

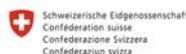


# Regional Consultation on the Right to Safe Drinking Water and Sanitation

(with an emphasis on rural communities)



25 – 27 Oct 2017  
Kota Kinabalu, Sabah, Malaysia



The Association of Southeast Asian Nations (ASEAN) was established on 8 Aug 1967. The Member States are Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand and Viet Nam. The ASEAN Secretariat is based in Jakarta, Indonesia.

This publication was prepared by the Office of the Representative of Malaysia to the ASEAN Intergovernmental Commission on Human Rights (AICHR).

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# Foreword

Water is a limited natural resource essential to life, and sanitation is fundamental to a life of dignity, health and well-being. Safe drinking water and sanitation are among the prerequisites to the realisation of a range of human rights, such as the right to food and the right to health.

This Regional Consultation brought together, for the first time, a range of government representatives and technical experts from ASEAN Member States,<sup>1</sup> human rights experts, and civil society organisations, to discuss the issues of water and sanitation from a human rights-based perspective.

Article 28(e) of the ASEAN Human Rights Declaration 2012 (AHRD) affirms the right to safe drinking water and sanitation as part of the right of every person to an adequate standard of living for himself or herself and his or her family.

Water and sanitation are rights and freedoms that carry with them obligations and responsibilities. They are not merely needs that are based on charity or voluntary commitments by States. Goal 6 (SDG 6) of the Sustainable Development Goals 2015-2030 seeks to ensure the availability and sustainable management of water and sanitation for all by 2030.

The challenge facing ASEAN is how to align the different ASEAN sectoral bodies working on these issues to ensure that no one is left behind in the fulfilment of the right to safe drinking water and sanitation. It would be useful to have an institutional framework that will allow for constructive feedback and efficient responses to handle shortcomings or limitations in the delivery of water and sanitation, especially to marginalised and vulnerable groups.

The Regional Consultation focused on rural communities as they are disproportionately represented amongst those who do not have access to safe drinking water and sanitation. Rural communities would necessarily also include indigenous peoples.

During the consultation, ASEAN Member States' representatives shared their country situations and experiences on the issues of water and sanitation, and legal and

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1 Representatives from the following ASEAN sectoral bodies were invited to the consultation: Senior Officials Meeting on Rural Development and Poverty Eradication (SOMRDPE), ASEAN Senior Officials on the Environment (ASOEN), ASEAN Working Group on Water Resources Management (AWGWRM), and Senior Officials Meeting on Health Development (SOMHD).

human rights experts spoke on international human rights norms and the realisation of SDG 6. On the final day, participants discussed in breakout groups what the right to safe drinking water and sanitation means in the ASEAN context. These discussions, together with other issues raised during the consultation, have been compiled in a document that is annexed to this report.

I would like to thank Ms Ding Jo-Ann, Consultant to the Representative of Malaysia to AICHR for her assistance in compiling the records of the proceedings and drafting this report, Ms Chuah Siew Eng for proofreading the report and Ms Chong Su Weii for preparing the design, artwork and layout for this report.

**Edmund Bon**

Representative of Malaysia to AICHR (2016-2018)

# Acknowledgements

The Regional Consultation was supported by our partners – the Human Rights Commission of Malaysia (SUHAKAM), the Sabah State Government, the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Embassy of Switzerland in Indonesia, the Swedish International Development Cooperation Agency (SIDA) and the Raoul Wallenberg Institute of Human Rights and Humanitarian Law (RWI).

## Abbreviations

AICHR	ASEAN Intergovernmental Commission on Human Rights
ASEAN	Association of Southeast Asian Nations
ASEC	ASEAN Secretariat
ASOEN	ASEAN Senior Officials on the Environment
AWGWRM	ASEAN Working Group on Water Resources Management
CESCR	Committee on Economic, Social and Cultural Rights
ESCAP	United Nations Economic and Social Commission for Asia and the Pacific
GC15	General Comment 15 on the Right to Water
ICESCR	International Covenant on Economic, Social and Cultural Rights
IWRM	Integrated Water Resources Management
SDG	Sustainable Development Goals
SDG 6	SDG Goal 6— Ensure access to water and sanitation for all
SOMRDPE	ASEAN Senior Officials Meeting on Rural Development and Poverty Eradication
UN	United Nations

## PART 1:

# Introduction

## 1. Welcome Remarks

ASEAN Intergovernmental Commission on Human Rights (AICHR) Chairperson H.E. Mr **Leo M. Herrera-Lim** opened the Regional Consultation and recounted how Philippine national hero Dr José Rizal constructed a water system for the town of Dapitan, providing townspeople with clean drinking water. This was a remarkable feat as there was no government aid provided; nor were explosives used in the construction of the several kilometres-long aqueduct. Dr Rizal's work needs to be continued, with many, especially poor and rural communities, still without access to safe drinking water and sanitation. Although significant progress has been made in improving access, even a small percentage with inadequate or no access means millions are still deprived of this basic right.

The Representative of Malaysia to AICHR H.E. Mr **Edmund Bon** welcomed participants to Sabah, Malaysia. He acknowledged the work that ASEAN Member States are already doing in fulfilling the right to safe drinking water and sanitation. This includes recognising the obligations to:

- a. **Respect** the right to water and sanitation by refraining from interfering directly or indirectly with the enjoyment of the right;
- b. **Protect** the right to water and sanitation by preventing third parties from interfering with the enjoyment of the right; and
- c. **Fulfil** the right to water and sanitation by adopting necessary measures to fully realise the right.

Mr Bon also read out the welcome remarks of Ms **Yvonne Baumann**, the Swiss Ambassador to ASEAN in Jakarta, who affirmed ASEAN and Switzerland's long-standing cooperation. She stressed that supporting the protection and promotion of human rights is a top priority for Switzerland's foreign policy.

Ms **Cynthia Veliko**, the South East Asia Regional Representative for the Office of the High Commissioner for Human Rights (OHCHR) stated that the human rights to safe drinking water and sanitation have been recognised by the United Nations. These rights are derived from the right to an adequate standard of living and inextricably related to other rights such as the right to the highest attainable standard of physical and mental health.

Efforts to improve access to water and sanitation must be guided by the human rights principles of non-discrimination and equality. This is because the poorest of people, who have contributed the least to the scarcity of water resources, bear the greatest burden of its impact. This includes the effects of climate change, which have manifested

in extreme water patterns such as flood and drought, including in South East Asia.

Ms **Veliko** emphasised the importance of States' obligations in realising the rights to water and sanitation. This includes partnering with stakeholders and continuing to monitor the activities of private service providers and providing for effective remedies.

## 2. Keynote Address

The keynote address of the Sabah Chief Minister Tan Sri **Musa Aman** was delivered by Sabah Assistant Minister Datuk **Yong Oui Fah**. The Chief Minister affirmed the right to safe drinking water and sanitation as part of the right to an adequate standard of living under Article 28 of the ASEAN Human Rights Declaration 2012 (AHRD). He lauded the first ASEAN consultation on water and sanitation discussed from a human rights perspective and with an emphasis on rural communities.

Tan Sri Musa stated that for the right to be fulfilled, safe drinking water and sanitation must be accessible, affordable, adequate and of quality. Particular emphasis must be given to the most vulnerable groups such as women, children, the elderly, persons with disabilities, indigenous peoples, migrant workers, asylum seekers and refugees. Only with these key elements, would we be able to build a sustainable and resilient ASEAN community.

It is important for all stakeholders from the multiple sectors under the different ASEAN pillars as well as national human rights institutions and civil society organisations to partner together to address the cross-sectional issues pertaining to water and sanitation. Tan Sri Musa encouraged AICHR to play an active role to formulate methods and strategies to improve human rights standards in the region.

## PART 2:

# Country Situations and Experiences

Over the course of two days, representatives from ASEAN Member States and from ASEAN sectoral bodies shared their country situations and experiences in water resources management and sanitation. Below is a consolidation and summary of their presentations. A list of the presenters and their designations can be found in Appendix 3.

## 1. Key Facts

Table 1: ASEAN Member States: Key Facts<sup>2</sup>

ASEAN Member State	Population ('000)	Total Rural Population ('000)	Land Area (KM <sup>2</sup> )
Brunei	423.0	93.0	5,765
Cambodia	15,158.2	11,975.0	181,035
Indonesia	258,705.0	119,004.0	1,913,578
Lao PDR	6,621.0	3,972.0	236,800
Malaysia	31,633.5	7,908.4	331,388
Myanmar	52,917.0	34,396.1	676,576
Philippines	103,242.9	57,816.0	300,000
Singapore	5,607.3	0	719
Thailand	67,454.7	32,378.3	513,119
Viet Nam	92,695.1	61,178.8	331,230

Table 2: Water Consumption, Non-revenue Water and Average Rainfall<sup>3</sup>

ASEAN Member State	Per Capita household consumption of water per day (L)	Non-revenue water (NRW) (%)	Average annual rainfall (mm per year)
Brunei	420	46	2,050 (coastal) >4,000 (hilly interior)

2 ASEAN Statistical Leaflet, Selected Key Indicators, 2017.

3 Information obtained from presentations during the Regional Consultation and from the ASEAN IWRM website.

Cambodia	159.1 (2007)	N/A	1,400 (central low lands) Up to 4,000 (coastal and highlands)
Indonesia	144	32.86 (2013)	N/A
Lao PDR	210 (2013)	N/A	N/A
Malaysia	209	35.2	2,940
Myanmar	160	40	<1,000mm in the central regions and about 4,500mm in the coastal regions
Philippines	N/A	N/A	965 - 4,064
Singapore	148 (2016)	5	2,000
Thailand	150 (2013)	25 - 30 (2013)	1,426
Viet Nam	100 - 160	23.5 - 24	1,960

**Table 3: Access to Safe Drinking Water and Sanitation<sup>4</sup>**

ASEAN Member State	Access to safe drinking water (2017)	Access to safe drinking water in rural communities	Access to adequate sanitation (2017)	Access to adequate sanitation in rural communities
	(% of population)			
Brunei	99.9	-	86.7	-
Cambodia	59.2	46	61.8	46
Indonesia	71	60.7	62.1	N/A
Lao PDR	61.4	N/A	73.2	N/A
Malaysia	95.1	95.87	99.5	96.04
Myanmar	80	N/A	80	N/A
Philippines	86	N/A	94	N/A
Singapore	100	-	100	-
Thailand	97	N/A	100	N/A
Viet Nam	93	87	83.6	72

<sup>4</sup> Information obtained from ASEAN Statistical Leaflet, Selected Key Indicators 2017 and from presentations during the Regional Consultation.

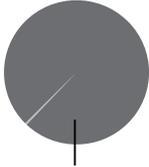
**Table 4: National Targets for Access to Safe Drinking Water and Adequate Sanitation<sup>5</sup>**

ASEAN Member State	Target Date (Year)	Access to safe drinking water (% of population)	Target Date (Year)	Access to adequate sanitation (% of population)	Plan
Brunei	-	-	-	-	
Cambodia	2014 - 18	60	2014 - 18	60	• National Action Plan for Rural Water Supply, Sanitation and Hygiene 2014 – 2018
	2025	100	2025	100	
Indonesia	2019	100	2019	100	• Medium Term Development Plan RPJMN 2015-2019
Lao PDR	2020	100	2020	100 (urban population)	• National Growth and Poverty Eradication Strategy (2004)
			80 (rural population)	• National Action Plan for Rural Water Supply, Sanitation and Hygiene	
Malaysia	2020	99	-	-	• 11th Malaysia Plan 2016-2020
Myanmar	2020	70	2020	80	• National Strategy for Rural Water Supply, Sanitation and Hygiene (WASH)
	2025	85	2025	90	
	2030	100	2030	100	• WASH in Schools and WASH in Health Facilities (2016-2030)
Philippines	2025	100	2028	100	• Philippine Water Supply Sector Roadmap
	2030	70 (access to piped water)			• Philippine Sustainable Sanitation Sector Roadmap
Singapore	-	-	-	-	
Thailand	-	-	-	-	
Viet Nam	2030	100	2025	100	• Commitment at Sanitation and Water for All Global Partnership Forum 2014  • Rural Water Supply and Sanitation Strategy to 2020

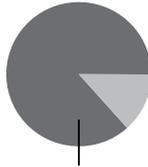
5 Data obtained from presentations during the Regional Consultation.

## 2. Country overviews

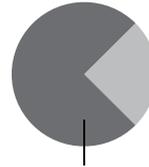
### i. Brunei Darussalam



99.9% of Brunei's Population have access to safe drinking water



86.7% of Brunei's Population have access to sanitation facilities



75% of the country's land consists of river catchment

#### **General Information**

Almost all of Brunei's population of 423,000 have access to safe drinking water and about 86.7% have access to sanitation facilities. A small percentage (about 0.1%) of Brunei's population lack access to safe drinking water. Efforts have been made for such rural areas to use a sand filtration system to obtain clean water.

Public water supply relies on surface water resources. About 75% of the country's land consists of river catchment.

Brunei applies a uniform water tariff for all users.

#### **Water and Sanitation Agencies**

- a. Department of Water Services
- b. Drainage and Sewerage Department

Both these departments are part of the Public Works Department in the Ministry of Development. They are responsible for providing clean, safe, affordable, and continuous water supply; and to provide adequate and efficient drainage and sewerage facilities.

#### **National Plans / Strategies**

Brunei has long-term goals to ensure continuous, safe, reliable and adequate water supply. This includes construction of infrastructure such as treatment plants, dams, pipe lines and new reservoirs and tanks. It is also raising dam walls and upgrading treatment plants.

Two barrages have been constructed to prevent saline intrusion and regulate river flow.

Brunei also collaborates with PUB, Singapore's National Water Agency, and has an exchange programme with them.

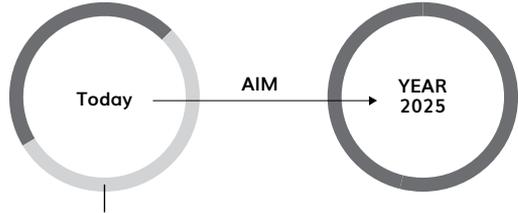
## Key Water Laws

### Water Supply Act

#### ii. Cambodia



12mil out of 15mil of Cambodia's population live in rural areas



54% of people in rural areas are without access to safe drinking water and adequate sanitation

Aims to achieve universal coverage for safe drinking water and sanitation by 2025

#### General Information

About 12 million out of Cambodia's population of 15 million people live in rural areas. The country has made significant progress in providing access to safe drinking water and adequate sanitation in the last decade. The number of people in rural areas without such access is still high at about 54%. Cambodia aims to achieve universal coverage for safe drinking water and sanitation by 2025.

#### Water and Sanitation Agencies

- Department of Rural Water Supply**, Ministry of Rural Development—responsible for rural water supply and sanitation.
- Department of Potable Water Supply**, Ministry of Industry and Handicraft—responsible for urban water supply, including licensing of water operators.
- Ministry of Public Works and Transport** – responsible for urban drainage, sewerage and operation of treatment plants.
- Phnom Penh Water Supply Authority** – responsible for treatment and distribution of water in Phnom Penh and the urban areas of Kandal province.

#### National Plans / Strategies

National Action Plan for Rural Water Supply, Sanitation and Hygiene 2014–2018

The Cambodian government has initiated a decentralisation process, with technical working groups set up at the national level as well as sub-national level. This process aims to clarify the roles at the provincial and district levels and to better engage with the local communities.

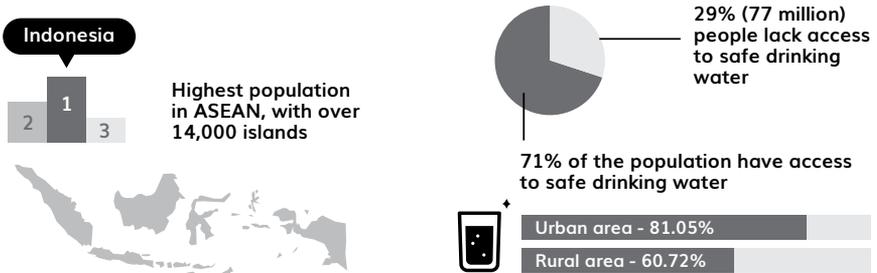
Cambodia is also developing the legal framework for the water and sanitation sector,

and there are plans to establish an independent water regulator.

### iii. Indonesia

#### **General Information**

Indonesia has the highest population of the ASEAN Member States and is an archipelago with over 14,000 islands. This has posed challenges for water distribution and provision of sanitation.



Indonesia managed to surpass its Millennium Development Goals target of 68.87% for safe drinking water, with 71% of the population having access to safe drinking water. In urban areas, this percentage is higher at 81.05% and for rural areas, it is 60.72%. About 77 million people still lack access to safe drinking water. Indonesia aims for 100% of its population to have access to safe drinking water and adequate sanitation by 2019.

The disparity between urban and rural areas is wide. This disparity can also be seen amongst the different islands, with Java, the most populous island, having generally better access to water than other islands.

#### **Water and Sanitation Agencies**

- a. **Public Works Ministry** – water and sanitation infrastructure.
- b. **Health Ministry** – public education and standard-setting for drinking water quality.
- c. **National Development Planning Ministry (BAPPENAS)** – heads the national-level technical working group which is responsible for coordination and implementation of water and sanitation policies.
- d. **Technical Working Group for Water and Sanitation (POKJA–AMPL)**. At the national level, this working group is headed by BAPPENAS and has representatives from eight different line ministries such as the Health, Education and Public Works Ministries. It is in charge of coordination and implementation of policies.
- e. **Technical Working Groups for Water and Sanitation (POKJA – AMPL)**. At the

local level, this comprises local government agencies responsible for water supply and sanitation.

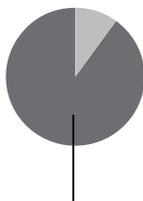
### National Plans / Strategies

Medium Term Development Plan RPJMN 2015-2019: Indonesia aims to have 100% access to safe drinking water and sanitation by 2019.

There are three main strategies for achieving this target:

- a. **Construction of infrastructure**, for example, construction and upgrading of water treatment plants, replacement of old pipes.
- b. **Assistance for provincial/local government**: Strengthen local institutions and improve financial capacity.
- c. **Community participation**: Involving the community in developing water supply and sanitation systems, especially in rural areas.

### iv. Lao People's Democratic Republic (Lao PDR)



90% of Lao PDR is located in the Mekong river basin

Surface water gathered from 62 sub-river basins



Water resources per capita- 55,000m<sup>3</sup>

### General Information

About 90% of Lao PDR is located in the Mekong river basin. The amount of water resources per capita is about 55,000 m<sup>3</sup> per year. Lao PDR's abundant water resources are mostly derived from surface water, gathered from a total of 62 sub-river basins. In terms of access to safe drinking water and sanitation, Lao PDR has one of the lower percentages of access compared with other ASEAN countries. However, Lao PDR has experienced significant economic growth in the past decade, which has also greatly improved access to safe drinking water and sanitation.

### Water and Sanitation Agencies

- a. **Water Resources Department**, Natural Resources and Environment Ministry—integrated water resources management.
- b. **Public Works and Transportation Ministry**:
  - i. **Water Supply Department**: supply of water.

- ii. Sanitation Division: sanitation in urban areas.
  - iii. Provincial Department of Public Works and Transport: supervisory role over district offices and planning of urban and rural infrastructure for water supply and sanitation systems.
  - iv. Department of Urban Housing and Planning (DUHP): implements decentralised wastewater management system.
- c. **National Centre for Environmental Health and Water Supply** (Nam Saat), Health Ministry – responsibility for water supply, sanitation and hygiene in rural areas and kum ban (village).

### National Plans / Strategies

Lao PDR's National Growth and Poverty Eradication Strategy (2004) and National Action Plan for Rural Water Supply, Sanitation and Hygiene aim to achieve 100% universal coverage for safe drinking water and 100% adequate sanitation for urban areas and 80% for rural areas by 2020.

Lao PDR has developed a National Water Resources Strategy 2020 which aims to ensure sustainable development and management of water resources.

The Ministry of Natural Resources and Environment was set up in 2011 under which the Department of Water Resources is situated. A Water Resources Sub-Sector Working Group has been formed. Nine technical guidelines have been established such as on river basin planning and information sharing. Integrated water resources management practices are being applied in six river basins and 13 sub-basins.

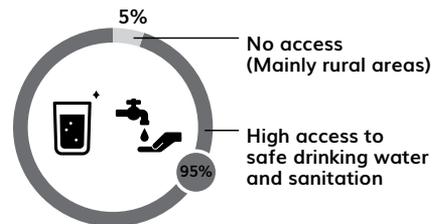
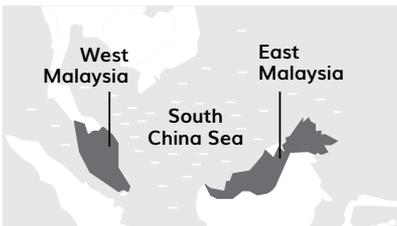
Integrated water resources management degrees for the Bachelor's and Master's levels have also been developed with local universities.

### Key Water Laws

#### Water Supply Law

Lao PDR is in the midst of revising its water law and seven related legislations.

### v. Malaysia



Access to safe drinking water and sanitation

## General Information

Malaysia consists of West and East Malaysia, separated by the South China Sea. Malaysia derives its water sources from both surface water and ground water. Access to safe drinking water and sanitation is generally high at over 95% of the population. There are however still areas with no access to clean water or adequate sanitation, mostly in the rural communities.

There is a uniform tariff-setting mechanism in Peninsular Malaysia. Any increase in water tariff requires approval from the government.

## Water and Sanitation Agencies

- a. **State Governments** – in charge of water sources.
- b. **Department of Irrigation and Drainage**, Natural Resources and Environment Ministry — manages the national hydrological network; responsible for river basin, coastal zone and flood management.
- c. **National Water Resource Commission (SPAN)**, Energy, Green Technology and Water Ministry — regulator for water supply and sanitation services; regulates entire chain of water, and sewerage services include water supply and sewerage operators, contractors, plumbers, manufacturers and suppliers.
- d. **Health Ministry** — standard-setting for water quality; also provides water supply systems and sanitation for rural areas as an interim measure, with an emphasis on the need to protect public health.
- e. **Rural and Regional Development Ministry** — creates projects for rural communities to provide them with water supply and sanitation.
- f. **Federal Land Development Authority (FELDA)** — water supply and sanitation for FELDA settlers.
- g. **Department of Orang Asli Development** — water supply and sanitation for indigenous peoples.
- h. **Private operators** — mostly for plantation estates.

## National Plans / Strategies

The National Water Resources Policy 2012 sets out the policy directions and strategies to ensure water resources security and sustainability. The policy also provides for cooperation and collaboration with the various stakeholders in water-related matters.

