment**

90. **Ms. Jasmin Irisha Jim Ilham**, *UNICEF*, shared that businesses play a central role in both causing and mitigating climate change and environmental emergencies. Principle 7 provides the right to be protected from adverse impacts of formal and informal business activities and investments. This is supported by Principle 26 on legal responsibility to respect the rights of children, Principle 27 on financial responsibility related to children's right to a safe, clean, healthy and sustainable environment with internationally recognized standards and safeguards. Principle 28 asserts the need to conduct child-rights due diligence as environmental and social impact assessments. Principle 29 focuses on protection for children in the informal sector. Principle 30 pursues incentives and other mechanisms to raise awareness among business of children's rights to a safe, clean, healthy and sustainable environment.
91. There are a set of guidance to ensure their implementation. It is recommended that monitoring environmental impacts and developing clear standard on formal and

informal business activities be performed. There is a need to disclose environmental and child health impacts. Plans to respond to environmental emergencies need to be designed and actualized. Furthermore, participatory child-rights due diligence and licensing process should take place. These practices and policies have to comply with best available international sustainability standards. Ms. Ilham stressed that private sector plays an important role as duty bearers to uphold and respect children's environmental rights.

### ***Policy Guidance: Enforcement and Access to Justice***

92. **Mr. Ha Ryong Jung**, *Technical Advisor, Child Rights Coalition Cambodia*, also participated at the Expert Meeting for the development of the Principles and Guidance last year. He highlighted that access to justice is usually focused on child victims, and conflict situation. Principle 31 requires commitment to ensuring enforcement against public and private actors. This highlights criminal, civil and administrative proceedings. Principle 32 pursues the need for effective remedies for harm from domestic and transboundary activities, including child friendly grievance mechanisms with adequate and pro-bono support. This includes the effective and wide dissemination of information. These two specific principles are strengthened by Principle 8 on the right to access effective remedies—identifying actors and practices that may cause and address harm. Principle 9 focuses on the right to protection related to threats, secondary victimization, violence, criminalization from any source. This is most applicable when a child is exercising rights and when seeking access to justice. All in all, these principles ensure accountability.
93. In order to operationalize these Principles, it is crucial to reform and respect laws, strengthen monitoring of compliance, disseminate information to actors and practitioners in justice system, as well as the wide and inclusive dissemination of child-friendly information. There are also procedural guidance points such as the establishment of judicial, quasi-judicial, and non-judicial mechanisms as well as ensuring resources. It is imperative to waive filing and administrative fees required to access justice. It is key to provide legal support

from both state and private actors. We need to enable anonymous reporting and online filing of complaints. In light of remedies, penalties for violation of children's rights to a healthy environment have to be adopted and followed. There is a need to ensure realistic and time-bound remedies. We need to monitor compliance with decisions. In terms of child protection, they need to be able to defend their rights and be protected from any harms.

### ***Plenary Discussion: Business, Enforcement and Access to Justice***

94. One participant asked how Mr. Jung sees approaches to children's access to justice within ASEAN. He responded that there are diversity of legal framework in approaching the issues. It is key that there are laws that need to be strengthened or reformed. We need to find the barriers to children's access to justice. It is key to built their legal capacity, or bringing a lawsuit to court. Some states allow children to bring lawsuits to court on particular issues. In the Philippines, children are empowered to stand on court. This is also the case in Cambodia. We need to frame discussions on practical steps and identifying stakeholders and actors that could enable children's access to justice in light of their rights to a healthy environment. In more restrictive legal systems, statute of limitations needs to be removed or suspended until a child reaches the age of maturity. Ms. Choi added about priority areas that ASEAN should take forward. Youth and children should be acknowledged and included in spaces and practices affecting the rights to a healthy environment. It is important to convene a platform for multi-sectoral collaboration. We need to amplify existing voices amongst local communities, in pursuit of tapping and recognizing champions amongst children and youth at the grassroots.

### ***Plenary Discussion: How AICHR and AMS can Collaborate with UN agencies to Apply the Principles and Policy Guidance for Children's Rights to a Healthy Environment***

95. **Mr. Chhorvirith Theng**, *Cambodia Representative to the ACWC*, reported that ACWC has introduced an initiative on climate change impacts on children and women, and managed various national

programmes to promote and protect the rights of the child. The ACWC is mandated to promote and protect the rights and freedom of children and women based on the CRC and CEDAW. It reaffirms the need for closer regional cooperation on these rights—particularly for those who are marginalised and vulnerable. This is a way to fulfill member-states’ commitment to international human rights treaties.

