



**Statement on Promoting and Protecting the Human Rights of All Migrants
and Members of their Families
10 November 2017, Quezon City, Philippines**

The members of the South East Asia National Human Rights Institutions Forum (SEANF), together with partner civil society organizations and government agencies working towards the protection and promotion of the rights of migrants and members of their families, convened in Quezon City, Philippines, on 8 November 2017 for the 14th Annual Meeting and Conference of the SEANF, with the theme “*SEANF declaration on migration: promoting and protecting the human rights of all migrants and members of their families in Southeast Asia.*”

The annual meeting and conference was organized by the SEANF under the chairmanship of the Commission on Human Rights of the Philippines (CHRP).

10 November 2017

We, the members of the South East Asia National Human Rights Institution Forum (SEANF)¹, note with great concern the existing situations and violations against the human rights of migrants and members of their families in and from South East Asia, and around the globe. As migration is a cross-border, transnational issue, national human rights institutions, governments, civil society and individuals have shared responsibilities and advocacy to advance rights-based governance and strengthen protection mechanisms in the fulfillment of human rights of migrants and their families.

¹ Komisi Nasional Hak Asasi Manusia (Komnas HAM) of Indonesia; Suruhanjaya Hak Asasi Manusia (SUHAKAM) of Malaysia; Myanmar National Human Rights Commission (MNHRC); Commission on Human Rights of the Philippines (CHRP); National Human Rights Commission of Thailand (NHRCT); and, Provedoria dos Direitos Humanos e Justiça (PDHJ) of Timor Leste. As the network of NHRIs in the sub-region, the SEANF plays a crucial role in the protection and promotion of human rights in South East Asia. Working under a cooperative framework, we undertake joint projects or activities to address issues of common concern like human trafficking, migrant workers, statelessness, business and human rights, corruption, among others.

With regard to the rights of migrant workers and members of their families,

Human rights violations against migrant workers stem from the non-recognition of migrant workers as workers, which restrict or deny them of their labor rights, right to health, social protection, family reunification, and access to justice.

We reiterate the call that national laws pertaining to labor migration and migrant workers should be aligned with international human rights and labor rights treaties. Regional mechanisms such as the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers, while limited in scope, is a promising commitment made by ASEAN Member States although it should not be the only instrument that stakeholders adhere to. The SEANF hopes that the human rights and labor rights of migrant workers and members of their families in and from South East Asia will be respected and promoted, based on standards that States in South East Asia have committed to as Parties and signatories to several instruments relevant to migration and human rights.

The UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and relevant ILO Conventions should be ratified and properly implemented.

With regard to the rights of migrants and their families in irregular situations,

Undocumented migrants and migrants in irregular situation should be respected and protected as human beings with fundamental rights. UN General Assembly Resolution 3349 of 1975 recommended that all UN bodies use the term "non-documented or irregular migrants / workers" as a standard.

Amnesty and regularization programs should be afforded if possible to undocumented migrants and their families who have been in the receiving countries for years. When repatriating undocumented migrants and their families, they should be treated humanely in observance of protecting their basic rights.

With regard to the rights of refugees, asylum seekers and stateless persons,

The UN High Commissioner for Refugees (UNHCR) reported that in 2016 "South East Asia hosted a total of 2.8 million people of concern, including over 483,000 refugees, 68,000 asylum-seekers, 462,000 internally displaced people (IDPs), and over 1.4 million stateless people.

While there are only three States from South East Asia² that have ratified the 1951 UN Refugee Convention, generally all States adhere to its core principle and a rule of customary international law – non-refoulement, where a refugee should not be returned to a country where they face grave threats to their life and security of persons.

We call on States to stop migration policies that impinge on and are considered detrimental to the protection of the fundamental rights of refugees, asylum seekers and stateless persons. States must continue to respect and implement the principle of non-refoulement, create or strengthen national legal frameworks that respond to the protection and promotion of the life and freedom of refugees, asylum seekers and stateless persons.