Malaysia has undergone a water reform exercise for the past 10 years to provide a clear demarcation and legal framework in managing water services and wastewater. The reforms aim to:

- a. Put in place a clear policy and legal framework for the water services industry;
- b. Provide development of capital works to meet demand requirements;
- c. Increase efficiency and effectiveness in services provided by licensees; and
- d. Promote transparency and effective participation from stakeholders.

A new funding mechanism has been developed where the Water Asset Management Company (PAAB), which is regulated by SPAN, owns water assets and sources for competitive funding for the building of new infrastructure. Water operators lease the water assets from PAAB and can thus focus more on the operation and maintenance of the water supply systems.

### Key Water Laws

National Services Commission Act 2006

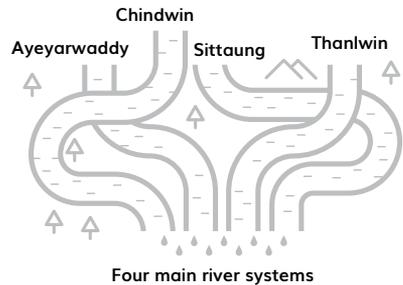
Water Services Industry Act 2006

The National Resources and Environment Ministry is heading the drafting of a new water law to standardise the management of water resources. It is expected to be tabled in 2018.

## vi. Myanmar

### General Information

Myanmar has an abundance of water sources. There are four main river systems – the Ayeyarwaddy, Chindwin, Sittaung and Thanlwin Rivers, with water resources potential in each basin. Access to safe drinking water and sanitation has improved with Myanmar's economic situation. As with other countries, there are disparities between urban and rural access.



### Water and Sanitation Agencies

Myanmar has many water-related agencies, and better cooperation and coordination is needed amongst them. The main ones dealing with drinking water and sanitation are listed below.

- a. **National Water Resources Committee** — consists of representatives from different line ministries as well as the mayors of major cities; responsible for formulating and implementing an integrated water management system; assisted by an Advisory Group which provides technical advice; chaired by Myanmar's Vice-President.
- b. **Health and Sports Ministry** — monitors national drinking water quality standard; also responsible for water and sanitation in health facilities.
- c. **Yangon, Mandalay and Naypyitaw City Development Committees; Rural Development Department, Agriculture, Livestock and Irrigation Ministry** — ensures adequate water supply and sanitation for their respective areas.

- d. **Basic Education Department**, Education Ministry — water, sanitation and hygiene in schools.
- e. **Meteorology and Hydrology Department**, Transport Ministry — conducts water assessment of major rivers.
- f. **Human Settlement and Housing Development Department**, Construction Ministry — responsible for domestic water supply for new developments.
- g. **Relief and Rehabilitation Department** — emergency water supply and sanitation.

### National Plans / Strategies

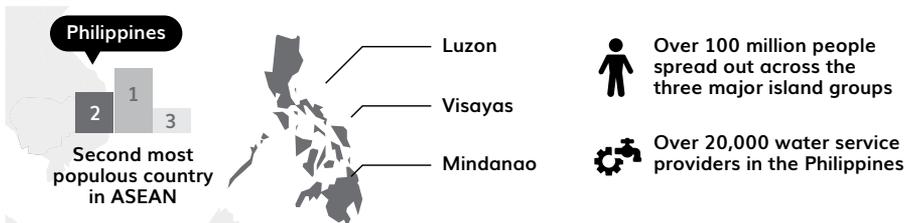
National Water Policy 2014

### Key Water Laws

The Advisory Group to the National Water Resources Committee is preparing a National Water Law for Myanmar.

Existing water laws include the Conservation of Water Resources and Rivers Law 2006.

### vii. Philippines



### General Information

The Philippines is the second most populous ASEAN Member State with over 100 million people spread out across the three major island groups of Luzon, Visayas and Mindanao. There are about 2,000 inhabited islands in the archipelago.

Water and sanitation services are the responsibilities of local area authorities in the Philippines. There are over 20,000 water service providers in the Philippines. The water regulator, the National Water Services Board, has adopted a light-handed policy on regulation. Smaller service providers are subject to lesser requirements and less complicated water tariff computations.

### Water and Sanitation Agencies

There are currently 30 agencies involved in the water sector and there is no single national agency responsible for the sector's overall coordination.

- a. **National Water Resources Board** — lead agency for adoption of integrated

water resources management; in charge of coordinating water resources development activities, formulation of policies, supervision of water utilities and regulation of water rates; regulates the cooperative and private firms.

- b. **Environment and Natural Resources Department** — responsible for maintaining desirable water quality and implements water quality management programmes.
- c. **Public Works and Highways Department** — flood control and drainage infrastructure.
- d. **Health Department** — monitors drinking water quality and regulates premises with sanitation installations.
- e. **Interior and Local Government Department** — provides technical assistance to local government units in the management of water and sanitation services.
- f. **Metropolitan Waterworks and Sewerage System** — responsible for water and sanitation services in Metro Manila, parts of Cavite and the province of Rizal.
- g. **Local Water Utilities Administration (LWUA)** — in charge of local water districts; reviews rates of local water utilities.
- h. **Local Government Units (LGU)** — run their own water and sanitation system for their respective areas.

### **National Plans / Strategies**

Philippine Water Supply Sector Roadmap and Philippine Sustainable Sanitation Roadmap

National Sewerage and Septage Program

There is advocacy for a Water Regulatory Commission to be set up, which would be a central, independent regulatory body.

### **Key Water Laws**

1987 Philippine Constitution, Article 8

Magna Carta of Women

Water Code of the Philippines 1976 and Implementing Rules and Regulations

National Water Crisis Act 1995

Environmental Code 1997

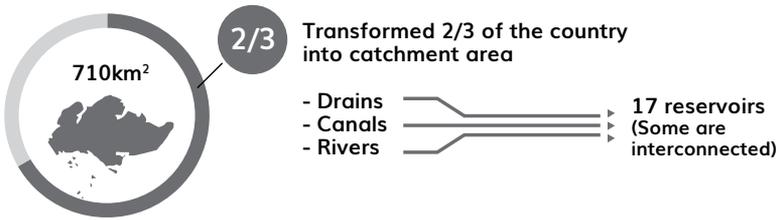
Clean Water Act 2004

## **viii. Singapore**

### **General Information**

Singapore is a city state and does not have a rural population. It has achieved remarkable progress in the areas of water and sanitation. In the 1950s and 60s, like many of its ASEAN neighbours, Singapore had polluted water ways and lacked proper sewage facilities, leading to rivers being turned into open sewers. It now has universal

access to safe drinking water and sanitation.



Singapore still depends in part for water supply from neighbouring Malaysia. Working towards self-sufficiency has led Singapore to many innovations and a well-planned water and sanitation policy. With an area of about 710km<sup>2</sup> and growing urban areas, Singapore lacks the space to collect and store all the rain that falls on it. It has transformed two-thirds of the country into a water catchment area, using drains, canals and rivers to channel water to its 17 reservoirs, some of which are interconnected.

All used water (wastewater) is collected for treatment before being discharged into the sea. A portion of treated used water is recycled using membrane technology to produce ultra-clean, high-grade reclaimed water (NEWater). NEWater is well within drinking water guidelines set by the United States Environmental Protection Agency (USEPA) and the World Health Organisation (WHO). Singapore also conducts desalination, with the aim that by 2060, up to 30% of daily water needs will be met by desalinated water.

Water is not subsidised in Singapore and reflects the full cost of production and the scarcity value of water resources. In other words, water is priced at the cost of producing the next alternative drop. All public housing households built by the Housing Development Board are eligible for the U-Save rebates provided by the government to offset part of the household's utilities bills and serve to lower household expenses.

### Water and Sanitation Agencies

There is only one agency that manages both water and sanitation in Singapore—PUB, Singapore's National Water Agency.

### National Plans / Strategies

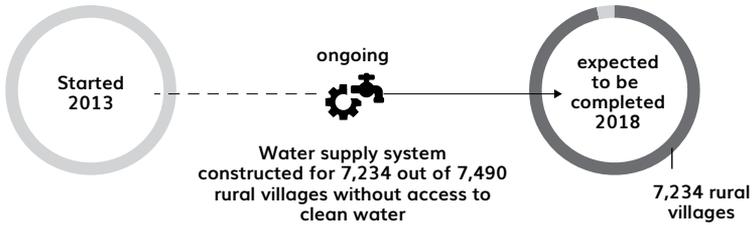
It aims to reduce per capita household consumption from the current figure of 148 litres per day to 140L per day by 2030.

### Key Water Laws

Public Utilities Act

Sewerage & Drainage Act

## ix. Thailand



### General Information

Thailand has abundant water resources. It experiences seasonal floods in the wet season and drought in the dry season.

Thailand generally has high access to safe drinking water and sanitation, with continued efforts on ensuring access to rural communities. An ongoing project, started in 2013 and expected to be completed in 2018, has to date resulted in water supply systems being constructed for 7,234 out of 7,490 rural villages without access to clean water.

Local government and municipal authorities are the main agencies that provide safe drinking water and adequate sanitation to the people in Thailand.

### Water and Sanitation Agencies

- a. **National Water Resources Committee** — coordination of water resources management.
- b. **Water Resources Department**, Natural Resources and Environment Ministry
- c. Local Administration Department.
- d. **Health Ministry** — monitoring of drinking water.
- e. **Community Development Department**, Interior Ministry — improvement of quality of life for rural areas.
- f. **Groundwater Resources Department** — oversees the development and management of integrated groundwater resources.
- g. Four main organisations are responsible for supplying water and sanitation services:
  - i. **Metropolitan Waterworks Authority (MWA)** — provinces of Bangkok, Nonthaburi and Samutpakan
  - ii. **Provincial Waterworks Authority (PWA)**
  - iii. **Municipal Water Supply (MW)**
  - iv. **Private Water Supply companies**

### National Plans / Strategies

The 12th National Economic and Social Development Plan 2017–2021 plans to pass a Water Resources Bill to be the principal law for water resources management. The law should establish a National Committee on Water Resources Management

to formulate policies and strategic plans for the development and management of water resources.<sup>6</sup> It should also include formulating a national database and annual integrated budget plans for water resources.

Thailand aims for non-revenue water (water that is produced and lost before it reaches the consumer) to be lower than 20% in the Bangkok Metropolitan Region, and less than 25% in provincial areas by 2021.

Strategic Plan on Water Resources Management 2015-2026

**Key Water Laws<sup>7</sup>**

Civil and Commercial Code 1939

Royal Irrigation Act 1942

Private Irrigation Act

Groundwater Act, 1977

Canal Maintenance Act 1903

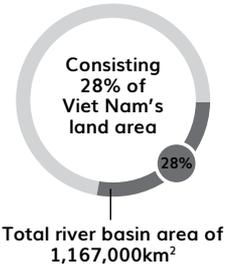
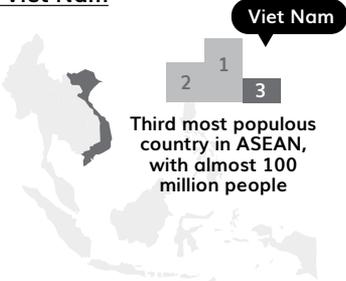
Waterworks Canal Maintenance Act 1983

Navigation in the Thai Water Act 1913

Enhancement and Conservation of Enhancement and Conservation of Environmental Quality Act 1992

There is currently no national water law. Previous drafts proposed have not been adopted.

**x. Viet Nam**



**General Information**

Viet Nam is the third most populous ASEAN Member State with almost 100 million people. Viet Nam has over 3,000 rivers with a total river basin area of 1,167,000km<sup>2</sup>,

6 [http://www.nesdb.go.th/nesdb\\_en/ewt\\_w3c/ewt\\_dl\\_link.php?nid=4345](http://www.nesdb.go.th/nesdb_en/ewt_w3c/ewt_dl_link.php?nid=4345)

7 [http://www.narbo.jp/data/01\\_events/materials/tw03\\_5\\_1\\_1\\_3.pdf](http://www.narbo.jp/data/01_events/materials/tw03_5_1_1_3.pdf)

consisting of 28% of Viet Nam's land area. Thirteen rivers have a basin area of over 10,000km<sup>2</sup>, of which nine are international rivers. Viet Nam's water sources are from a combination of surface and groundwater with the biggest groundwater reserves found in the Red River and the Mekong River Delta.

Three quarters of Viet Nam consists of hills and mountain. Average rainfall is 1960mm a year. Rainfall is unevenly distributed, ranging from 600mm in the coastal areas of Ninh Thuan and Binh Thuan to 5,000mm in mountainous areas. Viet Nam experiences about 10 to 15 typhoons per year. This poses challenges in the delivery of universal water and sanitation.

Viet Nam has made considerable progress in improving access to water and sanitation in the country in both urban and rural areas. It has also greatly reduced the amount of open defecation practices in the country.

As of April 2017, there were 805 cities in Viet Nam, classified into six grades as follows: two special urban centres, 17 Grade I centres, 25 Grade II centres, 44 Grade III centres, 84 Grade IV centres and 633 Grade V centres. The urbanisation rate is estimated at 37%.

The average water use is between 120L and 160L per person per day and differs from each urban centre. Non-revenue water was between 23.5% and 24% in 2016. Viet Nam aims for the average rate of loss of clean water to be 18% by 2020 and 15% by 2025.

### **Water and Sanitation Agencies**

- a. **National Water Resources Committee** — coordinating body for water resources management.
- b. **Natural Resources and Environment Ministry** — in charge of water resources and wastewater discharge, licensing and protection of water resources.
- c. **Agriculture and Rural Development** — investment and construction of infrastructure, monitoring and evaluation.
- d. **Health Ministry** — monitors drinking water quality; promotes household sanitation and hygiene.
- e. **Education and Training Ministry** — provision of school water and sanitation facilities.

### **National Plans / Strategies**

National Strategy for Rural Water Supply and Sanitation — aims for 100% access to standardised water with household consumption of 60L per capita per day by 2020. Also aims for 100% access to hygienic latrines and personal hygiene by 2020.

National Target Program on Building New Rural Areas 2016–2020 — aims for 95% of the rural population to have access to clean water, of which 60% use clean water that

meets Health Ministry standards; also aims for 100% of schools and commune health stations to have clean water supply and hygienic latrines.

The development plan for Viet Nam's urban water supply and industrial zone aims for coverage of clean water supply for the urban system to reach 85% to 95% by 2020 and 100% by 2030. By 2050, the aim is to be able to meet all needs and ensure safe water supply for daily life and sufficient production for urban, residential and industrial areas.<sup>8</sup>

### **Key Water Laws**

Law on Water Resources — established a National Water Resource Council dealing with coordination of water resource management.

Decree No 33/2017 — sanctions for administrative violations in the minerals and water resources sectors.

Circular No. 27/2014/TT-BTNMT — regulates the registration for groundwater exploration registration and discharge of wastewater into water sources.

Circular No. 24/2016/TT-BTNMT — regulates the identification and publication of Sanitary Protection Zones for Domestic Water Supply Sources.

Directive 1118/2014/CT-BNN-TCTL — strengthening management, operation and exploitation of rural water supply facilities.

Decision No. 104/2000/QĐ-TTg — National Strategy for Rural Water Supply and Sanitation to 2020.

Decision No. 1600 /QĐ-TTg/2016 — National Target Program on Building New Rural Areas in the period of 2016-2020.

QCVN 02: 2009/BYT — national technical regulation on domestic water quality.

## **3. Challenges and Best Practices in ASEAN Countries**

Below is a consolidation and summary of the challenges faced by ASEAN countries in the provision of safe drinking water and sanitation, as well as some of the best practices shared during the Regional Consultation.

### **Increased Demand and Public Education**

Increased demand for water due to population growth and social and economic development is a common theme for ASEAN Member States. This is exacerbated in some countries by high consumption and wastage, including through leakages, with

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8 Information supplemented by Water Resources Department, Viet Nam.

rates of non-revenue water as high as 46% recorded.

All ASEAN Member States reported carrying out public education as part of their efforts to manage water resources with awareness programmes conducted on clean water, sanitation and hygiene.

Brunei organises school trips to water treatment plants to educate students about water treatment and conservation. Cambodia carries out public education on basic sanitation and hygiene practices in schools, health facilities and pagodas. Brunei also holds events to commemorate World Water Day to promote public awareness.

Singapore has rolled out a long-term programme called Active, Beautiful, Clean Waters (ABC Waters) Programme which will bring the public even closer to water so that they can better appreciate it. This programme transforms the drains, canals and reservoirs into vibrant streams, rivers and lakes, creating beautiful new spaces for the community. To reduce household consumption of water, Singapore has also made it mandatory for all fittings and appliances, such as taps and washing machines, to be labelled with water efficiency standards.

There are also community-based education projects, such as the Community Led Total Sanitation programme (CLTS) practised in Lao PDR and Viet Nam. This is a bottom-up programme that encourages the community as a whole to end open defecation and come up with their own sanitation solutions.

### **Financial Sustainability**

Several countries reported large financial shortfalls in achieving their targets for universal access to safe drinking water and basic sanitation.

To achieve its accessibility targets for water and sanitation, Myanmar requires a total investment of US\$11.4 billion (including user contribution) and currently has a shortage of US\$800 million a year. Cambodia requires funding of US\$211 million a year to be able to achieve its target of universal coverage by 2025.<sup>9</sup> For Philippines to meet the SDG 6 targets of universal coverage by 2030, current investment levels need to increase fivefold.

In Indonesia, the local government has primary responsibility for ensuring access to water and sanitation, including financial responsibility. But, due to financial constraints, they are still very dependent on the central government for funds, which

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<sup>9</sup> <https://www.wsp.org/sites/wsp.org/files/publications/WSP-Cambodia-WSS-Turning-Finance-into-Service-for-the-Future.pdf>, p5

faces budgetary constraints of its own.

To incentivise local governments to expand their water and sanitation networks, Indonesia carried out the Water and Sanitation Hibah programme with support from the Department of Foreign Affairs and Trade Australia (DFAT) and USAID. Local governments were tasked with establishing new water and sanitation connections and were reimbursed after the new connections were verified. This performance-based incentive was aimed at raising the local government's sense of ownership towards providing access to water and sanitation to the areas they served.

Another Indonesian project, PAMSIMAS, provides grants directly to local communities. This is a bottom-up approach where communities plan for, operate and manage the water and sanitation infrastructure. The community is also provided with technical assistance as well as training and education on ways to improve sanitation and hygiene.

The Malaysian water and sanitation regulator, the National Water Services Commission (SPAN), has revamped the national financial structure for water and sewerage infrastructure. All water assets and sources are owned by the national Water Asset Management Company (PAAB), which sources for funding for the construction of new infrastructure such as water treatment plants or distribution systems. PAAB then leases these water and sanitation assets to the operators. As the operators are asset-light, they are thus able to focus on operations and maintenance without having to raise large amounts of funds to purchase water supply systems.

In Philippines, the Salintubig programme provides grant financing for poor municipalities to construct potable water systems.

There are also privately funded community projects such as the Singapore International Foundation (SIF)'s Water for Life programme, which provides clean water systems such as bio-sand water filters, tube wells and membrane water filters directly to rural communities in the ASEAN region.

### **Geographical Challenges**

There are geographical challenges to providing universal access to safe drinking water and adequate sanitation. Viet Nam has rural populations living in mountainous regions, some of which are difficult to access. Indonesia and Philippines are large populous archipelagos. Malaysia also has remote areas, especially in Sabah and Sarawak, with some villages consisting of just 20 houses with no roads, electricity or basic amenities. Such conditions make it difficult and expensive to ensure that the entire population has access to clean water and adequate sanitation.

Different methods have been used to provide water to remote, rural areas. Although piped water may be more challenging to provide, other systems have been introduced, such as gravity-fed water systems, sand filtration systems, and encouraging rainwater harvesting and home water treatment.

Since 2013, Thailand has embarked on a systematic process to provide access to safe drinking water and sanitation to all rural villages in a joint effort between the Department of Local Administration and the local administrative organisations. It has supplied over 7,000 villages with water supply systems and anticipates that this process will be completed for the remaining 256 rural villages by 2018.

In Malaysia, the Ministry of Health provides basic water supply and sanitation systems for rural areas that do not yet have access to these facilities as a temporary measure to prevent the spread of diseases and for improved public health until proper amenities can be provided. Its BAKAS project has supplied sanitary latrines, sullage disposal as well as solid waste disposal.

### **Human Resources**

Some Member States reported a lack of skilled personnel in water management. In Lao PDR, for instance, there is a need for staff who are knowledgeable and concerned about river basin planning and management. Staff capacity needs to be strengthened and there needs to be more on-the-job training. Lao PDR has developed Bachelor's and Master's degrees in integrated water resources management in its effort to train more skilled personnel in this area.

In Philippines, the National Water Resources Board has developed a training programme for smaller utilities. Called the Accreditation Program for Technical Service Providers (ATSP), this programme trains a pool of technical and financial consultants to serve the needs of small utilities. It has shown positive results in building the capacity of these utilities especially in the areas of business planning and operations.

### **Environmental Degradation and Climate Change**

Many ASEAN Member States reported threats to water sources due to environmental degradation and the effects of climate change. Some ASEAN Member States have experienced extreme and unusual weather conditions. Viet Nam, for example, has been experiencing snow, which it did not before. Seasonal floods and droughts have intensified, posing more challenges to providing access to water and sanitation. Emergency responses for the provision of clean water and sanitation facilities also need to be improved after environmental disasters such as typhoons and floods.

Environmental degradation has also been caused by increased development, such as through loss of forest cover and catchment areas due to deforestation. Myanmar, for instance, has changed its economic policies in the past decade, and this has led to

greater local and international investment and development in the country. However, this, in turn, has led to pollution of water sources, especially near mining areas.

### **Transboundary Cooperation**

There is a need to coordinate between countries that share international rivers. Viet Nam, for example, has nine river basins that are shared with ASEAN countries. Daily changes in the water level can range from 0.5m to 1.5m. There is increased erosion or change of flow regime and salinity intrusion, and also reduction of alluvial and water quality.

### **Monitoring and Evaluation**

Better monitoring and data collection is needed across the board. Disaggregated data, especially by gender and ethnicity, are needed to assess whether any specific groups are being systematically left out.

National environmental quality standards need to be clearly stated and accessible.

To improve data collection, Philippines carried out the first national survey of water service providers (Listahang Tubig). This database contains water providers' details, profiles and service levels. It also provides key performance indicators of piped connection service providers, providing a basis for comparison and review.

### **Wastewater Treatment and Research**

In many ASEAN countries, a large amount of wastewater is not being treated before being discharged. This is with the exception of Singapore, which processes its wastewater and recycles a portion, treating it to potable standards.

Singapore has invested substantially in research and development in order to bring water treatment costs down. It partners with the private sector and is a hub for a growing number of local and international water companies focusing on water research.

### **Water Laws**

Not all ASEAN Member States have a comprehensive water law guaranteeing water and sanitation as a right and regulating the provision of water and sanitation as a whole.

A few countries, such as Malaysia and Myanmar, are in the midst of preparing draft water bills for adoption. Lao PDR is also revising and consolidating its water-related legislation.

