

**AICHR**

ASEAN Intergovernmental Commission on Human Rights



# WORKSHOP ON CORPORATE SOCIAL RESPONSIBILITY AND HUMAN RIGHTS IN ASEAN

## Outcomes of the AICHR Thematic Study

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*Singapore, 13-14 June 2014*

## SUMMARY OF DISCUSSIONS

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## SUMMARY OF DISCUSSIONS

### 1. INTRODUCTION/BACKGROUND

1.1 The Member States of the Association of Southeast Asian Nations (ASEAN) have collectively achieved relatively high economic growth in recent years, which has built momentum for economic, socio-cultural and political-security community integration. However, challenges still exist – they include poverty, corruption, inadequate labour standards, and environmental degradation. In some instances, business activities fail to address these problems, or worse, contribute to their severity. Looking ahead, there are growing expectations on ASEAN businesses to operate in a responsible manner. As businesses grow more competitive and further integrate into the global economy, there is a need to, at the same time, ensure good standards of corporate governance, accountability and transparency.

1.2 In 2012, the ASEAN Human Rights Declaration (AHRD) was adopted by the ASEAN Member States (AMS). The AHRD highlights the rights of the people of ASEAN to *“participate in, contribute to, enjoy and benefit equitably and sustainably from economic, social, cultural and political development”* as well as encourages the adoption of *“meaningful people-oriented and gender responsive development programmes aimed at poverty alleviation, and the creation of conditions including the protection and sustainability of the environment”* in the region.

1.3 The ASEAN Social-Cultural Community (ASCC) Blueprint has identified the promotion of Corporate Social Responsibility (CSR) as a key component to ensure the social justice and rights in ASEAN, and contribute towards sustainable socio-economic development. However, the current understanding, awareness and practices of CSR in ASEAN can be improved. There is also a nascent but growing recognition in the ASEAN community that CSR should be promoted as a tool to promote and protect human rights.

1.4 Against this background, in 2011, the ASEAN Intergovernmental Commission on Human Rights (AICHR) embarked on a baseline analysis on the nexus between business and human rights. The aim of the Study was to provide a comprehensive assessment on how CSR relates to the promotion and protection of human rights in the region. The Study could also serve as the foundation for the establishment of a common framework to accelerate the promotion of CSR and human rights, and support the development of policies in line with the ASCC Blueprint.

1.5 The framework for this Study was formulated at the AICHR workshop held in May 2012 in Singapore. The implementation of the Baseline Study was carried out by a Study Team, led by Mr Thomas Thomas, then Executive Director of Singapore Compact and now CEO of ASEAN CSR Network (ACN). Team Members include Dr Alexander Chandra, Associate Fellow, the Habibie Center and Trade Knowledge Network (TKN) Southeast Asia Coordinator, International Institute for Sustainable Development (IISD), and ten National Focal Points (NFPs), who were nominated by respective AICHR members.

1.6 Held on 13-14 June 2014 in Singapore, the *Workshop on CSR and Human Rights in ASEAN: Outcomes of the AICHR Thematic Study* attracted about 90 participants, consisting AICHR representatives, 10 NFPs, and other stakeholders from governments, private sector, non-governmental organisations (NGOs), trade unions, academia, and the ASEAN Secretariat. Following the Opening Session, the Presentation of Country Reports during the 1.5 day Workshop was sub-divided into 4 sessions:

- Session 1: Brunei and Singapore
- Session 2: Indonesia, Malaysia and Vietnam
- Session 3: Philippines and Thailand
- Session 4: Cambodia, Laos and Myanmar

At each session, NFPs presented their country reports, followed by discussion among experts, practitioners and other participants.

## 2. OPENING SESSION

2.1 Ambassador-at-Large Chan Heng Chee, Singapore's Representative to the AICHR, welcomed all participants, thanked contributors to the Workshop and briefly introduced the Baseline Study. Noting that this was the first thematic study on CSR and human rights by the AICHR, she called on participants to make the best use of this *"historic first step"* to engage with and learn from others' experience in order to develop a common framework on CSR and human rights for ASEAN which took into account the unique regional and national circumstances and interests.

2.2 In his opening remark, U Kyaw Tint Swe, Chair of the AICHR and Myanmar's Representative to the AICHR highlighted that globalisation had brought about both opportunities and challenges to the region. For instance, while businesses helped generate regional economic growth, they potentially could also commit human rights infringements. Various initiatives such as the UN Global Compact had been implemented to address this challenge. He pointed out that with ASEAN's continued economic growth, there was increasing awareness that CSR should be included in our corporate agenda. However, the level of CSR awareness remained low in the ASEAN business community. In this context, he pointed out that *"good CSR is also good business"*, and emphasised that the main purpose of the Study was to help promote understanding and adequate awareness of CSR for the socio-economic sustainable development in AMS.

