

**5<sup>TH</sup> INTERNATIONAL CONFERENCE ON  
HUMAN RIGHTS AND PEACE CONFLICT IN  
SOUTHEAST ASIA**

**MAKING IT MATTER:**

**Empowering Societies for Human Rights  
and Dignity in Southeast Asia**

**October 15-17, 2018  
Marco Polo Hotel – Ortigas  
Pasig, Metro Manila  
Philippines**

## DAY ONE – October 15, 2018

### PRELIMINARIES



Dr. Azmi Sharom, Convener of the Southeast Asian Human Rights and Peace Studies Network (SEAHRN), opened the conference. He spoke briefly about the history of SEAHRN and the continuing importance of both human rights and human rights defenders in this day and age.

Dr. Sharom talked about how the conference could help participants understand not just how human rights affect every person, but how each person can also affect human rights. He spoke about the challenges that Southeast Asia faces today—how fake news has turned truth into the property of the powerful and how authoritarianism in Southeast Asia must be addressed.



This was followed by a short video message from Philippine Vice President Leni Robredo. She noted that the rise in authoritarian rule, civil unrest, and extremist action has made peace in Southeast Asia difficult to achieve. As a result, she said, we must all wrestle with the question: “What have we become?”

Vice President Robredo said that Southeast Asia is a bastion of democracy and human rights. She challenged the conference participants to forge on so that our dark past does not repeat itself.



The Vice President said the aim is empowerment of all—that those who need help are able to help themselves and stand up for themselves. She showed that the effects of defending or abandoning human rights are not just limited to the individual. For every person deprived of human rights, there is a family or community for whom the cycle of poverty and disempowerment continues. She ended by reminding participants that human rights are valuable for all: “A life made useful is a life useful to all.”

## OPENING KEYNOTE SPEECH

### Activism Through Law: The Legal Path Transforms The Advocate As Well

Judge Raul C. Pangalangan



Judge Raul Pangalangan began his speech with the historical progression of the human rights narrative. “This began as a passion,” he explained. “Then they become a duty, then they become a burden.” He continued to show that human rights began as a dream, where all men and women are born equal in their dignity and their rights. Then human rights became part of the law, encoded in our Constitution, in the Bill of Rights, and in international covenants. It was then that human rights became work--hard work, but inspired and inspiring work.

This is the analogy Judge Pangalangan used to describe the shift in the fight for human rights--what used to be a political fight has now taken a turn toward the institutional, toward law-based institutions and courts. Where human rights was once a dream, and an appeal to conscience, there are now global institutions and authoritative norms on human rights that guide our society. Judge Pangalangan said that this is the natural consequence of the work of past human rights activists who ventured into uncharted

waters without the benefit of international covenants or laws. Today, human rights has moved on from purely political work toward institutional work. The transformation from political to institutional, according to Judge Pangalangan does not necessarily mean that they are separated from each other.

Institutional work is necessary and important. It entails a completely different skill set from political work. Political human rights activist must still do grassroots work, and help run popular movements. They must have the ability to link disparate communities and frame debates in ways that are understandable to people. On the other hand, institutional work requires painstaking research, drafting of petitions, mastery of the nuances of legal doctrine, and the nuances of jurisdiction and procedures. The institutional importance of human rights requires training engaged in profession. “The political activist,” Judge Pangalangan said, “hears the word ‘human,’ but the institutional activist hears the word ‘rights.’”



This shift toward institutional work calls on human rights advocates to shift their attitudes toward courts and legal arguments. Judge Pangalangan said that conspiracy, based on power and human frailty, does not pass for legal analysis.

Judge Pangalangan stresses that respect for the rules of the game is necessary. Anything other than this, and we risk damaging our legal institutions. Even the International Criminal Court (ICC), which tries individuals; and the International Court of Justice (ICJ), which tries state parties; require witnesses and victims of human rights to testify before them.



Judge Pangalangan said that there is a need to understand the strengths & weaknesses of the ICC because institutional work is becoming more and more important. First, the ICC establishes guilt categorically; second, its proceedings are fair & impartial, and give face to both the victims and the accused; third, it allows victims to participate in court hearings by paying for victims' legal representatives; and fourth, it creates mechanisms for punitive punishment, deterrence, and for reparations--ways to hold human rights violators accountable.

However, there are limitations to what these institutions can do. "We must recognize the humbling limits of the court," he said, explaining that misunderstandings and inflated expectations weaken our institutions. First, investigations are expensive, tedious and take a long time. The ICC is also very concerned with correct labelling of the crime. Some people get away with the very crime

they committed because of undertoning the crime. Thus, ICC gets bogged down due to technicalities. And, most of all, there is no guarantee of conviction, which makes reparations and justice to the victims quite impossible, in effect, making them suffer more. This is why, the political approach is necessary in cases like these.

The job and the great challenge and responsibility of the human rights advocate is to embolden the witnesses so that they can tell the truth and accept the risks that go with it.

Judge Pangalangan left the audience with a quote from Che Guevara, to remind them that while there are many ways to fight for human rights, the fight must always be rooted in one thing. "The true revolutionary," he said, "is guided by a great feeling of love."



## PARALLEL SESSION A

### A1 Children Claiming Rights

#### Moderator

Tesa De Vela, PhD

#### Panelists

Papontee Teeraphan, Klarise Estorninos  
and Huong Ngo



Papontee Teeraphan from Thailand started the session with his paper on the issue of juvenile delinquency for children under the age of 10 in Indonesia. Teeraphan raised the question of how to achieve suitable measures to juvenile justice, and to ensure that the rights of children are protected. Teeraphan highlighted that there was no law in Thailand that exempts a person from liability in the commission of an offence, save for cases where there was no consent and for self-protection. In cases of children who commit crimes, they will be sent to the proper child welfare protection authority.

An inquiry official would personally question the background of the child and the circumstances of the crime committed. He would then have the option to give back the child to his/her parents or guardians, or keep the child in custody. Rehabilitation is recommended for children who are

considered recidivists or unsafe. However, the final decision would rest upon the Permanent Secretary of Social Development and Human Security or an authorized governor. The problem, however, is that these officers already have a lot of duties and experiences. The heavy workload affect their decision-making. Consequently, the process to rehabilitate the delinquent child becomes less effectively undertaken. It was suggested that there be an amendment in the law regarding the duties of the authorized officers, and possible delegation to a different person, such as the director of the juvenile observation and protection center.

Klarise Estorninos followed with her paper "A Legal Analysis of Selected ASEAN Declarations and Conventions from a Child Rights Perspectives." Estorninos first highlighted that persons 19-years-old and below comprise of 35.4% of the population. She proceeded to note the various degrees to which ASEAN countries comply with international standards and obligations on issues such as sexual violence, pornography, marital consent, access to education, discrimination against children with disabilities, and commercial exploitation of children.



Estorninos centered her presentation on the need for a legally binding international

instrument for ASEAN countries to protect children's rights, similar to the Americas, the European Union, and the African continent.

Lastly, Ngo Huong focused her presentation on child labor under the growing tourism trend in Vietnam. She started with noting the fast growth of tourism in Vietnam, which also increased the participation of children, particularly from the informal sector, in labor.

Highlighted in her paper are forced participation of children in tourism activities outside of a contractual agreement, especially those in the streets. She also placed focus on ethnic minorities who have a gender bias to force girls to work more than boys, who are encouraged to go to school, instead.

The Vietnamese government is called to address these issues and eliminate the acceptance child labor in the country. At the least, the government should ensure safe and healthful working conditions and provide policy safeguards to protect children from economic exploitation.



The open forum invited different queries, but many were directed towards Teeraphan. The treatment of juvenile delinquents in Thailand was the focus of questions, particularly the need, if any, to lower the age of criminal

liability. It was also raised that Indonesia look into the possibility of a special competency training for judges at juvenile courts.

The rest of the questions were on the possibilities of removing sexual and economic exploitation of children in ASEAN. Governments were called to enact binding policies, compliant with international standards. To conclude, the moderator gave primary importance on the need for governments to have political will to combat the worst forms of discrimination and exploitation against children.

## A2 Political Rights in Southeast Asia

### Moderator

Azmi Sharom, PhD

### Panelists

Herlambang P. Wiratraman, Le Thi Thuy  
Huong, Mohd Azizuddin Mohd Sani and  
Rohana Jani

Le Thi Thuy Huong talked about the Peaceful Assembly in Vietnam. The speaker pointed out that for the longest time, there was no law protecting freedom of assembly. This has been a problem since peaceful protests often turns into violence. Meanwhile, recent amendment in the Vietnam Constitution already provides for the right to assemble, form associations and hold demonstrations. However, there is still a problem in the enforcement of this right. The speaker point out that political will is one of the solution, and with this consideration, the people and media should continue promoting the right to freedom of assembly. They also recommend training policemen and to limit interference from policemen during assemblies.



Mohd Azizuddin Mohd Sani talked about the Freedom of Political Expression under Najib Razak. Prime Minister Najib held the office from 2009-2018. The speaker started by pointing out that Najib stopped violence but

restricted the freedom of expression; unfortunately, with a legal basis on his side. Article 10 of the Federal Constitution of Malaysia provides for the freedom of speech, assembly and association. The Constitution also provides for the rights to assembly peacefully and form associations. However, in Article 10(2)(a)(b)(c), the Constitution states that the parliament has the right to impose restrictions on them. The speaker cited a significant case involving students detained during elections season for exercising their right. The Court ruled that while there is basis for regulation, it must be reasonable. One could not just detain persons without justification. The speaker highlights that there is still need for reform to accommodate political expression.



The last presentation was by Rohana Jani. The speaker discussed the regression on the view on the rule of the academics—moving back universities' focus to the academic function. They introduced the concept of "tripartite community," wherein the academics, the government and the university play their own roles in society building; pointing out that academic freedom must be the conscience of society. However, the government does not recognize this type of work. There is a decline in the recognition of the achievements of the academics. And worse, academics are being reduced to mere

employees of the university. Societal engagement of the academe is now very low as they are required to do more research papers than interact on the ground. The speakers point out that the detachment of the academe from its supposed role in society is a problem that must be remedied.

### A3 Labour and Migration

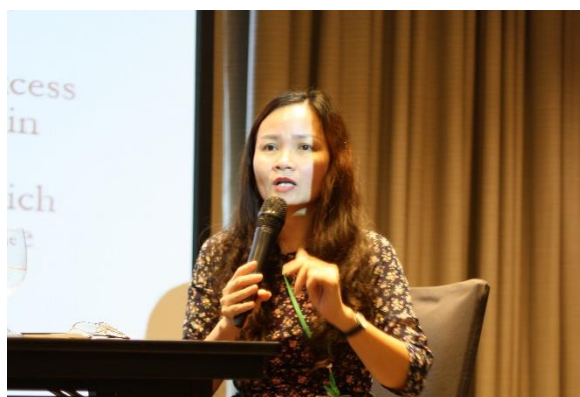
#### Moderator

Huong Ngo, PhD

#### Panelists

Nurus S. Mufidah and Amira Paripurna, Le Thi Nga, and Chan Chee Khoon and Bindiya Gurung

Chan Chee Khoon, the first panelist, discussed his paper about his preliminary findings on Nepali migrant worker fatalities, with Nepal as the country of focus. Meanwhile, Le Thi Nga's paper is entitled "Peace For Free Vietnamese Migrant Workers in the ASEAN Community," focusing on Vietnam.



For Chan, he posited that the right to health is a key principle that needs to be protected in the issue of the plight of the migrant workers, especially for Nepali migrant workers in Malaysia, with the latter being the largest destination country for labor migrants

from Nepal. Within Malaysia, Nepali workers constitute the second largest nationality group of documented labor migrants. He claimed that the most frequent causes of death are cardiovascular diseases and suicide by hanging. He concluded with the caveat that it is hard to determine the excess all-cause mortality among Nepali migrant workers in Malaysia, given the figures and statistics, as healthy-worker/healthy-migrant effects complicate meaningful comparisons against baseline mortality rates.



Meanwhile, Nga presented the picture of free migration to overseas of Vietnamese workers and discussed the risks to Vietnamese migrant workers at overseas. She maintained that the most common form of illegal migration relies on Visa exemption policy among ASEAN countries, the workers who have ordinary passport could enter and work in another country through land or air transport. She showed relevant statistics, such as the numbers to demonstrate the gender and age of the majority of the workers. There is an imbalance in the gender of Vietnamese labor workers — 70% of them are males, while only 30% are female workers. As to the age, 49% of the Vietnam labor workers belong to the age group of 20-29 years old. She also included in her discussion the common destination countries chosen by Vietnamese workers in the



ASEAN region: Thailand, Laos People's Democratic Republic, Malaysia, and Singapore.

She also mentioned the risks that Vietnamese migrant workers at overseas face. 21% of Vietnamese workers in Thailand claim that they do not receive any labor rights, which is higher than other countries with the similar status. Meanwhile, the workers' illegal residence status puts them at risk of easily falling under slave labor conditions, or worse, trafficking, especially for females. The countries in the ASEAN region likewise continue to suffer from a lack of grievance mechanism for free migrant workers, and there is a difficulty in approaching the host country's protection mechanism due to the illegal residence and work state in the receiving country.



Chan, in emphasizing the figures concerning the causes of death of Nepali migrant workers, notes the main challenge of updating the database of the government, as there are still “pending” and “no information” cases of fatalities of migrant workers.

He recommended, therefore, that the data on the pending information cases, age and sex distribution of (documented) Nepali migrant workers in Malaysia, and baseline mortality rates to estimate excess all-cause as well as

disease-specific mortality, need to be completed and be followed up with the concerned agencies. Chan also included the review of the more detailed supporting documentation for all cases for causes of death as an action point. He also suggested that the figures be adjusted considering the healthy-worker/healthy-migrant effects, before comparing with those similarly aged employed in the receiving country. He proposes that the country conduct a case-control study of risk factors for sudden death, and that assigning a health attaché be looked into.



Nga pointed out that given the several risks to Vietnamese migrant workers, she makes a call to change the status quo wherein the lack of opportunity to approach the protection of the worker's rights results to their plight. One of the challenges includes the fact that the illegal residence overseas leads workers to fall under slave labor conditions. It was also discussed that it is difficult for workers to attain resolution for their complaints, given that the legal framework for defending the rights of free migrant workers in Vietnam is still likewise defective.

Because of this, she proposed several actions that the government should take. Nga suggested the completion of the legal

system in the country to ensure access to rights for workers and promotion of accession to the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. She also recommends the promotion of entering into MOUs with countries which do not have agreements on labor cooperation with Vietnam, as well as the enhancement of dialogue and regional cooperation for the fulfillment of the objectives of the ASEAN Declaration. Cooperation with NGOs for supporting migrant workers must likewise be strengthened, and better channels for providing information on safe migration to workers must likewise be provided.



There were members of the audience that made comments and questions that strengthen and challenge the papers presented by Chan and Nga. One of the participants asked the paper presenters to share their experience in analyzing statistics, considering that statistics usually has problems with authority. Another member of the audience asked Chan why he made a research on Nepali workers specifically, considering that Chan is from University of Malaya in Kuala Lumpur, Malaysia. The use of 2011 statistics was also questioned, as there could have already been more recent results. The response of the Nepali

government to the issue of the deaths of Nepali workers in Malaysia is also inquired into. The same participant qualified her query by confirming whether the same government created a commission created for this purpose. The post-employment conditions of the migrant workers was also looked into by one of the members of the audience-- do they go back to Vietnam, or do they move to other countries like Thailand?

The most prominent trend in the papers is that some ASEAN governments are having difficulty in protecting the rights of their citizens working abroad. For Nepali workers, it is alarming that the second most frequent cause of death is suicide by hanging. Their plight as migrant workers might be so distressing that they think the easiest way out is to take one's own life. Meanwhile, Vietnamese workers do not dare to access the authorities of the host country to receive protection when they are harmed due to the illegal residence and work state in their receiving country. They are reluctant to approach Vietnamese diplomatic authorities at host country for assistance.

#### **A4 Human Rights Defenders and Peace Workers**

##### **Moderator**

Phallack Kong, LL.M.

##### **Panelists**

Hadi Rahmat Purnama, Aries A. Arugay and Yuyun Wahyuningrum

The speakers were Yuyun Wahyuningrum and Hadi Rahmat Purnama. Neither of the speakers focused on a particular country in the ASEAN. Instead, they discussed the stance of ASEAN as an organization vis-à-

vis its individual embers and the Civil Society Organizations (CSOs) therein.



For the first paper entitled States' Resistance to International Human Rights Law in ASEAN: The Dynamic Roles of Civil Society Organizations, Wahyuningrum discussed the position of CSOs in the arena of international relations and cooperation within the region. She began by giving the historical backdrop against which negotiations within ASEAN has evolved. By dividing recent history in four phases, she pointed out how it has been difficult to pin down a singular means for CSOs to interact with ASEAN for, through the years, ASEAN itself has changed its strategy—from interacting only with states to CSOs and back again. She notes that, it seems, the only body which determines with whom ASEAN interacts with is the ASEAN. Thus, it depends on who the current chair is. In connection to forwarding international human rights in the region, Wahyuningrum pointed out that CSOs in member states play a crucial role in international human rights law (IHL) resistance. She explained how member states are divided as to IHL, casting a doubt as to whether ASEAN indeed has a people-oriented policy. Despite regionalism being the aim of ASEAN, some States would opt to mobilize CSOs in the form of GONGOS (Government Operating NGOs) in regional fora to convey positions that are supportive

of that particular state's stance. This effectively makes use of CSOs to tip the discussion towards a certain side. Since CSOs that are accredited enjoy a "place in the room" for them to voice their opinion on certain issues, it is crucial to look at how the ASEAN actually screens applicants for accreditation.



For the second paper entitled ASEAN Accreditation of Civil Society Organisations: A Way to Open or to Limit CSOs Participation, Purnama expounded on the process of accreditation within the ASEAN for CSOs. Beginning with the purpose for allowing CSOs in the first place, he explained how these organizations are seen as entities capable of bringing to the table the concerns of those at the grass roots. Since CSOs are especially created to focus on the needs of communities, CSOs are thought to have a more direct and, consequently, realistic conception of what the people really need. All these are for the purpose of ensuring that ASEAN stays true to its goal of being people-oriented. Unfortunately, not all CSOs are created equal. Accredited ones are more equal than others. In the case of ASEAN, Purnama hypothesized that instead of empowering CSOs, the accreditation process has further stifled its functions. It has become a tool for limiting participation of CSOs when it sets standards that are

actually unrealistic for some of these organizations to meet, given their nature.



The main concern of both papers revolved around the limitations which a CSO faces in the arena of regionalism because it is neither a state nor a completely independent body. There is a question as to the reliability of the standard used by the ASEAN in evaluating CSOs and whether such defeats the very purpose of CSOs. In the first place, it is often not a question of what the organization (i.e. CSO) is for, but of who is behind the organization. From whom is it getting its funding? Linking the concern of Wahyuningrum (i.e. as to states using GONGOs) with Purnama's findings (i.e. on ASEAN being reluctant in giving accreditation), the main challenge for ASEAN is to find a means to control accreditation without hindering representation via CSOs.

During the open forum, the speakers, in answering the audience's questions, suggested that ASEAN be more open to CSOs, in general and for CSOs to explore means to obtain a seat in the negotiating table. Not all CSOs are equally well-funded and can afford to meet the stringent requirements. In fact, it is those which have less resources that may actually be representing the interest of the civil society. There is a need to continue reaching communities to ensure that ASEAN is

people-oriented. In addition, Wahyuningrum suggested that individuals who advocate for certain civic causes actively use social media and other platforms to influence ASEAN in its decisions. One concrete step suggested was based on Wahyuningrum's experience. She made a strategic publication of her paper in the place where a conference is being held to forward her views even if she was not a participant.

When asked whether she believes there is a way to reconcile issues on CSOs to ensure IHL is forwarded in the region, Wahyuningrum noted that the present state of affairs is actually a huge leap from the past when the idea of a regional compliance/recognition of IHL was not acceptable at all. The fact that several fora have been begun to discuss possibilities as well as ASEAN taking a stand on certain IHL-related issues is in itself an improvement.



Some of the audience members expressed their concerns as to the capacity of CSOs to represent the grass roots. It was forwarded that some CSOs lack the involvement in civic activities, or better yet, lifestyle in order to understand what communities need. This prevailing concern is rooted on the fact that CSOs may not actually be people-oriented but rather organization-centered. Another concern raised is the impact of fora such as



the present one on the decision-making of ASEAN. It was asked whether or not collective discussions such as the present one as well as individual efforts can actually affect ASEAN.