96. Children is the most vulnerable group to climate change and disasters. 37% of the regional population are children under the age of 18. Hence, we need to prioritize measures and commitments to combating and preventing environmental impacts. A Regional Conference held in 2015 came up with 21 comprehensive recommendations for member-states to address social impacts of climate change on women and children. This includes resource mobilization, governance, prevention and education. The needs of women and children to a healthy, clean environment have to be fully addressed. Regional guidelines are needed to solve short and long terms challenges. The ACWC Workplan 2016-2020 had included strategies leading to combating negative impacts of climate change on children and women. The voices of children are crucial in identifying solutions for communities and relevant actors. Awareness campaigns have been presented at the 19th ACWC Meeting and Consultations. These are now available on the ASEAN Website. They are also working with the ASEAN Committee on Women on a strategic framework to mainstreaming gender perspective in all work plans across relevant bodies. This raises the profile and voices of women and children in light of environmental emergencies. This is key to ensuring the SDGs and to enable that no one is left behind.
97. Mr. Theng further shared that ACWC Work Plan for 2021-2025 shall include the workplan on addressing present and future impacts of climate change. Awareness campaigns will continue to be developed, improved and disseminated. A workshop on best practices will also be established. They aim to work with AICHR and SOMSWD in the area of climate change mitigation. They also wish to work on redefining strategies towards

addressing environmental emergencies through the lens of children and women. Mr. Theng congratulated AICHR Thailand and partners for taking this initiative. ACWC is happy to collaborate in the future. Dr. Amara thanked Mr. Theng for an inspiring and informative presentation. ACWC had done quite a lot and it is ensured that we can move forward on our collective agenda. Next year, Cambodia will be the chair of ASEAN. The Representatives from AICHR and ACWC will strengthen these initiatives even more.

98. Mr. Vong Sok shared that ASEAN has been working on collaboration to mainstreaming human rights of target group particularly women and children. They have also been working with UN Women on addressing climate change impacts on women. ASEAN is also taking the opportunity to take stock on practices, policies and existing measures. We also identify the most vulnerable groups from the lens of climate changes and environmental emergency. Putting people at the centre is imperative to achieve sustainable solutions and robust actions for the ASEAN region. The Human Rights Division is taking notes on ways to work together within the Association.
99. Ms. Choi shared that UNICEF Regional Office is committed to supporting ACWC in awareness raising and achieving practical and sustainable solution. They are also establishing a region-wide awareness campaign, as well as reaching out to various government agencies and stakeholders. Ms. Romchat, OHCHR, shared that they have been working on establishing cooperation on children’s rights to a healthy environment. They will be conducting a child-centred dissemination event of the Principles and Guidelines. They are open to any collaboration with any ASEAN Member-States. They want to work on ways to effectively apply these Principles at the national level. Dr. Lloyd added that they want to be part of supporting country level work, and discuss with AICHR on ways to advance regional agenda. They will be supporting youth constituencies that will be part of the UN FCCC COP this year and other global initiatives.



Coal barges are pictured as they queue to be pulled along Mahakam river in Samarinda, East Kalimantan province, Indonesia, August 31, 2019.

REUTERS/Willy Kurniawan

## Closing Session of the AICHR Workshop on Human Rights, Environment and Climate Change and AICHR-UN Joint Expert Meeting on Human Rights and the Environment