2.3 Dr Noeleen Heyzer, former Executive Secretary of the UN Economic and Social Commission for Asia and the Pacific (ESCAP), and current Special Advisor of the UN Secretary-General for Timor-Leste, delivered the keynote speech, which touched on the historical, present and future trends of business, CSR and human rights. Dr Heyzer noted that the phenomenal growth of regional production networks over the past few decades of *"Factory Asia"* had benefited ASEAN, but also left ASEAN in a dilemma between generating wealth and jobs vis-a-vis adherence to labour standards and human rights. She cited the recent collapse of Rana Plaza in Bangladesh as an example of a *"wake-up call"* for responsible capitalism, accountable business conduct, ethical governance and protection of workers' rights. In such instance, as business conduct formed the core of the problem, she urged businesses *"to be an important part of the solution as we seek to create future sustainable and shared prosperity for all."* Dr Heyzer also made six suggestions to develop a common framework for CSR and human rights in ASEAN, with business as the key actor:

- (i) Businesses needed to shift CSR attention from how to spend money (charity) to how the money was made (in a sustainable and socially responsible manner);
- (ii) Businesses needed to use innovation to open up new growth markets and develop new approaches to address the needs of consumers, given developing consumer demand for value-based and sustainable products and services;
- (iii) Businesses should ensure high labour standards, industrial safety and environmental protection and eschew a race to the bottom on labour standards;
- (iv) Wise stewardship of the environment with concern for the commons being a core value of businesses;

- (v) Move from short term speculation to long term value creation. There must be zero tolerance for both public and corporate corruption and criminality;
- (vi) Besides independent monitoring, rewarding compliance and penalising offenders to ensure the growth and practice of responsible business.

2.4 Mr Thomas Thomas, Study Team Leader, CEO of ACN presented the overall findings of the Study. He said the understanding of CSR has shifted from lack of consensus to growing convergence. CSR was now often understood as firms' responsibility for economic, social and environmental impacts through transparent and ethical behaviours, and the firms' contribution towards sustainable development. More firms were integrating CSR in their core businesses. Key drivers for this trend included the shrinking role and resources of governments to adequately address socio-economic problems and the increasing demand and pressures from investors and consumers for socially responsible conduct as well as the increasing media attention on human rights abuses and irresponsible conduct. There was also increasing recognition amongst firms that respect for human rights could add value to their businesses. In addition, a range of global corporate governance tools such as ISO 26000, the United Nations Global Compact (UNGC), Global Reporting Initiative (GRI), Extractive Industries Transparency (EITI), UN Guiding Principles on Business and Human Rights (UNGPR), could potentially enhance firms' commitments to responsible practices. However, Mr Thomas underscored the potential limitations of CSR in addressing business and human right nexus, given that CSR was still perceived as a "voluntary", "philanthropic", "top-down" initiative. Moreover, international commercial treaties could potentially hamper the promotion and protection of human rights. Most importantly, current debates on CSR and human rights had been centred on large companies, with little attention given to small and medium-sized enterprises (SMEs). Mr Thomas noted that, despite the diversity of the levels of development of CSR in ASEAN, the following commonalities existed among AMS: (a) "Community development" and philanthropy were still the main modes of CSR practice; (b) CSR had been identified as a strategy for regional and global recognition and participation; and (c) governments were still studying ways to promote CSR. He added that the findings of the Study provided the imperative to bridge the gap between top CSR performers and the laggards, and highlighted the need to educate stakeholders, including non-business stakeholders, on CSR. It was also expected that ASEAN would chart its own CSR agenda, but the group could learn from others' successes and mistakes.

### 3. PRESENTATION OF COUNTRY REPORTS: SESSION 1 - BRUNEI AND SINGAPORE

3.1 The first session was chaired by Mr Rafendi Djamin, Indonesia's Representative to the AICHR. This session involved an overview of policies and practices of CSR of two countries in the higher-income group: Brunei and Singapore. There was recognition of the role of business and CSR in the development of countries. In this context, pertinent issues included ways to improve the role of the government as a regulator, and ways to engage companies, especially SMEs in the CSR human rights agenda.

3.2 Ms Farida Hisham, NFP for Brunei talked about the state of CSR in Brunei. She said Brunei had no specific law on CSR. CSR was a relatively new term, and was often still adopted on a voluntary basis, focusing on giving back to the community. That said, related laws such as Employment Orders, Workplace Safety standards and Health Orders existed. In line with Brunei's 2008 National Long-Term Development Framework, CSR activities were currently categorised into three groups: community, environmental protection, and education. There was also increased collaboration between three main actors – the government, the private sector and NGOs - to implement CSR activities, many of which were good practices. Ms Farida cited three companies with best CSR practices, namely Bank Islam Brunei Darussalam (BIBD), Telecom Brunei Berhad (TelBru), and Brunei Shell Petroleum Co (BSP). In response to a question on the possibility of the state engaging SMEs to practice CSR in Brunei, Ms Farida said that the application of CSR agenda depended on the SMEs themselves, which was difficult to promote as SMEs tend to focus on profit-making.