As mentioned above, the two presentations tended to depict ASEAN as an entity that is detached, in a sense, from its constituents. As a regional organization, it is able to represent the interests of states as a whole. However, it appears that it is difficult for CSOs without much resources to make their voices heard even if such voices comprise the majority in a particular member state. At present, accredited CSOs are the only ones given a seat at the table and allowed to give suggestions impacting regional decisions.

To conclude, the audience was very interested in what steps may be taken to allow CSOs to serve the purpose for which they were created: to forward needs of a civilized society. Although the topic was engaging, many audience members expressed reservations as to whether it is possible to actualize the proposals. Several examples of such doubts include: that involving CSOs reaching the grass roots, international fora impacting ASEAN and so on. Implementation is one problem as well as the formulation of policies.

## PLENARY 1

### **Exploring the Post-Truth World and the Reality of Fake News as a Human Rights Challenge and the Role of Media**

#### **Moderator**

Lorna Q. Israel, M.A.

#### **Panelists**

Pravit Rojanaphruk, Ellen Tordesillas, and Jahabaar Sadiq

The three plenary speakers of this panel discussion were Jahabar Sadiq, from the Malaysian Insight, Pravit Rojanaphruk, a celebrated Thai journalist formerly from The Nation, a Bangkok-based English language newspaper and, Ellen Tordesillas from Vera Files based in the Philippines. The moderator, Lorna Israel, from Miriam College, Philippines, introduced the session by explaining the concept of post-truth as controversial because it has given more importance to one's opinions and feelings towards a certain issue, rather than facts.



Sadiq, the first speaker, focused on how challenging fake news is the work of a community. Efforts must be taken to educate citizens on what fake news is, its dangers, and how to stop it. The speaker believed that

when citizens are educated, they will not share fake news anymore.

In a similar thread, the second speaker, Rojanaphruk, talked about social media literacy as key in stopping fake news. He believed that each individual must be gatekeepers of our own truth—because we cannot rely on other people to verify news for us, we must be critical of what we read before we share things online.

The third speaker, Tordesillas, highlighted the Philippine case and its deep problem in the fight against fake news. She addressed the production of fake news itself: she highlighted the work of groups like Rappler and Vera Files in verifying news on Facebook, to prevent fake news from spreading. She also mentioned that fake news is reproduced six times more than regular news: because of this, although there are groups who fact check shared posts, fake news continues to spread.

During the open forum, the impact and role of journalism in societies was problematized—journalists as truth tellers and their training to verify facts and ensure accurate reporting.

For all three speakers, it seemed that the biggest challenge was learning how to effectively counter fake news, particularly on social media. They said that the government, the news media, and individuals all have a role to play in the elimination of fake news. Government intervention through laws penalizing the creation and spread of fake news must not only be strengthened but also equally and strongly implemented, regardless of whether fake news is spread by government forces or by opposition. Journalists must also strengthen their ability to interpret data, verify information and spot misleading or untruthful sources to provide

accurate and truthful news to the citizenry. Finally, news consumers must also deliberately fact-check news articles on their own as well—consumers must learn to verify and spot fake news on their own and not rely on others.



Questions revolved around the idea of multiple truths, the effects of fake news on democracy, and around strategies which can be used to stop the spread of fake news. On the topic of multiple truths, Sadiq noted that although multiple truths may exist, this does not mean that truth is relative. While the socio-political sphere makes room for various perspectives, all “truths” must be proven accurate with proper evidence.

The speakers also noted that authoritarian governments often use the spread of fake news as an excuse to discredit or take down independent news media. The speakers agreed that a sign of a healthy democracy is when people are able to move beyond their comfort zones and ‘echo chambers’ in order to exchange ideas and understand different perspectives. They recognized that dominant and counter-discourses are inevitable. What matters is citizens are able to challenge and engage each other, instead of only listening to like-minded opinions and individuals.



The panelists concluded that fake news seems to be unavoidable in a post-truth era. They expressed that we should build a culture of using social media as a means to express opinions, not as a means to spread fake news. They also said that fake news should not be used as an excuse to clamp down on the news media. In conclusion, the moderator said, “False news is born in the advent of free press, but if the free press is removed, there is no such thing as the truth.”

## PARALLEL SESSION B

### B1 Remembering Gross Violations

#### Moderator

Tesa De Vela, PhD

#### Panelists

Muhammad Febriansyah, Ma. Rhea  
Gretchen A. Abuso, Nurul Masyithoh,  
Miguel Paolo P. Reyes



For the first paper entitled “Wiji Thukul and The Struggle for Human Rights in Post-Authoritarian Indonesia,” Febriansyah shared the life story of Wiji Thukul, an activist and human rights defender who has since disappeared. The speaker noted that cases of enforced disappearance is a paramount issue, but it is only one aspect of human rights violations, and CSOs and NGOs play an important role in addressing them. The framework used in discussion is as follows: (1) It begins by emphasizing how remembering involves a conscious act, like the Plaza De Maya Mothers Protest, and it may be (2) vulnerable to subjectivity, (3) can be used to refute the narrative and (4) memorials and rituals have been held—some are organized by students and can be seen in many places in Indonesia. In the case of Wiji Thukul, his image survives

despite being officially declared “missing” and Malaysians continue to remember him through literary works and forums, like that which was held in Singapore.

For the second paper entitled “Collective Memories of the Filipino Youth on the Human Rights Violations during the Marcos Regime,” Abuso began by discussing the 2016 elections. The dictator’s son, Bongbong Marcos tried to run believing the son would get the votes of the youth. However, the data says otherwise. Abuso drew a comparison between the Marcos Regime and the Duterte Administration. The main question of the paper is: How could Filipinos, who already experienced a bloody and violent regime, choose to elect national leaders widely associated with human rights violations? The idea was fleshed out by defining first the phrase “collective memories.” Abuso noted that a society can have memories which, when transmitted to other generations, can lead to the truth being hidden. To test that theory, the speaker conducted a social survey where 30 university students and 10 university officials from 6 universities in the Philippines were interviewed. In response to the question: “What does Martial Law mean to you?” respondents generally associated it with Marcos, with systematic and state-sponsored violence, and the present call to no acquit Marcos of human rights violations. Some even saw similarities between then and the administration of Duterte now. For instance, an iron-fist was used in quelling the social ills of their time in the form of extrajudicial killings. Oligarchy was prevalent and human rights violations were pervasive although not without support from the supporters of the administration. Abuso concluded that these opinions are influenced by how history is taught to the new



generation. For instance, some students would form different opinions from their parents after being educated as to what truly transpired during martial law.

For the third paper entitled “ASEAN Silence Speaks Towards Genocide,” Masyithoh tried to answer the key questions involving genocide and conflict resolution. It seems that the idea of anti-genocide is difficult to implement amongst ASEAN members. Examples mentioned during the discussion include the situation in Cambodia and East Timor. As a proposal, Masyithoh forwarded the use of confidence-building measures (CBM) in conflict resolution. In explaining the CBM, Masyithoh mentioned that there are many types of CBMs depending on the context. CBMs can be used in conflict resolution discourse and Anti-Genocide idea in South East Asia by reducing the tension between parties.

For the fourth paper entitled “Listing, Memorialization, and Human Rights Violation Victims in the Philippines,” Reyes presented data during the Marcos Regime and showed parallelism with the Duterte Administration. In fact, Marcos published lists that showed human rights violations but this was to emphasize how his regime was addressing these violations. Reyes said that he has conflicting data to show that Marcos did not author any of the lists/books he published. In comparison, the Duterte Administration never released lists, but they published numbers. Identity of individuals were never revealed. Still, there are data not disclosed such as casualties in Mindanao War. Reyes mentioned how, for violations during martial law, many victims applied for human rights violations claims but not all were compensated.



The main challenges identified by speakers include the freedom of speech and expression, ambivalent knowledge of the youth, lack of documentation and accountability, aggressive revisionism (in the Philippines), different identities and methodologies of ASEAN countries, conflicting data and the difficulty in getting key informant interviews.

Febriansyah recommended that protection be given to the freedom of speech and expression, and for poetry and imagery be used in depicting the martyr. Abuso emphasized that the solution is in properly educating the youth as to the value of the rights Marcos took away. The current curricula of schools do not include courses that tackle discuss human rights so students are not taught of the value and repercussions of martial law. Masyithoh put forward the utilization of CBM which he considered suitable with ASEAN values because it puts forward a hard negotiation effort. Finally, Reyes said that there is a need to gather narratives and for these to become agenda-proof because numbers without analysis have remained undiagnosed. He also mentioned how international fore such as the SHAPE-SEAHRN can be used as a tool to address problems raised.

During the open forum, questions regarding the post-authoritarian regime, the culture of impunity, revisionism and CBMs were raised. The speakers addressed these by saying that there should first be a picture of social justice drawn within every societal framework. Then, it must be ensured that the establishments are filled with people who are there to protect that idea/image of social justice. For memorialization, it is important that the numbers translate into names, places and stories so as not to depersonalize each victim's experience. Since many pictures are taken out of context, it is important for journalists to be wary of photos susceptible to misrepresentation. Finally, evidence-based analysis to address issues must be used to counter the reverse narratives being spread by State regime.

## **B2 Children at the Margins**

### **Moderator**

Kamarulzaman Askandar, PhD.

### **Panelists**

Catherine Scerri, Mary Anne K. Baltazar

In discussing "Children at the Risk of Statelessness and the Constraints to Citizenship," Mary Anne K. Baltazar shared that Malaysia's reservation to the Convention on the Rights of the Child (CRC) include article 2 Non-discrimination, article 7 name and nationality, 28(1)(a) compulsory primary education. These reservations result to violation of children's rights in their country, especially for those who are undocumented or are stateless. It was also noted that the population of the undocumented people is growing.



The presenter noted that Sabah is geographically close to Philippines. Because of this, people can travel to and from Sabah and Philippines and easily form relationships. This situation is not new and has been in many generations already. This result to people and families migrating and have children in Sabah, while remaining undocumented. This situation is exacerbated by the fact that there is no presence of the Philippine government or consulate in Malaysia, mostly due to the political sensitivities to the claim on the Sabah region. In addition, the process to gain citizenship in Malaysia is too complicated and expensive. There are challenges in acquiring documents due to costly process and complicated procedures, this include the cost and time of travel, the cost for each number of children, and cost of document processing such as renewal of documents. People also find it hard to apply for other documents if they have incomplete identification documents. Due to these factors, despite knowledge that having documents is important, respondents from the undocumented population cannot find a means to get proper documentation.

In particular, the children respondents were aware and agree that having documents for their identity is important. The children expressed concern on their safety as they grow up and on being arrested once they

reach the age of 12. Most of them also expressed their confusion on what their citizenship is, in spite being born and growing up in Malaysia.

In order to address the issue of the rising undocumented population, it was recommended that the cost of documentation to be lowered or waived to encourage registration. For children born in Sabah, the processes should be more accessible and simple. There should be a shortened timeframe, and other documents such as marriage documents should be made unnecessary.



Lastly, the presenter recommended that the reservations made by Malaysia in the CRC must be lifted in order to stop discrimination against children who are non-citizens.

The second presenter, Catherine Scerri, shared a situation wherein children in the streets are being “rescued” and taken into centers forcefully. She said that the term “huli” or catch happens more than “rescuing” the children in such situation. With this, the presenter posed the question if children have the right or are free to run from rescue.

She first defined street children by sharing the traditional and contextual definition of the word. She also included the heterogeneity of

children in the streets. There are children with street connections and children in street situations. There is a spectrum of connectedness and vital connections to the streets. These children were often pushed to go or live in the streets by several factors such as hunger, poverty, abuse, peer-pressure, sense of freedom, independence and peer pressure.



The presenter noted that for many street-connected children, their situation is not always all negative. She said that children find their identity, they are healthier than living in their homes in the slums. Children often see the street as a better space than the alternative of broken homes or shelters with conditions that not appropriate for children. The street becomes their marketplace or workplace for children living in poverty. It is where they can socialize. It is also where they can earn extra money. There is also a challenge on how to practice and respect the children’s right to participation. There is a need to know how to assess competency of a child and apportion due weight on his or her decision.

The presenter also observed how the term and definition of “childhood” is constructed. The western notion focuses on the psychological value on what children become, wherein childhood is dedicated to



growing up, with linear course of maturation towards independence. There is also a notion that children have lesser economic value, and this is to avoid child labor. Is this notion applicable to developing countries like the Philippines?



The presenter likewise noted how there are different interventions used to correspond to particular perceptions of children in the streets. For example, helpless victims will be saved and adults are seen as saviors and children are seen as weak, speechless, and needs to restore childhood. Wherein children in the streets are seen as juvenile delinquents, they will be repressed, regulated, and the actions for them will be motivated by fear instead. These different interventions show that there are confused perceptions on how to see and treat children in the streets.

She explained that while the rescue of these children are done with the best of intentions, Rescuing children in the streets has been proven to indiscriminate them. It also harmful and ineffective. Most children are also rescued involuntarily. She cited a case wherein a child was “rescued” from the streets for 59 times already but no change or help in the welfare of the child was provided.

The presenter concluded that for children, going to the street may be rational, and much preferable than living in absolute poverty. She said that it is not the children’s fatalistic choice but their rational choice. While there is no absolute autonomy for children, there should be active engagement. There should be emphasis on the process as much as on the outcome. Alternative care should not be forced on these children and instead there should be a transitional stage and adjustments for appropriate conditions. Any solution developed and undertaken to ensure the welfare of street connected children should be a truly rights-based approach.

During the open forum, questions were raised as regards how to change the public’s perception of street children. Baltazar answered this by emphasizing the need for communication. Scerri underscored that there exists a dichotomy as regards the perception of street children. On the one hand, they are seen as vulnerable and helpless and on the other, they are a threat. Those of the latter view would often advocate for the lowering of the minimum age of criminal responsibility. There is a need to bring focus to the structures that pushed these children to the streets in order to understand the nuances and the situations of these children and their families.





The situation of children in the streets made people reflect on the status of families and their background. They agree to consider it as a factor when looking on why children are in the streets.

For the case of stateless people in Sabah, they agreed that the treatment of Indonesian government is more responsive compared to the Malaysian and Philippine government. Since Sabah remains a contentious issue, the presence of a consulate or embassy in Malaysia is low to none.

Both issue also tackle the argument of children's right to participation vs. right to protection. Participants and presenters agree that children have the right to decide if they will go to the streets. It is seen as their right to participation, by socializing and joining activities in the streets, or choosing the street as the better alternative than living in slums or shelters. However, the participants also expressed their concern on the children's right to protection from security risks and being vulnerable to threat such as sexual exploitation in the streets. Their stand is that the rights of children should not be compromised for the sake of their right to participation. The best interest of the child should always be considered.

### **B3 Locating Human Rights in the Palm Oil Industry**

#### **Moderator**

Yanuar Sumarlan, PhD

#### **Panelists**

Rully Sandra, Elia Isnawati, Ravindaran  
Krishnan

The Parallel Session "Locating Human Rights in the Palm Oil Industry" was

moderated by Yanuar Sumarian, and featured research presentations from Elia Isnawati and Rully Sandra.



Isnawati presented her research "Looking Towards Indonesian Palm Oil Industries: Social and Environmental Problem" She noted that palm oil still reigned as the number one commodity of the country and is the most traded vegetable oil in the world. However, she reported that high demand and the corresponding high production also results in high deforestation. She noted a number of human rights issues, showing to the audience pictures of Indonesians wearing masks to protect their respiratory system. Another issue is that Indonesia still had indigenous people who did not know about modern life and that the land they were living on belonged to the State. Hence, when a company buys their land for palm oil, these people will be forced to move out because they did not know that the land belongs to the state. She noted that Indonesia increased palm oil operations without regulations. She pointed out that there existed the Department on Sustainability which tries to control the palm oil industry.

Afterwards, Sandra discussed her study "Working Precariously: Will UGNPs Help Plantation Workers?" She explained that the palm oil industry in Indonesia has an impact

on the environment, land tenure, indigenous people, and labor. Focusing on the aspect of labor, she noted that there are serious labor issues being raised as regards palm oil plantation practices, and that this aspect is one of the factors which are among the least discussed by stakeholders. One labor issue is that 60-70% of palm oil workers are daily or casual workers despite the fact that palm oil is the most important non-mineral commodity with the highest contribution in the INA Budget. Another issue is the exploitation of legal loopholes by palm oil companies to circumvent the laws on the regularization of employees. She also pointed out that the practice of paying daily workers based on daily target caused the workers to ask for the help of their family and children, violating the proscription on child labor. She hoped that the United Nations Guiding Principles on Business and Human Rights can provide at least one way of helping laborers in Indonesia, although she is not expecting that it can serve as a magic formula or a panacea for present labor problem. With this, companies can no longer excuse themselves from complying with national laws, given that there are basic expectations put in place by the UNGPs.



Pam Asuncion, a member of the parallel session, shared that the interesting question would be how do we reckon the

standards in the UN Guiding Principles when one looks at the size of the companies in reality. She asked the question on why the standards are so high that only large companies will be able to apply the standards. Her second main point was that business and human rights discourse is actually quite removed from business realities, since the businesses are not listening. The discourse does not resonate with their business model or objective. She said that perhaps there is a need to answer the following question: what do they need to do with their model to accommodate human standards?



Tomite Aksei then raised some questions as regards the presentations of the speakers. He also asked for some clarifications on Sandra's presentation. He asked whether the UN Guiding Principles presented tangible added benefits in tackling labor problems in the palm oil industry.

Theresa Del Rosario said that there was no way to change the minds of the big companies as they are working on logical frameworks which are centered on profit. As such, she encouraged the members of the session to try a different approach. Given this situation, she thinks that the one way human rights activists can push business owners to push government to address this. For

example, in Singapore, the problem was managing air. She said that ASEAN did not do anything, and that all round table discussions and meetings did not produce tangible efforts. She also asked how people who lose their land get their food, and asked what the government has done about their situation.

Rena from Indonesia said that women are the most vulnerable groups and yet are not involved in the decision making process. They were not informed of the impact of pesticides. They become informal workers or daily workers and still had to help their husbands in the house. Furthermore, the wage of women workers was lower than man.



Sandra, as regards women workers, agreed and said that women are indeed suffering from many injustices. They incur diseases which manifest after a long while, and by then, the company does not care for them anymore. She also agreed that boycotting palm oil was not the solution. As regards the standards for the INGP being too high, she said that one has to look at history. She said that this instrument is existent now because historically speaking, UNGP tried to put more responsibility at big companies. But after years, many efforts to interpret UNGP provisions to be more applicable to small

enterprises were made. The UNGP, if adopted by the government, will provide at least one more means of advocacy. Unfortunately, the UNGP is seen as something new and is not being harmonized. She said that ways to help companies understand our language as activists and business owners are indeed speaking different languages as regards these policies should be developed.



Isnawati said that indigenous people are being treated badly. At present, there are no legal institutions which could solve the problem. The Moderator Sumarian said that indigenous people lose their land but the government gives them two hectares to live in. However, they are unable to utilize these lands as they do not know how to work in palm oil plantations. Instead, they just work on rubber companies and other plantations. The indigenous people have their own way of surviving.

Sandra, meanwhile, said that in reality, there is no solution yet being done for the lack of food and to address the labor issues in Indonesia. A law is currently being drafted, but it can only result to more profit to business owners.

Aksei said that as regards economy, they have been making studies that look at



access to economic rights. One of the conclusions from that is that the local economy is not accounted for, especially in areas which have basic economies and subsistence. Hence, economic development is really hard to compare. There are very different results if you just look at GDP or basic rights. Hence, the measurement using economy should not be given priority. When asked for clarification by the moderator, Tomte said that it was impossible to have a perfect measurement, but his point was that the GDP should not be used as a primary point of measurement as this does not reflect local communities.

#### **B4 Defending Human Rights**

##### **Moderator**

Lorna Q. Israel, MA

##### **Panelists**

Mohammad Syaiful Aris, Kim Khorn Long,  
and Boravin Tann

The parallel session of B4 only had one paper presenter, Boravin Tann of Cambodia, due to the unavailability of the two other paper presenters. In order to foster a more engaging discussion, the moderator Lorna Q. Israel, invited Hadi Rahman Purnama of Thailand as a reactor. Overall twenty-four (24) participants attended the session, with more than the majority coming from Cambodia. Of the 24 who attended, 16 were females while the remaining 8 were males.