100. **Mr. Eric Paulsen**, *Malaysia Representative to the AICHR*, congratulated all speakers, contributors and organizers of this three-day event. He reflected that a clean and functional environment is key to the full enjoyment of human rights. Climate change is one of the greatest challenges faced by all, particularly by vulnerable and disadvantaged peoples. There is less agreement on obligations of government and business to address this issue. We need to continue discussion on how to move forward. They need to focus on increasing access to justice, education, public participation. These recognize the link between environment and human rights protection. Accountability should be practiced. In AICHR, we hope to create more multi-stakeholder platforms to mainstreaming rights-based approach to environmental protection in the region.
101. **Mr. Jaime Victor B. Ledda**, *Temporary Philippine Representative to the AICHR*, thanked AICHR Thailand and partners at UN for organizing the workshop. These three days have shed light on roles to protect the rights of vulnerable peoples. Our initiatives should go beyond borders and institutionalizing efforts to achieve our goals at all levels. We should therefore move forward to operationalizing the Principles and Guidelines leading to the fulfillment of the rights of children to a healthy environment. We need to address gaps in knowledge and capacity of people in participating in policies and programmes. Systemic knowledge sharing and allocation of resources are key. The nexus between human rights and the environment should be seen as a collective concern. We invite partners and stakeholder to provide support to ASEAN bodies and the Secretariat. The AICHR Five-Year Work Plan can be leveraged to achieve our goals in a cohesive manner. The Philippines is pursuing a Regional Dialogue on the General Comments of the CRC and its Optional Protocols. This will identify action points and strategies. We look forward to working with stakeholders. The COVID-19 pandemic had exacerbated inequalities, but also had provided opportunities to focus our efforts on protecting the rights of the most vulnerable.
102. **Amb. Prof. Dr. Nguyen Thai Yen Huong**, *Vietnam Representative to the AICHR*, expressed her appreciation to AICHR Thailand for taking this initiative. The workshop is truly informative and resourceful. These can be used by AICHR to follow up and move forward on their mandates related to human rights and the environment. Vietnam, like many ASEAN member-states, is highly vulnerable to climate change and natural disaster. In 2020, they experienced some of the most devastating typhoons leading to internal displacement and negatively affected national and local economies. It is never enough to stress the role of a healthy environment in achieving human rights and sustainable development for all. We still need to work toward improving the state of the environment and also the quality of life of all people. It is key that we are able to comprehensively mainstream rights-based approach to environmental strategies and policy implementation. We need to work closely with stakeholders and peoples to provide means and ways to achieve our goals for human rights and the environment. AICHR shall ensure knowledge sharing, dialogue and interactions with relevant stakeholders. Mainstreaming human rights in environmental policy making shall benefit everyone at the local, national and regional levels. All ASEAN bodies must be aware of this. CSOs should be empowered to enjoy their rights and take responsibility to address issues faced by all. AICHR has the means and ability to conduct public awareness. She echoed Dr. Nonthasoot's statement that soft law can be effective—triggered by collective action towards sustainable commitment. When there is a will, there is a way in the name of human rights, sustainable development and environmental protection.
103. **Dr. Amara Pongsapich**, *Thailand Representative to the AICHR*, officially thanked the joint UN Expert Group on Human Rights and the Environment. The discussions have provided an opportunities to identify ways forward. AICHR is committed to work with stakeholders in raising awareness and establishing measures to address challenges. We will be working towards a regional rights-based framework to environmental decision making. We will also be raising awareness on the link between human rights and climate change. They will also continue to scrutinize the Principles and Guidances on children's rights to a healthy environment—in order to achieve an effective standard and measures for the region.

104. **Dr. Dechen Tsering**, *Regional Director of UNEP*, on behalf of the UN Joint Expert Group thanked AICHR for convening this important meeting on human rights and the environment. She stressed that the Asia-Pacific region is regressing on the goal on climate action. The goal will not be achieved by 2030. Furthermore, we need ASEAN countries to make commitment to the Global Biodiversity Framework. This will be critical if we want to limit our world temperature rise to two degree Celsius. In the past days, we are able learn about achieving human rights and a healthy environment through various principles, measures and standards. We need to ensure enabling space for all to take part in environmental protection. It is imperative to uphold fundamental rights and safe public participation. We are seeing shrinking spaces in the area. We need to protect those who aim to protect the environment and affected communities. Children are more susceptible to harms than adults. Indeed, the environmental crisis is a child rights crisis. Our children are our future, it is their vital right to grow up in a safe, clean and healthy environment. As the world continues to battle the pandemic, we need to work together on approaches to protecting both human rights and the environment. The UN Expert Group shall continue to work with AICHR on ways forward to enable these aspirations in Southeast Asia.