### **Coordination Between Water and Sanitation Agencies**

It was evident during the Consultation that the management of water and sanitation involved many different agencies and ministries. Overlapping functions and a lack of

coordination between agencies lead to inefficiencies.

Some countries have different water and sanitation providers in different regions. In Philippines, for example, decentralisation of water and sanitation facilities has resulted in over 20,000 service providers in the country.

Many Member States reported needing to strengthen cross-sector collaboration between the different agencies. Some countries had set up national water resource commissions or committees for better coordination.

### **National Human Rights Institutions**

National human rights institutions have also played a part in promoting water and sanitation as human rights.

In Indonesia, a special team was formed and conducted a two-year inquiry on karst-related conflict in Indonesia, resulting in a set of recommendations being presented to the Indonesian President.

### **Indigenous Peoples**

In general, a large number of indigenous peoples in the ASEAN region live in rural communities and have faced challenges in accessing clean water and basic sanitation. In some countries, they also face challenges in being recognised as indigenous peoples. For a list of country examples of indigenous peoples facing challenges in accessing clean water and sanitation, see the presentation of Ms **Joyce Godio**, from Asia Indigenous Peoples Pact (AIPP), found in Appendix 4.

### PART 3:

## Water and Sanitation as a Human Right

Ms Virginia Dandan, a human rights expert, shared about the international human rights framework regarding water and sanitation as human rights.<sup>10</sup> Ms Dandan was the chairperson of the UN Committee on Economic, Social and Cultural Rights (CESCR) when General Comment 15 (GC15) on the right to water was adopted in 2002.

CESCR stated that the right to water emanates from Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which guarantees the right to an adequate standard of living. The right to water is also inextricably linked to Article 12, on the right to the highest attainable standard of physical and mental health.

The right to water means that water must be **available** in sufficient and continuous supply for personal and domestic uses; be of good and safe **quality**, and be **accessible** without discrimination on any of the prohibited grounds. Water must also be **affordable** and within safe, physical reach. Accessibility also includes the right to seek, receive and impart information concerning water issues.

GC15 also set out state obligations to **respect** the right to water by refraining from interfering directly or indirectly with the enjoyment of the right; **protect** third parties from interfering with the enjoyment of the right, including by adopting legislative and other measures; and **fulfil** the right to water by adopting all necessary measures to facilitate improved and sustainable access to water, particularly in rural and deprived urban areas.

Three years after GC15 was adopted, the UN established the Special Procedures mandate on the right to water and sanitation and appointed the first Special Rapporteur (formerly called Independent Expert).

In 2010, CESCR issued a Statement on the Right to Sanitation. It affirmed that as with the right to water, the right to sanitation is an essential component of Article 11 of the ICESCR and integrally related to other Covenant rights such as Article 12.<sup>11</sup>

The rights to safe drinking water and sanitation was recognised by the UN General

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<sup>10</sup> See Appendix 4 for the full text of Ms Dandan's presentation.

<sup>11</sup> CESCR, Statement on the Right to Sanitation, E/C.12/2010/1, 19 Nov 2010.

Assembly in July 2010<sup>12</sup> and by the UN Human Rights Council in October 2010.<sup>13</sup>

The right to water is also guaranteed in the following treaties, all of which have been ratified by ASEAN countries—the International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW),<sup>14</sup> the Convention on the Rights of the Child (CRC)<sup>15</sup> and in the Convention on Rights of Person with Disabilities (CRPD).<sup>16</sup> These treaties all explicitly reference access to water and/or sanitation.

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12 General Assembly Resolution 64/292, The Human Right to Water and Sanitation, A/64/L.63/Rev.1 and Add.1, 28 Jul 2010.

13 Human Rights Council, Human Rights and Access to Safe Drinking Water and Sanitation, A/HRC/RES/15/9, 6 Oct 2010.

14 Article 14(2), 28 July 2010.

15 Article 24(2).

16 Article 28.

## PART 4:

# ASEAN Commitments regarding Water and Sanitation

## ASEAN Documents

ASEAN has explicitly recognised the human right to safe drinking water and sanitation in Article 28(e) of the ASEAN Human Rights Declaration 2012.

ASEAN Member States' commitments to ensuring clean water and adequate sanitation are found in a number of ASEAN documents. Mr **Apichai Sunchindah**, a development expert formerly with the ASEAN Secretariat and ASEAN Foundation, set out the various ASEAN commitments in his presentation.

## ASEAN 10-year Blueprint

In 2015, ASEAN leaders adopted the 10-year ASEAN blueprint entitled ASEAN 2025: Forging Ahead Together. The document situates the importance of safe drinking water and sanitation as a strong element of development to build a sustainable and resilient ASEAN community by 2025. The importance of these basic necessities was also stated in the preceding Roadmap for an ASEAN Community 2009–2015.

Key measures have been identified for the conservation and sustainable management of clean water and sanitation, such as:

- a. Enhancing policy and capacity development and best practices to conserve, develop and sustainably manage marine wetlands, peatlands, biodiversity, and land and water resources;<sup>17</sup>
- b. Promote coordination among relevant sectors to provide access to [...] clean and safe water and sanitation;<sup>18</sup> and
- c. Enhancing cross-sectoral and cross-pillar coordination to ensure availability of clean water, sanitation facilities and electricity to households in times of crisis.<sup>19</sup>

## ASEAN Strategic Plan of Action on Water Resources Management

ASEAN also has a Strategic Plan of Action on Water Resources Management, developed in 2005, to complement and support actions at the national level.

This plan complements national-level efforts in addressing key common challenges in the region's water resources, including improving access to safe drinking water and sanitation. It is administered by the ASEAN Working Group on Water Resources

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17 Paragraph 16, C.1(v).

18 Paragraph 17, C.2(iii).

19 Paragraph 19, D.5(iii).

Management (AWGWRM), a working group established under the ASEAN Senior Officials Meeting on Environment (ASOEN).

### **ASEAN Strategic Plan of Action on the Environment (ASPEN) 2016-2025**

The ASEAN Strategic Plan of Action on the Environment (ASPEN) 2016–2025, when endorsed, is expected to address the issue of water resource management and improving water quality and sanitation.

### **ASEAN Post-2015 Health Development Agenda**

The ASEAN Senior Officials Meeting on Health Development (SOMHD) also addresses issues of safe drinking water and sanitation. Under the ASEAN Post-2015 Health Development Agenda, initiatives for safe drinking water will be implemented under Health Priority 11, dealing with environmental health and health impact assessment.

### **Work of SOMRDPE**

The provision of safe drinking water and sanitation in rural communities is also an area that is dealt with by the Senior Officials Meeting on Rural Development and Poverty Eradication (SOMRDPE).

### **Work of ASEAN Working Group on Water Resources Management (AWGWRM)**

ASEAN has a working group focusing on water resources management to enhance regional cooperation on freshwater management in ASEAN. It is one of several working groups under ASOEN. The 2017 chairperson of AWGWRM, **Dato' Nor Hisham Mohd Ghazali**, presented on the work of the working group.

The AWGWRM looks at water security in ASEAN and coordinates how water management in ASEAN can be improved by making it integrated. This requires a holistic approach that looks at social, economic and agricultural needs, from the needs of the lowest-income groups to industry requirements.

Water security, as defined by UN Water, includes the capacity to safeguard sustainable access to adequate quantities of acceptable quality water for sustaining livelihoods, human well-being, and socio-economic development. There must also be protection against water-borne pollution and water-related disasters, and for preserving ecosystems in a climate of peace and political stability.

This definition encompasses everything about water management—from attention to good governance to transboundary cooperation and ensuring adequate and innovative financing.

The ASEAN Strategic Plan on Water Resources Management was adopted in 2005

and contains action on four key issues:

- a. Supply, demand and allocation;
- b. Water quality and sanitation;
- c. Climate change and extreme events; and
- d. Governance and capacity building.

With regard to the first part on supply, demand and allocation, ASEAN Member States focused on meeting the Millennium Development Goals by reducing by 50% inadequate access to safe drinking water and sanitation by 2015.

Other parts of the Strategic Plan involve:

- a. Managing water resources efficiently and effectively to provide adequate and affordable water services by 2015;
- b. Promoting implementation of integrated river basin management by 2015;
- c. Promoting public awareness and partnership to enhance integrated water resources management; and
- d. Promoting regional cooperation on water conservation measures and programmes as well as scientific and technological innovation in water quality improvement and supply. This is where ASEAN Member States come together and share experiences and issues with each other in getting water resource management right.

AWGWRM has set up an online database on integrated water resource management, which has information submitted by each ASEAN Member State. This can be found at <http://aseaniwrm.water.gov.my/>

## PART 5:

# Technical Expertise and Advisory Support

Technical and human rights experts were invited to share on their organisations' work in the region.

### 5.1. Solene Le Doze, Environmental Affairs Officer, ESCAP

Ms **Solene Le Doze**, the Environmental Affairs Officer of the UN Economic and Social Commission for Asia and the Pacific (ESCAP), shared about her organisation's work in the region.

ESCAP's work related to water and sanitation is focused on SDG 6, which aims for universal access to clean water and adequate sanitation by 2030. ESCAP tracks the progress of countries in Asia-Pacific towards achieving the sustainable development goals. Its latest report can be found in the "Asia-Pacific Sustainable Development Goals Outlook", published in March 2017, which contains key facts on water and sanitation in the region. The report indicates that there has been a lot of progress on water and sanitation, and there are still major challenges. Some 277 million still lacked access to safe drinking water in 2015 and about half of the rural population had no access to improved sanitation. Threats to water scarcity from the impacts of climate change and other natural or human-made causes will hamper the achievement of SDG 6 if left unattended.

ESCAP encourages a systemic approach to the issue of water, as it is closely linked to other issues such as food and energy.

ESCAP has also developed a Regional Road Map for implementing the 2030 Agenda for Sustainable Development, which is meant to facilitate cooperation at the regional level. ESCAP organises inter-governmental processes, with follow-up mechanisms.

Every year, ESCAP convenes the Asia Pacific Forum for Sustainable Development, which brings together multi-stakeholders involved with the SDG.

ESCAP also partners with other UN agencies on the issue of water and sanitation, such as UN Water, which coordinates the UN water-related work.

ESCAP has worked closely with governments to provide knowledge, technical support and capacity building in relation to water and sanitation. By looking at the SDG and overlaying them with the existing institutional framework, it has been able to identify key policy actions which would have maximum impact towards achievement of the goals.

There is also an SDG help desk with a "Water for Life" theme and a rapid response

facility for technical support and building capacity.

Ms Le Doze's presentation can be found at Appendix 4.

## 5.2. Amanda Loeffen, Director-General, WaterLex

Ms **Amanda Loeffen** presented on the work of WaterLex, an international organisation that works to secure the human rights to water and sanitation through law and policy reform.

Based in Geneva, Switzerland, WaterLex has a team of experts working on law and policy. They act as neutral, independent advisers to governments or institutions looking to create law reform regarding the rights to water and sanitation.

Ms Loeffen stressed that adopting a human rights approach to water and sanitation means recognising states' legal obligation to respect, protect and fulfil the rights to water and sanitation. This includes ensuring access to safe, affordable, available, culturally acceptable water and sanitation.

The sustainable development goals are also grounded in a human rights framework, evident in the statement "leave no one behind", which reflects the human rights principle of non-discrimination.

WaterLex's strategy in helping in this area includes:

- a. **Conducting research** — this includes research on how to integrate the human rights to water and sanitation into legal and policy frameworks.
- b. **Capacity enhancement** — WaterLex works with countries where they educate and conduct capacity building exercises.
- c. **Catalyst for change** — WaterLex works with multi-stakeholder groups at the regional or national level to engender law reform and change.
- d. **Reform** — by mainstreaming a human rights approach to water and sanitation into water governance frameworks and processes.
- e. **Accountability** — helping increase state and non-state actors' compliance with their legal obligations.

WaterLex has provided assistance to countries through their country mapping process. This involves conducting an analysis of the water laws and policies in a country. The findings of this desktop analysis are then verified on the ground through interviews, workshops and multi-stakeholder analysis. A national workshop is then held where tailored indicators specific to the findings on that country are presented. This includes strategies and law and policy reform that are required. This makes it possible to track that country's progress towards achieving SDG 6.

In regional areas such as ASEAN, it would be possible for a detailed country mapping to be conducted for one country, and the information arising from that can be shared with other countries and used as a source of recommendations for countries with similar situations.

WaterLex also works with national human rights institutions. They have served as good partners as they have human rights expertise and can play a bridging role between governments and other stakeholders.

Ms Loeffen's presentation can be found at Appendix 4.

### **5.3. Helena Olsson, RWI**

Ms **Helena Olsson** presented on the work of the Raoul Wallenberg Institute (RWI), an academic institution, in South East Asia. RWI supports research and long-term capacity development in the area of human rights. It provides training and technical assistance tools to help develop capacity, especially for those who have busy schedules and teams that are often spread out geographically.

RWI has started work with human rights and the environment as well as climate change and development. It has held and supported programmes to bring the different actors together, to try to bridge the gaps and find a common ground. RWI can tailor-make processes based on a group's needs and help with facilitating dialogue amongst different actors. It has developed a training module on economic, social and cultural rights, including the rights to water and sanitation. This module adopts an integrated approach to enable participants to have a common framework when looking at the issues.

RWI has a consultative relationship with AICHR and has started collaborating with AICHR on programmes.

PART 6:

## **The Right to Safe Drinking Water and Sanitation in the Context of ASEAN**

On the final day of the Regional Consultation, participants broke up into five groups to discuss what the right to water and sanitation meant in the context of ASEAN. Participants discussed what it meant for water and sanitation to be available, accessible, affordable, acceptable and of good quality.

## **APPENDICES**

# APPENDIX 1: CONCEPT NOTE

## REGIONAL CONSULTATION ON THE RIGHT TO SAFE DRINKING WATER & SANITATION IN ASEAN (with emphasis on rural communities)

### A. RATIONALE

1. Water and Sanitation as Human Rights and Development Issues in ASEAN
  - 1.1 ASEAN Member States have affirmed that safe drinking water and sanitation are human rights as enshrined in Article 28(e) of the ASEAN Human Rights Declaration (AHRD). The right to safe drinking water and sanitation is housed as part of the general right to an adequate standard of living for every person. Further, Sustainable Development Goal 6 (SDG 6) seeks to ensure access to water and sanitation for all.
  - 1.2 Water and sanitation are, among others, prerequisites to the realisation of other human rights.<sup>20</sup> Water is fundamental to survival and is required for a range of different purposes. For instance, water is necessary to produce food (right to adequate and affordable food) and ensure environmental hygiene (right to health). Water is also essential for securing livelihoods (right to work) and enjoying certain cultural practices (right to take part in cultural life). At the same time, social and economic development is closely dependent on water, and poverty is prevalent mostly in areas that face water shortage. Water-related diseases, caused by unsafe drinking water and the absence of proper sanitation facilities, are among the leading causes of death in the developing world.
  - 1.3 The ASEAN 2025: Forging Ahead Together situates the importance of safe drinking water and sanitation as a strong element of development to build a sustainable<sup>21</sup> and resilient<sup>22</sup> ASEAN Community by 2025. Some key measures

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20 General Comment No.15: The Right to Water (E/C.12/2002/11).

21 The ASEAN Socio-Cultural Community (ASCC) refers to a sustainable community as a community that “promotes social development and environmental protection through effective mechanisms to meet the current and future needs of the peoples” (ASEAN, 2015:105).

22 ASCC refers to a resilient community as a community with an “enhanced capacity and capability to adapt and respond to social and economic vulnerabilities, disasters, climate change as well as emerging threats, and challenges” (ASEAN, 2015:105). The ASEAN Socio-Cultural Community also recognises that cross-pillar linkages within the ASEAN Community are an effective force for moderation for the common good while fully embracing the principles of comprehensive security.

have been identified such as enhancing policy and capacity development and best practices to conserve, develop and sustainably manage marine, wetlands, peatlands, biodiversity, and land and water resources (C1.v) and enhancing cross-sectoral and cross-pillar coordination to ensure availability of clean water, sanitation facilities and electricity to households in times of crises (D5.iii).

## 2. Water and Sanitation under the International Human Rights Law Framework

2.1 The debate on the human right to water started in the 1970s,<sup>23</sup> and became more comprehensive in the 1990s by including the aspect of sanitation. Water resources are limited, but demand has multiplied due to various factors such as urbanisation, increased population, industrialisation and economic development, and the corresponding increase in demand for food, energy and environmental security. Subsequently, the United Nations General Assembly<sup>24</sup> and the Human Rights Council<sup>25</sup> strengthened the international law regime on the right to water and sanitation.

2.2 The United Nations Committee on Economic, Social and Cultural Rights elaborated on the right to water through its General Comment No. 15. The Comment provides guidelines for States on the interpretation of the right to water under two articles of the International Covenant on Economic, Social and Cultural Rights (ICESCR):

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23 In 1972, the Stockholm United Nations Conference on the Human Environment identified water as one of the natural resources to be safeguarded for future generations. In 1977, the United Nations Mar del Plata Water Conference in Argentina resolved that “all people whatever their stage of development and their social and economic conditions have the right to have access to drinking water of quantities and of a quality equal to their basic needs”. In 1992, the International Conference on Water and the Environment held in Dublin stated that “water has an economic value in all its competing uses and should be recognised as an economic good” (Principle 4 of the Dublin Statement on Water and Sustainable Development). The United Nations Conference on Environment and Development in Rio de Janeiro included the issue of the needs and rights to water. In 1997, the United Nations General Assembly highlighted the need to guarantee sufficient water to sustain human life, including drinking water and water for food production to prevent starvation. The United Nations Millennium Declaration on 8 September 2000 adopted the target to reduce by half the proportion of people without sustainable access to safe drinking water as one of the goals to be achieved by 2015.

24 The General Assembly adopted Resolution 64/292 on July 2010 and declaring “the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights”. The Resolution was adopted by a vote of 122, with 41 members abstaining, and with no vote against.

25 The Council adopted a Resolution in September 2010 which affirmed that “the human right to safe drinking water and sanitation is derived from the right to an adequate standard of living and inextricably related to the right to the highest attainable standard of physical and mental health, as well as the right to life and human dignity”.

Article 11 (the right to an adequate standard of living) and Article 12 (the right to health). It affirms that “the human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use”. It notes that the right to water has been recognised in a wide range of international documents and reaffirms the fundamental importance of the right stating: “the human right to water is indispensable for leading a life in human dignity”.

2.3 The General Comment clarifies the normative content of the right to water by articulating the individual elements of the right, such as ‘availability’, ‘quality’ and ‘accessibility’. It also outlines the associated State obligations and certain international obligations. These include obligations to:

- Respect the right to water by refraining from interfering directly or indirectly with the enjoyment of the right.
- Protect the right to water by preventing third parties from interfering in any way with enjoyment of the right to water.
- Fulfil the right to water by adopting the necessary measures directed towards the full realisation of this right.

The General Comment also stresses that States are obliged to ensure that the right to water is enjoyed without discrimination and on the basis of equality between men and women.

2.4 Access to sanitation was not adequately covered in the General Comment, other than clarifying the need for safe sanitation to ensure water quality. This omission has been addressed in other human rights instruments since General Comment No. 15 was adopted.

2.5 The right to water is also guaranteed by Article 14(2) of the International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW),<sup>26</sup> and cited in Article 24(2) of the Convention on the Rights of the Child (CRC),<sup>27</sup> and in the Convention on Rights of Persons with Disabilities (CRPD). Other treaties also make reference to the right to water, such as the Geneva Convention Relative to the Treatment of Prisoners of War and the Geneva Convention Relative to the Protection of Civilian Persons in time of War.

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26 CEDAW Article 14 provides that State parties shall guarantee to women the right to “enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply”.

27 CRC Article 24(2) stipulates that the States parties shall combat disease and malnutrition “through the provision of adequate nutritious foods and clean drinking water”.

- 2.6 Framing water and sanitation as human rights implies a number of State obligations as rights bearers. Article 2 of the ICESCR emphasises that States should take legislative, administrative, and other actions progressively to achieve the goal that every human being within their jurisdiction has access to adequate water, to the maximum of the available resources.
- 2.7 The then United Nations Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation (SR), Catarina de Albuquerque, in her report<sup>28</sup> detailed in a typology of violations of the right to water and sanitation. They are:
- (a) Violations of the obligation to respect. This requires States to refrain from unjustifiable interference with the enjoyment of the right to water and sanitation.
  - (b) Violations of the obligation to protect and abuses by non-State actors. This requires States to enact and enforce the necessary protection of the right to water and sanitation from abuses by third parties.
  - (c) Violations of the obligation to fulfil. Violations in these categories are complex and often affect a large number of victims, yet they have generally received the least attention.
  - (d) Violations of the obligation to refrain from discrimination and to ensure substantive equality. These violations usually stem from neglect and may require resource allocation and infrastructure development to remedy.
  - (e) Violations of the obligation to ensure active, free and meaningful participation. Participation is a human right in itself. It has significant instrumental value in ensuring more sustainable results.
  - (f) Violations of extraterritorial obligations. These violations materialise with regard to transboundary water resources, the activities of transnational corporations or donor activities.
- 2.8 The SR suggested, among others, to adopt a more robust set of structural, process and outcome indicators in order to reveal possible violations, assessment of available resources, and implementing and monitoring targeted, evidence-based and time-bound policies and programmes.
- 2.9 The positive obligations to fulfil the right to water demand that water should be available, accessible, acceptable and of good quality. This means that water must, for example:

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28 Common violations of the human rights to water and sanitation, A/HRC/27/55 (30 June 2014).

- (a) be supplied in sufficient quantities;
- (b) be closely and physically accessible;
- (c) be of acceptable colour, odour and taste; and
- (d) pose no health risks.<sup>29</sup>

It is in this context that the water enjoyed by rural and indigenous communities often fall short.

### 3. The Right to Water Cross-Cuts Other Issues

- 3.1 The United Nations Development Programme Report 2006 suggested that the root of water crises is not about the shortages of physical supply but are traced to poverty, inequality and unequal power relationships, as well as water management policies that exacerbate scarcity. The Report estimates that more than 1 billion people are denied the right to clean water and 2.6 billion people lack access to adequate sanitation. Each year some 1.8 million children die as a result of diarrhoea and other diseases caused by unclean water and poor sanitation. In the 21st century unclean water is the world's second biggest killer of children. Meanwhile, ill-health associated with deficits in water and sanitation undermines productivity and economic growth, reinforcing the deep inequalities that characterise current patterns of globalisation and trapping vulnerable households in cycles of poverty.<sup>30</sup>
- 3.2 Water as a 'good governance' issue<sup>31</sup> deals with, as shown in many countries, the low priority on water resources management especially in the aspect of providing safe drinking water and sanitation. Many governments do not adequately allocate budget for water, and ensure sufficient and effective space for grievance or dispute resolution mechanisms. Meaningful participation by the affected communities people, especially the poor, is low.<sup>32</sup>
- 3.3 Water is also a health issue. Many health problems arise from poor water quality.