Tann's presentation focused on non-governmental organizations (NGOs), associations, labor and trade unions, and international organizations in Cambodia, as the main human rights defender in the country. In 2015 because of the booming number of these organizations, the royal

government enacted the law on associations and Non-governmental Organization's (LANGO) and the Law on Union of Enterprises or Trade Union Law (TUL).

While the two laws were a big step in the government's recognition of the people's right to freedom of association, it was not without their flaws. The main problem of the LANGO and TUL that Tann saw was the fact that the process of the said laws' adoption did not take into account the concerns raised by stakeholders. The inclusivity of the process is therefore questionable at best.



Tann presented three core elements of the right to freedom of association in relation to LANGO and TUL, these are:

1. Legal Personality of Association (Art. 22 of ICCPR). The law should not be imposed in a manner prejudicial to exercise of the right. In this light, a registration regime should not be compulsory; the process should be simple and non-onerous, expeditious and non-discriminatory. But a mandatory regime is imposed in Cambodia. Organizations that do not register are criminalized. The registering authority has discretion to deny whether the organization's objective endangers state stability and security. In this sense, there is great danger to the right of freedom of association because the ambiguous



meaning of “endangering state stability and security” is not defined in TANGO or TUL and is thus, highly susceptible to arbitrary interpretation.

2. Operational autonomy refers to the independence of associations in conducting administrative activities, exercising the right to receive and use funds, and to take part in public affairs. The laws state that any NGO has to maintain political neutrality without again defining what it means. The terms used are weak and ambiguous, and thus could be subject of arbitrary interpretation.

3. Suspension, termination and dissolution should be the last resort and must be proportionate to the cause of such sanction.

In Cambodia, the failure to fulfill reporting obligations, failure to maintain political neutrality, and where organization leaders are found to have committed serious misconduct or offence among others, can be a ground to suspend, terminate or dissolve the organization.

Thus far, the laws’ restrictive implementation has claimed two victims. Palm Tree Association and Equitable Cambodia were recently suspended and prohibited from operating allegedly for failing to comply with their internal statute. However, they were later allowed to resume operations yet subject to strict conditions and closer monitoring.

Tann has however emphasized that the law itself is not necessarily a violation of international human rights law; admittedly it has contributed to addressing the gaps in protecting the right to freedom of association. But it was adopted with controversial flaws because of various ambiguous terms that

remain undefined in the law. Tann is therefore of the opinion that the laws have to be revisited to effect compliance by Cambodia with its obligations under the ICCPR. Cambodia has done well so far in ratifying most conventions of international human rights law. From a critical standpoint, if Cambodia has been doing well it should be consistent.

Also, given the declining situations in the region, the problem of Cambodia on this issue must be taken up to the regional level, as one matter for concern is what kind of policy ASEAN would adopt towards CSOs.

One challenge to taking the issues on the right to freedom of association to the regional level is the principle of non-intervention. The solution would come in the form of pressure from the international community through something akin to a soft sanction, a declaration, economic sanction, or withdrawal. This is because the issues of member states pertain not only to sovereignty but to economic relations as well. Another approach to the challenges faced would be to push companies from ASEAN member states to keep their investments from having problems with Trade Unions.

Pushing the issue is not pushing other states to take action but just to make known the issues in Cambodia and initiate conversations about them that can prompt improvement in the future. That itself would be an achievement considering that ASEAN does not have human rights treaties. Further, it is a recognized reality that every government wants a constructive engagement rather than the hard approach.

As to the question of the role of academics in the grand scheme of human rights protection, Tann only emphasized one thing--there must be academic freedom. Arguably academics are put in tough situations when state interests sometimes go head to head with the objectivity of research and quest for knowledge. But despite this sensitive issues, academics must stay true to themselves. Just starting discussions will render more thought, discussions, and calls for action. The future actions that could happen in Cambodia, are the result of those discussions. What matters is to address what is close to heart.

Another concern raised by one of that participants, is the issue of Government NGOs (GONGOs). One position is that as long as the freedom of association exists, groups have to take advantage of it. People also have to be open to conversations. Conversations are not meant only for groups that have the same ideas but for groups with different ideas. Whether created by government or by civil society, there is a need for dialogue on ideas themselves. As academics ingrained in research, they are the people in the best position to think of how to engage or influence GONGOs towards a different agenda.

Tann said that people must not only know their focus but also be open to grappling with other issues. Academic freedom is very important because it is a methodology and view founded in facts, science and theory that is important to a free and liberal discussion or dialogue. However, listening to what government organizations say and agreeing with them are two different things.

There is also the need of engaging in capacity building because unionization in

Cambodia is young. Experts were engaged by TU to train them on how to engage with the government. The need to build capacity is also to ensure compliance with the law.

Tann also mentioned that resistance groups have to exist because these groups keep the critical view of laws which are unjust. The struggles can be outside as well as within government. The struggle has to be kept alive to change unjust laws. It is a struggle not always understood by others. But it is where different groups can learn from each other. Through regional conferences, people can learn from others facing similar struggles, and develop strategies in facing those struggles. Networking is important as it is an avenue for different groups and individuals share their experiences. In these situations, academics have unique positions. Academics can give information and knowledge to the resistance groups as well as be their (i.e. resistance groups) voice to the governments.

Even the Government, however, can be a Human Rights Defender. Tann acknowledges the fact that the government's passage of the two laws was a big step to protecting a right very vital to a person's human dignity. Lest we forget, human rights protection is a multi-dimensional issue and involves not just a lack of tolerance but also that of human perception. Human Rights is considered a sensitive topic. Whenever the topic is mentioned, people are immediately assumed to be critical. One way of teaching human rights is for teachers to give their students the idea of what is good and what is wrong; give them an inspiration on the issues of human rights. To do this, teachers should share their experiences and insights.

The point has been raised that NGOs and TUs should respect others' rights and those of their members. In relation to decision making processes in unions, it is important to respect the member's rights before asking someone to respect their rights.

A question by the moderator was also raised on whether there was a test case for those provisions in the subject laws that were ambiguous or confusing. But, Tann said that before the two issuances became law, the drafts were very confidential and accessible to very few people. Groups only knew about it when the government enacted the laws. The legislative process is not easy, seeing as it involves many factors. The laws may be flawed but it is better than nothing. At the very least, it is a platform for future dialogues and improvement in the laws.

## **B5 Inclusive Citizenship or Majoritarian Nationalism?**

### **Moderator**

Ingwill Thorson Plesner, PhD

### **Panelists**

Dr. Deasy Simandjuntak, Phyu Zin Aye,  
Nbyen Dan Hkung Awng, and Nickey  
Diamond

Phyu Zin Aye, in her discussion of "Gender Analysis of the Right to Nationality in Myanmar," pointed out that women in Myanmar face various challenges in acquiring, retaining, and conferring citizenship. With the current policies, it seems that there is no progress in advancing the rights of women in terms of citizenship. This also affects the rights of children, who cannot obtain citizenship from their mothers.



Challenges exist in the acquisition, retention and conferment of citizenship in Myanmar. In attempting to acquire citizenship, applicants face long delays in receiving documentation and the grant of documentation is based on religion or ethnicity. This is further exacerbated by the fact that most applicants who are undocumented persons cannot travel due to restrictions. Lack of resources, remoteness of certain areas and conflicts continue to pose as challenges in acquiring citizenship as well.

Furthermore, citizenship law in Myanmar is discriminatory and provides for no safeguards as to its retention, leading to cases of statelessness.

The ability to confer citizenship is hampered as well. Those born abroad who do not have birth certificates are considered as not having citizenship. Those born of unknown or absent fathers face similar hardship as those without birth certificates.



Nbyen Dan Hkung Awng, in his discussion of "Nurturing Cohesive Society via Inclusive Education in Myanmar," highlighted the value of education in combatting discrimination against indigenous peoples in Myanmar.

Nbyen Dan Hkung Awng explained that there is no social cohesion among minority groups. This lack of social cohesion is mostly due to the many armed conflict situations, which affect the lives of those ethnic groups. There is likewise no cohesion on the national level due to ignorance. There is limited to no access to information. In fact, not many people within Myanmar know about Rohingya and those who do know of the existence of the Rohingya do not use the proper term to refer to the latter.

The structural exclusions poses a challenge to social cohesion. Often, ethnic affair ministers are appointed but are merely used as political ploy and even it even becomes a divide and conquer strategies.

Nbyen Dan Hkung Awng recommends that inclusive education may address the problem of developing social cohesion. Inclusive

education comprises equitable access to education, regeneration of traditional understanding of pluralistic society and promotion of ethnic language and history through a multi-lingual approach. Inclusive education must start with state policies, which would require public schools to adopt the concept of social inclusion from an early stage of education.



Lastly, Nbyen Dan Hkung Awng recommends that structural exclusions, such as the appointment of ethnic affair ministers, must be re-examined to avoid further discord among minority groups.

The third presenter, Nickey Diamond, highlighted that the atrocities against the Rohingya Muslims is systematic and institutionalized. This is evidenced by the long line of policies implemented by the State in the past decades. The current trend of policies and acts of state agents point to further persecution against those belonging to this group.





The bedrock of the policies and acts that persecute Rohingya Muslims is the securitization theory. Nickey explained that there is a social construction of the security threat of Islam and Rohingya Muslims against Buddhism, Buddhist, and Buddhist nation. The government and other security actors raise an irrational fear that Rohingyas pose a threat to the Buddhist religion; they are saying that “We are the house owners, and these Rohingya muslims are mere house guests,” other religious groups such as Muslims, Christians, and others, are invading the country.

This construct has two aspects. First is the population discourse where the prevailing thought is that Rohingya Muslims have a high birth rate and thus they will overpower the Buddhist country of Myanmar. Second is the national security discourse which view the acts of violence against Rohingya Muslims are justified because they are a threat to national security as the government associate the Rohingya Muslims to terrorist groups.

Nickey concludes that there is a link between securitization and the mass atrocities committed against the Rohingya Muslims.

The fourth presenter, Dr. Deasy Simandjatak, explained that even if Indonesia is considered as the most “consolidated” democracy in South East Asia, the rise of a fiery strand of hardline conservative Muslims has brought about discriminatory practices against other religions. Pressure from these groups has led to the strict enforcement of Blasphemy laws and incited an environment of religious intolerance. This evidences how religion can impact the determination of citizenship, which is principally a matter that the government has power over.



Dr. Deasy argued that citizenship is not mere membership in a political community. This view is static and presupposes that the State is the sole definer of who belongs and who does not belong. Citizenship is not simply a matter of belonging or not belonging. This is flawed by ambiguity and nuances, and can be affected by ideologies of non-religious or religious groups, personal relations, or even politics – thus challenging the concept of “belonging.” The concept of citizenship must be approached in a more dynamic way, taking into consideration the extent, the boundaries, the content of citizenship itself, the benefits and burdens of membership, or the depth or thickness of identities that the members share.



While citizenship is supposed to be determined by the state, hard line religious conservative reformulate their understanding of citizenship. In Indonesia, they have come up with segregated citizenship. This segregated citizenship stems from the imposition that one must belong to one of the six officially recognized religions (i.e. Islam, Protestantism, Catholicism, Buddhism, Hinduism and Confucianism) in order to be considered part of society.

In a country where religion is a communal activity, religious activists can mobilize resources and people for their political interests. By doing so, they maintain religious hegemony by moral policing and limiting the exercise of the rights by minority religions. Some instances include the ransacking by conservative mobs of Buddhist and Confucianism places of worship.

Dr. Deasy concluded that the Government needs to re-govern citizenship and take the role of interpreting citizenship from religious groups.

The parallel session showed that both in Myanmar and Indonesia, there seems to be a common trend of discriminatory policies against religious minorities. The tense dynamics between minority and majority are very prominent. In Myanmar, Rohingya

Muslims are systematically persecuted by the State, as evidenced by its national regulations restricting their most basic and fundamental rights, such as, but not limited to, citizenship, social services, freedom of movement, and marriage. Securitization has aggravated this situation. The Myanmar government now categorizes Rohingya Muslims as belonging to radical Muslim terrorist group uses national security to justify the violent acts committed against them.

In Indonesia, there has been a rise of blasphemy cases filed against members of minority religions. A political leader and a civilian have both been convicted of blasphemy as a result of pressure coming from hardline conservative Muslims.

Another common trend is the use of laws and policies to legitimate repression against minority groups. In Myanmar, the categorization of citizenship is very arbitrary. In Indonesia, Pancasila and the Constitution are used to repress dissent.

## BOOK LAUNCH

In the evening of day one, a book launching of the “SHAPE-SEA Human Rights Outlook in Southeast Asia 2017” and “SEAHRN Human Rights and Peace Series 6: Protecting the Powerless, Curbing The Powerful” was held at the rooftop on the Marco Polo Hotel.



The book launch started with performances by Bayang Barrios at ang Naliyagan. Bayang Barrios is an Indigenous Peoples’ rights advocate and a global ambassador for the music of the Manobo tribe and similar tribes from Mindanao, Southern Philippines. She has let her music speak and sing on their behalf.



The evening ended with open mic performances from organizers and delegates of the SEAHRN conference.





## DAY TWO – October 16, 2018

### PLENARY 2

#### Conflict Transformation

##### Moderator

Dr. Kamarulzaman Askandar

##### Panelists

Guimel Alim, Chalida Tajaroensuk  
& Dr. Ichsan Malik

The panelists were Guimel Alim, the chairperson of the Consortium for Bangsamoro Civil Society in the Philippines; Chalida Tajaroensuk, the chairperson of the People's Empowerment Forum in Thailand; and Dr. Ichsan Malik, the chairperson of the Ichsan Malik Center and the National Defense University in Indonesia. Each presented conflicts in their own countries and analyzed challenges and problems in conflict resolution.



In his presentation 'The Hardest Path to Peace,' Guimel Alim discussed issues relating to the Bangsamoro conflict. He said that the Bangsamoro has long been seeking lasting peace but the region has been continually plagued by internal conflict. Alim used conflict transformation as a tool to analyze the regional conflict. Conflict



transformation, he explained, involves transforming conflict into mutual cooperation through changing cultures and values to ensure a sustainable peace. If this is the goal, he asserted that parties must address problematic structural relationships and root causes, pay special attention to transitional justice, and change personal values to end conflict. Healing, he said, serves as a more long term remedy to conflict—thus, conflict transformation as a process is vital to the fulfillment of peace building.

In the case of the Philippines, Alim believed that the conflict in Mindanao was never transformed, as root problems were not addressed. He said that it is important that injustices characterized by past relationships be addressed, as it is only through healing and reconciliation that the non-recurrence of violence is guaranteed. He concluded by saying that it is then up to the Bangsamoro to work hand-in-hand with the civil society and the government to build a lasting peace.

Chalida Tajaroensuk then spoke about the Pattani conflict through her report entitled "Pattani Southernmost Thailand." She reported that the Patani Malay National Revolutionary Front (BRN) is seeking self-determination rights and wishes to be known as Thai-Muslim instead of Malayu-Muslim.



This conflict of identity has resulted in continued killings and violence in the region.

She reported that lapses in communication and in continuity of peace talks between the BRN and the Thai military have led to violence and non-cooperation of certain parties in the peace talks. She also mentioned the need for independent facilitators in the conflict: that the government continues to facilitate conflict negotiations is a conflict of interest. She said that any institution participating in peace talks must be an independent body accepted by both conflicting parties, as this will build up trust.

Finally, she also mentioned that CSOs play an important role in the peace process. CSOs ensure that citizens, even those beyond the conflicting parties, can engage in the peace process and support both sides, especially when they are empowered and trained as peacemakers.



The final report was on “Conflict Transformation in Aceh and Maluku,” by Ichsan Malik. He reported that both Aceh and Maluku in Indonesia are facing conflicts regarding freedom and religion (particularly Christianity and Islam) in society. He mentioned that both conflicts experienced disrespectful relationships between the central and local governments; unequal

resource allocation; and, unfinished business in conflict resolution in both areas.



These conflicts have resulted in very different outcomes. Malik highlighted the new relationship structure between the central government and regional government where Aceh has integrated the Sharia system in its regional politics, law and culture. On the other hand, Maluku’s regional government experienced a crisis due to religious issues between the Islam and Christian communities. Where Aceh has an established institution that monitors and unites people, Maluku’s Majelis Latupati Maluku conducts Conflict Early Warning and Early Response measures.

Finally, Malik discussed the role of civil society in conflict resolution. He asserted that the process of conflict transformation should involve everyone in society, not exclusive to the elites and combatants. Malik concluded the discussion by quoting Johan Galtung: “By peace we mean the capacity to transform conflicts with empathy, without violence, and creatively—a never-ending process”.

## PARALLEL SESSION C

### C1 Intersections of Rights and Sexuality

#### Moderator

Joel Mark Barredo, MA

#### Panelists

Biplabi Shrestha, Vica Krisilia Larasati,  
Douglas Sanders, and Bassela Malinda



The first presenter, Biplabi Shrestha, opened with her paper on Gender Equality and SRHR (Sexual and Reproductive Health Rights) for Sustainable Peace. Sexual and Reproductive Health Rights (SRHR) violations continue to be rampant in the ASEAN region. Sexual violence as a tactic of war and terrorism is employed because sexual violence against women and girls in the context of conflict is systemic to humiliate and instill fear in the community. For many of the victims of rape, assault, trafficking, sexual slavery, involuntary contraceptive implants, and forced pregnancy, the impact of violence continues as they face the stigma from their families and communities. Meanwhile, conflict is noted to be a transformative experience for women. There are those who assume non-traditional leadership roles such as the head of the household, making decisions and taking care of the financial matters of the family, as well

as being commanders of troops and breaking gender stereotypes. However, these experiences are often undermined during the peace process owing to gender-blind peace building processes.

It was recommended that the definition of peace be expanded further to emphasize gender equality. There must be a domestication of progressive international and national norms and standards. Experiences of women's transformation to leadership roles should be consolidated and their gains. Women's absence at the peace negotiation tables and during peace talks should be questioned and addressed systematically. A feminist approach to peace building is important for sustainable peace. Inclusion and integration of a gender perspective in all spheres – political and personal, are central to feminist concepts of peace. Peace cannot be achieved without an inclusive political process, commitment to human rights in the post-conflict period, and attempts to deal with issues of justice and reconciliation.



Douglas Sanders followed with a narrative of how same-sex marriage is perceived historically in Asia. It was noted that his presentation was not confined to the ASEAN region. The report focused on Taiwan since the presenter failed to tackle Hong Kong due to

time constraints in presentation. In discussing the brief history of same-sex marriage, he first dissected the relationship of Taiwan to mainland “conservative” China as a “renegade” territory.” The first bill on same sex- marriage was filed in 2013, with 3 couples suing the Taipei government to get them to legalize their union. They asked the constitutional court to declare such. Currently, the Taipei government is weak. The female President campaigned for equal marriage but the Prime Minister rejected it. The Cabinet is likewise disordered. In May 2017, it was decided that the legislative branch will have 2 years to decide on whether to pass a sex neutral civil code or a new law to govern such union. The result would be that the constitutional deadline was predicted to probably pass without action.



Rassela Malinda trailed with a discussion about her paper, “Women Fisherfolks Confronted Towards Industrialization Regime of Agrarian Resources in East Kalimantan.” She described the paper as mostly field notes instead of reconciling theories. Women in East Kalimantan was noted to be experiencing gender inequality. They are burdened because they have to do “men activities”, but men do not perform “women activities.” Since the economy of East Kalimantan is shifting, the men have to move to somewhere else in order to make a

livelihood. Women have to step up and take on more work. They have to make a living and personally attend to fishing in the river village on top of managing the household. Women was lastly noted to be underrepresented in decision-making processes, mainly because of their lack of education.