3.3 Mr Christopher Ang, NFP for Singapore presented Singapore's report. He underscored the role of the Singapore government as the key driver of CSR since the country's independence. Established by the government, the tripartism between the government, trade unions (labour) and employers (business) serves as a framework to address the challenges of industrialisation, and helps create a conducive environment for economic growth, job creation and better quality of life. With regard to Singapore's CSR scene, Mr Ang shared

that there was a focus on anti-corruption and promoting transparency, and also touched on the leadership of multinational corporations (MNCs) and government-linked companies in practising CSR. He acknowledged the lack of robust civil society presence in Singapore's CSR agenda, but added that consumers could nonetheless voice their opinions through social media. Mr Ang said that although CSR was not new to Singapore, it was sometimes still perceived as philanthropy, or *"giving back to community"*. He concluded by saying that CSR was about *"Doing Well; Doing Good; and Working Together"*, which meant (a) practicing good corporate governance in order to create quality jobs, products, services, to stay competitive and innovative (Doing Well); (b) going beyond legal compliance towards CSR and sustainable businesses (Doing Good); and (c) being engaged with other stakeholders for mutual benefit (Working Together). Responding to a question on encouraging SMEs to embrace CSR, Mr Ang spoke about Singapore's efforts in this area. For instance, Singapore was launching a CEO Sustainability Circle as a multi-stakeholder platform where big companies could share their CSR experiences with SMEs. Such initiatives could help promote CSR awareness and increase the demand for CSR in the business community.

3.4 Professor Ann Florini, Professor of Public Policy from Singapore Management University spoke about the role of government in enabling CSR through regulation. For example, government could consider implementing information disclosure rules in a way that would help promote meaningful information sharing. In this context, businesses could be required to not only report on financial performance, but also on non-financial performance such as the social and environmental impact of their activities. Prof Florini cited as an example the establishing of Benefit Corporations in some US states, which not only focused on financial, but also social and environmental goals. Commenting on India's recent move to introduce a CSR provision for companies of a certain size to donate 2% of their net profits to CSR activities, Prof Florini hoped that ASEAN would not do likewise as it represented *"a step back to the idea of CSR being purely charity, restricting companies from adopting CSR 2.0 initiative"*. She added that while businesses wanted to be more responsible, many faced difficulties due to insufficient understanding of CSR practices. Hence, she called on governments to encourage academic institutions to be more involved in promoting CSR practices. She said *"government can think of not only immediate policy instruments that they have in hand, but how they influence the broader norms of business activities in the direction of human rights."*

3.5 Ms Pensri Suteerasarn, President of Thai Listed Companies Association stated that the CSR Club in Thailand faced similar difficulties in raising awareness of CSR among companies. Large companies were generally more aware and advanced in this field due to pressure from investors and consumers, and they had larger budgets for CSR activities. She suggested that best practices in the ASEAN business community could be shared to allow companies to learn from each other. She also pointed out that AMS still faced, in many instances, the challenge of CSR being regarded as philanthropy. That said, given that most AMS were still developing countries, she suggested that CSR in these countries focus on giving back to society by way of investment in education.

3.6 U Thaung Tun, Senior Vice Chairman, Myanmar Investors Association commented that ASEAN as a region was undergoing rapid economic growth. Businesses were thus keen on demonstrating their CSR practices to boost their standing in the world. The greater challenge in this regard was the compartmentalisation of our collective experiences with regard to CSR. As such, it was important to promote partnership between governments, businesses and civil society to ensure that CSR practices responded to the challenges facing many AMS. U Thaung Tun highlighted that CSR was a relatively new concept in ASEAN. Praising Singapore and Brunei on their achievements in CSR promotion, U Thaung Tun said that other countries could benefit from the best practices of Singapore and Brunei. As for Myanmar, he noted that as a result of political and economic reforms, Myanmar had become more attractive to investors, so there is now greater impetus for Myanmar to impress upon its investors the responsibility to contribute to sustainable development. U Thaung Tun added that CSR was a relatively new concept in Myanmar and underscored the need to promote CSR in all industries. U Thaung Tun concluded that partnership between governments, businesses and civil society was key in this context.

3.7 Professor Aung Tun Thet, NFP for Myanmar, added that lower-income countries need not wait to become high-income countries to start CSR practices. In this context, Professor Tun Tet said that Myanmar's achievements in this area were comparable to that of Singapore's. This was due to the significant role played by the UN which helped Myanmar implement good CSR practices. He agreed with Prof Florini that ASEAN should promote CSR 2.0. He added that Myanmar's CSR model was somewhat similar to India's, and required foreign investors to commit 2-5% of net profits to CSR activities. That said, CSR was not simply philanthropy, but *"something that has to be developed through consultation with the government and community"*.