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29 The AAAQ Framework and Right to Water, The Danish Institute for Human Rights.

30 See <http://hdr.undp.org/sites/default/files/reports/267/hdr06-complete.pdf>

31 A 'good governance' framework may be defined as processes and methods of governing and changed conditions of ordered rule in which the actions and inaction of all parties concerned are transparent and accountable. It embraces the relationships between governments and societies, including laws, regulations, institutions, and formal and informal interactions which affect all the ways in which governance systems function, stressing the importance of involving more voices, responsibilities, transparency, and accountability of formal and informal organisations associated in any process.

32 See <http://hdr.undp.org/sites/default/files/reports/267/hdr06-complete.pdf>

Safe drinking water is essential for good health, and without safe drinking water, the right to health is not possible.<sup>33</sup>

- 3.4 Women and children are the most vulnerable groups who are affected by water scarcity. Women and men usually have very different roles in water and sanitation activities; and these differences are particularly pronounced in rural areas. Women are most often the users, providers, and managers of water in rural households and are the guardians of household hygiene. If a water system breaks down, women will most likely be the ones most negatively impacted by it. They may have to travel further for water or use other means to meet the household's water and sanitation needs. Women have therefore a strong incentive to acquire and maintain improved, conveniently located water facilities, since they often spend more time and effort collecting water. When water quality and quantity improve at a given setting, women and children tend to benefit most. For example, longer trips carrying heavy containers may no longer be necessary, and more time may be spent for school or income-generating activities.
4. Mainstreaming the Human Rights Perspective regarding Water and Sanitation in the ASEAN context
  - 4.1 While several data sets suggest that ASEAN Member States<sup>34</sup> have successfully achieved an increase in access to improved water source for rural areas,<sup>35</sup> it is internationally recognised that improved water supply does not guarantee safe water supply. It only assumes a greater likelihood that a source is clean. <sup>36</sup>
  - 4.2 The World Bank Data for ASEAN countries on rural access to improved water source shows the following:<sup>37</sup>

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33 See Universal Declaration of Human Rights Article 25 and ICESCR Article 12. The CRC also recognises that children are entitled to the highest attainable standard of health, and this requires State parties to take appropriate measures to combat disease and malnutrition within the framework of primary healthcare.

34 Cambodia, Indonesia, Lao PDR, the Philippines, Thailand and Viet Nam have ratified the International Covenant of Economic, Social & Cultural Rights 1966 (ICESCR). Myanmar signed on 16 July 2015.

35 An improved water source (piped water, public tap/standpost, tubewell/borehole, protected dug well, protected spring, rainwater) can be safely managed. Unimproved sources (unprotected dug well, unprotected spring, surface water) are by definition not safely managed. Progress on sanitation and drinking water – 2014, WHO and UNICEF.

36 Water Supply Coverage: Progress and Prospects, Asia Water Watch 2015.

37 <http://data.worldbank.org/indicator/SH.H2O.SAFE.RU.ZS>

No.	Country	2014 (%)	2015 (%)
a	Cambodia	67	69
b	Viet Nam	95	97
c	Indonesia	79	80
d	Malaysia	93	93
e	Singapore	-	-
f	Philippines	90	90
g	Myanmar	74	74
h	Lao PDR	69	69
i	Thailand	98	98
j	Brunei Darussalam	-	-

4.3 With regard to the proportion of population with access to safe drinking water, the ASEAN Statistical Yearbook 2015 shows the following:

No.	Country	2014 (%)	2013 (%)	2012 (%)
a	Cambodia	-	54	51
b	Viet Nam	92	-	91
c	Indonesia	39	41	43
d	Malaysia	-	-	94
e	Singapore	100	100	100
f	Philippines	-	-	83
g	Myanmar	-	-	-
h	Lao PDR	-	-	70
i	Thailand	-	97	100
j	Brunei Darussalam	100	100	100

4.4 With regard to the proportion of population with access to improved sanitation, the ASEAN Statistical Yearbook 2015 shows the following:

No.	Country	2014 (%)	2013 (%)	2012 (%)
a	Cambodia	-	52	44
b	Viet Nam	79	-	77
c	Indonesia	-	58	56
d	Malaysia	-	-	99
e	Singapore	100	100	100
f	Philippines	-	-	92
g	Myanmar	-	80	81
h	Lao PDR	-	-	62
i	Thailand	-	97	100
j	Brunei Darussalam	-	-	80

4.5 ASEAN through the ASEAN Senior Officials on the Environment (ASOEN) is due to discuss and adopt the Strategic Plan on Environment (ASPEN) for 2016–2025. Given that water and sanitation should be viewed from the human rights perspective and ASEAN Member States are collectively working towards realising SDG 6, it is timely that a cross-sectoral conversation particularly on the issue of water resources management be given prominence to assist and align the initiatives of the region.

## B. AICHR'S TERMS OF REFERENCE

In hosting this Consultation, AICHR acts pursuant to its Terms of Reference:

- (a) to develop strategies for the promotion and protection of the right to water and sanitation to complement the building of an ASEAN Community;
- (b) to enhance public awareness of the right to water and sanitation among the peoples of ASEAN through education, research and dissemination of information;
- (c) to obtain information from Member States on the promotion and protection of the right to water and sanitation; and,

- (d) to develop common approaches and positions on the right to water and sanitation within the region.

### **C. OBJECTIVES**

The objectives of the Consultation are as follows:

- (a) to take stock of the ASEAN Member States' country situations and experiences regarding their approaches to the right to water and sanitation;
- (b) to share good practices on the application of international human rights norms and the realisation of SDG 6;
- (c) to understand and elaborate on the normative content of Article 28(e) AHRD; and,
- (d) to address any gaps and challenges in the realisation of the right to water and sanitation and SDG 6 in the ASEAN region.

The Consultation will also engage:

- (a) within ASEAN, the Senior Economic Officials Meeting (SEOM), Senior Officials Meeting on Rural Development and Poverty Eradication (SOMRDPE), ASEAN Senior Officials on the Environment (ASOEN) [together with its ASEAN Working Group on Water Resources Management (AWGWRM)], Senior Officials Meeting on Social Welfare and Development (SOMSWD), Senior Officials Meeting on Health Development (SOMHD), ASEAN Committee on Women and Children (ACWC) and ASEAN Committee on Disaster Management (ACDM); and,
- (b) international organisations such as the UN Committee on Economic, Social and Cultural Rights (UNCESCR) and UN Water.

### **D. MODALITY**

The Consultation will consist of a series of sharing and expert roundtables, and subsequently breakout sessions, to ensure active and cohesive participation. See the attached Programme.

### **E. PARTNERS**

The partners are the Sabah State Government, Malaysia and the Human Rights Commission of Malaysia (SUHAKAM).

### **F. PARTICIPANTS**

The Regional Consultation will consist of about 70 participants. The participants, among others, are as follows:

- (a) 10 Representatives of AICHR
- (b) 10 representatives of SOMRDPE
- (c) 10 representatives of ASOEN
- (d) 10 representatives of SOMHD
- (e) 1 representative of the AWGWRM
- (f) 1 representative of SEOM
- (g) 1 representative of ACWC
- (h) 1 representative of SOMSWD
- (i) 1 representative of ACDM
- (j) 10 AMS representatives from CSOs or rural communities working on water and sanitation issues
- (k) 10 AMS representatives of National Human Rights Institutions or human rights committees/groups working on water and sanitation issues
- (l) 1 member of the UNCESCR
- (m) 1 representative of UN Water

#### **G. DATE & VENUE**

The three-day Regional Consultation is proposed to be held on **25–27 October 2017** in Sabah, Malaysia.

#### **H. BUDGET**

The estimated cost required for this Consultation is **US\$120,151.00**. A total of about US\$45,000 will be from AICHR's Fund. Further financial support is being sought from external and Dialogue Partners.

## APPENDIX 2: PROGRAMME

### AICHR REGIONAL CONSULTATION ON THE RIGHT TO SAFE DRINKING WATER & SANITATION IN ASEAN (with emphasis on rural communities)

KOTA KINABALU, SABAH, MALAYSIA  
25–27 OCTOBER 2017

#### PROGRAMME 1st Day—25 October 2017

Time	Subject
8:30 - 9:00	Registration
9:00 - 9:30	<b>Opening Session</b>  <u>Welcome Remarks</u> <ul style="list-style-type: none"><li>• H.E. Leo M. Herrera-Lim, Representative of the Philippines to AICHR &amp; Chairperson of AICHR</li><li>• H.E. Edmund Bon Tai Soon, Representative of Malaysia to AICHR</li><li>• H.E. Yvonne Baumann, Ambassador of Switzerland to ASEAN (to be delivered by H.E. Edmund Bon Tai Soon, Representative of Malaysia to AICHR)</li><li>• Ms. Cynthia Veliko, Representative of the Regional Office for South East Asia, Office of the High Commissioner for Human Rights (OHCHR)</li><li>• Ms. Helena Olsson, Director, Regional Office, Raoul Wallenberg Institute of Human Rights and Humanitarian Law (RWI)</li></ul>
9:30 - 10:00	<b>Keynote Address</b>  <u>Welcome Remarks</u> <p>Yang Amat Berhormat Tan Sri Datuk Seri Panglima Musa Haji Aman, Chief Minister of Sabah, Malaysia (to be delivered by Yang Berhormat Datuk Ir. Edward Yong Oui Fah, Assistant Minister in the Chief Minister's Department, Sabah)</p>
10:00 - 10:30	Coffee Break & Group Photograph
10:30 - 12:00	<b>Session 1: Expert Roundtable – Country Situations &amp; Experiences (I)</b>  <u>Government Experts</u> <ul style="list-style-type: none"><li>• Dato' Mohd Ridhuan Ismail (CEO, National Water Services Commission (SPAN))</li><li>• Mr. Ir. Lim Ann Seng (AWGWRM Brunei Darussalam)</li><li>• Mr. Chaturawit Chinnachit (AWGWRM Thailand)</li><li>• Ms. Tran Thi Thu Hang (ASOEN Viet Nam)</li></ul> <u>Facilitator</u> <p>H.E. Dr. Seree Nonthasoot, Representative of Thailand to AICHR</p>

Rapporteur

Mr. Mimin Dwi Hartono, Senior Officer, Monitoring & Inquiry Division,  
Indonesian National Human Rights Commission (Komnas HAM)

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12:00 - 1:00 Lunch

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**1:00 - 2:00 Session 2: Expert Roundtable – Country Situations & Experiences (II)**

Government Experts

- Mr. Sein Aung Min (AWGWRM Myanmar)
- Ms. Sengphasouk Xayavong (AWGWRM Lao PDR)
- Atty. Juan Y. Corpuz Jr. (AWGWRM Philippines)
- Mr. Ng Han Tong (AWGWRM Singapore)

Facilitator

H.E. Associate Professor Dinna Wisnu, Representative of Indonesia to AICHR

Rapporteur

Ms. Cynthia Veliko, OHCHR

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**2:00 - 3:00 Session 3: Sharing on International and Regional Human Rights Norms and Mechanisms regarding the Right to Safe Drinking Water and Sanitation, and Efforts to Achieve Sustainable Development Goal 6**

Speaker

Ms. Virginia B. Dandan, former UN Independent Expert on Human Rights and International Solidarity [2011-2017] and former Chairperson of the United Nations Committee on Economic, Social and Cultural Rights (UNCESCR) [1999-2007]

Facilitator

H.E. Amb. Barry Desker, Representative of Singapore to AICHR

Rapporteur

Mr. Alfonso Min, SUHAKAM (Sarawak Office)

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3:00 - 3:15 Coffee Break

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**3:15 - 4:00 Session 4: Observations**

Speaker

Rapporteurs for Sessions 1-3 to report in plenary

Facilitator

Ms. Ding Jo-Ann, Consultant to the Representative of Malaysia to AICHR

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**7:30 - 9:00** Welcome Dinner & Cultural Show hosted by Tan Sri Datuk Seri Panglima Musa Haji Aman, Chief Minister of Sabah, Malaysia (to be delivered by Yang Berhormat Datuk Seri Panglima Masidi Manjun, Minister of Tourism, Culture & Environment, Sabah State Government)

**2nd Day – 26 October 2017**

Time	Subject
9:00 - 10:30	<p><b>Session 5: ASEAN Expert Roundtable on the ASEAN Socio-Cultural Community (ASCC) Blueprint 2025 Regarding the Right to Safe Drinking Water and Sanitation, and the ASEAN Strategic Plan on Environment (ASPEN) 2016-2025 in Relation to Water Resources Management</b></p> <p><u>Discussants</u></p> <ul style="list-style-type: none"> <li>• Dato' Nor Hisham Mohd Ghazali (Chairperson, AWGWRM &amp; AWGWRM Malaysia)</li> <li>• Ms. Zikra Syafwan Anwar (SOMRDPE Indonesia)</li> <li>• Dr. Saray Mao (SOMRDPE Cambodia)</li> <li>• Ms. Thi Thanh Huyen Dang (SOMRDPE Viet Nam)</li> <li>• Mr. Wim Kyaw Myo (SOMRDPE Myanmar)</li> <li>• Mr. Apichai Sunchindah, Development Specialist and formerly with the ASEAN Secretariat and the ASEAN Foundation</li> <li>• Mr. Mohd Zaharon bin Mohd Talha, Deputy Director, Environment Control Section, Engineering Services Division, Ministry of Health Malaysia</li> </ul> <p><u>Facilitator</u></p> <p>H.E. Phoukhong Sisoulath, Representative of Lao PDR to AICHR</p> <p><u>Rapporteur</u></p> <p>Ms. Marie Joyce Godio, Asia Indigenous Peoples Pact (AIPP)</p>
10:30 - 10:45	Coffee Break
10:45 - 11:45	<p><b>Session 6: Sharing of Good Practices and on Forms of Advisory Services and Technical Support on the Right to Safe Drinking Water and Sanitation in Relation to Sustainable Development Goal 6 (SDG 6)</b></p> <p><u>Discussants</u></p> <ul style="list-style-type: none"> <li>• Ms. Solene Le Doze, Environmental Affairs Officer – Natural Resources and Sustainable Development, Environment and Development Policy Section, Environment and Development Division, United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP)</li> <li>• Ms. Amanda Loeffen, Director General, International Secretariat, WaterLex</li> <li>• Ms. Helena Olsson, RWI</li> </ul> <p><u>Facilitator</u></p> <p>Mr. Khanh Vu, ASEAN Department, Ministry of Foreign Affairs of Viet Nam (for Representative of Viet Nam to AICHR)</p> <p><u>Rapporteur</u></p> <p>Mr. Matthew Scott, Climate Change &amp; Migration Expert, RWI</p>
11:45 - 12:45	<p><b>Session 7: Expert Roundtable – Country Situations &amp; Experiences (III)</b></p> <p><u>NHRIs/CSOs or rural community representatives</u></p> <ul style="list-style-type: none"> <li>• Datuk Godfrey Gregory Joitol, Commissioner, SUHAKAM</li> </ul>

- Mr. U Win Mra, Chairperson, Myanmar National Human Rights Commission (MNHRC)

Facilitator

H.E. Leo M. Herrera-Lim, Representative of the Philippines to AICHR & Chairperson of AICHR

Rapporteur

Mr. Ir. Mohd Razali bin Husain, ASOEN Malaysia

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12:45 - 1:45 Lunch

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**1:45 - 2:45 Session 8: Expert Roundtable – Country Situations & Experiences (IV)**

NHRIs/CSOs or rural community representatives

- Mr. Mimin Dwi Hartono, Komnas HAM
- Ms. Karen S. Gomez-Dumpit, Commissioner, Commission on Human Rights Philippines (CHRP)
- Mr. Jaryll Chan, Singapore International Foundation (SIF)

Facilitator

Mr. Sem H. Cordial, SOMRDPE Philippines

Rapporteur

Mr. Tang Kin Ho, SOMRDPE Singapore

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2:45 - 3:00 Coffee Break

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**3:00 - 4:00 Session 9: Sharing on the Work of the United Nations Committee on Economic, Social and Cultural Rights (UNCESCR) and its Standard-Setting Role and Impact**

Discussants

- Ms. Virginia B. Dandan, former UN Independent Expert on Human Rights and International Solidarity [2011-2017] and former Chairperson of the United Nations Committee on Economic, Social and Cultural Rights (UNCESCR) [1999-2007]
- Ms. Marie Joyce Godio, AIPP

Facilitator

Ms. Karen S. Gomez-Dumpit, CHRP

Rapporteur

Ms Jun Yu Zhang, Singapore

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**4:00 - 4:30 Session 10: Observations**

Rapporteurs for Sessions 5-9 to report in plenary.

Facilitator

Ms. Ding Jo-Ann, Consultant to the Representative of Malaysia to AICHR

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## 3rd Day – 27 October 2017

Time	Subject
9:00 - 10:30	<p><b>Session 11: Breakout Session – Discussion on Article 28(e) of the ASEAN Human Rights Declaration</b></p> <p><u>Facilitator</u></p> <p>H.E. Edmund Bon Tai Soon, Representative of Malaysia to AICHR</p> <p><u>Resource Persons</u></p> <ul style="list-style-type: none"><li>• Ms. Virginia B. Dandan</li><li>• Mr. Apichai Sunchindah</li><li>• Ms. Solene Le Doze</li><li>• Ms. Amanda Loeffen</li><li>• Mr. Matthew Scott</li></ul> <p>Methodology:</p> <ul style="list-style-type: none"><li>- Participants will be divided into five groups. Each group will manage a particular theme or issue discussing what it means in the ASEAN context for water and sanitation to be available, accessible, affordable, acceptable and of good quality.</li></ul>
10:30 - 11:00	<p><b>Session 12: Open Microphone &amp; Consultation on Breakout Sessions</b></p> <p>The groups will each present their findings on their particular theme or issue for comments and discussion in a plenary.</p>
11:00 - 11:15	<p>Coffee Break</p>
11:15 - 12:15	<p><b>Session 13: Plenary – Open Microphone &amp; Consultation on Breakout Sessions</b></p> <p>The groups will each present on their particular theme or issue for comments and discussion in a plenary.</p>
12:15 - 1:00	<p><b>Session 14: Closing Plenary – Final Observations and Looking Ahead</b></p> <p><u>Facilitator</u></p> <p>H.E. Edmund Bon Tai Soon, Representative of Malaysia to AICHR</p>
1:00 - 1:30	<p>Lunch</p>
1:30	<p>Close / Cultural Village Site Visit</p>

## APPENDIX 3: LIST OF PRESENTERS AND PARTICIPANTS

### Country Situations and Experiences

Name	Country	Designation
Mr Ir Lim Ann Seng	Brunei	AWGWRM, Brunei Department of Water Services, Public Works Department, Ministry of Development
Dr Saray Mao	Cambodia	Deputy Director-General of Technical Affairs, Department of Rural Water Supply, Ministry of Rural Development
Ms Zikra Safran Anwar	Indonesia	SOMRDPE, Indonesia Ministry of Public Works and Housing, Directorate General of Human Settlements
Mr Mimin Dwi Hartono	Indonesia	Monitoring and Inquiry Division, Indonesian National Human Rights Commission (Komnas HAM)
Ms Sengphasouk Xayavong	Lao PDR	AWGWRM, Lao PDR Department of Water Resources, Ministry of Natural Resources and Environment
Dato' Mohd Ridhuan Ismail	Malaysia	CEO, National Water Resources Commission (SPAN)
Mr Mohd Zaharom Mohd Talha	Malaysia	Deputy Director, Environmental Health Engineering Section, Ministry of Health
Mr Voon Kok How	Malaysia	Senior Principal Assistant Director, Engineering Services Division, Ministry of Health
Datuk Godfrey Gregory Joitol	Malaysia	Commissioner, Human Rights Commission of Malaysia (SUHAKAM)
Mr Sein Aung Min	Myanmar	AWGWRM, Myanmar Assistant Director, Environmental Conservation Department, Ministry of Natural Resources and Environmental Conservation
Mr Win Kyaw Myo	Myanmar	SOMRDPE, Myanmar Director, Department of Rural Development, Ministry of Agriculture, Livestock and Irrigation
Mr U Win Mra	Myanmar	Chairperson, Myanmar National Human Rights Commission

Name	Country	Designation
Mr Juan Y Corpuz, Jr	Philippines	AWGWRM, Philippines Chief, Water Utilities Division, National Water Resources Board
Ms Karen Gomez-Dumpit	Philippines	Commissioner, Commission on Human Rights, Philippines
Mr Ng Han Tong	Singapore	AWGWRM, Singapore Senior Deputy Director, PUB, Singapore's National Water Agency
Mr Jaryll Chan	Singapore	Singapore International Foundation
Mr Chaturawit Chinnachit	Thailand	AWGWRM, Thailand Department of Water Resources
Ms Tran Thi Thu Hang	Viet Nam	ASOEN, Viet Nam Department of Water Resources Management, Ministry of Natural Resources and Environment
Ms Thi Thanh Huyen Dang	Viet Nam	SOMRDPE, Viet Nam Ministry of Agriculture and Rural Development

## ASEAN Commitments to Water and Sanitation

Name	Country	Designation
Mr Apichai Sunchindah	Thailand	ASEAN Development Specialist, formerly with the ASEAN Secretariat and ASEAN Foundation
Dato' Nor Hisham Mohd Ghazali	Malaysia	AWGWRM Chairperson 2017

## The Human Right to Water and Sanitation

Name	Country	Designation
Ms Virginia Dandan	Philippines	Former UN Independent Expert on Human Rights and International Solidarity (2011 – 2017)  Former Chairperson of the UN Committee on Economic, Cultural and Social Rights (1999-2007)

## Indigenous Peoples Experience

Name	Country	Designation
Ms Marie Joyce Godio	Philippines	Asia Indigenous Peoples Pact (AIPP)

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## Technical and Human Rights Experts

Name	Organisation	Designation
Ms Solene Le Doze	United Nations Economic and Social Commission for Asia and the Pacific (ESCAP)	Environment Affairs Officer-Natural and Sustainable Development
Ms Amanda Loeffen	WaterLex	Director-General, International Secretariat
Ms Helena Olsson	Raoul Wallenberg Institute (RWI)	Director, Regional Office in Jakarta

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## List of Participants

### Representatives to AICHR

1	H.E. Edmund Bon Tai Soon	Malaysia
2	H.E. Dinna Wisnu	Indonesia
3	H.E. Phoukhong Sisoulath	Lao PDR
4	H.E. Leo M Herrera-Lim	Philippines
5	H.E. Ambassador Barry Desker	Singapore
6	H.E. Dr Seree Nonthasoot	Thailand
7	Mr Khanh Vu (representing the Representative of Viet Nam to AICHR)	Viet Nam