Vica Krisilia Larasati, in her paper presented last, focused on the importance of self-care and personal well-being for Lesbian, Bisexual, Queer (LBQ) Women and Transgender Female to Male Activist. She noted that Indonesia still does not have clear regulation and procedures in place to promote the work of human rights defenders. Most Indonesians still regard human rights as a western concept and not suitable with their culture. Most human rights violators remain in power, causing difficulty in incorporating its protection in the legal system. Many of these defenders become victims of murder, disappearance, and forced detention. Women human rights defenders (WHRD) face significant and direct challenges relating to their gender and sexual identities compared to male HR defenders. In Indonesia, their efforts are less visible and less recognized in society because women are still considered second class citizens. The LBQ women and transgender man activist remain apart from



the women movement because of the Internalized New Order gender ideology omitting the non-heterosexual notion from the national discourse. Further, they are seen to defy cultural, religious, or social norms about femininity and roles of women. They face multiple layers of discrimination and violence as their rights are not considered human rights. Discrimination and violation towards them are considered ways to help or convert them to presumably decent and normal ways of life. Larasati conducted her research primarily through interviews and interpretative approach, focusing on social interpretations. She discussed that on paper, Indonesians are constitutionally guaranteed human rights free from discrimination but in actuality, their human rights are only observed insofar as it fits with the traditional Indonesian culture, religious norms, and values. The challenges that they face, therefore come from the State and even in their personal circles. There is an absence in law to promote and protect LGBTQ communities. Indonesia has not legalized LGBTQ communities and there is even one province that criminalized same-sex sexual activities. Thus, while advocating for their rights, activists could not fully address their rights due to the morality standards imposed upon them. Since they become more vulnerable to violence and discrimination based on their sexual orientation and gender identities and they face a lack of support from their community, they resort to self-care methods in order to balance their personal rights with their activism. It is recommended that a comprehensive and integrated protection mechanism at the State level be implemented in order for the LBQ women and transgender males to fully realize their rights.

## C2 Protecting Human Rights

### Moderator

Sriprapha Petcharamesree, PhD

### Panelists

Jonathan Liljeblad, Ngo Huong, Vu Cong Giao and Hoang Bich Ngoc

The first speaker was Ngo T.M. Huong. In her talk entitled “Asian Values and Human Rights: A Concurrent Vietnamese Perspective,” she discussed Confucianism, Buddhism, and how these and other Vietnamese values are reflected in their legal frameworks. She said that there are different and conflicting ideas in the process of building a constitution – rule by law, rule of law, liberal democracy, and socialism, among others. She noted that Marxism, similar to Confucianism, was an ideology which did not support human rights, noting that it valued political stability over human rights.



Human rights are political ideological barriers to the ruling principles of Marxism and Communism, and there is tension since the Communist Party of Vietnam (CPV) is afraid of losing power. She concluded that there is a need to further remove ideological barriers based on Marxism elite-led power.



In his discussion of “The Right of Access to Justice in a Socialist Country: Reflection on the Vietnamese Context,” Vu Cong Giao noted that there were problems in socialist countries relating to all fundamental elements of access to justice. He discussed the right of access to justice in Vietnam, and identified legal protection, legal awareness, legal aid, adjudication, enforcement, and civil society and parliamentary oversight as major components of this right. While noting that there were certain measures in place to enforce these rights, these were limited due to various factors, such as corruption, censorship, and the power and influence of the Communist Party of Vietnam in judicial proceedings. Although the right to access to justice is not completely denied, it is severely restricted in Vietnam. He recommended democratization, and specific measures include judicial reform and the promotion of civil liberty.



The last speaker was Jonathan Liljeblad, who discussed the 2016 Ava Tailor Shop incident, where two teenage girls were abused by the shop’s owners. The Myanmar National Human Rights Commission (MNHRC) faced criticism when it attempted to have the parties agree on a monetary settlement instead of proceeding with criminal actions, leading to the resignation of four committee members from their posts. In

attempting to unpack and understand the 2016 crisis, he used a risk analysis framework, looking at the hazard, the exposure to the hazard, the institution’s vulnerability, and the institution’s capacity or resilience to survive the impact of a crisis. He found that there was value in using a risk framework since it was both descriptive and prescriptive. He pointed out that it helps identify what should be done to avoid similar situations in the future. He added that it is a proactive tool and as such would be relevant to other national human rights institutions (NHRIs). Finally, it may provide further directions for research.



After the last speaker, the floor was opened for questions. A member of the audience asked how Vietnam was inspired to include provisions on human rights in its Constitution, and whether or not it helped shape the state’s behavior. Ngo Huong said that there was pressure on Vietnam for changes and reforms, and these included human rights. Vietnam wanted to show to the world its commitment to such changes. Another question pertained to whether there were provisions on persons with disabilities, to which Vu Cong Giao stated that there were no specific provisions on the matter.

In response to a question as to Confucianism and the texts or sources that the Vietnamese

used or referred to, Ngo Huong noted that Confucianism was strongly reflected in old laws, and it was seen in the community spirit. She referred to Article 14.2 of the Constitution of Vietnam and pointed out that the Confucian value of community was visible.

One audience member asked for Jonathan Liljeblad's assessment of civil society. According to Liljeblad, there still existed civil society in Myanmar, which is apparent from the fact that there are still people who volunteer for certain groups and movements. However, the issue is with civil society groups in relation to human rights. There is tension between Myanmar's culture and concepts introduced from foreign sources. He noted that there was skepticism about the MNHRC since it followed the United Nations. Thus, there was suspicion that it was merely a tool for foreigners to intervene in the nation's affairs.



Another participant asked for a definition of "Asian value." Ngo Huong stated that Asian values have not been a major part of the debate.

A law professor asked about the role of law schools in emphasizing human rights. Vu Cong Giao stated that law schools can state what can and cannot be done, and noted that

law schools should promote democracy. Jonathan Liljeblad said that activists give up and leave the country due to how advocacy is negatively perceived, noting that it was a self-reinforcing system.

Returning to the question on Confucianism, Ngo Huong stated that Confucianism and Marxism must be seen as social norms, not political ones. She observed that these two ideologies also pertained to different aspects of daily life and not merely to political values.

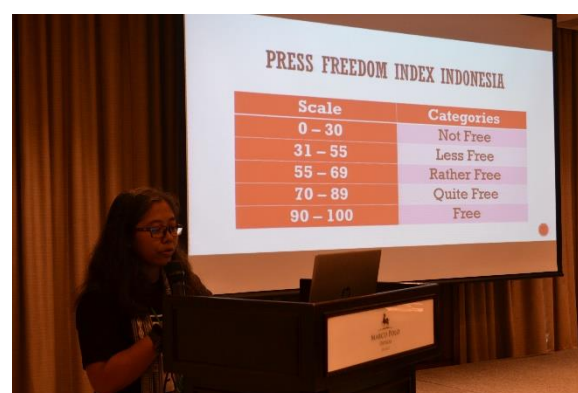
### C3 Business and Media

#### Moderator

Nathalina Naibaho, LL.M.

#### Panelists

Froilyn Pagayatan, Wahyudi Djafar, Aloysia Vira Herawati



Aloysia Herawati discussed the relationship of the media and the political parties in Indonesia in her talk "The Everlasting Conspiracy of Media Business and Political Parties and its Impact to the Press Freedom in East Java, Indonesia." She noted that Indonesia's Press Freedom Index (PFI), an index used to measure the freedom of the media in the country, moved up from 2016 to 2018. She said that the relationship of the media and the political party must be studied,

since the influence of the political parties and politicians in media is one of the concerns cited in determining Indonesia's PFI ranking. For instance, politicians can control and prevent the dissemination of news which is not favorable to them, and there have been cases where journalists are killed after reporting on problems between businesses and the community where they want to open or start operating.

She noted that after the fall of Suharto, the current tactic employed is to influence public opinion by influencing the media. In light of these observations, she pointed out certain guidelines for further discussion:

1. Can media companies and political parties work together with clear conscience?
2. Is it possible for media companies to be "people-oriented" in delivering the news?
3. Can political parties be held accountable for any violations they may commit?



Wahyudi Djafar began his talk entitled "Regulating Social Media: New Challenges of Freedom of Expression and Right to Privacy in South East Asia" with a description of social media. He stated that social media is important because it gives everyone the ability to communicate with anyone anywhere in the world in real time. Because of this characteristic, social media is used to disseminate news. It is fast and everyone,

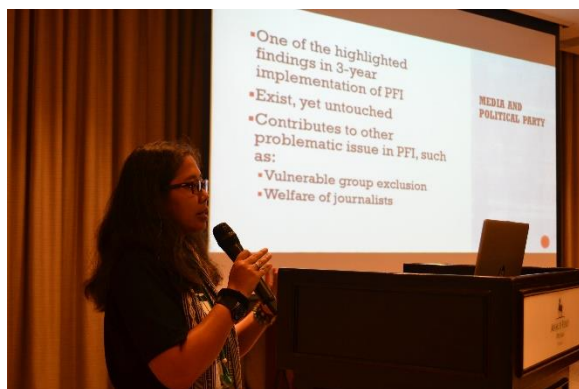
not just reporters, can post and publish in the internet or in their social media accounts. The rise of the use of internet and the comfort by which users share information in the web have given rise to the issue of data privacy. Users easily share information without seriously considering the risks and without checking if any mechanisms are in place to protect any data they shared to the public. According to him, any regulatory model that covers the internet must refer to human rights standards. In practice, states protect freedom of expression through national and international standards, which are subject to interpretation. He discussed the three kinds of regulation – direct regulation, co-regulation, and self-regulation – and listed related laws and regulations in Southeast Asian nations. Some issues that he noted pertained to the laws passed by government, which he stated were not in line with principles of freedom of expression and privacy. Furthermore, there was an absence of a common standard in regulating social media, causing a difficulty in balancing government regulation and human right. In light of these issues and findings, he said that international human rights obligations must be referenced when states establish rules and policies for the internet. For companies providing social media platforms, the UN Guiding Principles on Business and Human Rights can serve as a guide when they determine their own policies. They need to clarify their roles and responsibilities in the protection of human rights in the internet. A participant asked what the most effective way of regulation is. Co-regulation was suggested as the best model to follow in ASEAN, considering that it is a multi-sectoral platform (tech companies, CSO, government). This is a good way to balance FOI and DPP.



Another member of the audience asked if the ASEAN will end up like China in terms of social media use. It was pointed out that China tried to influence other countries in the region, citing as examples Alibaba and Weibo which are both penetrating ASEAN markets. While ASEAN countries have the power to counteract this, governments need to balance its economic interests in this type of investments with their desire to protect their citizen's right to freedom of expression.

The speakers were asked to comment on the general attitude of states in trying to regulate the use of social media or the internet. According to them, this depends on the motive behind the regulation, which ideally should consider the right to freedom of expression and right to privacy.

They were also asked what is being done to cover situations that may happen in the future, considering that the Internet changes fast. They noted that Philippines' internet laws came about because of experience. It was only after a computer virus was created and spread to users worldwide that the government passed laws to punish the act. They answered that there is no model that can respond to future needs as it is hard to predict how technology can affect a person's life. However, any regulation should have a human rights perspective.



Another member of the audience asked if there is a law which balances the right to information and right to privacy, considering that everyone owns a smartphone. The speakers answered that there is no good model in ASEAN, but one can look at Estonia and Australia which are compliant with the General Data Protection Regulation (GDPR). It was also pointed out that Thailand and Singapore had good data protection laws. However, it was pointed out that while Singapore complies with GDPR, it had an issue with freedom of research.

#### **C4 Bangsamoro Organic Law and Federalism**

##### **Moderator**

Ayesah Uy Abubakar, PhD

##### **Panelists**

Atty. Raisa Jajurie, Hon. Amihilda Sangcopan, and Atty. Mary Ann Arnado



Atty. Jajuire opened her presentation with a brief but insightful lecture on the Mindanao conflict and the Bangsamoro. She traced the longstanding roots and origin of this conflict and how revolutionary groups have spawned and come to life over the years due to this. Because of this seemingly never-ending conflict, the government sought to intervene



by initiating and mediating between the peace agreements of the two most prominent groups in Mindanao – the MNLF and MILF. However, despite these peace agreements, the government wanted a stronger mechanism for solving the problem they faced and this was through the creation of a new and autonomous entity for the Bangsamoro. Eventually, this idea turned into a bill that was filed and eventually into a law that was passed.

The next point of discussion was the territory of the Bangsamoro and how it would be delineated. After this, she sought to outline the important principles that the BOL sought to live out – namely, to establish peace, liberty, justice, democracy, and goodwill among all the people. This is important given that in the region, not all are Muslims since some have settled and inhabited it from areas elsewhere.



One of the key points of her presentation was the enumeration of the powers of the new government in relation to human rights and peacebuilding. It was made clear that this new government would be empowered to enact rules which would help in the promotion of social justice, religious freedom, respecting customary rights and traditions, reparation for unjust dispossession, and the rehabilitation and development of areas in

conflict. Another highlight was the description of the mechanisms and institutions that would arise out of this law which would help in the protection of human rights and the promotion of peace such as the Bangsamoro Human Rights Commission and the creation of a new justice system.



Lastly, Atty. Jajuire noted that despite the creation of a new government in the Bangsamoro region as an autonomous entity, the laws it enacts should still be compatible with the national laws of the Philippines. She also noted that there must be patience and understanding in this process since conflict transformation and nation rebuilding after years of war do not happen overnight so different ethnic groups would still need to adjust. As a final note, she observed that while she felt that the law was sufficient, there is still criticism towards it since some provisions of the peace agreements were left out.

Atty. Arnado, the next speaker, first outlined what the national situation of the country is in terms of human rights. It seemed to her that in the Bangsamoro region, this particular subject was vilified and to be considered a human rights advocate was even worse than being a drug lord or syndicate. She noted, however, that Mindanao was currently under Martial Law for the second time in the

country's history. She then proceeded to talk about how the two key concepts for the day's panel – the BOL and Federalism – were considered as ongoing processes. While the former was passed into law, the implementation, execution, and transition would need a lot of time and effort. Federalism, as she points out, is in a different state as momentum for the shift has died down. Instead, lawmakers have started to focus on the upcoming midterm elections instead.

The next part of her discussion was her efforts together with other colleagues in trying to come up with an all-Moro convention which would eventually pursue the creation of a Bangsamoro State Constitution. This would have the same arrangement as the BOL but the intent of the framers, including Atty. Arnado, was to have this State under the federal system. Despite the seemingly dead-end for federalism, she noted that there must still be a push for self-determination amongst the Moro people.



The next part of her talk revolved around human rights. She asked the simple question of what exactly is our measure of human rights? Given our country's situation today, it has become more blurred and we have become more desensitized to its abuse. She talked about the pertinent provisions in the

BOL and looked at it from a realistic point of view. While the intent and the spirit of the law is there, these provisions are hard to implement in real life. The next point of note was how human rights seem to be only relevant on the victim's side but when the power shifts, one can easily become the oppressed.

Lastly, Atty. Arnado talked about how to create a community which will hold the duty-bearers (i.e. the State) accountable. First, there must be the strengthening of the democratic institutions regardless of the leader in place. A case in point would be the Commission of Human Rights (CHR) – even after many transitions, it is still a weak institution. Congress should have strengthened it before by giving it prosecutorial power among others.

## **PARALLEL SESSION D**

### **D1 Right to Health**

#### **Moderator**

Daniel Dy Lising, MD, LL.M.

#### **Panelists**

Atin Prabandari, Putri Rakmadhani Nur Rimbawati, Dedi Dinardo, Irfan Ardhani, Muhammad Diaz Kurniawan, & Rafyoga Iehan Pratama Irsandnar; Theresa W. Devasahayam, Long Thanh Giang, Ling How Kee, Rossarin Gray, and Hein Thet Ssoe; and Than Soe

The countries of focus in the papers were Indonesia (Jakarta and Surakarta), for issues related to Children Living With HIV and AIDS (CLWH), and Singapore, Malaysia, for the topic on the rights of elderly.

For the first paper presentation, Rafyoga Jehan Pratama Irsadanar from the ASEAN Studies Center at the Universitas Gadjah Mada shared that there has been a growing number of CLWH in Indonesia. In 2015, the number of CLWH recorded reached 17,000. The presenter identified discrimination as one of the major challenges faced by CLWH. They are usually excluded from their neighborhood. Once the conditions of CLWH are exposed, parents of other students ask the schools to expel them because of fear of being infected.



The research also focused on a comparative study of two different organizations in Indonesia and their advocacy with regard to CLWH. These organizations are the Lentera Anak Surakarta (LAS) and the Lentera Anak Pelangi Jakarta (LAP). LAS is an informal organization formed by a marginalized sector in Surakarta. LAP, on the other hand, was established by an academician from the Universitas Katolik Atma Jakarta. The group is more formal in terms of organization and structure. LAS and LAP are non-professional in the sense that they do not have the capacity to provide appropriate treatment to CLWH and can only refer the children to hospitals.

The next presentation focused on the rights of older persons (OPs) especially on their

right to access affordable and quality healthcare. This study involved five countries namely: Singapore, Malaysia, Thailand, Vietnam and Myanmar. However, the presenters only presented the findings in Singapore and Malaysia. Theresa W. Devasahayam from the Singapore University of Social Sciences) and Ling How Kee from Universiti Malaysia Sarawak presented. They considered four (4) indicators when looking into the health rights of OPs, namely: accessibility, availability, affordability and acceptability.

The presenters mentioned the main challenges faced by OPs. First, there is a disparity in terms of access to quality healthcare of OPs living in urban and rural areas. Second, only government employees receive pension after retirement. Those who are self-employed like farmers do not have this similar security income. In Singapore, old people who were afflicted with cancer are taking their lives thinking that they will be a burden to their families given the high costs for treatment and medication. Finally, healthcare for OPs are highly privatized which drives prices upward and make healthcare much less accessible.



Devasahayam mentioned that the aging population in Southeast Asia has been increasing. Singapore has the highest



number of elderly people including Malaysia, Thailand and Vietnam. The increase may be attributed to the successful family planning programs in these countries. OPs are more vulnerable due to access to healthcare services. They are also seen as liabilities compared to younger people. In Malaysia, Kee stated that health is like a charity instead of a right. It is perceived as an entitlement rather than a right. Health should be treated as a right rather than a moral obligation.

The speakers proposed that a law should be passed to ensure the rights of OPs to obtain well-qualified, appropriate medical treatments. It should include a provision for quality healthcare for OPs despite stature or location. There is also a need to raise awareness on how OPs can access existing healthcare schemes as well as be informed on programs and projects on how to maintain a healthy lifestyle. There must be a different spectrum of care facilities such as Senior Citizen Clubs. A Foster Care Program should also be explored for senior citizens instead of just leaving them in Elderly Homes.



The speakers likewise had a fruitful discussion with the participants. When asked about the ideal age to retire, both speakers agreed that the OPs should be given the opportunity to decide when to retire. They also emphasized OPs are a vulnerable group

and they face various challenges in asserting their rights. This is supported by a study conducted by the University of Malaya on elderly abuse and neglect. As regards filial piety, the speakers discussed that it is traditionally the family's responsibility to take care of an elderly family member. However, they also recognized the fact that children no longer live with their parents because of the greater mobility and opportunities in the city.

## **D2 Accessing Rights in Cambodia**

### **Moderator**

Mike Hayes, PhD

### **Panelists**

Tuy Sophorn, Muy Seo Ngouy, and  
Vandanet Hing

The first presenter, Tuy Sophorn, shared that in the history of Cambodia, the practice has always been on not seeing the need for women to have higher education. They only tend to the husband and their children. She also shared that the government, CSO, and NGOs has helped in making the situation better than before. The government has a national strategic plan for women in accessing higher education. In order to achieve this, they have a ministry of women affairs for the department of higher education. They also have a Cambodia Higher Education Vision 2030. They provide scholarship for women to access higher education. They also recognize gender-equality, and in their context, they prioritize women. She also showed a matrix of the enrollment and graduate female student's rate for 2015 to 2016. It was shown that there was a receding rate in the number of women in higher education wherein for PhD level, there was only 5%.



Muy Seo Ngouv followed by giving context in Cambodia regarding the women's right to food. Main contributors to the progress of their national economy is the industry on garment, tourism, construction, and agriculture. Agriculture takes up to 42% of their industry. Even if Cambodia has earned the middle class income, majority of the families were only slightly above poverty line and are vulnerable to fall back to poverty again. For women, they have restricted access to health system. The she shared that the Optional Protocol on VAW has been ratified in 2010, but they still don't have individual complaints mechanisms. There is no explicit wording or mentioning of the right to food in the constitution of Cambodia. Right to food is often referred and understood as food security and nutrition.



Hing Vendanet finished with her paper on the constitutional rights of public participation in Cambodia. She first gave a brief background of constitution of Cambodia. She said that in the 1947 and 1989 constitution have a provision on the right to participate in public affair. However, there remains the following issues: politic elite domination; no measure taken to ensure a meaningful public consultation; insufficient time for the public to participate; and the lack of interest and understanding the essence of exercising the right. With this context, she argues that the

lack of public participation in constitutional law making process may jeopardize the enforcement of current constitution, particularly with regard to the promotion and protection of the right to participate in public affair. With this situation, she said that there is a need for a new constitution because previous constitution is not functional and people plea to have a new one. Second reason that she stated is political change or situation of conflict related. One step she deemed needed is to study the constitution in order to examine the legitimacy of the constitution. Another, is to set the tone of the constitution and balance the rights indicated in it.