*Farmers plant rice sprouts in a paddy field in Nakhon Sawan province, north of Bangkok May 4, 2008.*

REUTERS/Chaiwat Subprasom

## Programme

# AICHR-UN Joint Expert Meeting on Human Rights and the Environment AICHR Workshop on Human Rights, Environment and Climate Change

8-10 June 2021, Online (GMT+7 Time)

The ASEAN Intergovernmental Commission on Human Rights (AICHR) will partner with the UN – particularly the Office of the United Nations High Commissioner for Human Rights (UN Human Rights), United Nations Children’s Fund (UNICEF), the United Nations Environment Programme (UNEP) and the Economic and Social Commission for Asia and the Pacific (ESCAP) – to conduct a Joint Expert Meeting on Human Rights and the Environment in June 2021.

The Joint Expert Meeting will meet in three half-day sessions and have the overall objective of advancing the protection and promotion of human rights and the environment, particularly in relation to three interlinked and inter-related elements; environmental decision making, climate change, and impacts on vulnerable groups in particular children and youth. Thus, the Joint Expert Meeting will cover three thematic areas:

- Advancing rights-based approaches to environmental decision making including through environmental impact assessment (EIA) mechanisms
- Strengthening children’s rights to a safe, clean, healthy, and sustainable environment in ASEAN
- Climate change and human rights

The Joint Expert Meeting on Human Rights and the Environment will explore opportunities to advance rights-based approaches to environmental decision-making, children’s rights to a healthy environment, and human rights and climate change.

## 8 June 2021

Time	Session 1	Notes
08:00–08:10 (10 minutes)	1. Welcome and Introduction	<b>Dr. Amara Pongsapich</b> , Thailand Representative to AICHR
08:10–08:30 (20 minutes)	2. Keynote address by the UN Special Rapporteur on Human Rights and the Environment	<b>Dr. David R. Boyd</b> ,
08.30–8.40 (10 minutes)	Presentation by Joint UN entities on objectives and scope of the meeting	<b>Ms. Cynthia Veliko</b> , Regional Representative, OHCHR Regional Office for South-East Asia

### Advancing rights-based approaches to environmental decision making

**08:40–09:30: Session 2** (Moderated by Dr. Katinka Weinberger, Chief - Environment and Development Policy Section, UNESCAP)

8:40–8:55 (15 minutes)	1. Present summary of background paper on Access Rights in ASEAN  A summary of key good practices in ASEAN for better environmental decision making and presentation of commissioned UNEP report	<b>Mr. Matthew Baird</b> , Consultant UNEP
08:55–09:05 (10 minutes)	2. A review of the past work of AICHR on rights-based approaches to environmental decision making, including through strengthening EIA in ASEAN - Recommendations for the establishment of a Joint Task Force	<b>Mr. Matthew Baird</b> , Consultant UNEP
09:05–09:30 (25 minutes)	Interventions from ASEAN delegates	ESCAP

**09:30 – 10:45: Session 3** (Moderated by Georgina Lloyd, UNEP)

09:30–09:40 (10 minutes)	3. The Escazú Agreement and lessons from Latin America and the Caribbean	<b>Mr. David Barrio Lamarche</b> , UNECLAC
09:40–09:50 (10 minutes)	4. FPIC and Environmental Decision Making	<b>Ms. Joan Carling</b> , UNEP Champion of the Earth
09:50–10:00 (10 minutes)	5. Creating an enabling environment for participation in decision making	<b>Ms. Lia Mai Torres</b> , APNED
10:00–10:45 (45 minutes)	Plenary discussion/ Q&A	All Participants

**15 minutes Comfort break**

**11:00–12:00: Session 4** (Moderated by Ms. Yuyun Wahyuningrum Indonesia Representative to AICHR)

Time	Session 1	Notes
11:00–11:10 (10 minutes)	6. Resolutions from the APFSD and linkages to AICHR work on SDG 16	<b>Dr. Georgina Lloyd</b> , UNEP
11:10–11:30 (10 minutes)	7. Stakeholder Mapping and Engagement	<b>Ms. Hitomi Rankine</b> , UNESCAP
11:30–11:45 (15 minutes)	Plenary discussion on how AICHR and AMS can collaborate with UN agencies to further explore rights-based approaches for environmental decision making	Moderated by <b>Ms. Yuyun Wahyuningrum</b> , Indonesia Representative to AICHR/UNEP
11:45–12:00 (15 minutes)	Closing Next steps and other remarks	<b>Dr. Amara Pongsapich</b> , Thailand Representative to AICHR