### ASOEN

8	Ir Hj Mohd Razali bin Husain	Malaysia
9	Ms Tran Thi Thu Hang	Viet Nam

### AWGWRM

10	Dato' Ir. Haji Nor Hisham Mohd Ghazali	Malaysia
11	Dato' Mohd Ridhuan Ismail	Malaysia
12	Ms Sengphasouk Xayavong	Lao PDR
13	Atty Juan Y Corpuz, Jr	Philippines
14	Mr Ng Han Tong	Singapore
15	Mr Ir Lim Ann Seng	Brunei
16	Mr Sein Aung Min	Myanmar
17	Mr Chaturawit Chinnachit	Thailand

### SOMRDPE

18	Dr Saray Mao	Cambodia
19	Mr Win Kyaw Myo	Myanmar
20	Mr Tang Kin Ho	Singapore
21	Ms Zikra Syafwan Anwar	Indonesia
22	Mr Sem H Cordial	Philippines
23	Ms Dang Thi Thanh Huyen	Viet Nam

### CSO

24	Mr Jarryl Chan	Singapore
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### National Human Rights Institutions

25	Datuk Godfrey Gregory Joitol	Malaysia
26	Mr Alfonso Min	Malaysia
27	Ms Karen S Gomez-Dumpit	Philippines
28	Mr Mimin Dwi Hartono	Indonesia
29	Mr Soulasack Phichit	Lao PDR
30	Mr U Win Mra	Myanmar

### Experts

31	Mr Apichai Sunchindah	Thailand
32	Ms Virginia B Dandan	Philippines
33	Ms Marie Joyce Godio	Philippines
34	Ms Ding Jo-Ann	Malaysia

### Local Agencies

35	Mr Mohd Zaharon Mohd Talha	Malaysia
36	Mr Izham Harith Ikhwan	Malaysia
37	Mr Voon Kok How	Malaysia
38	Mr Muhammad Zaidi Yahaya	Malaysia

### International Organisations

39	Ms Cynthia Veliko	OHCHR
40	Mr Matthew Scott	RWI
41	Ms Helena Olsson	RWI
42	Ms Amanda Loeffen	WaterfLex
43	Ms Solene Le Doze	UNESCAP
44	Ms Wulan M P Tangkudung	RWI

### Other Participants

45	Ms Emily Wana	ASEC
46	Ms Lily Savitri	Indonesia
47	Mr Charles Andrei Macaspac	Philippines
48	Ms Jun Yu Zhang	Singapore
49	Ms Cynthia Ambe	Philippines
50	Pg Hj Rosli Pg Hj Ismail	Brunei
51	Ms Edna Salumbi	Malaysia
52	Ms Arnisa Abdul Fidah	Malaysia
53	Ms Norhanis Johar	Malaysia
54	Ms Shakirah Ahmad	Malaysia
55	Ms Nur Syamimi Amran	Malaysia

### Malaysia Secretariat

56	Mr Nur Azman Abdul Rahim	Malaysia
57	Mr Abdullah Ma'amor Ibrahim	Malaysia
58	Ms Nurul Aliaa Md Nor Azman	Malaysia
59	Ms Chan Sze Zest	Malaysia
60	Ms Siti Rahayu Sam Seli	Malaysia
61	Ms Klarissa Low	Malaysia
62	Mr Abdul Hanif Abdullah	Malaysia
63	Ms Umavathni Vathanaganthan	Malaysia

## APPENDIX 4: FULL TEXT OF SELECTED SPEECHES AND PRESENTATIONS

### **Keynote Address of Sabah Chief Minister Tan Sri Musa Aman delivered by Sabah Assistant Minister in the Chief Minister's Department Datuk Edward Yong Oui Fah**

1. First and foremost, I wish to extend the sincere apologies of the Sabah Chief Minister Tan Sri Datuk Seri Panglima Musa Haji Aman for not being able to be here today with us, due to prior commitments. He has instead requested me to deliver this Keynote Speech on his behalf.
2. On behalf of the Government of Malaysia and the people of Sabah, I warmly welcome all of you to this beautiful state of Sabah, also known as the "Land Below the Winds".
3. The people of Sabah are honoured to host this 'Regional Consultation on the Right to Safe Drinking Water and Sanitation in ASEAN (with emphasis on rural communities)' organised by the ASEAN Intergovernmental Commission on Human Rights (AICHR). I hope that in spite of your busy schedule you would take the opportunity to explore Sabah.
4. As you are aware, this year, on the 8th of August 2017, ASEAN turned 50. Given this historic and momentous occasion, I would like to take this opportunity to wish ASEAN, and you, a happy belated 50th ASEAN birthday.
5. We are all here these three days to discuss and share experiences and challenges regarding the important right to safe drinking water and sanitation in ASEAN. I am very pleased that the AICHR has decided to take up this very relevant issue.
6. Without water and sanitation, human beings cannot live, and cannot live with dignity. It is for this reason that water and sanitation are expressly mentioned as part of the basket of the rights to life under Article 28 of the ASEAN Human Rights Declaration 2012 (AHRD). Article 28 states as follows:

Every person has the right to an adequate standard of living for himself or herself and his or her family including:

- a. The right to adequate and affordable food, freedom from hunger and access to safe and nutritious food.
- b. The right to clothing.
- c. The right to adequate and affordable housing.
- d. The right to medical care and necessary social services.

- e. The right to safe drinking water and sanitation.
  - f. The right to a safe, clean and sustainable environment.
7. As ASEAN has turned 50, it is crucial that we review and take stock of what the region has achieved. It is opportune for us to chart our future course to further strengthen and address any gaps as well as challenges related to the delivery of safe drinking water and sanitation in ASEAN for the next 50 years.
  8. Although this is the first time that the issue of safe drinking water and sanitation is being discussed from the perspective of human rights in the rural communities in ASEAN, I am pleased with the positive response and strong show of support from all of you present here today. This is a room filled with many experts and implementers with a great deal of knowledge and skills in this area.
  9. I hope that you would fully use this meeting to exchange your expertise with each other, as well as to formulate good practices on the application of international human rights norms to realise 'Sustainable Development Goal 6' (SDG6) within the context of the ASEAN Political-Security Community Blueprint (APSC) 2025 and the ASEAN Socio-Cultural Community (ASCC) Blueprint 2025. ASEAN looks to the AICHR as the overarching human rights body of the region to provide Member States with the appropriate guidance and to set standards in relation to human rights matters of interest. Further, we look to the AICHR to develop common approaches to manage human rights issues that affect the region.
  10. Article 28(e) of the AHRD has expressly affirmed that the right to safe drinking water and sanitation is inextricably linked to the right to an adequate standard of living for human beings. It is also a pre-requisite to realise other human rights. Underpinning the right to safe drinking water and sanitation are the core rights principles of universality, non-discrimination and equality.
  11. Water is crucial to all aspects of human life. In fact, water and sanitation cross-cuts others levers of sustainable development such as the right to health, the right to be free from poverty, and the right to peace. Simply put, without safe drinking water and sanitation, one would most likely fall ill and perish. Water-related diseases are also prevalent in communities without effective access to safe drinking water and sanitation.
  12. Not only must there be access to safe drinking water and sanitation to remain healthy, safe drinking water and sanitation must also be affordable (if it is not provided without charge), adequate and of quality. Only with these key rights elements will we then be able to build a sustainable and resilient ASEAN community. I would also be remiss if I neglect to emphasise that we must ensure that the most vulnerable groups of our societies such as women, children, the

elderly, persons with disabilities, the indigenous, migrant workers, asylum-seekers and refugees are able to enjoy the right to safe drinking water and sanitation.

13. There are many times that those who live in urban and developed areas – by accident and not by design – take access to safe drinking water and sanitation for granted. Life is much tougher for rural communities in terms of enjoying and accessing the basic necessities such as safe drinking water and sanitation.
14. Credible reports have suggested that the root of water crises is not about the shortages of physical supply, but are traced to poverty, inequality and unequal power relationships, as well as water management policies that exacerbate scarcity. More than 1 billion people are denied the right to clean water and 2.6 billion people lack access to adequate sanitation. Each year some 1.8 million children die as a result of diarrhoea and other diseases caused by unclean water and poor sanitation. In the 21st century, unclean water is the world's second biggest killer of children. Meanwhile, ill-health associated with deficits in water and sanitation undermines productivity and economic growth, reinforcing the deep inequalities that characterise current patterns of globalisation and trapping vulnerable households in cycles of poverty.
15. In addressing this issue in Sabah, we have implemented strategies that are in line with the Malaysian National Water Resources Policy towards ensuring that the demand for water throughout the state is met in terms of quantity and quality for both man and nature. The strategy provides a platform to streamline practices and approaches for the preparation of water resources conservation plans as well as to build the capacity of all stakeholders to increase good governance in the management of water resources.
16. Throughout the last 50 years, ASEAN Member States have been working hard to ensure economic prosperity, social well-being and development for the peoples of the region. We have done well and recognise that water and sanitation have been two of the many driving forces in our success. However, we still face many challenges. One of them is to improve the standards of living of the poor, the marginalised and those who live in the rural communities including the indigenous. We therefore cannot rest on one's laurels.
17. With the rapid development of ASEAN's economy, the demand for water and sanitation has also significantly increased, leading to uncertain and limited supplies of the same. In this respect therefore, I urge the AICHR to accelerate its work programmes to inspire the region by infusing into ASEAN's framework a common set of human rights principles and good practices in handling the competing demands and needs especially for those in the rural communities.

18. I appreciate the fact that Member States have already in one form or another recognised the obligations to:
- Respect the right to water and sanitation by refraining from interfering directly or indirectly with the enjoyment of the right;
  - Protect the right to water and sanitation by preventing third parties from interfering in any way with enjoyment of the right;
  - Fulfil the right to water and sanitation by adopting the necessary measures directed towards the full realisation of the right.
19. In order to realise an ASEAN Community that is people-centred, people-oriented and socially responsible, we need to do more to fully realise Article 28(e) of the AHRD. This exercise would involve all stakeholders from multiple sectors under the three ASEAN pillars such as the AICHR, the Senior Officials Meeting on Rural Development and Poverty Eradication (SOMRDPE), the ASEAN Senior Officials on the Environment (ASOEN), the ASEAN Working Group on Water Resources Management (AWGWRM), and the Senior Officials Meeting on Health Development (SOMHD). I am glad all of you from the named bodies are represented, and participating, in this Consultation. I am also appreciative that National Human Rights Institutions and Civil Society Organisations will be able to share their thoughts and concerns at this meeting to assist the AICHR in forming a more holistic and meaningful position on the matters at hand. Every organisation has to play its respective role, not in competition, but in cooperation to undertake concerted efforts to address the cross-sectional issues pertaining to water and sanitation.
20. On this note, I would commend the AICHR for initiating this imperative Consultation. As ASEAN matures, more human rights will come to the fore, and the AICHR must play an active role to formulate methods and strategies to improve human rights standards in the region.
21. On behalf of the Government of Malaysia and the people of Sabah, we are proud to have partnered the Human Rights Commission of Malaysia (SUHAKAM), the Swedish International Development Cooperation Agency (SIDA), the Raoul Wallenberg Institute of Human Rights and Humanitarian Law (RWI), the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Embassy of Switzerland in organising this programme.
22. Exciting days are ahead of us. I believe this Consultation will yield rich, robust and valuable discussions that will embolden us into action. I also hope that we will be able to strengthen the bonds that we have with one another so that together, we can accomplish more.
23. I wish you all a very fruitful meeting and I look forward to reading the report of

this Consultation including any recommendations or outcomes the AICHR may have for ASEAN resulting from this programme.

Thank you.

## Welcome Remarks by H.E. Leo M. Herrera-Lim, Chairperson of AICHR

In 1892, the Spanish authorities exiled the Philippine National Hero Dr Jose Rizal to a sleepy town in the southern part of the country called Dapitan, which is part of the province of Zamboanga del Norte in Mindanao. Being the betting man that he was, Dr. Rizal had the good fortune of winning one-third of the second prize of the Manila Lottery draw, and his share amounted to more than 6,000 pesos, a princely sum at the time.

From his winnings, Dr Rizal bought 70 hectares of agricultural land, where he engaged in the hemp business, raised farm animals, and built a school and clinic. One other pet project that he undertook was building the first water system for the town. He applied his knowledge as an expert surveyor to give clean water to the townspeople without any aid from the government. The water supply came from a little mountain stream across the river from Dapitan and followed the contour of the countryside for the whole distance.

He also constructed a dam through the help of his pupils. The waterworks were built using stones, cast-off tiles, bamboo pipes, and mortar from burnt coral. An American engineer, Mr H.F. Cameron, praised Dr Rizal's engineering feat as a well-designed and constructed waterworks system considering that no explosives were used.

One hundred and twenty-five years later, we still need to finish what Dr Rizal started and ensure that all ASEAN citizens have access to safe drinking water and sanitation. The lack of access to clean water supplies can lead to epidemics, with our most vulnerable members of society such as children or the elderly contracting dysentery, which can be fatal.

Members of poorer communities who are often affected by this lack of access also pay more for their water supplies, thus impacting on their economic rights as well. A typical Filipino family with water pipes connected directly to their house and consuming 10 cubic metres of water per month pays only approximately USD 5/ month. In contrast, those who depend on middlemen to deliver their supply of water can expect to pay about four times more. This is money that the family could have spent for other needs.

According to the Philippine Statistics Authority, the Philippines was able to achieve Target 7.C of Millennium Development Goal 7, Ensure Environmental Sustainability, of halving by 2015 the proportion of the population without sustainable access to safe drinking water and improved sanitation. In 1990, only 73% of the population had access to safe drinking water, while in 2015, this increased to 86.5%. Similar gains can also be seen in the proportion of families with sanitary toilet facilities,

which increased from 67.6% in 1990 to 83.8% in 2015.

While this progress is admirable, in absolute terms, it means that approximately 18 million Filipinos still do not have ready access to safe drinking water and sanitation facilities. Sustainable Development Goal 6 targets achieving universal and equitable access to safe and affordable drinking water for all by 2030. At the same time, it also hopes to achieve access to adequate and equitable sanitation and hygiene for all and end open defecation, paying special attention to the needs of women and girls and those in vulnerable situations.

Sanitation, when implemented with a focus on resource recovery and reuse, can contribute toward achieving other SDGs such as Goals 1 (no poverty), 2 (zero hunger), 8 (decent work and economic growth), 11 (sustainable cities and communities), and 12 (sustainable consumption and production).

We hope that the exchange of good practices in the next 3 days among the representatives of the different ASEAN sectoral bodies dealing with this critical issue can bring about real change for millions of our citizens for them to finally have access to one of humanity's most basic yet most important needs, which is water.

Thank you.

## Welcome remarks by H.E. Edmund Bon Tai Soon, Representative of Malaysia to AICHR

Excellencies

Distinguished Guests

Ladies and Gentlemen

On behalf of my colleagues at the ASEAN Intergovernmental Commission on Human Rights (AICHR), I warmly welcome all of you to this 'Regional Consultation on the Right to Safe Drinking Water & Sanitation in ASEAN (with emphasis on rural communities)'.

This type of meeting is not atypical of an ASEAN meeting. We meet in scenic holiday places with expenses fully covered thinking we can rest; only to find ourselves taken to a remote area and locked down for three days in a ballroom to discuss difficult issues of the region.

I extend my sincere appreciation to all of you who made this trip to share your achievements, challenges and aspirations in delivering the essential right to safe drinking water and sanitation to all the peoples of ASEAN. As the issues of water and sanitation are cross-cutting and intersect with other rights, I note that we have representatives from the various ASEAN sectoral bodies here: Senior Officials Meeting on Rural Development and Poverty Eradication (SOMRDPE), Senior Officials Meeting on Health Development (SOMHD), ASEAN Senior Officials on the Environment (ASOEN) and the ASEAN Working Group on Water Resources Management (AWGWRM). I am also happy to note that we have with us representatives from the ASEAN National Human Rights Institutions and Civil Society Organisations to provide the AICHR with views on how best we are to devise strategies to promote and protect the right to safe drinking water and sanitation. I am grateful to you for participating in this Consultation, for the AICHR cannot implement human rights goals in a vacuum and without your cooperation.

Article 28(e) of the ASEAN Human Rights Declaration 2012 (AHRD) affirms the right to safe drinking water and sanitation as part of the right of every person to an adequate standard of living for himself or herself and his or her family. Water and sanitation are rights and freedoms which carry with them obligations and responsibilities. They are not to be treated merely as needs which are based on charity or voluntary commitments by States. Sustainable Development Goal 6 (SDG 6) now seeks to ensure the availability and sustainable management of water and sanitation for all.

I commend the good work by ASEAN Member States in the area of water and sanitation. The statistics as we have set out in the Concept Note to this Consultation

are encouraging. Surely the work of SOMRDPE, SOMHD, ASOEN and the AWGWRM has contributed much to the improvements in the delivery of safe drinking water and sanitation in the region. But we must always seek to do more and be better.

I appreciate the fact that Member States have already in one form or another recognised the obligations to:

- Respect the right to water and sanitation by refraining from interfering directly or indirectly with the enjoyment of the right;
- Protect the right to water and sanitation by preventing third parties from interfering in any way with enjoyment of the right; and,
- Fulfil the right to water and sanitation by adopting the necessary measures directed towards the full realisation of the right.

Further, the procedural content of the right to water and sanitation must include:

- The right to seek, receive, access and impart information;
- The right to free and meaningful participation in decision-making processes, particularly for affected, vulnerable and marginalised groups such as the indigenous communities;
- The right to enjoyment of the rights without discrimination; and,
- The right of present and future generations, namely, sustainability.

Substantively, the right to water and sanitation demands that they be available, accessible, affordable, acceptable and be of quality.

There are still operational challenges facing ASEAN: How do we align the work of the different sectoral bodies that separately deal with rural development and poverty eradication, health, social welfare, water resources management, environment, women and children, and other areas to ensure that no one is left behind with regard to water and sanitation? How do we institutionalise a framework that will allow for constructive feedback and efficient responses to handle shortcomings or limitations in the delivery of water and sanitation to those in need such as the poor, and marginalised or vulnerable groups? How are we to treat environmental human rights defenders who face numerous risks in their work? To what extent is the right to water and sanitation justiciable matters?

Article 4 of the AHRD declares that the rights of women, children, the elderly, persons with disabilities, migrant workers, and vulnerable and marginalised groups are an inalienable, integral and indivisible part of human rights and fundamental freedoms. In our discussions therefore, we must not forget that many in ASEAN still have no proper access to safe drinking water and sanitation. The most vulnerable groups include asylum-seekers, refugees, displaced persons, ethnic minorities, trafficked persons, the indigenous and non-citizens. These groups are unable to realise the right to water and sanitation themselves by means they have at their disposal, and require assistance. We

should stand in their shoes. We should attempt to see the issues from their perspective, and not from comfort or from cloistered surroundings.

Further, poverty is one of the main hurdles for certain communities to access water and sanitation. This is why we have decidedly chosen to focus this meeting on rural communities which would necessarily also include the indigenous. Mothers who have to travel long distances to load water compromise their health. Menstruating girls who cannot afford sanitation compromise by not going to school. Many other examples abound. With that, the work to fully realise the right to safe drinking water and sanitation in ASEAN is challenging. Because it is difficult, persist we must.

Before I end, I would like to express my deep admiration and gratitude to my AICHR Malaysia team from the ASEAN-Malaysia National Secretariat at Ministry of Foreign Affairs. I also thank our partners – the Human Rights Commission of Malaysia (SUHAKAM), the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Embassy of Switzerland in Indonesia, the Swedish International Development Cooperation Agency (SIDA) and the Raoul Wallenberg Institute of Human Rights and Humanitarian Law (RWI) – for supporting this meeting.

I wish you a fruitful and productive time ahead. Thank you.

## **Welcome Remarks by Ms Cynthia Veliko, South East Asia Regional Representative for the Office of the High Commissioner for Human Rights (OHCHR)**

Excellencies, distinguished participants, and colleagues,

I would like to congratulate the ASEAN Intergovernmental Commission on Human Rights, the Sabah State Government of Malaysia and the Human Rights Commission of Malaysia (SUHAKAM) for organising this important consultation and for giving us the opportunity to discuss how to work together on the protection and promotion of the right to safe drinking water and sanitation in South East Asia.

The human rights to safe drinking water and sanitation have been explicitly recognized and reaffirmed by the United Nations (General Assembly and Human Rights Council). They are derived from the right to an adequate standard of living and inextricably related to other fundamental human rights such as the right to the highest attainable standard of physical and mental health, as well as the right to life and human dignity.

Water is also the most immediate manifestation of the effects of climate change that we are seeing taking place across the globe, including in South East Asia, often in extreme weather patterns such as floods and drought. The poorest of people have contributed least to the drivers of climate change; yet it is they who bear the greatest burden of its impact.

It is therefore paramount that efforts to improve access to water and sanitation, are guided by the principles of non-discrimination and equality, including geographic inequalities experienced by communities in remote rural areas, group-related inequalities based on ethnicity, race, nationality, language and religion, and individual-related inequalities based on gender, age, and disability. This includes groups with special needs such as persons living with health conditions, women and girls during menstruation and also for religious and cultural purposes.

This consultation places specific emphasis on rural communities. This is in full alignment with the imperative for sustainable development and inclusive development in the 2030 Agenda: leaving no one behind. In this regard, the realization of SDG 6 (Ensure availability and sustainable management of water and sanitation for all), should be taken in conjunction with the two dedicated goals on combating inequality and discrimination (Goal 5 on achieving gender equality and Goal 10 on reducing inequalities within and between States).

As with other human rights, the States bear the primary obligation for the realization

of the rights to water and sanitation. However, implementing these rights requires broader cooperation and partnership of a wide range of stakeholders, each respecting and upholding these rights. For instance, where services linked to access to safe drinking water and sanitation have been privatized, the state continues to have obligation to regulate and monitor the activities of those private service providers, and to provide for effective remedies when those rights have been violated. At the same time, private businesses also have responsibilities to respect human rights in conducting their operations, in line with the UN Guiding Principles on Business and Human Rights.

The recent judgment of the Supreme Court of Indonesia, where the court ruled against private water utilities for failing to protect the right to water of low-income communities, provides a very positive illustration of accountability by the State to fulfill its obligation to protect and in upholding the principle of equality and non-discrimination in relation to access to water and sanitation.

In recent years, the UN human rights mechanisms provided a number of important recommendations to ASEAN Member States in relation to the protection and promotion of the right to safe drinking water and sanitation. These recommendations, which can assist Governments in the development of rights-based legislation and policies, include: improving access to safe and clean drinking water and sanitation in rural areas; enacting laws that guarantee the practice of free, prior, and informed consent of affected communities in decisions on use of their natural resources; taking affirmative action to reach “invisible” individuals caught in a protection gap, including migrants, internally displaced, indigenous populations, informal settlement dwellers and prisoners; addressing the lack of access to sanitation and water for women in rural and hill tribes; taking measures to protect water sources from contamination in industrial zones for the safety of local populations; consulting with the affected communities to ease the impact of development projects which adversely affect natural ecosystems; addressing the adverse environmental impact of the expansion of oil palm plantations, including pollution of water sources; and providing internally displaced persons in camps with adequate basic services, including water and sanitation.