She shared that there is a debate that exists as to whether the meaning of the right to participate in public affairs is extended to the right to participate in constitutional law-making process and reform. She cited a definition by scholars on public participation as moral claim rather than legal right. She added that some scholars claim that the legal right to such participation may exist, there is no clear practical form for it to be implemented.



She emphasized that it is necessary for everyone to understand the essence of this right to participation. She added that the public should be informed of the process and

be able to engage when needed. The she also showed the current relationship between the Executive and legislative; executive and judiciary; legislative, judiciary, and constitutional council; government and the people. The pattern shows that the executive has power over the legislative and the judiciary.



Most of the concerns raised during the open forum are on the capability, literacy, and awareness of people in Cambodia and how they will be able to appreciate and exercise their right to education, right to food security, and right to participation. All the presenters suggested to start on educating and making people aware on their rights in able to achieve their other rights.

### **D3 The Environment and Human Rights**

#### **Moderator**

Raymond Marvic C. Baguilat, LL.M.

#### **Panelists**

Parvez Ahmed Pirzado, Dwi Rahayu Kristianti, and Maharani Hapsari, Tadzki Nurshafira, Husna Wulansari, Marselinus Saka, & Taradhinta Suryandari

In the first presentation entitled “Gender-based Analysis on the Gender Equality Principle in the Indonesian Environmental

Law”, Dwi Rahayu Kristiani laid down the context of her on-going work which began in March 2018 on the recent protests in Indonesia which were led by women. She posed the question of why there was a need for these women to go to the public space? According to Kristiani, there used to be a public-private dichotomy wherein women are undervalued in their efforts for environment conservation. Women had little to no access to public space in order to voice their experiences in environment protection and management.

Kristiani then proposed that while gender equality exists in the Indonesian Constitution, in Indonesian law in general, and in Indonesian environmental law in particular, such is problematized when looking at their implementation in the judiciary, in the executive, and even in the community life at large.



For Kristiani, there is then a need for a strong gender perspective in the interpretation of Indonesian environmental law. In particular, a substantive equality is needed to improve women’s condition and to mitigate the impact on environmental damage. To illustrate this, she provided two cases which showcase the intersections of gender and environmental activism, the Mollo case and the Kendering case. In both cases, the women were the

ones who were actively involved in order to advance the community's claim to land and natural resources. Amidst the positions taken by the executive (through the local governments) and the judiciary, what is encouraging is the development of the gender equality principle is actually coming from the community itself.

It was noted that women's activities in environmental conservation are not limited to the geographical barriers of a country. At the regional level, there has also been an awareness of leaders of ASEAN countries to collaborate at the regional level in the effort to protect the environment.



In the second presentation entitled "Contending Imaginaries of Water Rights Fulfillment in Southeast Asia: A Cultural Political Economy Reading," Hapsari, et.al. noted that unfulfilled rights to water is a salient issue facing the urbanizing Southeast Asian countries. With respect to rights to water, there has been a mainstream focus on government-society relation, which neglects the economic discourses that surround access to water. From this, Hapsari, et.al. argues that there is a need to examine the interplay of discourses that actively transform relations with respect to water rights, and in turn, how contesting discourses are being

reproduced, incorporated, and institutionalized.

Using Jessop's CPE Approach, the presentation then proceeds to lay down three contending imaginaries around the fulfillment of rights to water for the urban poor in Indonesia: (1) as needs, i.e. as part of self-help or collective survivalism in the form of labor using local resources, (2) as responsibility, i.e. as products of rights-claiming processes conducted by the citizens as rights-holders and the government as duty-bearer, and (3) as wants, i.e. as object of property rights which becomes accessible through monetary exchange.

Through the entanglement of these discourses, Hapsari, et.al. conclude that water is a product of power struggle at the level of ideas. The political interplay of these discourses results to mechanisms that determine the fulfillment of rights to water-inclusion and exclusion as to access.



In the third presentation entitled "Analyzing the Effectiveness of Environmental Education Programs from a Human Rights Perspective in Three Asian Countries," Parvez Ahmed Pirzado argued that while many important human rights documents affirm that a safe, clean and healthy environment is one of the main human rights



obligations of UN member-States, which includes provisions on education and public awareness on environmental matters, these mandates are not implemented well. On this matter, Pirzado critiques that there is a lack of research on the link between policy and practice related to environmental education as an important aspect of human rights education.

Pirzado then examined three environmental education projects in Thailand, Indonesia, and Pakistan in order to measure their effectiveness in addressing human rights issues. The review of the three selected projects shows that all projects have been successful in raising awareness and improving environment conditions in the communities they work with. However, challenges faced by these projects were likewise noted, including the lack of government support and the lack of solid organizational framework in focus projects. Pirzado concluded that there should be specific policies that support environmental conservation and public awareness of the importance of preserving the environment.



During the open forum, the participants raised a variety of questions. On Hapsari, et.al's presentation, the participants raised questions on what indicators were used to measure water access, the role of

international organizations especially on privatization of water services, and the role of the State in relation to these discourses. There was also a suggestion to look into the UN instruments relating to water resources and sanitation. On Pirzado's presentation, a question was raised on defining the scope of environmental education, as well as on tracking education policies at the local government level. There was also a suggestion to examine ASEAN policies on environment education.

## **D4 Women and the ASEAN 2025**

### **Moderator**

Professor Elizabeth Aguilung-Pangalangan

### **Discussants**

Philippines' Women's Legal and Human Rights Bureau, Indonesia's  
KALYANAMITRA



Myrna Rodriguez of the Philippines commenced the session by highlighting that the center of ASEAN Integration is the ASEAN Economic Community. Among the three pillars of the AEC --Trade in goods and services, Food, Agriculture and Forestry, and Strengthening the Role of Micro, Small, and Medium Enterprises-- women are only part of the third. She noted that AEC does not tackle the issue of sexual violence, the



economic cost of which of sexual violence affects development. As a whole, she found that AEC fosters a culture of misogyny, sexual violence, and neo-patriarchy, and is very far from the ASEAN interests which doesn't talk about the women being a part of marginalized groups. She further noted that there are no gender safeguards in ASEAN countries; that there are no programs under AEC to directly hold the accountability and responsibility of corporations operating under ASEAN; and that the AEC programs have an impact on land-grabbing – which adds to poverty incidence.



Rena Herdiyani followed by accentuating that there is a missing gender-sensitive framework on transformative equality that addresses structural gender barriers and discrimination in ASEAN. She announced that there is still a gender gap in trade in Indonesia. Wage discrimination practices and wage gap disparities are still encountered in various sectors of the country. The garment sector is considered to be women's work so it absorbs many women workers. Women are perceived to be working only to help the husband get the money. They are the most vulnerable victims because of the effects of forced evictions and land seizures. The AEC itself does not protect the marginalized women. More specifically, women with disabilities are also

vulnerable to being victims of sexual violence and domestic violence. Further, employers in Indonesian society are homophobic. Lesbians, Gays, Bisexuals, and Transgenders (LGBTs) in Indonesian society are generally seen as a deviance. LBT women who work as laborers still often get multiple discrimination since the early stages of applying, evaluating and promoting. They get bad stigma due to their sexual orientation choice--starting from the difficulty of accessing jobs.

Jocelyn Badiola trailed by noting that rural women's contribution remains undervalued. In some communities, women are considered as mere assistants or subordinates. While women play a major role in food production, there are still major gender issues such as the limited access and control over resources, and limited participation in decision-making. The Department of Agriculture is pushing for Gender and Development to promote involvement of women in farming and fishing. Agricultural work meanwhile remain male dominated. Employment of female laborers is few. The Department of Agriculture is now attempting to mainstream Gender and Development using a comprehensive participatory action research



Jade Leung highlighted the perspective of Indigenous Peoples in relation to ASEAN. In the Cordilleras, the most common way of living involve elementary labor--Laundry, domestic work, selling food on the streets and weeding farms/gardens. The government, with its Public-Private Partnership (PPP) and the Build, Build, Build Program have led to cultural and developmental aggression. IPs are perceived to not be affected by the governmental activities because they are far from the center, but that is not the case. The main action point in the session's open forum is the integration gender, women's, and IP rights, consequently developing and upholding the civil society engagement

## PARALLEL SESSION E

### E1 Peace and Conflict Transformation

#### Moderator

Lorna Q. Israel, MA

#### Panelists

Rowena Cinco, Harison Citrawan, and  
Ayesha Uy Abubakar and Kamarulzaman  
Askandar

The presenters for the session were Harison Citrawan, with the topic "The Impact of Amnesty Law Towards the Promotion of Reconciliation in Post-Conflict Aceh" and Ayesah Uy Abubakar and Kamarulzaman Askandar, for the topic of "Revolutionary Peace: The Transformation of Non-State Actor Groups from Revolutionary Leaders to Peace Leaders" The moderator for the session was Lorna Israel. The session was attended by a total of 24 participants (15 female and 9 male).



The first paper discussed amnesty law and reconciliation in relation to post-conflict Aceh. Citwaran first discussed the nature and purpose of granting amnesty. According to Citwaran, (granting) amnesty is to forget and that it is used to forget all past crimes. In transitional justice, amnesty can be seen as a double-edged sword as a tool to peace and reconciliation or as a reflection of state to preserve impunity of past wrongs.

Citwaran then discussed amnesty specifically in Aceh. He described the Helsinki Memorandum of Understanding is a 'balanced equation' between the Government of Indonesia (GoI) and Gerakan Aceh Merdeka (GAM) compared to practices in the past. In Aceh, the grant of amnesty is applicable only for GAM-related persons; it excludes the state's side particularly the military. Citwaran sees it as an attempt to escape from alleged human rights violations responsibility that happened during military operation in Aceh. However, Amnesty Presidential Decree 22/2005 shows a shift of rhetoric. It mentions reconciliation, national unity, human rights protection, fulfillment, and promotion, and to resolve the conflict permanently as the purpose of the decree. Furthermore, welfare assistance dominates the amnesty conditionality under the Memorandum of Understanding.

Citwaran explained that the grant of amnesty eventually creates a 'class division' amongst amnesty beneficiaries in the peace building situation and the existing conflict segregation. In Aceh there is a "Political-elite amnesty beneficiary" and an "Economic low rank amnesty beneficiary" as well as a "non-amnestied splinter group". The envisioned win/win end of 'will to empower' amnesty beneficiaries has been confined by the win/lose arrangement of 'will to power' amongst themselves.



In the second lecture, Dr. Ayesah Abubakr discussed that revolutionary peace research, which tries to come up with the history (herstory as Dr. Ayesah played with the word) of some of the revolutionary leaders in the region. The focus of the paper is on 2 conflict areas which are Patani and the Bangsamoro. Both are right to self-determination conflicts. In the Philippines, the Bangsamoro Organic Law was recently passed but the result of the peace process is yet to be seen. The paper interviewed senior leaders from the Bangsamoro, Patani and other groups. For the interviewees, there are a total of 20 profiles, 4 of them being females. For the Bangsamoro there are 16 key informant interviews. In Patani, there are 20 key informant interviews which were all males. There were also other interviewees

such as 1 key informant interview from Aceh; 1 key informant interview from Timor Leste; 2 key informant interviews from Myanmar. Dr. Ayesah also made use of 4 secondary sources of literature.

The insiders in the revolutionary and peace movements in Patani and the Bangsamoro were identified to be the revolutionary peace leaders and the civil society groups. Their roles are to connect the conflicting parties, organize peace rallies, and other peace support programs.

There is a difference between the conflict transformation in Bangsamoro and Patani. The Bangsamoro seem to be going in circles because of the lack of legitimacy of the peace process and the limitations as to experience and the learning curve.



The main challenges noted by speakers was that the former combatants go 'beyond' the laws. The participatory nature of amnesty, along with a vision to protect human rights seem to be abandoned during the peace process. Transitional measure is highly fragmented which leads to the ineffectiveness of amnesty. In line with the current political conflict segregation in Aceh, the amnesty law in fact creates a class division amongst beneficiaries. The law is described by Dr. Ayesah as utilitarian in



essence. There is also a contestation on the process between traditional leaders/politicians and the revolutionary groups. Finally, she noted that the role of women are limited and that inclusivity in the process is a big issue since there is a gap among leaders.



Dr. Ayesah also presented several action points or recommendations. One of them is a recommendation for future Research on Revolutionary Peace. We must explore the magnitude and depth of women's participation in revolutionary movements and understand its impact to peace process and development.

After the lectures, several attendees posed questions to the speakers. One is that "What are the incentives for revolutionary leaders to change to peace leaders?" Askandar answered that it is to transform a structure that is seen that is abusive. They use arms because they see it as necessary. At times, they have no choice but to use the arms. But at the end of the day, the end goal is always peace. The problem that they are addressing is a political solution. They find a solution through the dialogue process, negotiating settlements and agreements.

Another question is "Can you elaborate more on the economic assistance that can be given by the Aceh Government?" Based on the memorandum of agreement, they are

given farming lands for former combatants and the victims during conflict. Other forms of assistance are employment and also social security.

There was also a suggestion to reconcile with history as there is a collective memory distortion

Some of the Bangsamoro, Patani, and Aceh still have a problem with history. The victims sometimes become the leaders, and they rise as survivors. And then they become victims again. Many of the movements are influenced by what's happening around them. They were feeling that they were victims and that they had to change the situation.



There was a question on "How many from the revolutionary leaders turned peace leaders are still part of the armed movement? And how many are already out of the organization?" Askandar's answer is that they didn't think about that angle of the research but there is one respondent who can demonstrate that phase. He became a part of the peace process, then by reason of that he became a politician, and now he's back to being a peace leader. (Bangsamoro side) With his experience as a politician, it didn't really change his aspirations for the right to self-determination. As to the Patani



side, all the leaders are still part of the movement. They know that it will be suicide if they put their arms down. If they have enough trust in the process, that is the only time they can put down their weapons.

Finally, there was a question on “If the leadership of the revolutionary group are aware that they can never achieve what they want with violence and they only use violence as a tactic and strategy, why do they choose violent methods as their tactics, and how do they choose what kind of tactic to use?” Askandar answered that it’s not really about tactic, but it is first and foremost self-defense. They also feel that they don’t have any other options. The structure of the system is such that their only choice is to bang on the door. When we are dealing with groups that have demands, the military groups shouldn’t be used against them.

## E2 The Rights of Refugees

### Moderator

Naruemon Thabchumpon, PhD

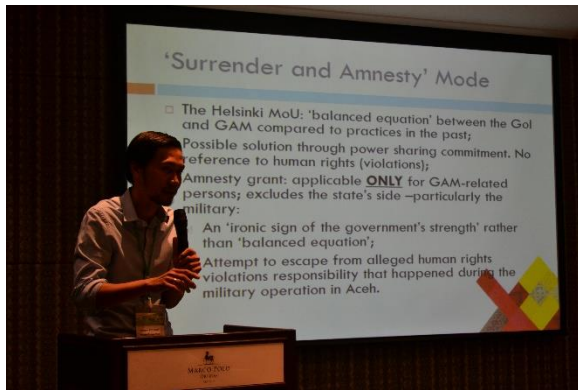
### Panelists

Khair Mahmud, Irawati Handayani, and  
Giulia Guzzetti



The first speaker was Irawati Handayani. In her talk, she focused on the mechanisms to the issues of refugees. She noted the lack of any mechanism that protects refugees. During her presentation, she posed the question “is it really important to have a regional mechanism for Refugees?” She said that only two ASEAN member states ratified the Refugee Convention of 1951 which are Philippines and Cambodia. While there are ASEAN member-states that have instruments to protect the refugees like the Bangkok Principles on Status and Treatment of Refugees in 2001, Bali Process 2002, and Vientiane Action Program in November 2004, it lacks power to guarantee asylum of the refugees and protection of their rights. She also noted that the ASEAN Human Rights Declaration in 2012 does not explicitly state refugee’s protection against violations. Furthermore, it was stated that there is no clear definition of asylum seekers and refugees. Lastly, she claimed that there is a mechanism in Asia which is the Comprehensive Plan of Action (CPA). It was formed to deal with refugees arising from the war. In such plan, asylum would be given temporarily by the first States visited in Southeast Asia expecting that they will be resettled in Western countries. Also, the CPA is said to be intended to protect national borders and not the refugees.

Handayani made several recommendations to modify and improve the CPA: Complementary measure that stimulate local integration of refugees within asylum states, Enable refugees to access basic services and pursue livelihood while providing benefit for host communities, Strategic use of resettlement, Development of labor migration programs for refugees. She also suggested that a specific mechanism be created in the ASEAN.



The following speaker, Khair Mahmud, focused on the environmental aspect of the issues of refugees, particularly the Rohingya influx in Bangladesh and climate change. He stated the environmental issues currently being faced, e.g. deforestation, water pollution, air pollution, sound, soil and adverse effects on ecosystem. He said that regional mechanisms are important part in policy making most especially on issues of the refugees. He noted that there are a lot of undocumented cases of refugees. Rohingyas are at risk of becoming victims again, said Mahmud, and that 60,000 children have already been born in Bangladesh. Lastly, he claimed that teachers in government are resigning to go to NGOs, and that there is a misuse or guidelines of religious fundamentalism in Bangladesh.

As to his recommendations, Mahmud said that there should be adherence to national and international obligations (e.g. the Convention on the Rights of the Child, Article 22, which is the right of the child to a refugee status). As to what mechanisms suit better to avoid adverse effects on the environment, he said that there should be alternative fuel, community cooking, potable water may carry through pipeline water purification, outreach programs to make people more aware, and involvement of Rohingya men and women in

policy making. Lastly, gender lens that women are more adversely affected with the issue must be included.

One of the participants during the Q&A part made the following input: "In many ways, I don't believe ASEAN way is a constraint. In other ways it is a concern. I think your idea of modification is doable in my field. There are number of affiliates that support this framework. What we need is the agreement on ASEAN at the Regional and implement it at the National Level. I would like to hear more of your suggestions. To me it is doable." Another participant stated that as to the CPA, "This idea is very fresh, but I would like to clarify that you are recommending the modification of CPA to be used in the ASEAN region.



How will this modification be able to profile a creative way of creating an identity because we desperately need a mechanism for the refugees in the ASEAN?" To this, Handayani said that she mentioned the CPA because the practice in ASEAN, for example in Malaysia, they directed the right to work temporarily while the refugees are waiting for their status. The CPA can include gathering elements instead of settlement and also developing a program to the refugees. They are waiting of their status. It is also a concern.

Handayani said that she sees that in the recent years, some of the countries in Indonesia, Malaysia and Thailand, they will initiate some cooperation specifically on how to handle the refugees in Malaysia.

The trend seen in the presentations is that many of the ASEAN members are not open to welcoming refugees in their respective states.



Although, two ASEAN member states have ratified the Refugee Convention, economic, social, cultural, civil, and political rights violations are obviously apparent in these two countries. Both papers acknowledged the importance to have international and national mechanisms to protect refugee rights.

### E3 Indigenous and Religious Rights

#### Moderator

Azmi Sharom, PhD

#### Panelists

Atty. Raymond Marvic C. Baguilat, Mao Kimpay, Honest Dody Molasy and Noril Camelia, and Jaclyn L. Neo

In the first presentation entitled “Religious Freedom and the Democratization’s Double-Edge,” Neo argued that while the right to

religious freedom is a well-established human right, the way we have viewed religious diversity has changed over time. It was posited that one way to view religious pluralism is through the politicization or instrumentalization of religion as a result of democratization.

For Neo, this has resulted to two pathways: (1) Religious nationalism, or that which sharpens the boundaries of religious communities, such that a religious minority/dissenter is viewed as an outsider, and (2) Religious populism, or one which involves a top-down divide used by leaders who claim to speak for the true voice of the people to forward a notion of the real people (as opposed to inauthentic people) in religious terms. Neo raised that the two pathways that arose from the politicization of religion can undermine religious freedoms, especially in the case of religious populism which has the tendency of rejecting pluralism.



For Neo, democratization should lead to a move towards more substantive rights. She also proposed the need to reframe the idea of the state, that is, from being conflated by the idea of a nation-state to pluralism as a possible foundation.