## 9 June 2021 Climate change and human rights

Time	Session	Notes
08:00–08:10 (10 minutes)	Welcome for the day	<b>Dr. Amara Pongsapich</b> , Thailand Representative to AICHR
08:10–08:20 (10 minutes)	Recap of the previous session	<b>Dr. Georgina Lloyd</b> , UNEP

### 8:20–9:00: Session 1 Setting the stage – regional situation and international commitments

08:20–08:30 (10 minutes)	Climate Change in ASEAN: Regional overview	<b>Dr. Vong Sok</b> , Head of Environment Division, ASEAN Secretariat
08:30–08:40 (10 minutes)	Climate Change, International Human Rights Conventions and Human Rights Mechanism	<b>Dr. Seree Nonthasoot</b> , Member of the UN Committee on Economic, Social and Cultural Rights
8:40–9:00 (20 minutes)	Q&A session	Moderated by <b>Ms. Therese Bjork</b> , OHCHR

### 09:00–09:15: Comfort break

### 09:15–10:15: Session 2: Stakeholder Engagement; Key elements and actors relating to climate change and human rights in ASEAN (Moderated by Ms. Therese Bjork, OHCHR)

09:15–09:25 (10 minutes)	Gender dimension in climate change	<b>Ms. Inkar Kadyrzhanova</b> , Regional adviser on gender and climate change, UN Women
09:25–09:35 (10 minutes)	The role of CSOs in climate action	<b>Mr. Nithi Nesadurai</b> , Director and Regional Coordinator, Climate Action Network South-ASEAN Network
09:35–09:45 (10 minutes)	Climate Justice and the Rights of the Future Generation	UNEP MGCY Representative (TBC)

Time	Session	Notes
09:45–09:55 (10 minutes)	Indigenous People and Climate Change	<b>Ms. Naw Ei Ei Min</b> , Executive Director of the Promotion of Indigenous and Nature Together (POINT)
09:55–10:55 (10 minutes)	Business and Climate Change from a Business and Human Rights Perspective	<b>Commissioner Roberto Eugenio T. Cadiz</b> , Focal Commissioner on Business and Human Rights, Commission on Human Rights of the Philippines
10:55–11:05 (10 minutes)	Climate Change and Human Mobility in ASEAN	<b>Mr. Albert Salamanca</b> , Senior Research Fellow Cluster Lead: Climate Change, Disasters and Development; SDG  Stockholm Environment Institute (SEI)
11:05–11:45 (35 minutes)	<b>Plenary Discussion:</b> Towards CoP26 - Role of AICHR and Regional International and Domestic Institutions in Supporting Rights-based Climate Action	Moderated by OHCHR
11:45–12:00 (15 minutes)	Closing Next steps and other remarks	<b>Dr. Amara Pongsapich</b> , Thailand Representative to AICHR

## 10 June 2021

### Strengthening children's rights to a safe, clean, healthy, and sustainable environment in ASEAN

Time	Session 1	Notes
08:00–08:05 (5 minutes)	1. Welcome for the day	<b>Dr. Amara Pongsapich</b> , Thailand Representative to AICHR
08:05–08:15 (10 minutes)	Recap of previous sessions and thematic overview for the day	<b>Ms. Romchat Wachirarattanakornkul</b> , OHCHR
08:15–08:25 (10 minutes)	Keynote Address	<b>Ms. Louise Mabulo</b> , UNEP Young Champion of the Earth
08:25–08:35 (10 minutes)	2. Overview presentation of the Guiding Principles and the process of developing them	<b>Ms. Seon Mi Choi</b> , UNICEF
<b>08:35–09:35: Session 2: Participation, education, pollution, climate change and loss of biodiversity</b>		
08:35–08:45 (10 minutes)	3. Policy guidance: Participation in decision- making and access to information	<b>Ms. Patricia Moore</b> , UNICEF/UNEP
08:45–08:55 (10 minutes)	4. Policy guidance: Environmental education, Play and Recreation	<b>Ms. Patricia Moore</b> , UNICEF/UNEP
08:55–09:15 (20 minutes)	Plenary discussion	Moderated by <b>Dr. Georgina Lloyd</b> , UNEP
09:15–09:25 (10 minutes)	5. Policy guidance: Pollution, climate change, loss of biodiversity	<b>Dr. Georgina Lloyd</b> , UNEP