In the Plan of Action to Implement the Joint Declaration on Comprehensive Partnership between ASEAN and the United Nations (2016-2020), members of ASEAN committed to promote coordination amongst relevant sectors to, inter alia, improve access to clean land, green public space, clean air, and clean and safe water and sanitation.

This commitment is also captured by the ASEAN 2025 vision which commits to “An inclusive community that promotes high quality of life, equitable access to opportunities for all and promotes and protects human rights of women, children, youth, the elderly/older persons, persons with disabilities, migrant workers, and

vulnerable and marginalised groups”.

The discussions which will take place during this consultation and their consolidation in the Consultation Position Paper on Article 28 (e) of the ASEAN Human Rights Declaration provide a key opportunity for ASEAN Member States together with other key actors such as the UN, National Human Rights Institutions and civil society, to meaningfully move forward in the realization of the right to safe water and sanitation in the region, particularly in rural areas and for marginalized groups. It is indeed an essential step toward the realization of SDG 6.

Let me conclude by re-iterating my appreciation for the opportunity to be part of this consultation. The UN Human Rights Office remains committed to supporting AICHR’s efforts and participating in these important discussions.

Thank you very much and I wish you all the best for the rest of this important consultation.

**Welcome Remarks by Ambassador Yvonne Baumann, Swiss Ambassador to ASEAN in Jakarta (Read out by H.E. Edmund Bon, Representative of Malaysia to AICHR)**

Excellencies, colleagues, friends, dear Ladies and Gentlemen,

Switzerland has been a long-standing cooperation partner in South East Asia. Humanitarian action is part of that engagement.

Further, as a sectoral dialogue partner since 2016, ASEAN and Switzerland have defined support to ASEAN's Intergovernmental Commission on Human Rights (AICHR) as an important priority of that partnership. The protection and promotion of human rights is a top priority for Switzerland's foreign policy, including supporting progress with regard to economic, social and cultural rights.

Switzerland therefore commends AICHR and the participants in this Regional Consultation in Sabah, Malaysia, for this initiative, and for discussing the right of safe drinking water and sanitation, and about ways forward. Switzerland is honoured to support this Consultation and is proud to have Amanda Loeffen from WaterLex as an expert to contribute to this meeting's deliberations. Switzerland looks forward to the outcomes of this initiative and to staying engaged.

Thank you.

**The Right to Water and Sanitation by Ms Virginia Dandan, former UN Independent Expert on Human Rights and International Solidarity (2011-2017) and former Chairperson of the UN Committee on Economic, Social and Cultural Rights (1999-2007)**

Good afternoon Excellencies, colleagues, ladies and gentlemen. Allow me to congratulate the organisers of this consultation conference, the Office of the Representative of Malaysia to the ASEAN Intergovernmental Commission on Human Rights (AICHR), for this important initiative on the right to safe drinking water and sanitation. I also wish to thank the organisers for inviting me to engage with you and to contribute to this important gathering.

We all recognise that fresh water sustains human life and is vital for human health. Yet, evidence shows millions of people, mostly children, die from diseases associated with inadequate water supply and poor sanitation and hygiene. (Let's not forget the term hygiene, which goes with sanitation.)

In 2000, the World Health Organization (WHO) estimated that 1.1 billion persons - 80% of them rural dwellers - didn't have access to an improved water supply that sufficiently provided at least 20 litres of safe water per person per day. Another 2.4 billion were estimated to be without sanitation; and 2.3 billion persons each year suffered from diseases linked to water.<sup>38</sup> That was in the year 2000.

These staggering figures, amongst other factors, led the United Nations Committee on Economic, Social and Cultural Rights (the Committee) to examine the adverse human rights impacts of these statistics.

Two years later in 2002, the Committee adopted General Comment 15 on the right to water, linking it directly to the relevant articles protected by International Covenant on Economic, Social and Cultural Rights (ICESCR or the Covenant), namely Article 11 on the right to an adequate standard of living that includes the right to adequate food and adequate housing. Article 11 is also where the Committee looks at the issue of poverty.

The right to water is also inextricably linked to Article 12 – the right to the highest attainable standard of physical and mental health. It was my privilege to steer the Committee towards the adoption of a number of General Comments including General Comment 15 during my incumbency as Committee chair. I will be discussing

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<sup>38</sup> See WHO, The Global Water Supply and Sanitation Assessment 2000, Geneva, 2000, p.1.

the value of General Comments in the development of international law over the next few days.

### **General Comment 15**

I invite your attention to General Comment 15, where the Committee stressed that the human right to water is indispensable for leading a life of human dignity and a prerequisite for the realisation of human rights. Today, it sounds almost trivial to say that, as it is commonly understood, but in that year in 2002, nobody talked about these things.

In its primary task of monitoring and compliance by State parties with their obligations under the Covenant, the Committee had been confronted continually with widespread denial of the right to water in developing as well as developed countries, as evident in WHO statistics at that time.

As an aside, I would like inform you that General Comments set the normative standard for the implementation of specific human rights. They are the soft law of the Committee. If you look at the Covenant – it says that everyone has the right to an adequate standard of living including the right to adequate food and housing and so on. The Committee in the course of its years of work has tried to interpret and provide clarity to these rights by coming up with General Comments.

Three years after the adoption of General Comment 15 on the right to water, the UN Human Rights Council established the Special Procedures mandate on the right to water and sanitation and appointed the first Special Rapporteur tasked to work on the protection and promotion of right to water and sanitation. In 2010 the UN General Assembly adopted a resolution recognising the human right to water and sanitation. The Assembly recognised the right of every human being to have access to sufficient water for personal and domestic uses (estimated between 50 and 100 litres per person per day). This water must be safe, acceptable and affordable (water costs should not exceed 3% of household income), and physically accessible, meaning that the water source has to be within 1,000 metres of the home and collection time should not exceed 30 minutes.

These details help us understand what it means to have access to water and to have water that is affordable, safe and accessible.

General Comment 15 noted the importance of ensuring sustainable access to water resources for agriculture to realise the right to adequate food. Furthermore, attention was given to ensuring that disadvantaged and marginalised farmers including women farmers, have equitable access to water and waste management systems, including sustainable rain harvesting equipment and technology. Taking note of the duty in Article 1 of the ICESCR that people may not “be deprived of its means of subsistence”, States should

ensure adequate access to water for subsistence farming and for securing livelihoods.

### **The Right to Water**

The right to water contains both freedoms and entitlements. The freedom includes the right to maintain access to existing water supplies necessary to the right to water, and the right to be free from interference or contamination of water supplies, for example, arbitrary disconnections, or contamination of water supplies. Entitlements include the right to a system of water supply and management that provides equality of opportunity for people to enjoy the right to water.

Whereas the right to water applies to everyone, States should give special attention to individuals and groups who have traditionally faced difficulties in exercising this right including children, women, minority groups, indigenous groups, refugees, asylum seekers, internally displaced persons, migrant workers, prisoners and detainees. In particular, States should take steps to ensure women are not excluded from decision-making processes pursuing water resources and entitlements. The disproportionate burden women bear in the collection of water should be alleviated.

Rural and deprived urban areas should have access to properly maintained water facilities. Access to traditional water sources in rural areas should be protected from unlawful encroachment and pollution. This is closely linked to the right to land, which is considered as having its own special niche in the set of rights of economic, social and cultural rights; and civil and political rights.

Deprived urban areas, including informal settlements and homeless persons, should have access to properly maintained water facilities. No household should be denied the right to water on grounds of housing or land status.

Having access to safe drinking water and sanitation is essential to living a life of dignity and upholding human rights. Yet billions still do not enjoy these fundamental rights. The rights to sanitation and water require that these are available, accessible, safe, acceptable and affordable for all on the basis of equality and non-discrimination. These elements are clearly interrelated.

While access to water may be guaranteed in theory, how does it really stand in reality? If it is too expensive, people don't really have access. Women should not have to use sanitation facilities which are not maintained or not segregated. If so, then it is not accessible. If there's a tap that delivers unsafe water, can we claim that water is available? These are the finer points of what accessibility really means. It's not just about numbers. It's about the quality of access that defines whether or not water and sanitation are truly accessible.

Human rights demand a wholistic understanding of access to water and

sanitation. The right to water and sanitation further require an explicit focus on the most disadvantaged and marginalised, as well as an emphasis on participation, empowerment, accountability and transparency. Transparency and accountability are crucial in having a rights-based approach.

### **Sanitation Crisis**

In her initial report to the Human Rights Council in 2005, the first Special Rapporteur on the right to water and sanitation highlighted that we are in the midst of a sanitation crisis. That was in 2005 – a dozen years ago. She expounded on the disastrous consequences of poor, or no sanitation at all, on people's health, livelihoods, education and overall development. She was convinced that a proper understanding of human rights obligations related to sanitation and mobilisation of the political will necessary to abide by these obligations, were essential to tackling this crisis.

In terms of the normative content of human rights obligations related to sanitation, she outlined it according to availability, quality, physical accessibility, affordability and acceptability of sanitation. This followed the same paradigm applied to water used in General Comment 15 on the right to water.

Then, there in the assembly hall of the UN, the Special Rapporteur candidly pointed out one of the biggest obstacles we face in tackling the sanitation crisis – the taboo surrounding the issue of defecation and faeces. Those words are not generally considered appropriate topics at public gatherings, conferences or debates. The popular or slang equivalents of these words are even used as curse words in some languages, making it even more difficult to find appropriate language to talk about this serious issue. Clearly, we must break this taboo – too many children are dying, too many are seriously ill. Forty per cent of the world's population is suffering, and we cannot allow this to continue simply because it makes us uncomfortable to talk about an intimate, private matter.

According to the UN, currently 783 million people don't have access to clean water, 2.4 billion people worldwide lack proper sanitation, 1.8 billion people globally use a source of drinking water that is fecally contaminated, and 1,000 children die every day due to preventable water- and sanitation-related diarrheal diseases.

The UN has prioritised access to water and sanitation as Goal 6 of its 2030 Agenda for Sustainable Development, more popularly known as the Sustainable Development Goals or SDGs. Goal 6 of the SDGs is to ensure availability and sustainable management of water and sanitation for all by 2030.

This goal has clear linkages to health, food security and climate change and resiliency to disasters and changes to ecosystems, among many other issues. Among the targets

within Goal 6 are improved water quality and water-use efficiency, the protection of water-related ecosystems such as mountains, forests, wetlands, rivers, aquifers and lakes; and the expansion of international cooperation and capacity building support to developing countries in water- and sanitation-related activities and programmes. We should talk more about international and regional cooperation in terms of capacity building to support developing countries in programmes; including water harvesting, water efficiency, desalination, and recycling and reuse technology.

You might wonder why the Committee only made a relatively minor reference regarding sanitation in General Comment 15, and the title is on right to water, excluding sanitation. Remember, the year was 2002. That's 15 years ago and I recall that during deliberations prior to adopting the General Comment, there was quite a heated discussion on the topic of sanitation by Committee members. WHO experts were with us as primary resource persons and they confirmed that at that time, there were no reliable studies on sanitation except statistics that had not been formally analysed.

General Comments are always based on State practice as described in their periodic reports. Committees and treaty bodies do think up topics on their own – they look at the reports of State Parties and committees draw interpretations from State Parties' own descriptions.

Given the apparent impasse that the Committee faced on the issue of sanitation, as the chair I proposed that we needed to include a reference to sanitation, lest we run the risk of not being able to adopt the General Comment. In the wake of the influx of information on that followed on water and sanitation, the phrase 'human right to safe drinking water and sanitation' would come much later in 2010 in the form of a General Assembly resolution recognising such a right.

### **The Right to Water and Sanitation in the Context of ASEAN**

We can use the next few days to deliberate on what it means for ASEAN to have a right to safe drinking water and sanitation. We could perhaps explore what it means for water and sanitation to be available, accessible, affordable, acceptable and of good quality in the ASEAN context. We must consider not just water but also sanitation – what commonalities do they have and how do we bring these principles together so that they will mean something as a system. We must also not forget hygiene, which perhaps can also be brought into consideration somewhere along the way.

When we're doing this, let us not forget to pay attention to the gender dimension in the enjoyment of the right to safe drinking water and sanitation. Achieving equality in safe, available, accessible and affordable water, sanitation and hygiene can serve

as an entry point to ensure that women and girls fully enjoy this right.

There is a 'Handbook on realising the right to drinking water and sanitation' prepared by the UN Special Rapporteur Catarina de Albuquerque, that we could use to guide our discussions and I can point to other helpful resources.

I would strongly recommend for us to explore the challenges that lie before us. It will not be easy but our efforts will amount to a truly meaningful document.

We have heard valuable and rich information on country experiences and we continue to hear some more. As you continue to listen, try and imagine how do you translate all of these experiences – the best practices, the lessons learnt, the challenges – how do you translate these into human rights language? How do we integrate human rights into all of this rich information that we are beginning to gather?

That is the challenge that I believe is before us and this certainly is a wonderful, rare opportunity to bring together all the expertise inside the room and come up with an interpretation and understanding of what Article 28(e) of the ASEAN Human Rights Declaration on the right to safe drinking water and sanitation means. That's first base, and it would be a great accomplishment.

## **Sharing of Good Practices and on Forms of Advisory Services and Technical Support on the Right to Safe Drinking Water and Sanitation in Relation to Sustainable Development Goal 6 (SDG 6) by Ms Solene Le Doze, Environmental Affairs Officer, Environment and Development Division, United Nations Economic and Social Commission for Asia and the Pacific (ESCAP)**

### **Introduction**

This is a presentation on the work of the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) with regard to water and sanitation. Water resources management is an important focus for the ESCAP's Environment and Development Division, as water underpins all socio-economic activities in the region. The division looks at integrating environmental sustainability into development policy making.

### **Sustainable Development Goals**

ESCAP work relating to water and sanitation is focused around Goal 6 of the 2030 Agenda for Sustainable Development, also known as SDG 6 on Clean Water and Sanitation. We track the progress of the sustainable development goals in Asia-Pacific. For instance, in March 2017, ESCAP published the Asia-Pacific Sustainable Development Goals Outlook,<sup>39</sup> which examines the progress in all 17 sustainable development goals.

Here are some key facts on water and sanitation from the ESCAP report:

- From 1990 to 2015, the percentage of access to safe drinking water grew from 74 to 94%.
- There was a 19% increase in the number of people using an improved drinking water supply in South-East Asia.
- One in ten rural residents is still without access to safe drinking water.
- River Basin management systems are in place, such as in the Mekong River Basin, although they need to be scaled up to ensure efficiency of water resource use and management.
- From 1990 to 2015, access to sanitation increased from 44 to 65%.
- In 2015, around half of the rural population had no access to improved sanitation.

Some of the challenges and emerging issues outlined in the report:

- Waste water treatment is as low as 4% in some regions. Up to 90% of waste water

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39 <https://www.adb.org/publications/asia-pacific-sdg-outlook>

- is discharged directly into the water streams.
- There is increasing groundwater stress with unsustainable withdrawals of freshwater.
  - Rapid urbanisation is challenging the ability of municipalities to keep up with the rapid growing demands on freshwater supply.
  - Persistent organic pollutants and other hazardous chemicals are making their way into water sources.
  - There has been a decline of glacier lakes affecting Asia's major river basins, which are home to 1.2 billion people and affect their livelihood.

There has been a lot of progress on water and sanitation in Asia-Pacific, and there are still major challenges. The report states that critical challenges lie ahead for achieving SDG 6. Some 277 million still lacked access to safe drinking water in 2015. Around half of the rural population in the region has no access to improved sanitation.

These conditions, compounded by the impacts of climate change, which might limit freshwater resources, will hamper the achievement of SDG 6, if left unattended. Threats related to water scarcity, poor water quality and inadequate sanitation will negatively impact the achievement of other SDGs as well.

The nature of the 2030 agenda and the sustainable development goals in general is very much interlinked. We also look at the water-energy-food nexus. These three areas are closely linked because water is needed to provide food and energy and the lack of water will adversely affect these other areas as well. We encourage water to be looked at with a systemic approach and for system-thinking approaches to fully embrace the full scope of water issues.

### **Regional Road Map**

ESCAP has developed a Regional Road Map for implementing the 2030 Agenda for Sustainable Development.<sup>40</sup> This document is meant to facilitate cooperation at the regional level. The road map identifies priority areas of regional cooperation for implementation of the 2030 Agenda.

For SDG 6 on clean water and sanitation in particular, we organise intergovernmental processes, with follow-up and review mechanisms.

In terms of outlooks, we look at the progress in the region, major challenges and also opportunities. We look at the innovations and key areas where government can

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40 <http://www.unescap.org/publications/regional-road-map-implementing-2030-agenda-sustainable-development-asia-and-pacific>

develop policy that will have the most action in terms of making progress towards sustainable development.

### ESCAP's Work on SDG 6 – Clean Water and Sanitation

#### I. Asia Pacific Forum for Sustainable Development (APFSD)

ESCAP convenes an annual regional intergovernmental forum on sustainable development called the Asia Pacific Forum for Sustainable Development (APFSD). The next meeting will be from 28-30 March 2018 and will be focusing on transformations towards sustainable and resilient societies.

At APFSD 2018, we will be looking at a cluster of sustainable development goals including SDG 6 on clean water and sanitation. Other SDGs will include affordable and clean energy; sustainable cities and communities; responsible consumption and production; life on land; and partnerships. We want to dive into each goal and look at the interlinkages between all these goals.

We need to look at the whole water life cycle, integrated river basin management, and at water use in cities.

There will be a multi-stakeholder roundtable during APFSD 2018 looking at SDG 6 to examine the policy options and how they are relevant for the region.

On a general note, ESCAP also hosts ministerial conferences and sessions. This includes a committee on environment and development. The meetings' scope would be slightly broader than water issues – we try to have systemic issues and look at water and other resources in an integrated way.

#### II. UN-Water

There are a number of UN agencies that work on water issues and we also work with them. We work through UN-Water, which coordinates the UN water-related work. This work involves other UN members and as well as private sector partners and civil society organisations. Amongst its main roles are informing policy, monitoring and reporting, and inspiring action (e.g. through hosting World Water Day).

There are also thematic regional coordination mechanisms. For instance, there is a thematic working group on resource efficient growth, which includes work on water.

### Knowledge, technical support and capacity building

ESCAP also provides support to governments on knowledge, technical support and capacity building in relation to water and sanitation.

I have provided an example on the work we do in Sri Lanka on water resources and sanitation. This demonstrates how we have worked on the integration of SDG 6 with other goals. By overlaying this with the institutional framework, we have identified key policy actions for maximum impact on progress towards SDG 6 and other goals. This has been a multi-stakeholder process. More information on this integration tool can be found at <http://www.unescap.org/publications/integrated-approaches-sustainable-development-goals-planning-case-goal-6-water-and>.

We also have a sustainable development goals help desk with a 'Water for Life' theme. This is a knowledge repository where we invite contributors to share knowledge and policy-relevant products.

We have developed a rapid response facility that coordinates UN technical support and capacity building efforts in the region. This is based on requests from countries and might be of interest to ASEAN countries.

We support sub-regional and trans-boundary processes, for example, the Astana Green Bridge Initiative in Central Asia. This initiative develops regional, interregional and inter-sectorial cooperation and introduces green economy principles such as through promoting green technology and financing.

We also have a wealth of publications on water and sanitation, which are available on the ESCAP website.

### **What ESCAP promotes in terms of water and sanitation**

Overall, we promote resource efficient, integrated and sustainable water management. This includes trans-boundary water management as this is an important geopolitical issue and it is very important to ensure that water is managed corporately.

We also work on stakeholder engagement and localisation of SDG implementation. We encourage the public and private sectors to work together with governments in managing water and sanitation. We also work towards effective financing of water resource management.

### **Conclusion**

Water is an issue for all actors and an important one in ASEAN that we are keen to support. It is also very closely linked to issues of human rights and social justice, especially looking at the overarching goal of the 2030 Sustainable Development Agenda to "leave no-one behind".

## Sharing of Good Practices and on Forms of Advisory Services and Technical Support on the Right to Safe Drinking Water and Sanitation in Relation to Sustainable Development Goal 6 (SDG 6) by Ms Amanda Loeffen, Director General, International Secretariat, WaterLex

### Overview of WaterLex

1. WaterLex was formed in 2010 after the UN General Assembly affirmed the human rights to water and sanitation in a general resolution.
2. WaterLex has a similar vision to Sustainable Development Goal 6 of the 2030 Agenda – to achieve sustainable use and access to safe water and sanitation for all. Our mission is to secure the human rights to water and sanitation through law and policy reform.
3. Our values and principles are as follows:
  - a) Knowledgeable – we are an expertise organisation – we are driven to achieve impact through objective analysis and high-quality research.
  - b) Pragmatic – we try and be pragmatic and use our expertise to give concrete and tailored advice based on a well-researched picture of a country's legal and policy context.
  - c) Collaborative – we work on a collaborative basis with like-minded partners in the country we are studying.
  - d) Neutral and independent – we are an expert organisation and we do not represent a particular stakeholder group or local population.
4. We are based in Geneva, Switzerland and we have a group of experts working on law and policy. We act as neutral, independent advisers to governments or whoever is looking to create law reform regarding the rights to water and sanitation.
5. When Sustainable Development Goal 6 was formulated in 2015 relating to access to water and sanitation for all, it created a lot more visibility for this human right. We had already been working for a number of years on the issue and had developed methodologies that could be useful in that regard.
6. There have been some key developments from 2000, when the Millennium Development Goals were put in place until 2015 when they were superseded by the Sustainable Development Goals. This includes:
  - a) The adoption of General Comment 15 on the Human Right to Water by the Committee on Economic, Social and Cultural Rights in 2002; and
  - b) The adoption of a general resolution by the UN General Assembly on the human right to water and sanitation.

7. There has also been recognition that water and sanitation are two separate rights.

### **Water and Sanitation as Human Rights**

8. The difference between the human rights to water and sanitation and the aim of the sustainable development goals is the legal obligation.
9. Human rights provide that States are obliged to respect, protect and fulfil the rights to water and sanitation. This includes ensuring access to safe, affordable, available, culturally acceptable water and sanitation.
10. There are linkages between the rights to water and sanitation and the sustainable development goals. The SDGs are grounded in a human rights framework. This is evident in the statement "leave no one behind" which reflects the human rights principle of non-discrimination. It also is a renewed commitment to implement the human rights to water and sanitation.
11. Target 6.1 of SDG 6 aims to achieve universal and equitable access to safe and affordable drinking water for all by 2030.
12. Target 6.2 aims to achieve access to adequate and equitable sanitation and hygiene for all and end open defecation, paying special attention to the needs to women and girls and those in vulnerable situations by 2030.
13. The other sub-targets on improving water quality, increasing water use efficiency, promoting trans-boundary cooperation and protecting water-related ecosystems are also all interconnected. Basically, you can't achieve one without the other.