3.8 Dr Seree Nonthasoot, Thailand's Representative to the AICHR also agreed with Prof Florini that government needed to play a fundamental role in driving CSR initiatives through regulation. For example, government could allow investments only from businesses whose practices were compatible with CSR. Highlighting that CSR initiatives needed to be "*institutionalised*" and "*sustainable*", Dr Nonthasoot pointed out that other stakeholders, especially businesses and CSOs, should also be engaged to achieve this objective. Finally, Dr Nonthasoot highlighted the issue of cross-border trade and called for a regional approach that reflected the regional nature of CSR and dealt with emerging transnational issues. Dr Nonthasoot underscored that a regional approach was fundamental to advancing the region's CSR agenda.

3.9 Ambassador Chan Heng Chee highlighted that it was necessary for AMS to first review our individual efforts in promoting CSR with a view to learning from each other's experiences. In this regard, she expressed hope that AMS would capitalise on the opportunity to identify ways to further promote CSR in their respective countries. Explaining why some countries had more active civil society than others, Ambassador Chan observed that when government was strong, there was less need for civil society to promote CSR. She further observed that there was no direct correlation between high-income countries and advanced CSR practices. Responding to a question on how countries with an ageing population, such as Singapore, could ensure that working conditions and workers' rights were maintained, Ambassador Chan referred to Singapore's earlier policy changes to extend the retirement age from 55 to 65. This allowed for older workers to remain in the workforce. That said, some social prejudices still existed, with some companies preferring younger workers. Prof Chan added that within the vulnerable group, she was most concerned about the group that was poor-poor health-ageing.

3.10 Mr Jolovan Wham of Humanitarian Organisation for Migration Economics (HOME) raised a question on how companies could ensure compliance with and respect for the rights of migrant workers. Mr Thomas Thomas replied that laws must be obeyed, and compliance could also be ensured through sustainability reports. He cited the stock exchanges in Singapore, Thailand, and Malaysia which promoted non-financial reporting as a good initiative to encourage companies to be "*responsible citizens*". In Singapore for instance, the number of listed companies that submitted sustainability report - though still low - has been steadily increasing. This demonstrated a growing awareness of the importance and benefits of sustainability reporting.

3.11 Participants also discussed the dichotomy between CSR and human rights viz the former being classified as "soft law" while the latter was deemed as "hard law". While some participants highlighted that CSR provided an opportunity for governments and businesses to understand their obligations under the hard law of human rights, others pointed out that the ISO 26000 comprised provisions on social responsibility which included compliance with relevant international norms. Given that the ISO 26000 also comprised provisions on human rights, the obligatory nature of human rights and the voluntary nature of CSR were essentially compatible.

#### 4. PRESENTATION OF COUNTRY REPORTS: SESSION 2 - INDONESIA, MALAYSIA AND VIETNAM

4.1 The second session was chaired by Dr Seree Nonthasoot, Thailand's Representative to the AICHR. This session discussed the policies and practices of the first three countries in the middle-income group namely, Indonesia, Malaysia and Vietnam. The session also featured an in-depth discussion on whether CSR should be made mandatory, and if so the requisite level of compliance. Other options to convince businesses to practice CSR such as public recognition and market access were also highlighted.

4.2 Ms Dian Anshar, NFP for Indonesia shared that CSR discourse in Indonesia had progressed beyond the initial "philanthropic" stage to a "development" approach. In the government's Medium-Term Development Plan of 2010-2014, CSR was positioned as one of the funding schemes that contributed to national development. Yet another sign of progress was how the domestic CSR agenda now also included "people's rights". Ms Anshar also highlighted the various new legislation implemented in Indonesia to tackle challenges in areas such as environment, human rights and labour practices. She pointed out that while there was no specific regulatory framework for CSR, the existing laws addressed some aspects of CSR. That said, the main challenges facing CSR in Indonesia included a lack of awareness and the need to further harmonise relevant laws to promote CSR holistically. Ms Anshar also pointed out that in addition to international NGOs, MNCs were critical actors in promoting the idea of CSR in Indonesia. She concluded by introducing a number of best practices of CSR in Indonesia.

4.3 Tan Sri Shafee Abdullah, Malaysia's Representative to the AICHR and NFP for Malaysia emphasised the central role of the state and the court in the discourse of CSR and human rights in Malaysia. Citing the Bakun Dam case to illustrate his point, he argued that the ambiguous power relationship between the state and the federal government defined in the Malaysian Constitution, and the conflicting judgments of the Courts (High Court and Court of Appeal) had caused the Bakun Dam controversy. Comparing it with the Tasmanian Dam case (Australia) which faced similar issues (but the respective verdict for both cases were different), Tan Sri Shafee underlined the necessity of establishing clear CSR provision to deal with potential environmental and human rights issues. To promote responsible conduct among businesses, Tan Sri Shafee said that it was important to regulate the CSR agenda, by way of legislation. He explained that in the on-going case of Sitto – an intelligent information company, the inefficiency of Sitto in providing accurate, real-time data had denied some individuals and businesses - including those with past records of financial embarrassment - of their “right to be forgotten” and by extension, the opportunities to be “accepted back into society”. He stressed that businesses ought to be responsible for their practices.