In the second presentation entitled “Environmental Rights of the Indigenous People in Context of Cambodia,” Kimpav argued that because of the current development projects undertaken by the Cambodian Government, Indigenous Peoples (IPs) are facing the loss of their community farm land, spiritual forest and culture as well as the natural resource that they used to rely on for their living. As consequence, their environmental rights have been impacted such as rights to ownership of the land by individual and communities, right to self-determination, right to religious and cultural, rights to access to the natural resource for supporting their daily life as well as housing rights.

Laying down a survey of environmental rights under international environmental rights instruments and IPs rights instruments, as well as the Cambodian legal framework, Kimpav then argued that the environmental right of the indigenous peoples is more widely recognized in the international instruments. While Cambodia has adopted regulations and policies to protect the rights of indigenous peoples, there are still gaps as some rights are still not addressed. Kimpav noted that development projects by the Cambodian Government tend to violate the rights of IPs because some important procedural rights are still not fulfilled, such as the right to access information on these

projects, the right to participate in decision-making and to consultation, and the right to remedy. Thus, for Kimpav, there is a need for a new draft environmental and natural code in Cambodia in order to protect the rights of the indigenous peoples.

In the third presentation entitled “The Pitfalls in the Implementation of the Indigenous Peoples Rights Act,” Atty. Baguilat noted that the Philippines has progressively moved from assimilation policies to a policy that recognizes the unique IP rights within the framework of national unity. Significantly, the Indigenous Peoples Rights Act of 1997 (IPRA) was enacted, recognizing several rights of IPs. Notwithstanding, Atty. Baguilat noted that IPs remain abused marginalized, and victimized by development aggression and widespread discrimination.



Atty. Baguilat traced the failure of the IPRA to its several limitations, such as wholesale issuances of irregular certificate of ancestral domain titles, implementation problems especially in terms of the FPIC mechanism, and the continuing problems of discrimination, red-tagging, lack of awareness on the law, and the lack of lawyers who will advocate for the indigenous peoples given the political economy of lawyering in the Philippines.



For Atty. Baguilat, there must be a thorough review of education policies to study the multiple forms of discrimination, as well as for the empowerment of the indigenous peoples through the vernacularization of legal instruments, the strengthening of the NCIP, and the development of legal support groups to advocate for indigenous peoples.



During the open forum, a variety of questions have been addressed to the presenters. On the presentation of Neo, questions revolved on comparing the effects of religious pluralism in Singapore to those of racial/ethnic/linguistic mix, as well as to those of socio-economic class. The presenter responded by cautioning that religion is not subsidiary in Singapore. Further, it was noted that socio-economic class in Singapore has a racial and religious component, citing the case of Malay-Muslims occupying the lower socio-economic classes. On the presentation of Atty. Baguilat, there have been questions on distinctions between the past and the current administrations' stances on IPs rights, as well as the representation of IPs through political parties. The presenter responded by noting that the past and the current administration both had good and bad approaches to IPs rights. As for the issue of representation, Atty. Baguilat noted that there is currently no political party that supports indigenous peoples.

## E4 Remapping and Analysis of Human

### Moderator

Joel Mark Barredo, MA

### Panelists

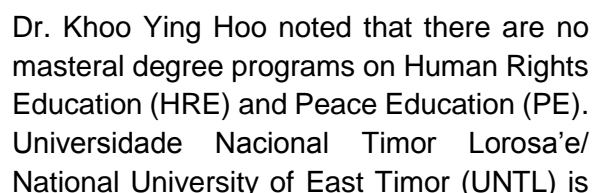
May Thida Aung, Khoo Ying Hooi, Ryan Ying Quan, and Patricia Rinwigati Waagstein

For Parallel Session E4 entitled "Remapping and Analysis of Human Rights and Peace In Sea," four speakers presented their research – Atty. Ryan Jeremiah Quan (Philippines), Dr. Khoo Ying Hoo (Timor-Leste), Dr. May Thida Aung (Myanmar), and Dr. Patricia Waagstein (Indonesia). The talks featured four countries: Indonesia, Malaysia, Philippines, and Timor-Leste.



Atty. Ryan Jeremiah Quan said that there are no human rights degrees in the Philippines. He said that human rights-related programs are somehow included in the Bachelor of Science in Criminology and Bachelor of Science in Social Work. Currently, there are two pending Senate bills which aim to offer HR at the tertiary level. He noted that law schools are offering different courses that may be related to HR courses.

Dr. Khoo Ying Hoo said that economic, social and cultural rights (ESCR) violations are more rampant in Timor-Leste compared to civil and political rights violations. Timor-Leste has the highest democracy index in Southeast Asia. However, the International Human Rights Conventions relating to torture and the rights of persons with disabilities are not yet ratified by Timor-Leste. It was noted that student input is important in developing HR curriculum. The researcher was not able to reach the Ministry of Education during the research due to the lack of official websites and said that Facebook (FB) and FB Messenger were used to reach the Timor-Leste people.

[illegible]

Dr. May Thida Aung said that there are 171 universities in Myanmar. The National Education Law of 2014 aims to promote civic and democratic values. Through this law, it was said that the government was able to share information on human rights to its citizens. Higher Education (HE) courses are mostly on medicine education and foreign language. Higher Education Institutions (HEIs) are run by the government. Interviewees for the study were contacted through social media. It was noted that there are no standalone courses on Peace. Human

Rights Education (HRE) is included in democracy courses.

However, there are still a number of issues faced by the nation. For instance, resource persons, materials, and academic freedom are still limited. There is no freedom to decide on the subjects.



Dr. Patricia Waagstein presented the statistics of HEIs in Indonesia for both public and private schools. While the study had a target number of 200 respondents, only 50 replied. Only Java and Sumatra were covered by the study since most of the HEIs are in these areas. Human Rights is also included in Pancasila (Religion Subject). The government is now looking into their Pancasila curriculum and to check if the universities are using the subject to promote extremism. HEIs are also being investigated to determine why these institutions are so radical on promoting HR courses.

Some problems noted in Indonesia was the diverse knowledge of lecturers. Furthermore, human rights is said to be very theoretical for the students. Lecturers were also handling a large number of students. There was limited time and credits allotted for HR classes (only 50 minutes per class; 12 sessions per semester).

Considering the different issues faced by their respective nations, the speakers noted a need to develop expertise and capacities of lecturers when it comes to HRE and PE as well as on doing research. Social media can be further explored to promote HRE and PE. More programs and courses should be developed related to peace education. Diversify data in terms of demographics In light of the rise of radicalism, populism and authoritarianism, academic freedom should still be promoted and protected especially in the rise of radicalism, populism, and authoritarianism.

A member of the audience asked about the various methodologies used in teaching human rights. The speakers shared that they organize study visits and invite guest lecturers to teach HRE and peace education. Another asked if lecturers have knowledge on gender sensitivity, and if women's rights, gender, sexual orientation and identity are integrated in the human rights curriculum. In Myanmar, some of the lecturers have a background on gender sensitivity. In fact, the Yangon University offers an elective on Gender Perspective. Some universities however, like the Yangon University Distance Education (YUDE) are still reluctant to discuss the issues of the LGBT. UNTL in Timor-Leste has a Gender Studies Center.

It was asked how one can expect human rights to be used as a framework by government to develop policies and programs given that a majority of government posts are occupied by men. The speakers answered that the Civil Service Commission in Myanmar conducts human rights courses for law officers, Supreme Court judges, and those occupying general administration posts in government.

It was asked if HRE and peace education should be a standalone course or degree. It was also asked if there was a possibility to have a separate child rights course. The speakers were also asked about their thoughts on focusing the development of HRE at the high school level so that it can be more structured. Ajarn Sriprapha Petcharamesree said that it is easier to come up with a stand-alone human rights course. However, due to the lack of lecturers and reference materials, this might be a challenge. Given the limited human rights courses offered by HEIs, it will be more difficult to develop or create a specialized course especially on children's rights. At present, the practice has been to complement the other providers rather than repeat what other HEIs have been doing.

The following trends and patterns were observed in the presentations. Firstly, the power of social media and how people are being educated can impact on how programs can be designed and run. There is also human rights education fatigue because of how citizens embrace authoritarianism or the emergence of a strongman. Peace education has been lagging behind.

The documents noted that the issues and challenges cut across among the ASEAN countries. The participants were very interested to know more about ways on how to develop HRE and peace education at various levels and not only in HEIs. Lastly, the presenters were very engaging and articulate in explaining their topic.



## DAY THREE – October 17, 2018

### PLENARY 3

Atty. Maita Chan-Gonzales, welcomed everyone on the third and last day of the 5<sup>th</sup> International Conference on Human Rights and Peace & Conflict in Southeast Asia. She introduced, Dr. Sriprapha Petcharamesree, Programme Chair of SHAPE-SEA and Human Rights Scholar, as the moderator for Plenary 3, bearing the topic, “Authoritarianism in Southeast Asia.” The speakers for the plenary are: Dr. Walden Bello, Professor of Sociology, from the Philippines; Dr. Deasy Simandjuntak, Associate Fellow, from Indonesia; Pravit Rojanaphruk, Senior Staff Writer and Columnist, from Thailand; and, Dr. Azmi Sharom, Associate Professor, Faculty of Law, from Malaysia.

#### Authoritarianism in Southeast Asia

##### Moderator

Dr. Sriprapha Petcharamesree

##### Panelists

Dr. Walden Bello, Dr. Deasy Simandjuntak  
Pravit Rojanaphruk, & Dr. Azmi Sharom



Dr. Sriprapha Petcharamesree began the plenary panel by reiterating some observations: that authoritarianism is accelerating in Southeast Asia, at the

expense of liberal values; that 2018 would mark the start of a period in which outright authoritarianism will become the prevailing norm; and that liberal values and fundamental human rights will be manipulated and used for the benefit of those in power, despite the fact that elections will continue to take place.

Because of this context, she stressed how important each of the following talks would be in discussing the future not just of human rights, but also the future of Southeast Asia as a whole.

#### “How Do We Respond to the Ascendant Right?”

by Dr. Walden Bello

The first presenter was Dr. Walden Bello, who talked about responding to the ascendant right. He began his presentation talking about how the idea that the right would make a comeback was preposterous, yet in just 8 years, the world has seen the extreme right move to the center of power.



He talked about how this happened: that the right spoke more loudly about issues than the left, and that the right also opportunistically embraced an anti-neoliberal agenda, and the welfare state. To provide a better picture of this pattern, he echoed US President Barack Obama in saying that the challenges to globalization came more forcefully from the right. As a result, we started seeing populist movements that tapped into the fear of the people. The right rejected a world that

seemed hard, globalized and implacable--working class people, in particular, clearly said they did not want to see a world of capitalism without them at the helm.

In Asia, too, Dr. Bello said that there is a revolution happening: the far right in India experienced a sweeping win in the 2014 elections and is expected to solidify its leadership in next year's elections. The murder of prominent intellectuals and arrests of activists, the control of cyberspace, and the spread of hate speech and false news, and the triggering of anti-Muslim riots are already commonplace. Amidst it all, liberals and progressives haven't yet figured out what is going on, much less how to counter it.

In the Philippines, Dr. Bello said that a serial killer has taken over 7,000 lives in 2 years, and is still as popular today, as he was when he was elected in 2016. Dr. Bello adds that the opposition--in the form of discredited liberal elites, and an equally discredited extreme left--has yet to find a firm footing. Because of this, there is very little in the way of creating an authoritarian system masquerading as federalism.

In Thailand, the military government shows no urgency in returning to the barracks; military rule seems to be much preferable to the people than messy democracy. In Myanmar, a bloody genocide still rages on. These are just some examples of the situation across Asia.



Given the pattern, Dr. Bello asserted that several things are clear: first, there is a clear rejection of liberal democracy, as a response to the failure of the elite and the liberal democratic system to deliver on social and economic reform. With the rejection of liberal democracy, there is also a rejection of secularism, of diversity, and of minority rights. He said that in some cases, racism, ethnocentrism and cultural superiority were central to this rejection of liberal democracy. And finally, Dr. Bello reported that new extremist movements now enjoy the support of a middle class who support the welfare state, but only for natives, and who are fed up with a socialist legacy and are without conscience for minorities. This, paired with an eliminationist rationale for right wing support (i.e. outgroup isolation, treating othered groups as inhuman, etc.), make for a deadly mix.

With all this said, what should be done? Dr. Bello said that progressives must squarely face the fact that these movements are in power or on the cusp of power, and have no intention of letting go of power. He pointed out that even if human rights advocates continuously call for the respect human rights, we are not convincing people who are already influenced by populist right-wing leaders who call us "secular libtards".

Yet there is hope: he asserted that the middle classes are supportive of populist right-wing leaders, but the poor must limit their support of these leaders to passive consensus--thus, if we can focus on them, we can gain some wins. Another group we must strengthen are women: as right wing leaders are strongly misogynist, women can play a central role in fighting fascism. But he also challenged human rights advocates not only to construct broad movements, but also to create fresh ideas and to allow new faces to lead the way.

He concluded by saying that the political situation is the same as the 1930s. And while there is no guarantee that our side will prevail, he said that our only hope is in

resisting, with determination, passion, and wisdom.

**“Indonesia’s Democracy: Contending Populisms, Hyper-Nationalism, and Identity Politics”**

by Dr. Deasy Simandjuntak



The next speaker, Dr. Deasy Simandjuntak, talked about Indonesia’s democracy, and the concepts of populism, hyper-nationalism and identity politics. She introduced her presentation by highlighting that, like other democracies in the region and the world, Indonesia’s democracy is “receding”--or perhaps, more accurately, that authoritarianism has endured while Indonesia’s democracy has been stagnating.



While Indonesia’s democracy is considered to be the most consolidated in Southeast Asia, populist movements and identity politics are rife. By populism, Dr. Simandjuntak means people who mobilize support by positioning themselves against the entrenched elite and appeal via

personality to voters. Of populism, Dr. Simandjuntak said that there were two kinds: maverick populism (in the person of Prabowo Subianto)--characterized by the use of populist language, the blaming of foreign powers for economic troubles, the promise of eradicating corruption, and a strong personality with an oligarchic, strongman appeal. On the other hand, there is soft populism (in the person of Joko Widodo), which is characterized by impromptu visits to public places to listen directly to concerns of people, and support for pro-poor policies for the masses, such as universal health care. In Indonesia’s case, Widodo’s triumph seemed to signal that voters were also voting for his values--religious tolerance, pro-poor and minority policies, and more.

However, this has proven to be untrue--the 2017 gubernatorial elections, featuring a race between Ahok and Basuki Purnama, helped identity politics gain center stage. Hypernationalism has also become closely associated with Islam--Widodo has created hypernationalist policies as concessions to political Islam and has begun to ban intolerant organizations. The concern is that this is the beginning of a slippery downward slope toward stricter authoritarianism, and that the government will become more intolerant to individuals and organizations not following the government point of view.

**Thai Military Regime**  
by Pravit Rojanaphruk





Rojanaphruk began his presentation on the Thai military regime by showing the audience the current Facebook page of current military prime minister Prayut Chan-o-cha. On his Facebook page, he wrote that he wanted to open a Facebook account because he wanted to know the problems of other Thais, and wanted to receive suggestions. The response was overwhelmingly nasty, telling Chan-o-cha to leave quickly, instructing him not to be a burden to society, and calling him a liar.

He characterized this dictatorship as one that plays with the discourse of being open and democratic, adapting the principle of democratic discourse in name, without the regime truly being so. This regime, he said, has learned to play on the border of fascism, without having to take extreme measures, such as repression for repression's sake. It gains legitimacy from its cause: to restore law and order (e.g. Thaksin Shinawatra was largely seen as corrupt); and from a hegemonic loyalty to the monarchy (e.g. Thaksin Shinawatra was rumored to want the crown itself).

Rojanaphruk also spoke about support--the middle class is largely supportive of the coup, and so is the press. While the west was critical of the coup, criticism was swiftly stopped when the west realized it was losing Thailand to China, Japan and South Korea.

Still, he said, with or without the military regime, Thailand still must deal with the royalist hegemonic discourse. With or without the military regime, this discourse will continue to facilitate authoritarianism in the country.

**'Authoritarianism in Malaysia'**  
by Dr. Azmi Sharom

Dr. Azmi Sharom began his presentation by immediately characterizing an authoritarian regime as one that has disrespect for human rights and one that practices political suppression.



In Malaysia in particular, disrespect for human rights is shown in the lack of respect for freedom of expression: dissenters cannot raise points of discontent or criticisms regarding the government. The Malaysian government has also banned books, particularly about religion, and religious laws are already being used to suppress freedom of expression. In particular, the Multimedia law in Malaysia has effectively made it a crime to hurt people's feelings.

Political suppression has also manifested in the government's bureaucracy which deliberately makes it difficult to set up political parties. Laws are also used to suppress political opposition: the Security Offences Special Measures act is meant to be used for to counter terrorism, but it is also being sued to repress opposition--the National Security Council Act also gave the prime minister the dangerous power to declare emergencies without going through the usual constitutional procedures.

Yet despite all this, Najib Razak and his allies still lost Malaysian elections because people did not vote for them. It would seem that the Malaysian people care less about human rights abuses than they do about the economy--while corruption was blatant, Malaysia also experienced higher living costs as well.

But this does not mean that Malaysia is safe from authoritarianism: the new prime minister is ironically the master authoritarian himself.



Sitll, there is still hope: Dr. Sharom said that as long as there is even a little democracy, we can change things. It is imperative that Malaysia and the rest of Southeast Asia do not go back to authoritarianism.

## **CLOSING KEYNOTE SPEECH**

### **Occupying the Ordinary: Human Rights in the Remaking of Everyday Life**

Kamala Chandrakirana

“As Southeast Asians,” Chandrakirana began, “we are inheritors not only of a rich environment and cultural tradition. Our peoples are also inheritors of the capacity for brutal violence and the abuse of power.” She described the Southeast Asian region as a hotbed for authoritarianism and one of the most gruesome sites of mass atrocities--meanwhile, she added, impunity remains the norm: perpetrators of these atrocities remain free and powerful despite the efforts of human rights advocates.

As a result, decades of unresolved internal, or sub-national, conflicts are becoming further and further embedded into our systems and cultures. Many of the conflicts in Southeast Asia are among the longest running armed struggles in the world. Since many of our struggles are sub-national, many of them are also among the most deadly forms of conflict in the world. They are dangerous not only because of the real number of lives lost and tangible damage, but also because they damage the very fabric of our culture and society.



Without real peace, Chandrakirana said, conflicts simply morph into new shapes and forms, and pre-existing struggles which were never fully or sustainably resolved will continue to haunt us. The violence and violation that comes with these conflicts have become a norm in the Southeast Asian's everyday life.

Chandrakirana asks: what does all this mean for those who advocate for justice, peace, and human rights? She said that hope is always a choice, and that is where she began to make sense of all of this. She said that too often, we have become witnesses to the transfer and normalization of violence from the heinousness of war and conflict, to the ordinariness of peacetime moments. However, by making explicit the interdependence of what is usually dichotomous--the past and the future; culture and the law; the heinous and the ordinary--we can begin to make real changes and win real victories in the struggle for human rights.

“I am deeply aware of how long and winded the path is toward justice for the most heinous crimes, sadly, even in a period of democratic political opening,” Chandrakirana said. She has become convinced that true justice for the crimes of the past will take a much longer time to attain--certainly beyond the lifetime of any survivors. She asserted that justice must be transformative, that justice must not only combat impunity through formal criminal justice systems, but also take into account the healing and recovery of victims, help them rebuild

alongside community and nation, and prevent future human rights violations by targeting root causes and structural drivers of conflict.



And to achieve transformative justice, Chandrakirana said that the universality of human rights must be universally accepted as well. Yet she also said that entire systems of thought are today based on opposing the principle of shared humanity, most especially through the misuse of concepts such as religious freedom and national sovereignty. She said that institutions which protect and strengthen human rights are being weakened, through political intervention or financial disempowerment.

In the face of rising extremism and fundamentalism, Chandrakirana proposed that human rights advocates explore cultural advocacy, rooting her proposal in the universality of human rights, and what she said is "UNESCO's conviction that human rights and freedoms are meant to be exercised in a wide variety of cultural environments." She cited as an example her own experience of cultural advocacy-- dialogues between the Indonesian women's movement and religious groups. Long and deep engagements with the religious community on both national and local levels generated debate and allowed for the articulation of women's human rights within religious frameworks. These dialogues produced fatwas on sexual violence, child marriage, and environmental destruction.