Time	Session 1	Notes
09:25–09:35 (10 minutes)	Plenary discussion	Moderated by <b>Ms. Patricia Moore</b> , UNICEF/ UNEP

#### 09:35–09:50 Comfort Break

#### 09:50–11:15: Session 3: Business, enforcement and access to justice

09:50–10:00 (10 minutes)	6. Policy guidance: Business and children’s rights to a healthy environment	<b>Ms. Jasmin Irisha Jim Ilham</b> , UNICEF
10:00–10:10 (10 minutes)	7. Policy guidance: Enforcement and Access to Justice	<b>Mr. Ha Ryong Jung (Michael)</b> , Technical Advisor, Child Rights Coalition Cambodia
10:10–10:30 (20 minutes)	Plenary discussion on business, enforcement and access to justice	Moderated by <b>Ms. Seonmi Choi</b> , UNICEF
10:30–11:15 (45 minutes)	8. Plenary discussion on how AICHR and AMS can collaborate with UN agencies to apply the Principles and Policy Guidance for children’s rights to a healthy environment <ul style="list-style-type: none"> <li>– Reflections/feedback from AICHR representatives, AMS representatives and partners</li> <li>– Next steps on the Principles and Policy Guidance for Children’s Rights to a Healthy Environment</li> </ul>	Moderated by <b>Ms. Seonmi Choi</b> , UNICEF <b>Mr. Chhorvirith Theng</b> , ACWC Cambodia Representative on the ACWC initiative on climate change impacts on children and women (10 minutes including the animation video)

#### 11:15–11:30: Comfort Break

#### 11:30–12:00: Closing Session of the AICHR-UN Joint Expert Meeting on Human Rights and the Environment, June 8-10

11:30–12:00 (30 minutes)	9. Closing of the AICHR-UN Joint Expert Meeting on Human Rights and the Environmen	<ol style="list-style-type: none"> <li>1. <b>Mr. Eric Paulsen</b>, Malaysia Representative to AICHR</li> <li>2. <b>Mr. Jaime Victor B. Ledda</b>, Philippine Representative to AICHR</li> <li>3. <b>Dr. Nguyen Thai Yen Huong</b>, Vietnam Representative to AICHR</li> <li>4. <b>Dr. Amara Pongsapich</b>, Thailand Representative to AICHR</li> <li>5. <b>Ms. Åsa Hedén</b>, Head of Development Cooperation – Regional Asia and the Pacific, Embassy of Sweden, Thailand (Sida)</li> <li>6. <b>Dr. Dechen Tsering</b>, Regional Director UNEP</li> </ol>
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# Annexe – Detailed background and context for each theme of the Expert Group Meeting

**Day 1** (Tuesday, 8th June 2021)

*“Advancing rights-based approaches to environmental decision making including through environmental impact assessment mechanisms”*

## **Objective**

In line with Priority Area 2.5 of the AICHR Five-Year Work Plan to Promote a mechanism for coordinating a human rights-based approach (HRBA) and remedies in ASEAN, particularly initiatives to further integrate a human rights-based approach to environmental policymaking and protection, this day will seek to further advance the discussion on the role of access to information, public participation and access to justice in rights-based approaches to environmental decision-making and rights-based approaches to EIA.

## **Context**

AICHR, with support from UNEP is continuing to support ASEAN Member States on how to advance a harmonized and rights-based regional approach to EIA. AICHR has conducted four workshops examining the implementation of human rights obligations relating to the environment and climate change. As part of these workshops, AICHR has led the way in examining options for the greater implementation of a rights-based approach in environmental decision-making. Within such approaches, the decision-making process upholds procedural rights, including rights to participation, access to information, free, prior and informed consent and freedom of expression; and decisions to promote, protect and respect substantive environmental rights including rights to land, access to natural resources, children’s rights, and the right to a safe, clean, healthy and sustainable environment.

In February 2020, UNEP provided technical assistance for the preparation of a draft cooperation proposal and draft documents for the creation of a Task Force to further explore rights-based approaches for environmental decision making for consideration by the ASEAN Secretariat. These are being considered by AICHR.