4.4 Mr Dinh Quang Minh, NFP for Vietnam said that since Vietnam opened up its economy, it has made significant economic progress and actively pursued integration with the global economy. Vietnam businesses were still in the early stages of development, but public awareness related to CSR had nonetheless developed quickly in recent years, partly due to media coverage of business scandals involving serious environmental pollution and commercial frauds. This also explained why issues such as addressing the negative effects of economic development to the environment, product quality, unemployment and protection of workers' fundamental rights topped the CSR agenda in Vietnam. Mr Dinh Quang Minh added that as CSR was a relatively new topic, Vietnam currently has no specific framework to address violations of CSR, but CSR-related issues were nonetheless covered under the various guidelines in Vietnam, in particular the sustainable development guidelines. He added that engaging SMEs on CSR was a major challenge as well. SMEs made up 90% of total operating companies, employed 50% of the labour market and generated 40% of GDP, but CSR awareness among SMEs was currently inadequate. That said, Vietnam placed great importance on CSR and this was reflected in the work of its agencies to promote awareness of CSR among businesses.

4.5 U Hla Myint, CEO, Kaung Myanmar Aung Foundation highlighted that it was necessary to improve partnership between government, businesses and civil society to ensure that all parties supported each other's efforts to further the CSR agenda. U Hla Myint stressed that *“human rights is an issue we cannot ignore”*. He called for regional countries to work with and support each other to efficiently use available resources for the promotion of human rights. Noting that issues such as ethical labour rights could not be ignored, he said that Myanmar was addressing this issue and cited the recent signing of an MOU between Myanmar and the International Labour Organisation as an example of Myanmar's efforts in this regard. He also highlighted the need to increase public awareness and engage the community on CSR practices, and suggested that this could be done through training programmes on CSR.

4.6 Referring to the three countries' reports and the Study report, Dr Sharon Siddique, Visiting Professorial Fellow, Lee Kuan Yew Centre for Innovative Cities pointed out that the three countries shared similar characteristics of CSR approach, which included (a) CSR practices began as philanthropy, and evolved into engagement and “license to operate”; (b) innovative “bottom of the pyramid” approaches, multi-sector partnerships were emerging; and (c) climate change and related issues were being taken seriously and were being integrated to CSR activities. Noting that the three countries' reports were very *“informative”*, Dr Siddique suggested that ASEAN and AMS develop more relevant case studies and exchange information on best practices.

4.7 Dr Seree Nonthasoot agreed that more case studies of good practices should be formulated. He also noted that more incentives were needed to encourage CSR practices. For example, businesses with good CSR practices could be recognised and rewarded.

4.8 Mr Phoukhong Sisoulath, Lao PDR's Representative to the AICHR commended the efforts made by the three countries in promoting CSR. He noted that as ASEAN was moving towards an ASEAN Economic Community in 2015, this discussion on CSR was important and well-timed. Recalling earlier discussions on CSR being soft law and human rights being hard law, he pointed out that from the country presentations so far, some laws on non-compliance of CSR principles already existed. Mr Sisoulath then pushed for ASEAN to establish a common understanding on human rights and its linkage with CSR based on existing ASEAN agreements. i.e. such as the ASEAN Human Rights Declaration (AHRD) which had provisions related to CSR principles like labour

principles and the right to development. Citing Article 6 of the AHRD which endorses the right to remedies for violations of human rights as another example, he suggested that ASEAN use these provisions as a basis to further develop the human rights aspects of CSR principles. He further suggested that ASEAN promote the CSR agenda by portraying it as a value-based investment for businesses. Mr Sisoulath felt that companies could be convinced to promote such practices if they knew the benefits of doing so, which could include access to new markets, etc.

4.9 Replying to a question on the linkage between National Human Rights Institutions (NHRI) and CSR activities, Ms Dian Anshar cited the consultation between the NFP for Indonesia and the Indonesian National Human Rights Commission as an example. On a related note, Mr Tan Sri Shafee Abdullah shared that the NHRI in Malaysia, locally known as SUHAKAM, was a government-related body, and had direct linkages with the government. This ensured that “its voice was heard by legislators”. Mr Rafendi Djamin, Indonesia’s Representative to the AICHR agreed that NHRI was unique in that it was government-related yet an independent entity. He further urged all NHRIs to work regionally and exchange ideas to promote CSR practices.