Another example she gave was a deadlock in the fight for justice for survivors of the 1965 anti-communist pogrom. Here, she said, politicization had increased, rather than decreased, victim-survivors' vulnerability, and legal accountability was far from sight. Progress instead, Chandrakirana said, was found in culture and the arts. For example, songs which were created in jails and underground are being revived and sung again by young people and new groups, in concerts and in the streets. Small, community pop-up museums have also become sources of truth-telling. Thus, she said that a new collective memory is being constructed through this intergenerational dialogue. "These small, ordinary acts in everyday life and their further advancement will ensure that this issue is not ever forgotten, and are, in themselves, the seeds for transformative justice," she said.

Her final example was in the aftermath of the Aceh tsunami--where, she said, safe spaces were created using local rituals and traditions, giving women humanitarian workers and human rights advocates the space to heal on their own. Through this process, Chandrakirana said that she began to understand the importance of community and family recognition and self-acceptance of their own identities as activists.

For cultural advocacy to be effective, we must advance the cause of cultural rights as well-- Chandrakirana asserts that these rights are some of the least developed. By cultural rights, she referred to the right of groups of people to express their humanity, the worldview and the meaning they give to their existence. She said that by protecting peoples' access to cultural heritage and resources, we can help minorities and disenfranchised peoples to develop and contribute to the creation of cultures and dominant norms and values.



She gave another condition to ensure the effectivity of cultural advocacy: the “ordinary”--that which has to do with culture and everyday life--must act in sync with the more complex social-political environment of communities. She said that we must still act to reimagine unjust structures.

Chandrakirana then returned to her original question: what does all this mean for those of us in Southeast Asia, slowly finding our efforts increasingly unwelcome under rising authoritarianism? On conflict and community, she asked about our capacity to address conflicts from the root, and about how we could build a culturally-rooted understanding of shared humanity and universality of human rights. She also asked whether we were effectively bridging the complex and abstract with tangible community outcomes, and whether our allies and narratives are expanding or becoming more and more exclusive.

On culture, she asked if we understand and are maximizing the cultural resources at our disposal. She asked how we could more effectively practice cultural advocacy, in sync with legal, political, and economic

advocacies, to build toward transformative justice.

She also asked how we could make ASEAN a meaningful space for transformative justice and the strengthening of human rights in the region. She asked about ASEAN's shared future--are our collaborative projects, communities of practice, and comparative learning processes effective in bringing about the vision we want for our home?

Chandrakirana left the audience with these questions, hoping to help the human rights advocates present find sustainable and viable ways forward. “I hope that the issues and questions I have raised can tickle your sense of curiosity, motivate your creative juices, and trigger your power of imagination.”

## CLOSING

Dr. Sriprapha Petcharamesree concluded the 3-day conference. She thanked the host organization, Ateneo Human Rights Center (AHRC) supported by the UP Institute of Human Rights (UP-IHR) and the Miriam College Department of International Studies (MCIS) and Women and Gender Institute (WAGI). She also thanked the delegates and hoped they are encouraged to continue with their human rights advocacies and to come up with scholarly strategies beyond the walls of the conference halls. Dr. Sriprapha also expressed how proud she is with the event and looks forward to the 6<sup>th</sup> SEAHRN International Conference in Southeast Asia in 2020.

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# APPENDICES

**APPENDIX 1: OPENING KEYNOTE SPEECH**  
**Activism Through Law: The Legal Path Transforms the Advocate As Well**  
Speaker: Judge Raul C. Pangalangan

**1. Key points**

- Where human rights were once approached from a political perspective, it is increasingly being approached from an institutional perspective. This means that we need to understand the strengths and limitations of our courts and other democratic institutions in order to transform them into institutions which will protect human rights.
- This is not to say that the political approach to human rights is irrelevant—we still need human rights advocates to inspire and empower victims and witnesses to speak the truth.
- The work of promoting and defending human rights is a long and arduous process, regardless of whether advocates approach issues politically or institutionally. Although it can seem like a burden, we must continue to be driven and guided by love.

**2. Summary**

Judge Raul Pangalangan began his speech with the historical progression of the human rights narrative. “This began as a passion,” he explained. “Then they become a duty, then they become a burden.” He continued to show that human rights began as a dream, where all men & women are born equal in their dignity and their rights. Then human rights became part of the law, encoded in our Constitution, in the Bill of Rights, and in international covenants. It was then that human rights became work—hard work, but inspired and inspiring work.

This is the analogy Judge Pangalangan used to describe the shift in the fight for human rights—what used to be a political fight has now taken a turn toward the institutional, toward law-based institutions and courts. Where human rights were once a dream, and an appeal to conscience, there are now global institutions and authoritative norms on human rights that guide our society. Judge Pangalangan said that this is the natural consequence of the work of past human rights activists who ventured into uncharted waters without the benefit of international covenants or laws. Today, human rights have moved on from purely political work toward institutional work. The transformation from political to institutional, according to Judge Pangalangan does not necessarily mean that they are separated from each other.

Institutional work is necessary and important. It entails a completely different skill set from political work. Political human rights activist must still do grassroots work, and help run popular movements. They must have the ability to link disparate communities and frame debates in ways that are understandable to people. On the other hand, institutional work requires painstaking research, drafting of petitions, mastery of the nuances of legal doctrine, and the nuances of jurisdiction and procedures. The institutional importance of human rights requires training engaged in profession. “The political activist,” Judge Pangalangan said, “hears the word ‘human,’ but the institutional activist hears the word ‘rights.’”

This shift toward institutional work calls on human rights advocates to shift their attitudes toward courts and legal arguments. Judge Pangalangan said that conspiracy, based on power and human frailty, does not pass for legal analysis. Judge Pangalangan stresses that respect for the rules of the game is necessary. Anything other than this, and we risk damaging our legal institutions. Even the International Criminal Court (ICC), which tries individuals; and the

International Court of Justice (ICJ), which tries state parties; require witnesses and victims of human rights to testify before them.

Judge Pangalangan said that there is a need to understand the strengths & weaknesses of the ICC because institutional work is becoming more and more important. First, the ICC establishes guilt categorically; second, its proceedings are fair & impartial, and give face to both the victims and the accused; third, it allows victims to participate in court hearings by paying for victims' legal representatives; and fourth, it creates mechanisms for punitive punishment, deterrence, and for reparations—ways to hold human rights violators accountable.

However, there are limitations to what these institutions can do. “We must recognize the humbling limits of the court,” he said, explaining that misunderstandings and inflated expectations weaken our institutions. First, investigations are expensive, tedious and take a long time. The ICC is also very concerned with correct labelling of the crime. Some people get away with the very crime they committed because of undertoning the crime. Thus, ICC gets bogged down due to technicalities. And, most of all, there is no guarantee of conviction, which makes reparations and justice to the victims quite impossible, in effect, making them suffer more. This is why, the political approach is necessary in cases like these.

The job and the great challenge and responsibility of the human rights advocate is to embolden the witnesses so that they can tell the truth and accept the risks that go with it.

Judge Pangalangan left the audience with a quote from Che Guevara, to remind them that while there are many ways to fight for human rights, the fight must always be rooted in one thing. “The true revolutionary,” he said, “is guided by a great feeling of love.”

### **3. Main challenges**

- In order for international courts to do their work, they need more state parties to ratify international human rights declarations—this is, of course, a political process.
- In order for international courts to hold human rights violators accountable, it needs victims and witnesses to come forward and speak the truth. For this to happen, advocates who can identify and embolden these people to speak up must continue to work closely with their communities.

### **4. Action points**

- Proceed with love.
- We must use both political and institutional approaches, hand-in-hand, to defend and strengthen human rights.

### **5. Documenter insights**

- The speech was inspiring and encouraging for young lawyers and aspiring advocates of human rights.
- Concrete measures to help victims and be protected under the law needs to be articulated, if we want them to be bold enough to come forward and take the risk
- Concrete steps need to be laid down on how to go about in involving oneself in the advocacy of human rights. For example, how does an advocate immerse oneself in the communities?

**APPENDIX 2: PLENARY PANEL 1**  
**Exploring the Post-Truth World and the Reality of Fake News as a Human Rights Challenge and the Role of Media**

Moderator: Lorna Q. Israel, MA

Panelists: Pravit Rojanaphruk, Ellen Tordesillas, Jahabar Sadiq

**1. Key points**

- The post-truth era places great importance on individual opinions while disregarding the objective truth. This has allowed dictatorship and authoritarianism to arise.
- Social media has democratized publishing: it has allowed for anyone to be a publisher as long as they have a social media account. Unfortunately, it has also created room for fake news to be created and disseminated to the public. Fake news corrupts the very concept of the news: it is untruthful, inaccurate and cannot fulfil its role in informing the public.
- Fake news has continued to spread for various reasons despite efforts from government, journalists and some individuals. All parties need to step up in terms of educating people to spot fake news, implementing laws against fake news, and interpreting data to avoid misinterpretation of data. Education and
- Discourse is key to a healthy democracy. While it is inevitable that dominant discourses will emerge, challenges and contestations to these dominant discourses are also inevitable. Thus, we must learn to engage different perspectives, most especially perspectives beyond our own echo chambers.

**2. Summary**

The three panelists who spoke in this panel discussion were Jahabar Sadiq, from the Malaysian Insight, Pravit Rojanaphruk, a celebrated Thai journalist formerly from The Nation, a Bangkok-based English language newspaper and, Ellen Tordesillas from the Philippines' Vera Files. The discussion revolved around the concept of a post truth era, real news, as well as dictatorship and authoritarianism which arises from this era. The moderator, Lorna Israel, explained that the concept of post-truth is controversial because it has given more importance to one's opinions and feelings towards a certain issue, rather than facts.

Online social media, in particular, seems to be the new space for people to express their thoughts and opinions. In this day and age, everyone is a publisher, as long as they have a social media account. One speaker pointed out how this can be manipulated: for example, there are more Facebook accounts than the actual population. This makes certain posts suspicious—indeed, the use of social media is increasingly being used as a platform to spread fake news. Fake news has become a global problem since it removes an essential characteristic of news: that it must be truthful.

Sadiq focused on how challenging fake news is the work of a community. Efforts must be taken to educate citizens on what fake news is, its dangers, and how to stop it. The speaker believed that when citizens are educated, they will not share fake news anymore.

In the same thread, Rojanaphruk believed that social media literacy is key in stopping fake news. He believed that each individual must be gatekeepers of our own truth—because we cannot rely on other people to verify news for us, we must be critical of what we read before we share things online.



In particular, the Philippines faces a deep problem in the fight against fake news. Tordesillas addressed the production of fake news itself: she highlighted the work of groups like Rappler and Vera Files in verifying news on Facebook, to prevent fake news from spreading. Still, she also mentioned that fake news is reproduced six times more than regular news: because of this, although there are groups who fact check shared posts, fake news continues to spread.

Finally, the panelists discussed the impact of journalism in society. Journalists are truth tellers; they are trained to make sure that what they write is truthful and accurate. Their duty is to radicalize information, spread truths and facts.

The panelists concluded that fake news seems to be unavoidable in a post-truth era. They expressed that we should build a culture of using social media as a means to express opinions, not as a means to spread fake news. They also said that fake news shouldn't be used as an excuse to clamp down on the news media. As said by Israel, "False news is born in the advent of free press, but if the free press is removed, there is no such thing as the truth."

### **3. Main challenges**

- The biggest challenge is learning how to effectively counter fake news, particularly on social media.
  - Government intervention is key in stopping the dissemination of fake news online. In Malaysia, one can be penalized for spreading fake news, and the government has cracked down on the dissemination of fake news, particularly on the app WhatsApp. Although there are laws in the Philippines which illegalize the spread of fake news, the government is one of the guiltiest in spreading fake news. And in Thailand, although there are laws which state that fake news cannot be published, those who share it are not punished for it
  - False journalism is also an issue. There are journalists who spread fake news despite their duty to ensure that the news should be truthful and accurate. In presenting the truth, there is also the danger of misleading and untruthful sources. To counter this, journalists must spend more time digesting data so as not to misinterpret them.
  - Finally, consumers play a role in ending the spread of fake news as well. The panelists all pointed out the need to deliberately fact-check news articles spread on social media. The speakers agreed that the best way to solve the problem of spreading fake news is through education. They brought up the importance of education for people who are not literate enough to understand how to differentiate fake news from verified news. Through education, they will know how to fact check and verify.

### **4. Questions and comments from the audience**

- The first question revolved around the idea of "multiple truths" in a modern society.
  - Tordesillas said that journalists are trained to make sure that what they write is truthful and accurate.
  - Sadiq connected patriotism and truth. He said that truth is not relative, but that it can be proven in multiple ways through various kinds of proof. He said that there are many versions of truth, as this is natural in the socio-political sphere. Finally, he also mentioned that multiple truths may only be considered accurate when each one is proven with proper evidence.

- Another participant asked why journalists spread fake news despite their role of being the bearer of factual events.
  - Tordesillas explained that there are good journalists and bad journalists. In the Philippines, there are journalists who believe everything that Malacanang releases without fact checking. Malacanang is known to be the top disseminator of fake news.
- The third volunteer brought up the effectivity of the old school newspaper.
  - The panelists responded by explaining how gadgets and technology are part and parcel of today's reality. Tech is often what makes fake news all possible. It is through fake news that politicians such as Trump and Duterte won the elections. It became their form of deception towards the masses.
- The final question was about human rights advocates who actively engage in social media.
  - Social media can be used to give a voice to the voiceless, and because of this, is useful in many ways. However, echo chambers are concerning as individuals will not know if what is being shared in their social circles are true or not. And regardless of whether or not posts are true, they always end up public.

## 5. Documenter insights

- It is noted that the panel is still concerned with saving the media industry; that is why it cannot pose radical ideas.

## **APPENDIX 3: PLENARY PANEL 2**

### **Conflict Transformation**

Moderator: Dr. Kamarulzaman Askandar

Panelists: Guiamel Alim, Chlaida Tajaroensuk, Dr. Ichsan Malik

#### **1. Key points**

- The Hardest Path to Peace by Guiamel Alim
  - Conflict transformation as a process is vital to the fulfillment of peace building.
  - Peace agreements only look at the political role of conflict, not transformation to healing. Healing serves as a more long term remedy to conflict.
  - Through transformation, peace can be achieved. Through this process, values that are vital to peacebuilding are also transformed.
  - There is a need to strengthen the peace process in the long run.
- Pattani Southernmost Thailand CSOs by Chalida Tajaroensuk
  - Southernmost Thailand is the most backward in the peacemaking process.
  - The speaker uses the Philippine peace building strategies such as the OPAPP (Office of the Presidential Adviser on the Peace Process) to benchmark.
  - The role of civil society should be strengthened because they are vital in the empowerment of people. These people should be able to participate as peacemakers and as supporters behind struggles.
- Conflict Transformation in Aceh and Maluku, Indonesia, by Ichsan Malik
  - The process of conflict transformation should involve actors in all levels
  - Peace monitoring mechanisms are important to ensure the reintegration process of former combatants to immerse themselves in society, to monitor amnesty process, to facilitate human rights institutions, and to monitor the disarmament of combatants.
  - Although people are perpetrators of conflicts, they can also solve conflicts.

#### **2. Summary**

- The Hardest Path to Peace by Guiamel Alim

The Bangsamoro has long been seeking a lasting peace, given that the region is continually plagued by internal conflict. Guiamel Alim further analyzed this issue in the context of conflict transformation, an approach to conflict that seeks not only to end conflict but also seeks to transform cultures and values which were created before and by the conflict, such that peace becomes sustainable.

He explained that conflict transformation involves transforming conflict into mutual cooperation, and that traditional post-conflict priorities such as building infrastructures, and creating new laws, are impediments in fully completing this change. In order to successfully transform conflict, he asserted that parties must address problematic

structural relationships and root causes. They must also pay special attention to transitional justice and change personal values to end conflict.

In the case of the Philippines, Alim believed that the conflict in Mindanao was never transformed, as root problems were not addressed. He said that it is important that injustices characterized by past relationships be addressed, as it is only through healing and reconciliation that the non-recurrence of violence is guaranteed. He concluded by saying that it is then up to the Bangsamoro to work hand-in-hand with the civil society and the government to build a lasting peace.

- Pattani Southernmost Thailand by Chalida Tajaroensuk

The Southernmost province of Thailand, Pattani, struggles with a conflict of identity. The Pattani Malay National Revolutionary Front (BRN) is seeking self-determination rights to be known as Thai-Muslim, instead of Malayu-Muslim. This, Tajaroensuk said, resulted in the continued killings and violence in the region.

Chalida Tajaroensuk analyzed and presented the weak points of the peace talk between the government and the Malayu-Muslim. She reported the following: the first peace talk in Yinkuk's government between the BRN and Thai military was stopped. The BRN did not agree with the government in the second peace talk—this resulted in violence, and in non-cooperation in the peace talk. She also presented the issue on the Malaysian government as a facilitator of the conflict: this is a conflict of interest. Finally, she mentioned that it is problematic that the military often represents the government in these peace talks.

Chalida further emphasized the importance of institutional transformation in peacebuilding and peacemaking. An institution participating in peace talks should be an independent body accepted by both conflicting parties, as this will build up trust. Civil society organizations (CSO) also play an important role in peace processes. CSOs ensure that citizens, even those beyond conflicting parties, can engage the peace process and support both sides, especially when they are empowered and trained as peacemakers.

- Conflict Transformation in Aceh and Maluku, Indonesia by Ichsan Malik

Malik reported that two cities of Indonesia, Aceh and Maluku, respectively, face conflict on freedom and division of the Christians and Muslims in society. He analyzed and compared the conflicts in the aforementioned Indonesian cities in the context of conflict transformation. First, he analyzed the similarities of the aforementioned conflicts: disrespectful relationships between the central government and the local government; unequal resource allocation, and; unfinished business in conflict resolution in both areas.

He presented the lessons learned from the Aceh and Maluku conflicts. He said that the political will was good: the central government involves itself in the peace process and is very vocal in finding a solution for peace in Aceh. Similarly, the Malino agreement, which



aimed to resolve the Maluku conflict, was initiated by the central government. Malik also said that conflict mediators in Aceh and Maluku played an important role in conflict transformation. He then discussed the peace monitoring both in Aceh and Maluku. Aceh formed the Aceh Monitoring Mission (AMM) where 5 ASEAN member states (Brunei Darussalam, Malaysia, Singapore, Philippines, Thailand) as well as the European Union, Switzerland and Norway, are implementing a number of tasks.

Conflict challenges in Indonesia were also discussed. Malik highlighted the new relationship structure between the central government and regional government where Aceh has integrated the sharia system in its regional politics, law and culture. On the other hand, Maluku's regional government experienced a crisis due to religious issues between the Islam and Christian communities. Where Aceh has an established institution that monitors and unites people, Maluku's Majelis Latupati Maluku conducts Conflict Early Warning and Early Response measures.

Finally, Malik discussed the role of civil society in conflict resolution. He asserted that the process of conflict transformation should involve everyone in society, not exclusive to the elites and combatants. Malik concluded the discussion by quoting Johan Galtung: "By peace we mean the capacity to transform conflicts with empathy, without violence, and creatively—a never-ending process".

### 3. Main Challenges

- The Hardest Path to Peace by Guiamel Alim
  - It is a challenge to apply conflict transformation on the personal, relational, cultural and structural levels in revolutionizing conflicts according to Alim. He said that there is a difficulty in changing conflict into mutual cooperation.
- Pattani Southernmost Thailand by Chalida Tajaroensuk
  - The speaker stressed the need for an agency like the Philippines' OPAPP to handle peace talks and negotiations related to internal conflict within the area.
  - She also mentioned the need for stronger and independent civil society organizations (CSOs) to empower people to participate in peace talks between the locals and the central government.
  - Tajaroensuk also emphasized the need to support the victims of human rights violations.
- Conflict Transformation in Aceh and Maluku, Indonesia by Ichsan Malik
  - Ichsan Malik mentioned that conflict actors such as combatants have been involved in politics: they established local parties and win in the elections. This traps both Aceh and Maluku in corruption, as there are no post-conflict leaders with vision and are willing to work hard to make breakthroughs in areas of conflict.
  - Conflict areas in Indonesia are also used by jihadists as training grounds.

- Lastly, the central government must have the political will to solve conflicts and develop a culture of peace in the country.