This proposal built upon the outcomes of previous AICHR Workshops, particularly the last Workshop held in Yangon, Myanmar in 2019. The 2019 Workshop recommended the establishment of a Working Group or a Task Force to develop a Regional Framework for an effective Environmental Impact Assessment (EIA) in ASEAN Member States. The AICHR October 2019 Yangon Workshop recommended the following ten points to be an integral part of any Regional Framework on Rights-Based Approach to EIA:

1. Supporting Public Participation in EIA.
2. Protection of the Rights of Environmental Defenders and Enforcers
3. Rights to access information:
  - a. Identification of documents that are available and those exempt from disclosure;
  - b. Using technology better;
  - c. Pre-EIA Approval and post-EIA Approval and
  - d. Effective Monitoring and Enforcement.
4. Specific references for consultation and inclusion of women and children and marginalized or vulnerable groups within the EIA Process.
5. Operational Grievance Mechanisms (OGM) and dispute resolution.
6. Defining the Role of EIA Consultants.
7. Trans-boundary EIA, including impact assessment and emergency planning.
8. Strategic Environmental Assessment.
9. ASEAN Environmental Quality Standard.
10. Indicators and Statistics to assist in strengthening capacity of EIA Agencies.

## **Intended outcomes**

Intended outcomes of this day of the Joint Working Group include: (a) provide inputs and recommendations to the draft summary record and; (b) a proposed plan for ongoing collaboration, including review and endorsement of a proposal for a Task Force.

## Proposed Agenda for the day

The Agenda will examine the opportunities presented to advance a rights-based approach to environmental decision making. It will introduce to AICHR the key elements on the Escazu Agreement in the United Nations Economic Commission for Latin America and the Caribbean which entered into force on 22 April 2021. It represents a significant step forward to creating an enabling environment for the exercise of procedural rights and the right to a safe and healthy environment. The Agenda is also designed to ensure that indigenous people special rights are respected and that the role that environmental human rights defenders (EHRD) play in protecting the environment and supporting the environmental rule of law is acknowledged.

This Agenda will also provide the opportunity to review the past work of AICHR and how it fits within the emerging ideas for protecting and enhancing procedural rights. Finally, the Agenda provides an opportunity for discussions on how AICHR can collaborate with UN agencies to advance a rights-based approach to environmental decision making.

## Day 2 (Wednesday, 9 June 2021)

### *"Climate Change and Human Rights"*

#### Objective

The objective of this day's discussions is to follow up and continue the discussion, which began with an AICHR Workshop on Human Rights, Environment and Climate Change in 2014. In line with Priority Area 2.1 of the AICHR Five-Year Work Plan to develop human rights strategies focusing on mainstreaming human rights in all pillars/sectors, and which includes a consultation on human rights and climate change, this day will discuss ways in which ASEAN institutions can perform their individual and collective roles with respect to the impacts of climate change on human rights in ASEAN and the ways in which UN agencies may collaborate with them in the context of the 2nd ASEAN-UN Plan of Action (2021-2025).

#### Context

The 2014 AICHR workshop discussed the development of a regional strategy for mainstreaming a human rights-based approach to environmental policymaking and protection and agreed that a follow-up activity may be held in the future. That workshop was convened before the Paris Agreement was adopted and a follow-up activity is yet to be scheduled. This makes it even more timely for AICHR to address this issue with the Joint Expert Group and promote the consultation on human rights and climate change that is envisaged in the AICHR Five-Year Work Plan. Additionally, this discussion can explore the ways in which AICHR-UN collaboration can support rights-based approaches across ASEAN on climate change, children's rights to a healthy environment, and the role of access to information, public participation and access to justice.

In July 2019, the Human Rights Council submitted to the UN General Assembly a report by the UN Special Rapporteur on Human Rights and the Environment (the Special Rapporteur) on the urgent need for action to ensure a safe climate for humanity. This report expanded on the relationship between air pollution and climate change that the Special Rapporteur had set out in a report submitted to the Human Rights Council during its 40th Session February-March 2019.

The Special Rapporteur's report on climate change and human rights "illustrates the devastating effects of the current global climate emergency on the enjoyment of human rights, and the crucial role for human rights in catalysing action to address climate change." The report clarifies the obligations of States and the responsibilities of businesses and "makes practical recommendations with respect to addressing society's addiction to fossil fuels; accelerating other mitigation actions; enhancing adaptation to protect vulnerable people; ramping up climate finance; financing loss and damage; and empowering United Nations institutions." The report "concludes that a safe climate is a vital element of the right to a healthy environment and is absolutely essential to human life and well-being."