4.10 Ambassador Chan Heng Chee agreed that while laws were an important aspect of CSR implementation, the level of compliance was an issue that needed to be tackled. Offering the business perspective, Mr Andrew Chan WK, Executive Director, Sustainability Solutions, Pricewaterhouse Coopers said that based on his experience, there were concerns that imposing regulations to ensure CSR implementation could affect competitiveness and could also result in over-regulation. On rewards-based CSR implementation frameworks, he cautioned against companies adopting a mindset of “award winning”, thereby implementing CSR only as far as fulfilling the criteria for the award. He suggested that tax incentives and promoting a better understanding of the dollar value of CSR could mitigate this challenge. Mr Tan Sri Shafee Abdullah added that the judicial arm of countries also played a crucial role in ensuring CSR implementation and suggested that courts could be further educated on the details of CSR and human rights.

## 5. PRESENTATION OF COUNTRY REPORTS: SESSION 3 - PHILIPPINES AND THAILAND

5.1. The third session was chaired by Daw Khine Khine Nwe, Joint Secretary General, Union of Myanmar Federation of Chambers of Commerce. The session discussed the country reports of the remaining two countries in the middle-income group namely, the Philippines and Thailand.

5.2 Professor Juan Miguel Luz, Associate Dean, Stephen Zuellig Graduate School of Development Management, Asian Institute of Management, and NFP for the Philippines summarised the historical development of CSR concept and practices in the Philippines, where government had played the role of regulator, and large companies that of promoter and developer of CSR ideas. Even though CSR was not a new topic in the Philippines like in some other countries, Prof Luz emphasised that the Philippines faced similar challenges in the CSR agenda. It was generally difficult for SMEs to practice CSR and most companies still banked on philanthropy as a significant part of their CSR initiatives. He highlighted that a mindset shift was required to ensure that more businesses practiced CSR. On a related note, Prof Luz observed that it was second nature for larger companies to engage in CSR, but this was not the case for human rights. It was thus important to “hardwire” human rights (along with CSR) into the business DNA.

5.3 Dr Pipat Yodprudtikan, NFP for Thailand explained that Thailand had established various mechanisms to engage different stakeholders in CSR activities and human rights protection. The main actors in this context were the government, the private sector, NGOs and CSOs, and the educational institutes. Dr Yodprudtikan highlighted the results of the 2012 Stock Exchange of Thailand (SET) survey conducted on 113 listed companies to measure the CSR awareness and status in Thailand, which showed progress on core CSR subjects. The majority of companies had broad policies on fair operating practices (67%) and labour practices (59%). A smaller proportion of companies had broad policies on community involvement and development (46%), environment (39%), consumer issues (37%), and human rights (34%). In concluding his presentation, Dr Yodprudtikan



suggested establishing guiding principles on business and human rights in ASEAN, which could include “*State duty to protect people; Business responsibility to respect our community, and Access to remedy equitably*”.

5.4 Mr Yodphot Wongrukmit, Senior Executive Vice President Corporate Administration and Information Technology, The Bangchak Petroleum Plc. spoke about the company’s approach to CSR – “*CSR In-process*”, i.e. commitment to ensure that business operations benefitted society. He cited the Bangchak Petroleum’s *Community Service Station* initiative as an example, where Bangchak traded oil with Thai farmers for rice, and the rice would subsequently be donated to schools and other communities.

5.5 Highlighting the connection between CSR and human rights, Dr Srun Thirith, Cambodia’s Representative to the AICHR also pointed out the dilemma between profit-making and promoting human rights. He said that while government should be responsible for human right protection by ensuring that effective laws were implemented, the enforcement of such laws involved everyone especially the people. In this regard, understanding of the laws was important.

5.6 Ms Moe Thuzar, Lead Researcher, Socio-Cultural Affairs, ASEAN Studies Centre, Institute of Southeast Asian Studies (ISEAS) said that the two country reports reflected the potential in the region: “*legislation was in place, awareness on the rise, key stakeholders are involved, increasing identification with global norms and standards*”. She nonetheless raised concerns over the potential over-dependency of ASEAN on the “philanthropic” nature of CSR initiatives. To formulate a regional approach to CSR, she urged ASEAN to explore the role of proactive research, taking into consideration the national circumstances and interests of the respective AMS. She felt that this would not only help identify issues that needed to be addressed but also help develop processes for compliance with and identification of good practices.

5.7 Ms Ita S Mucharam, Vice President, Indonesia Global Compact Network, suggested that Public Private Partnership between government, businesses, NGOs, and community could help promote the CSR-human right agenda. She noted that the Partnership for Indonesia Sustainable Agriculture with “20-20-20” goal (20% more production, 20% more income for smallholder farmers; with 20% less greenhouse gas emission by the year 2020), for instance, had received encouraging results so far.

