



# CHALLENGES AND WAYS FORWARD IN PROMOTING BUSINESS AND HUMAN RIGHTS IN ASEAN

Yuyun Wahyuningrum, Chair and Representative  
of Indonesia to the ASEAN Intergovernmental  
Commission on Human Rights (AICHR)



# ASEAN Community

## 3 ASEAN COMMUNITIES



## ASEAN ECONOMIC COMMUNITY

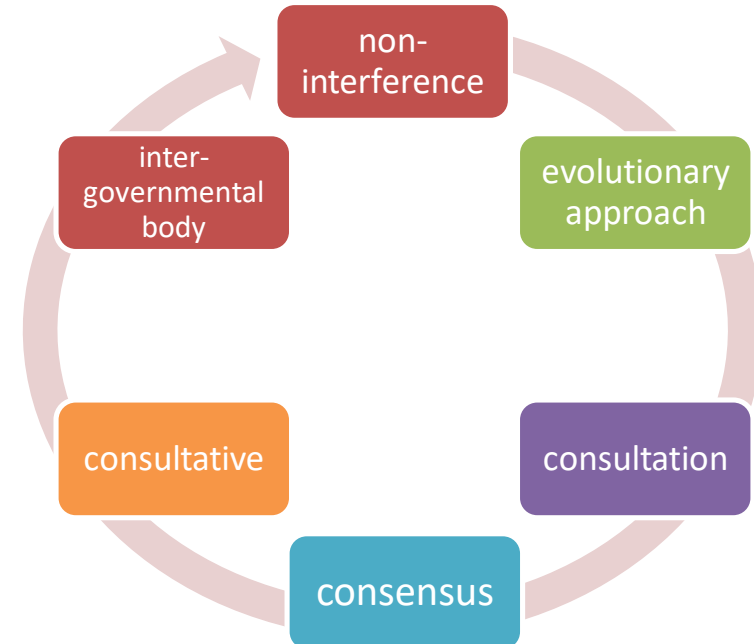
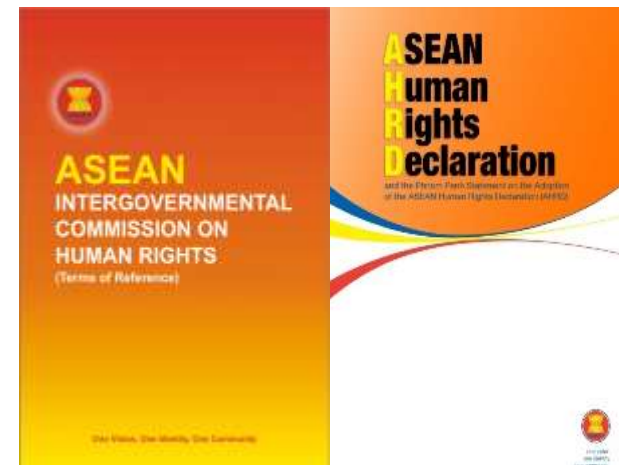
Frameworks and initiatives that support the role of businesses in creating an inclusive economic community exist

- **ASEAN Good Regulatory Practice Core Principles**
  - Principle 1: Clarity in policy rationale, objectives, and institutional frameworks
  - Principle 2: Produce benefits that justify costs and be least distortive to the markets
  - Principle 3: Be consistent, transparent, and practical
  - Principle 4: Support regional regulatory cooperation
  - Principle 5: Promote stakeholder engagement and participation
  - Principle 6: Be subject to regular review for continued relevance, efficiency, & effectiveness
- **Initiatives** that support responsible business agenda, including issues related to decent work and inclusive business, through the ASEAN Business Advisory Council and other platforms
- **Standard principles and alliance** that promote responsible and inclusive business under the ASEAN CSR



## ASEAN INTERGOVERNMENTAL COMMISSION ON HUMAN RIGHTS (AICHR)

- Established on 23 Oct 2009, based on Article 14 of the ASEAN Charter;
- Worked based on the Terms of Reference (ToR): 14 mandates & AHRD;
- Members: 10 ASEAN Member State Representatives;
- Purposes:
  - To **promote and protect** human rights and fundamental freedoms of the peoples of ASEAN;
  - To **contribute to the realization** of the purposes of the ASEAN Charter;
  - To promote human rights within the regional context;
  - To **complement national and international** efforts on the promotion and protection of human rights;
  - To **uphold international human rights standards**.
- **Report** annually to the ASEAN Ministers Meeting (AMM);
- **Meets** twice in a year at minimum;
- Ways of working: **Consensus & Consultation**; It is a **consultative** and intergovernmental body.