Accompanying the report, the Special Rapporteur submitted an annex on good practices related to ensuring a safe climate. "The good practices demonstrate that effective actions are available to simultaneously address climate change and protect human rights." Drawn from every continent and featuring more than 60 States and a wide range of actors, the good practices are intended to inspire ambitious action to address the global climate emergency" and can be adapted for ASEAN.

### **Intended outcomes**

Intended outcomes of this day of the Joint Expert Working Group include: (a) a common understanding of the actions that are required to develop awareness and understanding of the links between climate change and human rights; (b) agreement on a way forward to develop a regional strategy for mainstreaming a human rights based approach to address climate change; and (c) a basis for enhanced working relationships among AICHR and other ASEAN bodies, including but not limited to the ASEAN Working Group on Climate Change (AWGCC) and the ASEAN Senior Officials on the Environment (ASOEN).

## **Day 3** (Thursday, 10 June 2021)

### *“Children’s Rights to a Safe, Clean, Healthy, and Sustainable Environment in ASEAN”*

#### **Objective**

In line with Priority Areas 2.1, 2.6, and 3.2, of the AICHR Five-Year Work Plan to develop human rights strategies with focus on vulnerable groups such as children, focusing in particular on mainstreaming the right to inclusive education, and including consultations on favourable conditions for advancing the rights of children, this day will seek to promote discussion on ways in which ASEAN institutions can perform their individual and collective roles with respect to children’s rights to a safe, clean, healthy, and sustainable environment in ASEAN.

#### **Context**

In 2018, the UN Special Rapporteur on Human Rights and the Environment (the Special Rapporteur) submitted a report to the Human Rights Council on the relationship between children’s rights and environmental protection. The links had been acknowledged in the two declarations that followed the adoption of the Convention on the Rights of the Child (CRC), but this was the first time that a UN body had examined the relationship in depth. The 44th session of the Human Rights Council in July 2020 included panel discussions on realising the rights of the child through a healthy environment. The 45th session of the Human Rights Council, in October 2020, adopted a resolution on realising the rights of the child through a healthy environment.

ASEAN has already laid the foundation for a regional approach to children’s rights to a healthy environment. All ASEAN Member States are Parties to the CRC. ASEAN has adopted three declarations that have provisions pertaining to children’s rights to a healthy environment: ASEAN Declaration on Human Rights; Ha Noi Declaration on the Enhancement of Welfare and Development of ASEAN Women and Children; and ASEAN Declaration on the Rights of Children in the Context of Migration.

The UN High Commissioner for Human Rights South-East Asia Regional Office (UN Human Rights SEARO) joined with UNEP’s Regional Office for Asia and the Pacific (UNEP ROAP) and UNICEF’s East Asia and Pacific Regional Office (UNICEF EAPRO) to convene, in July 2020, a Virtual Expert Group Meeting to develop policy guidance for promoting and protecting children’s rights to a healthy environment in ASEAN. Children and youth participated equally with adult experts on environmental issues and children’s rights, all in their personal capacities, to produce a draft of 37 guiding principles for children’s rights to a safe, clean, healthy and sustainable environment in ASEAN. The draft principles were open for public comment during September-October 2020. The draft policy guidance was developed on the basis of inputs from the expert group and other expert commentators.

AICHR has already demonstrated its commitment to children’s rights by hosting two ASEAN dialogues on the Convention on the Rights of the Child, in 2018 and 2019, and convening six annual youth debates on human rights, in 2013 and 2015-2019. The Joint Expert Working Group will be the opportunity to present the product of the three UN agencies’ work with ASEAN experts, which support AICHR’s work by providing guiding principles and policy guidance on the issue of children’s rights to a clean, safe, healthy, and sustainable environment in ASEAN.

#### **Intended outcomes**

Intended outcomes of this day of the Joint Expert Working Group include: (a) common understanding of what is required to support national, regional and inter-regional efforts to ensure children’s rights to a safe, clean, healthy, and sustainable environment in ASEAN; and (b) a basis for enhanced working relationships among AICHR and other ASEAN bodies, including but not limited to the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) and the ASEAN Senior Officials on the Environment (ASOEN).

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