## 6. PRESENTATION OF COUNTRY REPORTS: SESSION 4 - CAMBODIA, LAOS, AND MYANMAR

6.1 The final session was chaired by Mr Andrew Chan WK, Executive Director, Sustainability Solutions, Pricewaterhouse Coopers. The session discussed the country report of the three AMS in the lower-income group namely, Cambodia, Laos, and Myanmar.

6.2 Citing the 2008 UNDP Study on CSR in Cambodia, Ms Kheang Ratana, NFP for Cambodia highlighted the role of MNCs in conducting CSR activities in Cambodia. However, most of these activities were philanthropic and humanitarian in nature. The concept of CSR was relatively new, and there were no separate regulations on CSR. Legal support for CSR was nonetheless provided through the Constitution and other legal instruments, and there was also a growing awareness of CSR in the private sector and civil society. In response to a question on supporting Cambodian companies to maintain competitiveness while improving their CSR-human rights practices, Ms Ratana cited the example of the state-owned rice export company Green Trade that provided farmers with loans and encouraged them to improve technology in order to improve rice quality and meet the clients’ required standards.

6.3 A similar perception and development of CSR could be observed in Lao PDR, according to Mr Sengpraarthid Snookphone, NFP for Lao PDR. He observed that despite growing public awareness of CSR in Lao PDR, CSR was still at an early stage of development, and commonly identified with philanthropy or charity. While

the Lao government had identified the State as the primary duty bearer to promote human rights and the protection of the environment, they were no specific policies on CSR. Mr Snookphone thus emphasised the need for more awareness and education on CSR as well as the establishment of a regulatory framework and enforcement of CSR practices in Lao PDR.

6.4 In his presentation on CSR *“made in Myanmar”*, Professor Aung Tun Thet, NFP for Myanmar spoke of Myanmar’s CSR agenda in the context of the country’s reform, which aimed to achieve rural development and poverty reduction (the Ends) through promoting good governance and clean government (the Means). Professor Tun Thet highlighted five CSR strategies which Myanmar pursued: (a) good corporate governance, (b) ISO 26000, (c) principles of responsible investment, (d) socially responsible investment and; (e) UN Global Compact (UNGC). The state, inter-governmental organisations, embassies and civil society were the major stakeholders. On specific regulations and goals, Professor Aung Tun Thet said that Myanmar regulations required 2-5% of net profits from FDI to be allocated to CSR activities, under the National CSR Trust Fund. He also shared Myanmar’s goal of ensuring that 1,000 local companies joined the UNGC (currently nearly 100 companies have already joined). Professor Tun Thet stressed that *“CSR must be localised”*. He observed that while philanthropy and donations were not considered CSR in the West, these two activities were nonetheless part of Myanmar corporate culture.

6.5 Ms Elaine Tan, Executive Director, ASEAN Foundation, was of the view that social enterprise was an attractive model to promote CSR practices. Social enterprise not only emphasised economic performance but also focused on social and environmental goals (Doing Good). It was neither a top-down nor bottom-up approach, but recognised the strengths and contributions of all players (Broad Players). Finally, it highlighted the shift from philanthropy to impact investment, i.e. the deployment of financial capital with responsible returns. She also pointed out that there was a need to include gender mainstreaming in this context.

6.6 Commenting on the CSR-human rights development in the region, Professor Francisco L Roman Jr, Executive Director, Asian Institute of Management, underscored that in the shift from *“generating awareness through education”* to taking concrete actions, government has been the key driver, even the *“engine”* of CSR. However, as governments had limited resources, Prof Roman Jr highlighted that it was necessary to identify other key supporting actors in this discourse on CSR.

6.7 Other issues that were raised include gender issues, identifying the *“duty bearers”* of human rights, especially the rights of transnational migrant labour and consumers along the supply chain; and ways to ensure that the relevant stakeholders, especially businesses were held accountable for their operations. While government was identified as the main duty bearer, shared responsibility between the government, corporations and investors was also important.

## 7. CLOSING SESSION

7.1 The closing session was chaired by Dr Puvan Selvanathan, Member of UN Working Group on Business and Human Rights. The session discussed the Study’s recommendations, and wrapped up the Workshop.

7.2 Dr Puvan Selvanathan stressed that *“the role of duty bearers and rights holders should not be lost in this discourse”*. He added that duty bearers and rights holders may not exclusively be states and businesses respectively given that *“Everyone has rights and also has duties”*. Dr Selvanathan also shared that the UN Working Group on Business and Human Rights was working to strengthen engagement towards the effective implementation of the UN Guiding Principles in ASEAN that would contribute to dealing with human rights challenges in the region.