With regard to the rights of children in the context of migration,

Children in the migration process include children left behind, children on the move, unaccompanied children, and children in the receiving countries. They are affected by the migration experiences of their migrant parents and other adult migrant family members. National laws and policies that criminalize migrants and their families including detention and restrictive immigration rules can deny rights to family reunification, marriage, registration of birth, citizenship, access to education and other social services, and access to justice. These laws and policies can affect the best interest of the child, which is a general principle of the 1989 Convention on the Rights of the Child.

We call on States to protect the best interests of children through addressing barriers that restrict access to their rights. States' actions should align with international human rights treaties.

With regard to trafficked persons,

Countries in South East Asia are origin, transit and destination of trafficking in persons. Absence of reliable statistics pose challenges in the scale of trafficking in the region, although estimates from the 2016 Global Slavery Index found that there are nearly 46 million victims of human trafficking worldwide, nearly two-thirds in/from Asia; South and South East Asia.³

Access to grievance mechanism, justice, compensation, rehabilitation and reintegration should be ensured to all trafficked persons without discrimination, and should not

² Cambodia, the Philippines and Timor Leste

³ "EU support to fight human trafficking in South/South-East Asia,"

https://www.eca.europa.eu/Lists/ECADocuments/SR17_9/SR_HUMAN_TRAFFICKING_EN.pdf, [Last accessed: 2 November 2017].

compromise their rights, safety and psychosocial well-being. They have rights to recognition, protection and welfare during administrative and legal proceedings, and they have choices in their rehabilitation and reintegration as appropriate.

Through the proper implementation and ratification of international instruments such as the 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the 2015 ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACTIP), States in South East Asia can make significant contributions to combat trafficking in persons, in particular by enforcing these standards to their fullest extent.

Additionally, the ratification by States of the Protocol of 1947 to the Forced Labour Convention, 1930, a legally binding international instrument that aims to prevent contemporary forms of slavery, can protect groups vulnerable to trafficking from forced labor and forced prostitution such as women, children, migrants, indigenous peoples and other vulnerable groups, and compensate and rehabilitate abused workers and individuals.

With regard to internally displaced persons,

We note that armed conflict, racial, religious and ethnic conflicts, impacts of climate change, and development aggression among others are the causes of internal displacement and forced movement of people.

We encourage governments to establish effective mechanisms against internal displacement from prevention to mitigation to durable solutions which are at the same time sustainable. We further urge governments to review the impact of previous policies and programs, and to put in place effective remedies as well as early warning systems that would reduce or ultimately prevent protracted displacement.

With regard to the Global Compact for Migration,

We commend the active participation of governments, civil society organizations and NHRIs throughout the process of the GCM in 2017 and we acknowledge each and every one's meaningful contributions. We encourage the same to continue to forward a human-rights based, inclusive framework throughout the development and adoption of the Global Compact in 2018 and include the voices of migrants and their families in the process.

Further, we strongly urge States to ensure full independence and adequate resourcing of NHRIs in recognition and support of their mandate and their valuable contribution for the protection and promotion of the rights of migrants and their families. The GCM

should take into account the role that NHRIs play with regard to monitoring the implementation of international human rights instruments at the national level and should therefore include NHRIs in the Global Compact as an accountability mechanism.

The international community, international organizations that comprise the Global Migration Group and international and regional consultative processes have shared responsibilities to advance a rights-based migration governance with Member States, NHRIs, civil society, migrants and members of their families.

In conclusion,

Migration and human rights will continue to be a priority issue for the SEANF until there are sufficient and sustainable safeguards in place for its protection. We shall continue to perform our roles as NHRIs and strictly monitor the state's compliance to international human rights and labor rights instruments.

We reaffirm our commitment to work as independent bodies that serve as watchdogs against human rights abuses in accordance with our mandates under the Paris Principles. Further, we emphasize the need for strengthened partnerships and constant dialogue and consultations with governments, civil society organizations and migrants' groups to ensure that efforts will be inclusive and the rights of migrants and members of their families will be protected.