#### **4. Questions and comments from the audience**

- How do you identify a strong CSO given the presence of government manipulation and oppositions?
  - Tajaroensuk: CSOs are weak especially in times of insurgencies but strong in people power. The CSO is very much important especially because they have the ability to share knowledge and to make better decisions.
  - Alim: CSOs are governed by their own interests that is why there are no quick responses to strengthen CSOs, but it is still crucial to empower people and motivate them

## **APPENDIX 4: PLENARY PANEL 3**

### **Authoritarianism in Southeast Asia**

Moderator: Dr. Sripapha Petcharamesree

Panelists: Dr. Walden Bello, Dr. Azmi Sharom, Pravitt Rojanaphruk, Dr. Deasy Simandjuntak

#### **1. Key points**

- Authoritarianism is accelerating in Southeast Asia, at the expense of liberal values. The ascendant right has, cleverly, taken advantage of the fear of the people in order to gain their support.
- We are experiencing a failure of liberal democracy and secularism, fueled by the anger of the middle class. With the rejection of these ideals, there is also a rise in racism, ethnocentrism, cultural superiority, and eliminationist rhetoric.
- Progressives and liberals must revitalize their movement by creating broad movements led by fresh faces and fueled by fresh ideas.
- Dominant hegemonic discourses, regardless of their ideological leaning, must be challenged because they will continue to facilitate the rise of authoritarianism in any country.

#### **2. Summary**

Dr. Sripapha Petcharamsree began the plenary panel by reiterating some observations: that authoritarianism is accelerating in Southeast Asia, at the expense of liberal values; that 2018 would mark the start of a period in which outright authoritarianism will become the prevailing norm; and that liberal values and fundamental human rights will be manipulated and used for the benefit of those in power, despite the fact that elections will continue to take place.

Because of this context, she stressed how important each of the following talks would be in discussing the future not just of human rights, but also the future of Southeast Asia as a whole.

- ‘How Do We Respond to the Ascendant Right?’ by Dr. Walden Bello

The first presenter was Dr. Walden Bello, who talked about responding to the ascendant right. He began his presentation talking about how the idea that the right would make a comeback was preposterous, yet in just 8 years, the world has seen the extreme right move to the center of power.

He talked about how this happened: that the right spoke more loudly about issues than the left, and that the right also opportunistically embraced an anti-neoliberal agenda, and the welfare state. To provide a better picture of this pattern, he echoed US President Barack Obama in saying that the challenges to

globalization came more forcefully from the right. As a result, we started seeing populist movements that tapped into the fear of the people. The right rejected a world that seemed hard, globalized and implacable--working class people, in particular, clearly said they did not want to see a world of capitalism without them at the helm.

In Asia, too, Bello said that there is a revolution happening: the far right in India experienced a sweeping win in the 2014 elections and is expected to solidify its leadership in next year's elections. The murder of prominent intellectuals and arrests of activists, the control of cyberspace, and the spread of hate speech and false news, and the triggering of anti-Muslim riots are already commonplace. Amidst it all, liberals and progressives haven't yet figured out what is going on, much less how to counter it.

In the Philippines, Bello said that a serial killer has taken over 7,000 lives in 2 years, and is still as popular today, as he was when he was elected in 2016. Bello adds that the opposition--in the form of discredited liberal elites, and an equally discredited extreme left--has yet to find a firm footing. Because of this, there is very little in the way of creating an authoritarian system masquerading as federalism.

In Thailand, the military government shows no urgency in returning to the barracks; military rule seems to be much preferable to the people than messy democracy. In Myanmar, a bloody genocide still rages on. These are just some examples of the situation across Asia.

Given the pattern, Bello asserted that several things are clear: first, there is a clear rejection of liberal democracy, as a response to the failure of the elite and the liberal democratic system to deliver on social and economic reform. With the rejection of liberal democracy, there is also a rejection of secularism, of diversity, and of minority rights. He said that in some cases, racism, ethnocentrism and cultural superiority were central to this rejection of liberal democracy. And finally, Bello reported that new extremist movements now enjoy the support of a middle class who support the welfare state, but only for natives, and who are fed up with a socialist legacy and are without conscience for minorities. This, paired with an eliminationist rationale for right wing support (i.e. outgroup isolation, treating othered groups as inhuman, etc.), make for a deadly mix.

With all this said, what should be done? Dr. Walden Bello said that progressives must squarely face the fact that these movements are in power or on the cusp of power, and have no intention of letting go of power. He pointed out that even if human rights advocates continuously call for the respect human rights, we are not convincing people who are already influenced by populist right-wing leaders who call us "secular libtards".

Yet there is hope: he asserted that the middle classes are supportive of populist right-wing leaders, but the poor must limit their support of these leaders to passive consensus--thus, if we can focus on them, we can gain some wins. Another group we must strengthen are women: as right wing leaders are strongly misogynist, women can play a central role in fighting fascism. But he also challenged human rights



advocates not only to construct broad movements, but also to create fresh ideas and to allow new faces to lead the way.

He concluded by saying that the political situation is the same as the 1930s. And while there is no guarantee that our side will prevail, he said that our only hope is in resisting, with determination, passion, and wisdom.

- 'Indonesia's Democracy: Contending Populisms, Hyper-Nationalism, and Identity Politics' by Dr. Deasy Simandjuntak

The next speaker, Dr. Deasy Simandjuntak, talked about Indonesia's democracy, and the concepts of populism, hyper-nationalism and identity politics. She introduced her presentation by highlighting that, like other democracies in the region and the world, Indonesia's democracy is "receding"--or perhaps, more accurately, that authoritarianism has endured while Indonesia's democracy has been stagnating.

While Indonesia's democracy is considered to be the most consolidated in Southeast Asia, populist movements and identity politics are rife. By populism, Dr. Simandjuntak means people who mobilize support by positioning themselves against the entrenched elite and appeal via personality to voters. Of populism, Dr. Simandjuntak said that there were two kinds: maverick populism (in the person of Prabowo Subianto)--characterized by the use of populist language, the blaming of foreign powers for economic troubles, the promise of eradicating corruption, and a strong personality with an oligarchic, strongman appeal. On the other hand, there is soft populism (in the person of Joko Widodo), which is characterized by impromptu visits to public places to listen directly to concerns of people, and support for pro-poor policies for the masses, such as universal health care. In Indonesia's case, Widodo's triumph seemed to signal that voters were also voting for his values--religious tolerance, pro-poor and minority policies, and more.

However, this has proven to be untrue--the 2017 gubernatorial elections, featuring a race between Ahok and Basuki Purnama, helped identity politics gain center stage. Hypernationalism has also become closely associated with Islam--Widodo has created hypernationalist policies as concessions to political Islam and has begun to ban intolerant organizations. The concern is that this is the beginning of a slippery downward slope toward stricter authoritarianism, and that the government will become more intolerant to individuals and organizations not following the government point of view.

- Thai Military Regime by Pravit Rojanaphruk

Rojanaphruk began his presentation on the Thai military regime by showing the audience the current Facebook page of current military prime minister Prayut Chan-o-cha. On his Facebook page, he wrote that he wanted to open a Facebook account because he wanted to know the problems of other Thais, and

wanted to receive suggestions. The response was overwhelmingly nasty, telling Chan-o-cha to leave quickly, instructing him not to be a burden to society, and calling him a liar.

He characterized this dictatorship as one that plays with the discourse of being open and democratic, adapting the principle of democratic discourse in name, without the regime truly being so. This regime, he said, has learned to play on the border of fascism, without having to take extreme measures, such as repression for repression's sake. It gains legitimacy from its cause: to restore law and order (Thaksin Shinawatra was largely seen as corrupt); and from a hegemonic loyalty to the monarchy (Thaksin Shinawatra was rumored to want the crown itself).

Rojanaphruk also spoke about support--the middle class is largely supportive of the coup, and so is the press. While the west was critical of the coup, criticism was swiftly stopped when the west realized it was losing Thailand to China, Japan and South Korea.

Still, he said, with or without the military regime, Thailand still must deal with the royalist hegemonic discourse. With or without the military regime, this discourse will continue to facilitate authoritarianism in the country.

- 'Authoritarianism in Malaysia' by Dr. Azmi Sharom

Dr. Azmi Sharom began his presentation by immediately characterizing an authoritarian regime as one that has disrespect for human rights and one that practices political suppression.

In Malaysia in particular, disrespect for human rights is shown in the lack of respect for freedom of expression: dissenters cannot raise points of discontent or criticisms regarding the government. The Malaysian government has also banned books, particularly about religion, and religious laws are already being used to suppress freedom of expression. In particular, the Multimedia law in Malaysia has effectively made it a crime to hurt people's feelings.

Political suppression has also manifested in the government's bureaucracy which deliberately makes it difficult to set up political parties. Laws are also used to suppress political opposition: the Security Offenses Special Measures act is meant to be used for to counter terrorism, but it is also being used to repress opposition--the National Security Council Act also gave the prime minister the dangerous power to declare emergencies without going through the usual constitutional procedures.

Yet despite all this, Najib Razak and his allies still lost Malaysian elections because people didn't vote for them. It would seem that the Malaysian people care less about human rights abuses than they do about the economy--while corruption was blatant, Malaysia also experienced higher living costs as well.

But this does not mean that Malaysia is safe from authoritarianism: the new prime minister is ironically the master authoritarian himself.

Still, there is still hope: Dr. Sharom said that as long as there is even a little democracy, we can change things. It is imperative that Malaysia and the rest of Southeast Asia do not go back to authoritarianism.

### 3. Main challenges

- Dominant, hegemonic discourses must be challenged, as these are the breeding ground for authoritarianism.
- Human rights advocates are challenged to revitalize their movement through the creation of a broad base led by new faces and fueled by new ideas.

### 4. Questions raised by audience

- Is there a way to measure the degree or level of authoritarianism?
  - DS: There are certain factors which make us worried about Indonesia's trajectory, including, for example, the fact that the attorney-general's office is now being held by questionable people. Despite the factors the participant mentioned, and although it is worrying that we are marching toward authoritarianism, I don't see the Suharto-type of authoritarianism looming just yet. I am also confident that we have a public sphere more active and more aware of what is democratic and what isn't
  - PR: It would be interesting to create a quantitative index of authoritarianism in ASEAN. Off the top of my head, I can list some key factors, including freedom of expression and press freedom, political rights, political participation, the use of political charges on the opposition, and the occurrence of false disappearances or torture.
  - WB: As a sociologist I am generally disenchanted with quantitative measures. I would like to propose that we look at distinctions between certain kinds of authoritarianism. I also really would like to study the middle class, which was once the defender of democracy, and is now the bulwark of authoritarianism. We cannot understand authoritarianism without understanding its base. Finally, I think it is important that we be self-critical about the context and ideological influences in the middle class, in order to understand the swing factor between democracy and authoritarianism.
  - AS: There is, however, the danger of being complacent in comparing authoritarianism (and labelling them as bad or good). Any authoritarianism is bad, because it can easily slide toward worse.
- In Southeast Asia, it seems like democracy as we envision it is almost within reach. But we now know that there is no straight, forward path to democracy. There always seems to be a lesser form of democracy which no one is happy with, then we bounce back to authoritarianism? What do we need in order to sustain and institutionalize democracy?

- WB: I think one of the problems that liberal democracy has to face is its failure with regard to economic rights and equality. It has simply not delivered on its promises.
- PR: We must focus on nurturing the substance of democracy instead of focusing on the word itself.
- DS: Let's study what makes people vote for strongmen and populists, then answer that question.
- SP: The perfect should not be the enemy of the good. No democracy is perfect, what's important is we curb authoritarianism.
- How can we position gender practices at the center of human rights analysis and practice?
  - WB: In the Philippines, this has become so clear: Duterte's main attacks have always been around female leaders. Therefore, women should be central in the fight against authoritarianism, and the rights of women must be thoroughly promoted. At the same time, it's important to also be aware of the fact that despite the rise of the women's movement globally, in the US, white women voted overwhelmingly for Trump. There's a question of the way that race can intersect with gender to produce strange results.
- I characterize this period as an insane or absurd period. How do we stay cool in this era of craziness and absurdity?
  - WB: It's very important that we engage in the real world of combat, both on the streets and on cyberspace. We need to engage and not dismiss people.
- Does authoritarianism lie in the person or in his actions?
  - AS: One has to be suspicious of all these old people who come back, which is why the institutions and people surrounding them should be stronger and better.



## APPENDIX 5: CLOSING KEYNOTE SPEECH

### Occupying the Ordinary: Human Rights in the Remaking of Everyday Life

Speaker: Kamala Chandrakirana

#### 1. Key points

- Southeast Asia is a hotbed for brutal violence, the abuse of power and authoritarianism, and is a gruesome site for mass atrocities. Without real peace, conflicts simply morph into new shapes or for Thus, decades of unresolved sub-national conflicts, violence and violation, have become a norm in the Southeast Asian's everyday life.
- Justice must be transformative--that is, justice must not only combat impunity through formal criminal justice systems, but also take into account the healing and recovery of victims, help them rebuild alongside community and nation, and prevent future human rights violations by targeting root causes and structural drivers of conflict.
- Today, entire systems of thought are based on opposing principles essential to human rights. The concepts of shared humanity and the universality of human rights must be accepted by all.
- As a way forward in the face of extremism and fundamentalism, cultural advocacy can be practiced. For cultural advocacy to be effective, two conditions must be present: first, cultural rights must be advanced and strengthened as well, and second, cultural advocacy must be practiced in sync with more complex socio-political practices to strengthen human rights. Unjust political, social, economic and cultural structures must be reimagined.
- For human rights advocates to make effective strides forward in the future, we must challenge ourselves by asking deep questions about our worldviews practices and attitudes toward conflict and community, on culture, and on our shared future in the ASEAN region.

#### 2. Summary

"As Southeast Asians," Chandrakirana began, "we are inheritors not only of a rich environment and cultural tradition. Our peoples are also inheritors of the capacity for brutal violence and the abuse of power." She described the Southeast Asian region as a hotbed for authoritarianism and one of the most gruesome sites of mass atrocities--meanwhile, she added, impunity remains the norm: perpetrators of these atrocities remain free and powerful despite the efforts of human rights advocates.

As a result, decades of unresolved internal, or sub-national, conflicts are becoming further and further embedded into our systems and cultures. Many of the conflicts in Southeast Asia are among the longest running armed struggles in the world. Since many of our struggles are sub-national, many of them are also among the most deadly forms of conflict in the world. They are dangerous not only because of the real number of lives lost and tangible damage, but also because they damage the very fabric of our culture and society.

Without real peace, Chandrakirana said, conflicts simply morph into new shapes and forms, and pre-existing struggles which were never fully or sustainably resolved will continue to haunt us. The violence and violation that comes with these conflicts have become a norm in the Southeast Asian's everyday life.

Chandrakirana asks: what does all this mean for those who advocate for justice, peace, and human rights? She said that hope is always a choice, and that is where she began to make sense of all of this. She said that too often, we have become witnesses to the transfer and normalization of violence from the heinousness of war and conflict, to the ordinariness of peacetime moments. However, by making explicit the interdependence of what is usually dichotomous--the past and the future; culture and the law; the heinous and the ordinary--we can begin to make real changes and win real victories in the struggle for human rights. Chandrakirana said that we cannot make changes in the law without changing cultures as well--this is crucial for us to understand and act upon.

"I am deeply aware of how long and winded the path is toward justice for the most heinous crimes, sadly, even in a period of democratic political opening," Chandrakirana said. She has become convinced that true justice for the crimes of the past will take a much longer time to attain--certainly beyond the lifetime of any survivors. She asserted that justice must be transformative, that justice must not only combat impunity through formal criminal justice systems, but also take into account the healing and recovery of victims, help them rebuild alongside community and nation, and prevent future human rights violations by targeting root causes and structural drivers of conflict.

And to achieve transformative justice, Chandrakirana said that the universality of human rights must be universally accepted as well. Yet she also said that entire systems of thought are today based on opposing the principle of shared humanity, most especially through the misuse of concepts such as religious freedom and national sovereignty. She said that institutions which protect and strengthen human rights are being weakened, through political intervention or financial disempowerment.

In the face of rising extremism and fundamentalism, Chandrakirana proposed that human rights advocates explore cultural advocacy, rooting her proposal in the universality of human rights, and what she said is "UNESCO's conviction that human rights and freedoms are meant to be exercised in a wide variety of cultural environments." She cited as an example her own experience of cultural advocacy-- dialogues between the Indonesian women's movement and religious groups. Long and deep engagements with the religious community on both national and local levels generated debate and allowed for the articulation of women's human rights within religious frameworks. These dialogues produced fatwas on sexual violence, child marriage, and environmental destruction.

Another example she gave was a deadlock in the fight for justice for survivors of the 1965 anti-communist pogrom. Here, she said, politicization had increased, rather than decreased, victim-survivors' vulnerability, and legal accountability was far from sight. Progress instead, Chandrakirana said, was found in culture and the arts. For example, songs which were created in jails and underground are being revived and sung again by young people and new groups, in concerts and in the streets. Small, community pop-up museums have also become sources of truth-telling. Thus, she said that a new collective memory is

being constructed through this intergenerational dialogue. “These small, ordinary acts in everyday life and their further advancement will ensure that this issue is not ever forgotten, and are, in themselves, the seeds for transformative justice,” she said.

Her final example was in the aftermath of the Aceh tsunami--where, she said, safe spaces were created using local rituals and traditions, giving women humanitarian workers and human rights advocates the space to heal on their own. Through this process, Chandrakirana said that she began to understand the importance of community and family recognition and self-acceptance of their own identities as activists.

For cultural advocacy to be effective, we must advance the cause of cultural rights as well-- Chandrakirana asserts that these rights are some of the least developed. By cultural rights, she referred to the right of groups of people to express their humanity, the worldview and the meaning they give to their existence. She said that by protecting peoples’ access to cultural heritage and resources, we can help minorities and disenfranchised peoples to develop and contribute to the creation of cultures and dominant norms and values.

She gave another condition to ensure the effectivity of cultural advocacy: the “ordinary”--that which has to do with culture and everyday life--must act in sync with the more complex social-political environment of communities. She said that we must still act to reimagine unjust structures.

Chandrakirana then returned to her original question: what does all this mean for those of us in Southeast Asia, slowly finding our efforts increasingly unwelcome under rising authoritarianism? On conflict and community, she asked about our capacity to address conflicts from the root, and about how we could build a culturally-rooted understanding of shared humanity and universality of human rights. She also asked whether we were effectively bridging the complex and abstract with tangible community outcomes, and whether our allies and narratives are expanding or becoming more and more exclusive.

On culture, she asked if we understand and are maximizing the cultural resources at our disposal. She asked how we could more effectively practice cultural advocacy, in sync with legal, political, and economic advocacies, to build toward transformative justice.

She also asked how we could make ASEAN a meaningful space for transformative justice and the strengthening of human rights in the region. She asked about ASEAN's shared future--are our collaborative projects, communities of practice, and comparative learning processes effective in bringing about the vision we want for our home?

Chandrakirana left the audience with these questions, hoping to help the human rights advocates present find sustainable and viable ways forward. “I hope that the issues and questions I have raised can tickle your sense of curiosity, motivate your creative juices, and trigger your power of imagination.”

### 3. Main challenges

- Develop a framework of community-based protection for human rights defenders.
- Enhance cultural advocacy so that cultural rights can be developed.
- Protect access to cultural heritage and resources that allow such identification and development processes to take place.
- Sync in cultural advocacy with other things that address structural inequality, such as a re-imagining of economic institutions and practices, as well as, securing the effectiveness of democratic governance and the availability and accessibility of inclusive public services.to contribute to transformative justice.
- Ensure the resilience of our human rights movement through meaningful and strategic engagement with 'ordinary' institutions and spaces, in culture and in social-political environment of communities.
- Visualize together what 'occupying the ordinary' could look like, in the region, for the remaking of everyday life towards transformative justice, peace and human rights.
- Occupy the daily exchanges in social media for constructive purposes and abandon the projects of hate.
- Find ways to transcend language barriers.
- Most of all, Chandrakirana hoped that the issues and reflective questions she has raised can spark a sense of curiosity, motivate creative juices, and trigger imaginations to call for action..

### 4. Action points

- We must aim not just for legalistic justice, but also for transformative justice.
- We must work not only in the political and socio-economic spheres, but also in the cultural sphere, to build communities with a shared understanding of the universality of human rights and shared humanity.
- To find a sustainable way forward to defend our gains and strengthen human rights, we must ask ourselves the difficult questions on our worldviews, perspectives, and attitudes toward conflict, culture, community, and our shared future.