### **Rural Population Water Statistics**

14. If we look at the Joint Monitoring Programme (JMP) statistics in 2015 with regard to the percentage of the rural population with improved access to water – we can see that there are a few countries in South-East Asia where potentially 70% of the rural population don't have access to improved water.
15. The numbers for access to sanitation for the rural population are very similar.

### **Improved Water and Sanitation Source – WHO/UNICEF Definition**

16. I have set out some data from the WHO/UNICEF definition on what improved water source means. It is derived from a qualitative assessment of service users on water facilities, and provides point of use information. The data indicates that improved water source includes:
  - a) Piped water on premises and other improved drinking water sources (includes

public taps/standpipes, tube wells/boreholes, protected dug wells, protected springs, rainwater collection).

- b) What 'improved' means is extremely subjective—it includes a water source that is safe, adequate, improved and reasonable.
  - c) A key part is protection from outside contamination, in particular from contamination with faecal matter.
17. For improved sanitation source, the WHO/UNICEF definition includes:
- a) One that hygienically separates human excreta from human contact.
  - b) Has a flush/pour flush (to piped sewer system, septic tank, pit latrine; ventilated improved pit latrine, pit latrine with slab and composting toilet).
  - c) Hygienic sanitation facilities.
  - d) Facilities must be correctly constructed and properly maintained to be effective.

### Access to Improved Water and Sanitation

18. In terms of access to water, the statistics from World Development Indicators show that one-third of the population in low-income countries struggle to access clean water.
19. For sanitation, nearly a third of the world's population does not have access to improved sanitation facilities. And only a third of the population in low-income countries have access to sanitation facilities.
20. Globally, there is still a significant difference between rural and urban areas in access to water and sanitation. Globally, rural sanitation coverage is still less than half of urban coverage.
21. This situation is compounded by water stress, especially in the Middle East, North Africa and South Asia, which are the most water-stressed regions.
22. For South-East Asia, about 75% of the rural areas in the region as a whole have improved access to water and sanitation.

### WaterLex's Role

23. WaterLex's strategy in helping in this area includes:
- a) **Research:** We conduct a lot of research and we try and understand how to integrate the human rights to water and sanitation into legal and policy frameworks.
  - b) **Capacity enhancement:** We are linked to a few countries where we are conducting research—we educate, share information, and increase the capacity of stakeholders – whether on the supply or management side. We enhance

knowledge sharing and capacities for achieving water governance based on human rights.

- c) **Catalyst for change:** We work with multi-stakeholder groups at the regional or national level to engender law reform and change, we seek to achieve governance reform and we look to the human rights to water and sanitation as our tool and methodology for enabling that.
- d) **Reform:** We help to mainstream a human rights approach to water and sanitation into water governance frameworks and processes.
- e) **Accountability:** We also help with accountability and help increase compliance of State and non-State actors with their legal obligations. For instance, if we identify problem areas, we can start to tailor indicators to monitor that area. We can also conduct a baseline analysis to help us establish where indicators need to be established and monitored.

### Progressive Realisation of SDG 6

- 24. When we talk about the human rights to water and sanitation and meeting SDG 6, we are looking at progressive realisation of these rights. There are many aspects that cannot be achieved overnight. So, the country starts from their current situation and there is a grace period to achieve their goals.
- 25. Within that process, we are trying to provide governments with tools so that they can get from where they are today to a position where they are able to realise SDG 6 of providing access to water and sanitation for all.
- 26. We share methodologies for conducting baseline analysis of the current situation – looking in detail at legal and policy structures governing access to water and sanitation. This analysis will involve both desk and field studies – we conduct research as well as interviews on the ground with various stakeholders.
- 27. Once that information is obtained and analysed, we make recommendations based on that information. And we can then make recommendations for a national action plan and what monitoring framework should be put in place.
- 28. This process requires transparency, one of the principles of human rights. There needs to be a recognition that something needs to be done, and to achieve that, there needs to be more transparency and sharing of data to improve the situation in the country.
- 29. It is also important to involve multi-stakeholders in this process, as the achievement of SDG 6 cannot happen without the involvement of the various people, groups and organisations dealing with this issue.
- 30. Our ultimate goal in assisting in this area is to create sustainable water

governments and management which are compatible with SDG 6.

### **Country Mapping**

31. When we are conducting an analysis of a country's approach to the fulfilling the human rights to water and sanitation, we conduct a country mapping process, which I will describe. This provides us with a baseline analysis and identifies any gaps in the existing situation and we provide tools to accelerate implementation to achieve SDG 6.
32. We first go through a process where we analyse the water laws and policies in a country.
33. We have established a fairly tried and tested method and have benefited from the support of a large international law firm with whom we have shared this methodology to enable us to increase the number of countries we can study.
34. This study is initially done at the desktop level where we analyse the existing framework and identify areas that may not be fully compliant with human rights standards.
35. We then verify those findings on the ground by interviews, workshops, multi-stakeholder analysis and by understanding the institutions and organisations that are working on the ground.
36. The next step is we hold a national workshop with recommendations where we present tailored indicators specific to that country so that it's possible to track their achievement and progress towards achieving SDG 6. We talk about strategies as well as law and policy reform that need to take place.
37. It's important to look at a specific country's data. Global indicators are useful for comparison but we need to look at disaggregated data and data sharing within the country to understand what the current position is and where it is headed. This information is also very important for people within the country to be able to understand what the goals are, as part of the education process.

### **Case Study – Uganda Country Mapping**

38. An example of a country mapping that we did was with Uganda, which involved a one-year study which included desktop and multi-stakeholder analysis and workshops.
39. Some of the recommendations arising out of this analysis, to be included in the national action plan are:

- a) Enhance the legal framework to fill gaps which were identified – even though Uganda’s constitution has the right to water and sanitation, there were still some gaps and compliance issues.
- b) Harmonise national standards to align with the human rights to water and sanitation as well as SDG 6.
- c) To set targets for a progressive realisation plan with monitoring.
- d) To improve accountability by setting up an independent regulator with harmonised standards, as there were different standards across the country.

**National Human Rights Institutions Initiative**

- 40. Other than with governments, WaterLex also works with national human rights institutions as one of the stakeholders. They are good partners for us because they already have human rights expertise and are usually an independent government body with legitimate powers. We recognise that not every country has a national human rights institution, and we note there are several countries in ASEAN which do have this institution.
- 41. Working with these institutions has proven useful in a number of areas such as:
  - a) Promoting ideas around the human rights to water and sanitation.
  - b) They can conduct monitoring and research at a national level and act as a neutral fact-finder.
  - c) They also provide a bridging role between governments and other stakeholders as well as the international sector.
  - d) They are an independent advisory body that can provide advice to government and legislative bodies on this issue.
- 42. We have held national and regional workshops with national human rights institutions, and held an Asian regional workshop in 2015 in Malaysia. We have a number of training tools and materials, particularly on monitoring, that we share. We have an online platform for national human rights institutions where we share information. The engagement with national human rights institutions has turned out to be a fairly big programme for us and we are active in a number of different regions through this platform.

**Regional Approach to SDG 6 Implementation**

- 43. With this consultation, there’s a great opportunity to do something on a regional basis to support ongoing national programmes.
- 44. How we’ve done it in other regions for example, in the Middle East, is by sharing information at the initial stage. This is done through roundtable discussions, networking with parliamentarians and ministries, and working through national human rights institutions. We share technology solutions and ideas about how work is being done across the different national frameworks. We also share

quick and easy steps for monitoring and how to avoid some common pitfalls.

45. Once there is information sharing, that information can be analysed. Specific case studies can provide guides to good practice. We can also look at the different national situations and find possibilities for cooperation.
46. Once there is good regional cooperation, there is also an opportunity to formulate regional guidelines for law reform.
47. It is also possible for a detailed country mapping to be conducted for one country, and the information arising from that can be shared with other countries and used as a source of recommendations for other countries with similar situations. With country mapping, tailored indicators can be crafted for that country. Although each country has different legal and policy structures, as well as different cultural practices, it may be possible within a region to share recommendations due to regional similarities between neighbours. So, this provides a good opportunity for learning from each other.

#### **Progressive Realisation in ASEAN**

48. Achieving SDG 6 where water and sanitation are safe and affordable for all is a progressive realisation. Targets can be set, both short-term and long-term and countries are meant to work towards those targets.
49. Looking at the statistics for rural communities, we're not yet three-quarters of the way there on either water or sanitation, so it will require some work to get from where we are today to achieving SDG 6.
50. There are a number of different ways to achieve that. It may not be a pipeline for everyone, which is an expensive option. There are also other options such as household water treatment options, and governance and regulatory systems that can work together with other solutions that are more economic and cost-effective.
51. In summary, WaterLex aims to use its programme to help give countries a framework for achieving SDG 6, starting off with analysing the existing situation, then verifying those findings on the ground and understanding the situation, and then tailoring human rights-sensitive indicators. Using disaggregated rather than global indicators, which are based on the research, will provide a baseline for countries to assess where they are and how they need to get to achieving SDG 6.
52. We find that often the process of taking a human rights-based approach with more participation from multi-stakeholders and transparency is already half the

battle. Sometimes, the laws are already in place, and countries need some help with regulation or policy development to take it to the next level.

53. Ultimately, we hope that countries will embrace the human rights to water and sanitation fully, not just in laws, policies and strategies, but to actually achieve safe and affordable water and sanitation for all.

**Presentation by Ms Marie Joyce Godio, Programme Officer (Human Rights Campaign and Policy Programme), Asia Indigenous Peoples Pact (AIPP)**

**'Issues Affecting Indigenous Peoples in the ASEAN Region Regarding Water and Sanitation'**

**Introduction**

I would like to express our sincere appreciation to the organisers for inviting AIPP to this Regional Consultation to highlight the issues faced by indigenous peoples in the region regarding water and sanitation. Before getting into specific issues, please allow me to give a quick introduction on indigenous peoples.

There is no official definition for "indigenous peoples" that is adopted by any UN-system body. But a working definition has been globally recognised and utilised to refer to them, that is:

"Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing on those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal system."<sup>41</sup>

In South East Asia, we are referred to in different names, like "ethnic minorities", "hill tribes," "native people" etc., including other terms that are derogatory,<sup>42</sup> which I prefer not to mention here.

**United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)**

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is an important document at the international level. It sets the minimum standard on the rights of indigenous peoples and is a significant instrument that serves as a basis

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41 UN Doc. E/CN.4/Sub.2/1986/7 and Add. 1-4. The conclusions and recommendations of the study, in Addendum 4, are also available as a United Nations sales publication (U.N. Sales No. E.86.XIV.3). Jose R. Martinez Cobo's, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, Study on the Problem of Discrimination against Indigenous Populations, was launched in 1972 and was completed in 1986, thus making it the most voluminous study of its kind, based on 37 monographs.

42 "ASEAN's Indigenous Peoples," see: [https://www.iwgia.org/images/publications//0511\\_ASEAN\\_BRIEFING\\_PAPER\\_eb.pdf](https://www.iwgia.org/images/publications//0511_ASEAN_BRIEFING_PAPER_eb.pdf)

when protecting, respecting and fulfilling our individual and collective rights.

It is recognised that UNDRIP, “does not affirm or create special rights that are unique to indigenous peoples in a fundamental sense, but rather it elaborates upon fundamental human rights of universal application in the specific cultural, historical, social and economic circumstances of indigenous peoples.”<sup>43</sup>

Having said this, I would like to share the challenges that indigenous peoples in the region are facing with regard to water and sanitation. In general, a large number of indigenous peoples live in rural communities, which, as we have seen and heard from yesterday’s country situation reports, are often least able to fully enjoy their right to water; affecting their enjoyment of other rights.

### Country Examples and Challenges

Here are some country examples of indigenous peoples facing challenges in accessing clean and safe water, gathered from our ASEAN member organisations and from news reports.

#### **Cambodia**

In Cambodia,<sup>44</sup> rural communities indeed lack access to clean and safe water. Its Department of Rural Development has provided wells but these are not enough to meet the water needs of the communities. Also, government support is lacking in checking and monitoring the water quality in these wells. There is equally no support in providing proper awareness in water and sanitation, particularly in handling chemicals. This is significant as indigenous peoples have resorted to using chemicals in clearing their grass. This has contributed to the pollution of streams that have already been largely polluted by large-scale business projects.

Large-scale plantations such as rubber plantations have used pesticides that flow to the streams, affecting the quality of the water, which is the main source of water of the communities. This not only killed fishes but also affected the communities’ health. Due to the lack of other water sources, the communities are left with no choice but to consume the water from the stream despite the knowledge of its effects.

Similarly, a mining company in Monduliri province had polluted the stream and this affected the health of peoples in the communities. These lands were granted to large-scale businesses through economic land concessions without any consultation to the peoples in the communities.

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43 James Anaya, Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, UN Doc. A/65/264 (9 August 2010), para. 58.

44 With reports from our member-organisation in Cambodia.

## Thailand

In Thailand,<sup>45</sup> one of the challenges related to water and sanitation is the lack of or poor waste management system. Garbage is often not collected in remote areas. Furthermore, most of the indigenous peoples are located at different types of protected areas or national parks, which restrict their livelihood, daily practices and limit their access to water in these lands and natural resources that they have occupied for many years even before it was declared a protected area.

The government also has been lacking in providing good water systems, for example, water from pump wells provided are limited and the quality of the water is not safe for drinking and daily usage during the rainy season. Among the communities that suffer from this condition are the Karen communities in Papae subdistrict, Maetang District in Chiang Mai province. Many of them have resorted to buying drinking water in plastic bottles that adds to the issue of waste management in the area.

Another example is at Klity Creek in Kanchanaburi province, where Karen communities suffered lead poisoning resulting in developmental and intellectual disabilities. Some have even gone blind.<sup>46</sup> Despite a court order in January 2013 ordering Thailand's public health authorities and Pollution Control Department (PCD) to prevent and remedy the exposure of Lower Klity Creek's peoples to toxic lead contamination, there has been no action to carry out the court order. The Karen communities have been using the creek for generations for drinking, bathing, fishing and cooking. The lead processing company started in the mid-1960s.

## Viet Nam

In Viet Nam,<sup>47</sup> large-scale dam projects and mining have affected their natural sources of water. The chemicals in mining have not only gravely affected access to clean and safe water but also food sources such as fish, vegetables, and roots. Further, the ability to practise traditional livelihoods has been affected due to the construction of these dams, not to mention the issue of increased risk of disasters such as flooding to those peoples living near these hydroelectric dams. Furthermore, the occupation of traditional water sources of ethnic peoples to build water purification plants resulted in ethnic peoples having to pay high fees for clean and safe water.

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45 With reports from our member-organisation in Thailand.

46 "Thai government censured for failure to tackle lead pollution" see:  
<https://www.theguardian.com/global-development/2014/dec/19/thai-government-censured-for-failure-to-tackle-lead-pollution>

47 With reports from our member-organisation in Viet Nam.

## **Myanmar**

In Myanmar,<sup>48</sup> Hatgyi Dam is one of the five dams planned to be built in Karen State. It is situated in an armed conflict area and is expected to affect the livelihoods and culture of the local people, including their natural source of water. Karen State is marred with decades of violent conflict resulting in human rights violations and mass displacement of civilians. There have been questions of community involvement in the decision-making processes regarding the dam project, including its effects to the peoples' livelihood and source of food and water.

## **Philippines**

In the Philippines, the same issues as mentioned above have arisen in relation to the impact of dams, extractives and large-scale agribusiness to our natural source of water. Some of the specific dam cases are: Pulangi Mega Dam V in North Cotabato and Bukidnon, the Kaliwa or Laiban Dam in Rizal and Quezon, the Jalaur Dam in Panay, the Balog-balog Dam in Tarlac and the Tinoc Mini-hydro power plant and Alimit Hydropower Complex in Ifugao. All these projects threaten the access to water of indigenous peoples living in those areas and will be constructed without any free, prior and informed consent (FPIC) of those peoples.

## **Indonesia**

Similar to other countries in the region, in Indonesia,<sup>49</sup> palm oil plantations and mining use chemicals that pollute the natural sources of water such as rivers and water springs; the main source of water of indigenous peoples in the country.

As with other indigenous communities mentioned above, many have no access to other sources of water and they end up consuming the polluted water in the rivers and springs despite the knowledge of the negative effects of the water to their health. These large-scale industries have also affected economic life, particularly in communities that depend on fishing and farming as a source of livelihood. These conditions have also been documented and affirmed in Komnas HAM's national inquiry (among the specific cases being followed by our member-organisation are: Semunying, West Kalimantan and the indigenous Talang Mamak in Riau.)

## **Free, Prior and Informed Consent**

These are just a few of the many specific cases in each country in the region. Based on

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48 With reports from our member-organisation in Myanmar and see: [https://static1.squarespace.com/static/575fb39762cd94c2d69dc556/t/59e5af9af9a61e8189dfa9e6/1508224947614/MK31\\_Saw+John+Bright\\_Policy+Brief+electronic.pdf](https://static1.squarespace.com/static/575fb39762cd94c2d69dc556/t/59e5af9af9a61e8189dfa9e6/1508224947614/MK31_Saw+John+Bright_Policy+Brief+electronic.pdf)

49 With reports from our member-organisation in Indonesia.

these cases mentioned, let me summarise the issues of indigenous peoples in the region with regard to the right to drinking water and sanitation.

Land management of State actors without sincere consultation to acquire free, prior and informed consent (FPIC) of local communities/indigenous peoples regarding management of their resources, and duty bearers' lack of understanding and awareness on the relation of indigenous peoples to their lands, territories and natural resources (LTR), have grave implications to the lives and rights of indigenous peoples, not just on water and sanitation.

I believe all of us here agree that any development initiative without consideration of human rights is bound to be a disaster, at least in the context of social and environmental justice. It is important to understand that rivers, streams, and other water-related ecosystem [as mentioned in the SDG target 6.6 including mountains, forests, wetlands, rivers, aquifers and lakes] are an essential part of indigenous peoples' lives and communities, and have been integral to their holistic development.

It was mentioned in the earlier session regarding the importance of a holistic approach to water governance. For us, a holistic approach should take into account that these bodies of water form part of the territories of many indigenous peoples and serve as good sources of food and water for households and livelihoods. They also play a major role in the spirituality and belief systems of many indigenous groups.

In relation to the lack of meaningful participation is the lack of legal recognition for indigenous peoples to be considered as citizens. This affects our right to free, prior and informed consent; including proper access to basic social services (one of them water), and access to legal support and remedy.

I stress again the importance of monitoring the implementation of any right and that it should go beyond a mere accounting of the laws, legal framework, policies and programmes that States have put in place. These, of course, are significant. But it is important for the people on the ground's assessment of the laws, policies and programmes to be heard, considered and addressed as necessary.

We heard earlier of the bottom-up approach to development — this is one aspect of proper monitoring – having proper mechanisms for community-based monitoring. Furthermore, gathering of disaggregated data by gender, ethnicity, age, physical disability whenever appropriate is imperative in documenting whether the specific and/or special needs of the vulnerable and the marginalised are considered and whether these laws, policies and programmes actually reach the furthest behind. Without disaggregation of data, the evidence to help duty bearers realise the gaps in their initiatives/programmes will not be realised. What remains will be a blanket approach in their initiatives and a failure to amend laws and/or programmes to address those that need specific attention.

## **Not Anti-Development**

Indigenous peoples have been branded as anti-development. But this is a misguided stereotype. We, too, like anyone else, long for development and progress. In the opening remarks of the Chief Minister of Sabah, he pointed out the links between the right to water and a life with dignity, and unequal power relations affecting access to the right to water.

We, too, like anyone else, want to live a life with dignity, and we are among those at the losing end in these power relations that affect our access to right to water. We are not anti-development. We are willing to work with governments and with the private sector, provided they are equally willing to sincerely and meaningfully understand our specific situations and contexts when protecting, promoting and respecting our rights, including our need for appropriate legal remedy and redress as necessary.

In this regard, let me briefly share an initiative of indigenous peoples, in Mindanao (in Barangay Butong, Quezon, Bukidnon) to address their water and sanitation needs.<sup>50</sup> The Barangay record shows 100% of households do not have access to a sanitation system, and access to water sources is through a level 1 system only.<sup>51</sup> The community is set to conduct a project to address their needs for water and sanitation in collaboration with the Barangay Council.

We do hope that our participation here can contribute to an integrated guideline to water management that is holistic and comprehensive in approach, which will consider the different contexts of the peoples in the region, including addressing the different threats, both natural and human-induced, for instance, large-scale business-related activities such as mining, dam-building and agribusiness.

The guidelines should also include mechanisms for participatory monitoring, through community-based monitoring tools, and for redress. Water is more than just a commodity that can be run through pipes and given a tag price. It has cultural meanings to many groups of peoples. Protection of these natural water ecosystems should also be considered in discussing holistic water management/governance, which should be done with the meaningful participation of peoples that will be directly affected.

Thank you.

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<sup>50</sup> With reports from our partner in the Philippines.

<sup>51</sup> Levels of water systems in the Philippines: Level I refer to stand-alone water points (e.g. handpumps, shallow wells, rainwater collectors), and serving an average of 15 households within a 250-metre distance. Level II refers to piped water with a communal water point (e.g. borewell, spring system) and serving an average of 4-6 households within a 25-metre distance. Level III refers to piped water supply with a private water point (e.g. house connection) based on a daily water demand of more than 100 litres per person.

## APPENDIX 5: SUMMARY OF THE REGIONAL CONSULTATION

(Drafted by the Representative of Malaysia to AICHR and presented for notation at the 26th meeting of AICHR, Singapore, 24-26 Jan 2018 [Doc 6.5a])

### Summary

25 – 27 October 2017

Sabah, Malaysia

#### I. Introduction

1. Water is fundamental to the enjoyment by everyone, of an adequate standard of living including good health, nutritious food, sufficient housing and sustainable livelihood; and proper sanitation is essential for a life of dignity, health and well-being. While water resources are limited, demand has multiplied due to various factors such as rapid urbanisation, increasing populations, the adverse effects of climate change, industrialisation and economic growth, and the corresponding higher demands for food, energy and environmental security.
2. Social and economic development are closely dependent on water, and poverty is prevalent mostly in areas that face water shortage. Ill-health associated with deficits in water and sanitation undermines productivity and economic growth, and traps vulnerable households in cycles of poverty.
3. Water-related disease, caused by unsafe drinking water and the absence of proper sanitation facilities, are now among the leading causes of death across the developing world.
  - 3.1 According to 2015 estimates, 844 million people lacked a basic drinking water service; 2.3 billion people lacked basic sanitation services; and 892 million people worldwide still practised open defecation.<sup>52</sup>
  - 3.2 Water quality is also an issue in Asia and the Pacific with 70-90% of urban waste water being discharged in fresh water reservoirs, affecting the health of ecosystems and people. Outdated water supply systems and infrastructure

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<sup>52</sup> Progress on Drinking Water, Sanitation and Hygiene: 2017 update and SDG baselines, World Health Organization (WHO) and the United Nations Children's Fund (UNICEF).

in some cities also enhance the pressure on water resources.<sup>53</sup>

4. Furthermore, statistics show that access to safe drinking water and sanitation is highly unequal between urban and rural areas, a gap that was approximately 30% in 2015.<sup>54</sup>
5. The UN Development Programme Report 2006 focused on important cross-cutting issues related to the water crisis, including how the root causes can be traced to poverty, inequality, and unequal power relationships. It called attention to among other things, the lack of meaningful participation of affected communities; how lack of water affects vulnerable groups disproportionately, especially women and children; and, the lack of sound water management policy that exacerbates scarcity.<sup>55</sup>
6. The importance of clean water and sanitation is recognised in the United Nations Goal 6 of the 2030 Agenda for Sustainable Development (SDG 6), adopted by the UN General Assembly in 2015. SDG 6 seeks to achieve universal and equitable access to safe and affordable drinking water for all by 2030. It also seeks to achieve access to adequate and equitable sanitation and hygiene for all and end open defecation, paying special attention to the needs of women and girls and those in vulnerable situations.