7.3 In his presentation, Mr Thomas Thomas highlighted that CSR was a global trend, and AMS were already moving on CSR, albeit at different rates of implementation. He then presented the following eight policy recommendations for consideration by ASEAN and its relevant Organs, including the AICHR:

- a) The immediate priority for AMS was to accelerate and strengthen the implementation and enforcement of the existing rules and regulations that dealt directly with adverse impacts of business conducts;
- b) AMS governments needed to take leadership in encouraging and enabling businesses to implement and embed CSR values throughout their organizations. The next step was for AICHR/ASEAN to identify a body/organization to take a coordinating role, taking into account the recently established ACN;
- c) ASEAN needed to develop a CSR strategy for the grouping. This would be an expansion of the objectives of the ASEAN Community 2015 Blueprint and would bring the various aspects of CSR under one heading;
- d) More effort was needed to socialise not only CSR, but also its linkages with human rights, amongst the private sectors and the wider public;
- e) ASEAN and AMS needed to develop an ASEAN-wide CSR-Human Rights Guideline that was in line with the internationally accepted business and human rights principles;
- f) There was strong potential for the current discussion on CSR and human rights within the AICHR, and the ASEAN region, to be broadened to include other stakeholders;
- g) Greater attention must be paid to SMEs in the current discourse on CSR, as well as the wider business, and human rights linkages;
- h) A further study should be undertaken in 2 to 3 years to measure progress in AMS and recommend further steps.

In response to a question on how to push the CSR practices or the *"invisible heart"* in the business community, Mr. Thomas emphasised the need to create social norms of responsible business conduct.

7.4 Mr Edgardo Amistad, Chairman, ACN Board of Trustees; Board of Advisers, the League of Corporate Foundations, said that while he agreed with the recommendations, he was concerns about whether businesses could be made to comply with the recommendations.

7.5 Mr Benedict Cheong, CEO, Temasek Foundation suggested that AMS could come up with guidelines to help businesses promote CSR and human rights. He also urged businesses to bear in mind the importance of communication with communities – *"never be independent of them"* – as communication was essential to understand the ASEAN community's needs and to build trust. He also spoke briefly about the work of the Temasek Foundation in engaging communities to build strong institutions, where Temasek Foundation adopted the role of *"enabler"* to help communities become self-reliant, and avoid creating a culture of dependency.

7.6 Dr Alexander Chandra, CSR Thematic Study Team Member; Associate Fellow, the Habibie Center and Trade Knowledge Network (TKN) Southeast Asia Coordinator, International Institute for Sustainable Development (IISD) emphasised that the objective of the study was to understand the linkages between businesses and human rights, and use CSR as a tool to promote and protect human rights. He acknowledged the limited consultation with stakeholders in this Study, and called for further study on the CSR-human rights nexus. He also suggested that a survey on perception of business on CSR-human rights could be conducted in the future.

7.7 In his final comments, Mr Thomas Thomas summarised the key issues raised at the Workshop for the AICHR's consideration:

- a) Defining CSR – there was a need to have a common understanding of what CSR meant in ASEAN. While CSR was beyond philanthropy and charity, we also needed to bear in mind that philanthropy and charity were part of the ASEAN culture;
- b) There was a need to build up the capacity of businesses to implement CSR;
- c) Transboundary issues, in particular environmental and labour issues, were important matters that had to be tackled;
- d) Gender issues needed to be part of the CSR agenda;
- e) Social enterprises could be an important initiative to promote CSR;
- f) Some CSR-related activities must be mandated, while others could be voluntary, based on principles and values. The voluntary activities would eventually become norms when they are mainstreamed by practice;
- g) Training for judicial officers to understand CSR was needed to ensure that judicial decisions took into account society's expectations of CSR;
- h) Importance of good governance in promoting CSR practices - this could be an avenue for better management of the CSR agenda. Good governance and business integrity was also needed to tackle challenges such as corruption;
- i) Promotion of meaningful stakeholder engagement, given that the expectations of stakeholders were an essential part of CSR practices;
- j) Importance of consumers in driving the CSR agenda;
- k) Involvement of educational institutions and academia in research and the development of best practices to promote understanding and adoption of CSR practices;
- l) Disclosures of non-financial performance of businesses would be useful in promoting CSR practices, with an appropriate review system in place to ensure compliance;
- m) Rewards and incentives for good CSR practices would be useful in promoting CSR.

7.8 In closing the Workshop, Ambassador Chan Heng Chee thanked all participants, especially the study team, chairs and discussants. She said that the next step would involve the finalisation of the study report. The AICHR would also consider Dr Puvan Selvanathan's suggestion that the final report, together with an action plan, be presented at the UN Forum on Business and Human Rights to be held in Geneva (Geneva Forum) in December 2014.

7.10 Chair of the AICHR U Kyaw Tint Swe said that the AICHR would study the report and take into account the discussions at the Workshop.

## 8. CONCLUSION

Aside from raising awareness of CSR among key stakeholders in the region, the Workshop had, more importantly, provided valuable feedback on the report for the AICHR and the study team to consider before finalising their action plan.

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