# AICHR's Roles to Promote BHR in ASEAN

Regional  
Standard-  
Setting on BHR

Regional  
Cooperation  
on BHR

Policy Support  
on BHR

Protection  
Mechanism on  
BHR

Regional  
Strategy on  
BHR

Research on  
BHR

Capacity  
Building on  
BHR

Dialogue and  
Engagement  
on BHR



# AICHR's Initiatives on BHR

## Research

- AICHR Thematic Study on CSR and Human Rights, **2014**
- Workshop on CSR and Human Rights in ASEAN: Outcomes of the AICHR Thematic Study, Singapore, 13-14 June **2014**

## Protection

- AICHR has established a complaint mechanism to receive communication on human rights. AICHR Reps responded in consultation with NHRIs.

## Dialogue & Engagement

- AICHR Seminar on Promoting CSR and Human Rights in ASEAN, Singapore, 3-4 November **2016**;
- AICHR Interregional Dialogue: Sharing Good Practices on Business and Human Rights, Bangkok, 4-6 June **2018**;
- AICHR Interregional Dialogue: Sharing Good Practices on Business and Human Rights, 10-11 June **2019**
- AICHR Regional Dialogue: Sharing Good Practices on the Business and Human Rights in ASEAN, online, 1 June **2023**



# AICHR's Initiatives on BHR

## Regional Strategy

- AICHR Regional Dialogue: Sharing Good Practices on Business and Human Rights and Recovery from COVID-19 in ASEAN, 19-20 July 2022;
- Regional Consultation on Business and Human Rights, Environment and Climate Change, Kuala Lumpur, 29-30 May 2023

## Capacity Building

- The Essentials of Human Rights Due Diligence in Business: A Training for ASEAN Institutions, Bangkok, 1-2 December 2020



# AICHR's Initiatives on BHR

## Policy Supports

- AICHR included activities re: BHR in ASEAN Comprehensive Recovery Framework (ACRF)
- AICHR has also provided inputs to ASEAN Sectoral Bodies (ASB) on the development of ASEAN instruments:
  - ASEAN Leaders' Declaration on Combating Trafficking in Persons Caused by The Abuse of Technology (2023)
  - ASEAN Declaration on the Placement and Protection of Migrant Fishers (2023)
  - ASEAN Declaration on the Elimination of Child Labour (on-going)
  - Etc.

## Standard-Setting

- AICHR is developing the ASEAN Framework on Environmental Rights (which BHR is discussed)



# Human Rights Issues in ASEAN Member States related to Business

- Freedom of Association
- Labour Rights
- Land Rights
- Displacement
- Arbitrary detention and violence
- Personal security (esp. in conflict zones)
- Environmental rights, incl. climate change
- Forced Labour, child labour, and trafficking in persons
- Freedom of Expression





# Challenges

- Lack of awareness on corporate responsibilities on human rights and human rights impacts on business activities.
- Companies have been using the concept of human rights narrowly. SMEs felt that BHR is too difficult to be implemented.
- Working in silos, amongst different ministries on the implementation of BHR.
- Access to remedy remains neglected and many grievance mechanisms have yet to meet UNGP's effectiveness criteria
- States do not provide sufficient access to judicial remedy, including extraterritorial jurisdiction. In many jurisdictions, victims cannot access judicial remedy due to various barriers such as insufficient legal aids, the lengthy proceedings of the court.
- Victims still do not receive restitution after court decision (case: migrant workers in Indonesia)



# SBMI (NGO) report on migrant workers cases

SBMI's Report 2022

SBMI ASSISTED VICTIMS WHO DO NOT RECEIVE RESTITUTION

Victim	Case	Restitution
25	484/Pid.Sus/2016/PN Cbi	Rp2.512.895.396
9	265/Pid.B/2017/PN Idm	Rp840.000.000
1	1329/Pid.Sus/2018/PN Bdg	-
1	807/Pid.Sus/2019/PN Jkt.Tim	Rp25.000.000
1	924/Pid.Sus /2019/PN tk	-
1	5/Pid.Sus/2020/PN Ptk	Rp80.000.000
1	28/Pid.Sus /2020/PN Sag	Rp125.000.000
1	27/Pid.Sus /2020/PN Sag	Rp125.000.000





# Ways Forward

- To continue to raise awareness about the framework on business and human rights: RESPECT, PROTECT, REMEDY and its linkages with other issue, i.e. environment, trafficking in persons, migrant workers, freedom of expression, etc. in ASEAN Member States and ASEAN Sectoral Bodies.
- To conduct capacity building activities for ASEAN Member States on the right to remedy on business and human rights.
- To develop regional framework which include **substantive** (human rights, trade, environment, and social impacts) and **procedural issues** (participation, grievance mechanisms, due diligence).
- To mainstream business and human rights in ASEAN through the work of the ASEAN Sectoral bodies and engagement with national actors: national human rights institutions, civil society organizations, witness and victims protection agency, ombudsman, etc.
- To explore possibilities on cross-border and extraterritorial jurisdiction in judicial and non-judicial format of grievance mechanisms.



**ASEAN**  
INDONESIA  
2023 

**Thanks!**  
**Terima Kasih!**  
**Arigato!**

[wahyuningrum@gmail.com](mailto:wahyuningrum@gmail.com)

[aichr.ri@gmail.com](mailto:aichr.ri@gmail.com)