#### **A. International Human Rights Law Framework of the Right to Safe Drinking Water and Sanitation**

7. The right to safe drinking water and sanitation can be seen in conjunction with the International Bill of Human Rights that consists of the following:
  - 7.1 The Universal Declaration of Human Rights (UDHR) enshrines the right to life (Art. 3), and the right to a standard of living adequate for the health and well-being of himself and his family (Art. 25, para. 1).

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53 Asia-Pacific Sustainable Development Goals Outlook, United Nations Economic and Social Commission for Asia and the Pacific, Asian Development Bank, and United Nations Development Programme, 2017.

54 Asia-Pacific Sustainable Development Goals Outlook, United Nations Economic and Social Commission for Asia and the Pacific, Asian Development Bank, and United Nations Development Programme, 2017.

55 Human Development Report 2006, Beyond Scarcity: Power, Poverty and the Global Water Crisis, UN Development Programme.

- 7.2 The International Covenant on Economic, Social and Cultural Rights (ICESCR) provides for the right to safe drinking water and sanitation within the guarantees essential to an adequate standard of living (Art. 11, para. 1), and is inextricably linked to the right to the highest attainable standard of health (Art. 12, para.1), and the rights to adequate housing and adequate food (Art. 11, para.1).
- 7.3 The inherent right to life is also protected by the International Covenant on Civil and Political Rights (ICCPR), (Art. 6, para. 1).
8. In July 2010, the United Nations General Assembly adopted a resolution declaring “the right to safe drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights.”<sup>56</sup>
9. In October 2010, The UN Human Rights Council adopted a resolution affirming that “the human right to safe drinking water and sanitation is derived from the right to an adequate standard of living and inextricably related to the right to the highest attainable standard of physical and mental health, as well as the right to life and human dignity.”<sup>57</sup>

## **B. ASEAN Commitments on the Right to Safe Drinking Water and Sanitation and its Implementation**

10. Article 28 of the ASEAN Human Rights Declaration 2012 (AHRD) enumerates a number of rights emanating from, and indispensable for, the realisation of the right to an adequate standard of living. Article 28(e) expressly recognises the human right to safe drinking water and sanitation.
11. In addition to the AHRD, ASEAN Member States have within the ASEAN framework agreed to, and undertaken, various initiatives to realise the right to safe drinking water and sanitation.
- 11.1 The ‘ASEAN Strategic Plan of Action on Water Resources Management’ that was developed in 2005 complemented national-level efforts to address common challenges in managing the region’s water resources, and included

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56 General Assembly Resolution 64/292, The Human Right to Water and Sanitation, A/64/L.63/ Rev.1 and Add.1, 28 July 2010.

57 Human Rights Council, Human Rights and Access to Safe Drinking Water and Sanitation, A/HRC/RES/15/9, 6 Oct 2010.

ways to improve access to safe drinking water and sanitation.<sup>58</sup> Among the key targets was to reduce by 50% inadequate access to safe drinking water and sanitation by 2015. The Plan was administered by the ASEAN Working Group on Water Resources Management (AWGWRM) that was established under the auspices of the ASEAN Senior Officials on the Environment (ASOEN) that in turn reports to the ASEAN Ministerial Meeting on the Environment (AMME).

11.2 Under the 'ASEAN Post-2015 Health Development Agenda', any initiatives directly addressing safe drinking water and sanitation will be implemented under 'Health Priority 11: Environmental Health and Health Impact Assessment' within 'Health Cluster 2: Responding to All Hazards and Emerging Threats' for the years of 2016 to 2020. This Agenda falls to be implemented by the Senior Officials Meeting on Health Development (SOMHD) that reports to the ASEAN Health Ministers Meeting (AHMM).

11.3 In terms of uplifting the economic status of rural communities in the region, the 'ASEAN Framework Action Plan on Rural Development and Poverty Eradication' for the years of 2016 to 2020 addresses the challenges of reducing poverty. The Framework Action Plan is being implemented by the Senior Officials Meeting on Rural Development and Poverty Eradication (SOMRDPE) that reports to the ASEAN Ministers Meeting on Rural Development and Poverty Eradication (AMMRDPE).

11.4 The 10-year ASEAN blueprint titled 'ASEAN 2025: Forging Ahead Together' situates the importance of safe drinking water and sanitation as an element of development to build a sustainable and resilient ASEAN community by 2025.<sup>59</sup>

12. The following treaties ratified by ASEAN Member States explicitly reference access to water and/or sanitation: the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW),<sup>60</sup> the Convention on the Rights of the

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58 A new 'ASEAN Strategic Plan of Action on the Environment' (ASPEN) for the years of 2016 to 2025 is due to be adopted. The proposed draft Plan has a strategic priority on Water Resources Management which includes a programme component on improving water quality and sanitation with the Senior Officials Meeting on Health Development (SOMHD) identified as a supporting sectoral body/partner.

59 See paragraphs C.2. item iii. and D.5., item iii. under the 'ASEAN Socio-Cultural Community Blueprint 2025'.

60 Article 14(2), 28 July 2010.

Child (CRC)<sup>61</sup> and the Convention on Rights of Persons with Disabilities (CRPD),<sup>62</sup> Viet Nam has also ratified the UN Watercourses Convention, which governs international watercourses.

13. Statistics on the progress made by ASEAN Member States in the area of access to safe drinking water through the years 2012 to 2014, is featured in the ASEAN Statistical Yearbook 2015.

## **II. The Regional Consultation on the Right to Safe Drinking Water and Sanitation (with emphasis on rural communities)**

### **A. Background**

14. The ASEAN Intergovernmental Commission on Human Rights (AICHR) Regional Consultation on the Right to Safe Drinking Water and Sanitation was held from 25 to 27 October 2017. AICHR Representatives were present during the event, along with water and sanitation experts, representatives of various government ministries, ASEAN working groups, representatives of national human rights institutions from ASEAN countries and civil society organisations. Invited human rights experts and legal experts were also present.

15. AICHR's Terms of Reference in hosting the consultation were as follows:

- 15.1 to develop strategies for the promotion and protection of the right to safe drinking water and sanitation to complement the building of an ASEAN community;
- 15.2 to enhance public awareness of the right to safe drinking water and sanitation among the peoples of ASEAN through education, research and dissemination of information;
- 15.3 to obtain information from Member States on the promotion and protection of the right to safe drinking water and sanitation; and,
- 15.4 to develop common approaches and positions on the right to safe drinking water and sanitation within the region.

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61 Article 24(2).

62 Article 28.

16. The objectives of the Regional Consultation were—

- 16.1 to take stock of the ASEAN Member States' country situations and experiences regarding their approaches to the right to safe drinking water and sanitation;
- 16.2 to share good practices on the application of international human rights norms and the realisation of SDG 6;
- 16.3 to understand and elaborate on the normative content of Article 28(e) of the AHRD; and,
- 16.4 to address any gaps and challenges in the realisation of the right to water and sanitation and SDG 6 in the ASEAN region.

17. The consultation placed emphasis on rural communities, as they are often the least likely to be able to exercise and realise the right to safe drinking water and sanitation. While the availability of safe drinking water and sanitation in ASEAN countries has improved, a significant number of the populations in ASEAN countries especially in the rural areas still do not have access to the full realisation of this right. International human rights standards require that priority attention be given to the marginalised and vulnerable sectors of the population. This is an essential step in ensuring equality and equity in the enjoyment of all human rights, in particular in this case, the right to safe drinking water and sanitation.

## **B. Implementation of the Right to Safe Drinking Water and Sanitation in ASEAN Countries**

18. Like all other human rights, there are three types of responsibilities in the implementation of the right to safe drinking water and sanitation—the responsibility to respect, protect and fulfil. The examples below, under each type of responsibility, are illustrative rather than exhaustive examples.<sup>63</sup>

### The Responsibility to Respect

19. The responsibility to respect includes State actors refraining from engaging directly or indirectly in any activity or practice that interferes, denies or limits access to adequate and safe drinking water and proper sanitation facilities, on

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<sup>63</sup> See UN Doc. E/C.12/2002/11 pages 9-10.

the basis of equality and non-discrimination.

### The Responsibility to Protect

20. The responsibility to protect requires State actors to prevent third parties from interfering in any way with the enjoyment of the right to safe drinking water and sanitation. Third parties include individuals, groups, corporations and other entities as well as agents acting under their authority. The responsibility also includes adopting the necessary and effective legislative and other measures to restrain third parties, for example, from denying or compromising equal, affordable and physical access to sufficient and safe drinking water and proper sanitation.

### The Responsibility to Fulfil

21. The responsibility to fulfil can be further disaggregated into the responsibility to facilitate, promote and provide. The responsibility to facilitate requires State actors, among other things, to take positive steps to assist individuals and communities to enjoy the right to safe drinking water and sanitation. The responsibility to promote includes taking steps to ensure that there is appropriate education and awareness concerning the hygienic use of drinking water and sanitation facilities, protection of water sources and methods to minimize water wastage. The responsibility to provide safe drinking water and sanitation when individuals and groups are unable for reasons beyond their control, to provide for themselves by the means at their disposal. Examples of such situations include emergencies and crisis situations such as extreme weather events, disasters and conflicts.
22. The responsibility to fulfil requires sufficient recognition of the right to safe drinking water and sanitation within the national, political and legal systems preferably by way of legislation, adopting a national water strategy and plan of action to realise this right.

## **C. Implementation of the Right to Safe Drinking Water and Sanitation in ASEAN Countries**

23. The Regional Consultation brought together experts in water and sanitation from the 10 ASEAN Member States who shared their achievements and challenges in providing clean drinking water and sanitation to their respective populations.
  - 23.1 Best practices shared include the reform of water and sanitation sectors, the drafting of national plans for water and sanitation management, public education and awareness exercises, financial sustainability schemes, and various projects and programmes aimed at providing drinking water and sanitation services to rural areas.

- 23.2 Challenges faced include increasing population and demand, geographic challenges such as supplying water to remote mountainous areas or large archipelagos, financial sustainability, lack of skilled personnel, environmental degradation and climate change, a lack of coordination between departments involved in water and sanitation and a lack of comprehensive water laws.
24. The Regional Consultation addressed the issue of what it means to implement the right to safe drinking water and sanitation in the context of ASEAN. Discussions were guided by the elements of the normative content of General Comment Number 15 adopted in 2002 by the United Nations Committee on Economic, Social and Cultural Rights.
25. The following summary highlights the group discussions on the implementation of the right to safe drinking water and sanitation in ASEAN countries, in keeping with the elements based on General Comment Number 15 on the right to safe drinking water.<sup>64</sup>

#### Availability

26. Human rights standards require that safe drinking water and proper sanitation are available to all within the ASEAN jurisdiction.
27. Safe drinking water should be available in sufficient quantities, and in continuous supply. The quantity of water available for each person should correspond to World Health Organization (WHO) guidelines.<sup>65</sup>
28. Effective steps should be taken to ensure the availability of safe drinking water even in the face of current and future challenges such as flooding, drought, the rise in sea levels and any other natural or man-made causes, including the adverse effects of climate change.
29. Regional cooperation and dialogue should be undertaken for the protection and sustainable management of water resources that are shared across national boundaries.
30. Proper sanitation facilities should be available to all, including for those in rural or remote areas. The type of sanitation facilities to be made available may differ depending on cultural practices.

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64 See UN Doc.E/C.12/2002/11.

65 WHO Guidelines for drinking water quality, 2nd edition, vols. 1-3. Geneva, 1991.

### Accessibility

31. Everyone should be able to access safe drinking water and proper sanitation without undue difficulties such as having to travel long distances or face dangerous situations.
32. Safe drinking water and proper sanitation should be accessible to all without discrimination in law and in practice, based on any of the prohibited grounds especially in the case of the most vulnerable and marginalised sectors of the population.
33. Accessibility includes the right to seek, receive and impart information concerning water issues. This includes information about the different types of water or sanitation systems available, and involves the right of everyone to be consulted and to effectively participate in decision-making processes regarding water and sanitation issues. Information indicators with regard to consultation and participation include public hearings, community assemblies and publication and distribution of relevant materials.

### Affordability

34. Safe drinking water and proper sanitation should be affordable for all. In countries where a tariff is charged, measures should be taken to ensure that the lowest income groups are still able to afford water and sanitation services. In this regard, there should be a regulatory body to ensure that prices are affordable, whether the service provider is public or private.
35. The total costs including indirect costs associated with water and sanitation, should not threaten or impede the realization of other rights and basic needs.

### Acceptability

36. Water should be of acceptable colour, odour and taste. This means that drinking water and sanitation facilities should be culturally acceptable, culturally appropriate and sensitive to gender, life-cycle and privacy requirements.
37. To ensure the acceptability of water and sanitation facilities, there should be meaningful consultation involving the free, prior and informed consent of local communities in the preparation, construction and management of any water, sanitation and hygiene systems.
38. There should be proper feedback and redress mechanisms with authorities and regulatory bodies.

## Quality

39. The provision of safe drinking water of good quality involves a holistic approach, beginning with the protection of raw water sources, to the provision and maintenance of good infrastructure and equipment for treatment and distribution.
40. There should be minimum standards for the quality of water, that are in accordance with World Health Organization (WHO) guidelines.<sup>66</sup> ASEAN States should prevent, control and treat water-related diseases.
41. Essential hygienic sanitation facilities should be made available.
42. There should be proper systems for the treatment of sewage and proper maintenance of such equipment.

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66 Ibid.



# CONSULTATION POSITION PAPER

(Drafted by the Representative of Malaysia to AICHR and presented for adoption at the 26th meeting of AICHR, Singapore, 24-26 Jan 2018 [Doc 6.5aiii])

The views expressed in this document are those of the Representative and do not necessarily represent those of the ASEAN, including the AICHR. The document has yet to be adopted.

## Regarding Article 28(e) of the ASEAN Human Rights Declaration 2012

### I. Context

1. The Association of Southeast Asian Nations (ASEAN) adopted the ASEAN Human Rights Declaration (AHRD) on 18 November 2012. The Phnom Penh Statement on the Adoption of the ASEAN Human Rights Declaration affirms ASEAN Member States' commitment to the full implementation of the AHRD to advance the promotion and protection of human rights in the region.
2. Following the 'AICHR Regional Consultation on the Right to Safe Drinking Water and Sanitation in ASEAN (with emphasis on rural communities)' held in Sabah, Malaysia from 25 to 27 October 2017, and pursuant to our mandate in paragraphs 4.1, 4.3, 4.8, 4.9, 4.10 and 4.11 of our Terms of Reference, we set out in this Consultation Position Paper an elaboration of the right to safe drinking water and sanitation in the ASEAN context and an interpretative guide regarding Article 28(e) of the AHRD.

### II. Introduction

3. Water is fundamental to the enjoyment by everyone, of an adequate standard of living including good health, nutritious food, sufficient housing and sustainable livelihood; and proper sanitation is essential for a life of dignity, health and well-being. While water resources are limited, demand has multiplied due to various factors such as rapid urbanisation, increasing populations, the adverse effects of climate change, industrialisation and economic growth, and the corresponding higher demands for food, energy and environmental security.
4. Social and economic development are closely dependent on water, and poverty is prevalent mostly in areas that face water shortage. Ill-health associated with deficits in water and sanitation undermines productivity and economic growth, and traps vulnerable households in cycles of poverty.
5. Water-related disease, caused by unsafe drinking water and the absence of

proper sanitation facilities, are now among the leading causes of death across the developing world. Women and children from poor, low-income and rural communities are particularly vulnerable.

6. Article 28 of the AHRD states as follows:

Every person has the right to an adequate standard of living for himself or herself and his or her family including:

- a. The right to adequate and affordable food, freedom from hunger and access to safe and nutritious food;
- b. The right to clothing;
- c. The right to adequate and affordable housing;
- d. The right to medical care and necessary social service;
- e. The right to safe drinking water and sanitation;
- f. The right to a safe, clean and sustainable environment.

7. Article 28 enumerates a number of rights emanating from, and indispensable for, the realisation of the right to an adequate standard of living for every individual and his or her family. In particular, Article 28(e) uniquely recognises the right to safe drinking water and sanitation as part of the same right.

8. The importance of clean water and sanitation is also recognised in the United Nations Sustainable Development Goal (SDG) 6 of the 2030 Agenda for Sustainable Development, adopted by the UN General Assembly in 2015. Goal 6 seeks to achieve universal and equitable access to safe and affordable drinking water for all by 2030. It also seeks to achieve access to adequate and equitable sanitation and hygiene for all and end open defecation, paying special attention to the needs of women and girls and those in vulnerable situations.

9. ASEAN Member States have within the ASEAN framework agreed to, and undertaken, various initiatives to realise the right to safe drinking water and sanitation.

9.1 The 'ASEAN Strategic Plan of Action on Water Resources Management' that was developed in 2005 complemented national-level efforts to address common challenges managing the region's water resources, and included ways to improve access to safe drinking water and sanitation.<sup>67</sup> Among the key targets was to

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67 A new 'ASEAN Strategic Plan of Action on the Environment' (ASPEN) for the years of 2016 to 2025 is due to be adopted. The proposed draft Plan has a strategic priority on Water Resources Management which includes a programme component on improving water quality and sanitation with the Senior Officials Meeting on Health Development (SOMHD) identified as a supporting sectoral body/partner.

reduce by 50% inadequate access to safe drinking water and sanitation by 2015. The Plan was administered by the ASEAN Working Group on Water Resources Management (AWGWRM) that was established under the auspices of the ASEAN Senior Officials on the Environment (ASOEN) that in turn reports to the ASEAN Ministerial Meeting on the Environment (AMME).

9.2 Under the 'ASEAN Post-2015 Health Development Agenda', any initiatives directly addressing safe drinking water and sanitation will be implemented under 'Health Priority 11: Environmental Health and Health Impact Assessment' within 'Health Cluster 2: Responding to All Hazards and Emerging Threats' for the years of 2016 to 2020. This Agenda falls to be implemented by the Senior Officials Meeting on Health Development (SOMHD) that reports to the ASEAN Health Ministers Meeting (AHMM).

9.3 In terms of uplifting the economic status of rural communities in the region, the 'ASEAN Framework Action Plan on Rural Development and Poverty Eradication' for the years of 2016 to 2020 addresses the challenges of reducing poverty. The Framework Action Plan is being implemented by the Senior Officials Meeting on Rural Development and Poverty Eradication (SOMRDPE) that reports to the ASEAN Ministers Meeting on Rural Development and Poverty Eradication (AMMRDPE).

9.4 The 10-year ASEAN blueprint titled 'ASEAN 2025: Forging Ahead Together' situates the importance of safe drinking water and sanitation as an element of development to build a sustainable and resilient ASEAN community by 2025.<sup>68</sup>

10. Further, all ASEAN Member States are parties to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities (CRPD). In different ways, these conventions affirm the right to water and access to the related benefits of water.<sup>69</sup>

### **III. Interpreting Article 28(e) of the AHRD**

11. The following substantive elements of the right to safe drinking water and sanitation under Article 28(e) of the AHRD should be noted.

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68 See paragraphs C.2. item iii. and D.5., item iii. under the 'ASEAN Socio-Cultural Community Blueprint 2025'.

69 Article 14(2) CEDAW, Article 24(2) CRC and Article 28(a) CRPD.

## 11.1 Availability

- (a) Safe drinking water and proper sanitation should be available to all within the region.
- (b) Safe drinking water should be available in sufficient quantities, and in continuous supply. The quantity of water available for each person should correspond with the guidelines by the World Health Organization (WHO).<sup>70</sup>
- (c) Effective steps should be taken to ensure the availability of safe drinking water even in the face of current and future challenges such as floods, droughts, the rise in sea levels and any other natural or man-made causes, including the adverse effects of climate change.
- (d) Regional cooperation and dialogue should be undertaken for the protection and sustainable management of water resources that are shared across national boundaries.
- (e) Proper sanitation facilities should be available to all, including for those in rural or remote areas. The type of sanitation facilities to be made available may differ depending on cultural practices.

## 11.2 Accessibility

- (f) Everyone should be able to access safe drinking water and proper sanitation without undue difficulties such as having to travel long distances or face dangerous situations.
- (g) Safe drinking water and proper sanitation should be accessible to all without discrimination in law and in practice, based on any of the prohibited grounds especially in the case of the most vulnerable and marginalised sectors of the population.
- (h) Accessibility includes the right to seek, receive and impart information concerning water issues. This includes information about the different types of water or sanitation systems available, and involves the right of everyone to be consulted and to effectively participate in decision-making processes regarding water and sanitation issues. Information indicators with regard to consultation and participation include public hearings, community

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<sup>70</sup> WHO, 'Guidelines for drinking water quality', Vol. 1-3 (2nd ed). Geneva, 1991.

assemblies and publication and distribution of relevant materials.

### 11.3 Affordability

- (i) Safe drinking water and proper sanitation should be affordable for all. In countries where a tariff is charged, measures should be taken to ensure that the lowest income groups are still able to afford water and sanitation services. In this regard, there should be a regulatory body to ensure that prices are affordable, whether the service provider is public or private.
- (j) The total costs including indirect costs associated with water and sanitation, should not threaten or impede the realisation of other rights and basic needs.

### 11.4 Acceptability

- (k) Water should be of acceptable colour, odour and taste. This means that drinking water and sanitation facilities should be culturally acceptable, culturally appropriate and sensitive to gender, life-cycle and privacy requirements.
- (l) To ensure the acceptability of water and sanitation facilities, there should be meaningful consultation involving the free, prior and informed consent of local communities in the preparation, construction and management of any water, sanitation and hygiene systems.
- (m) There should be proper and effective feedback and redress mechanisms with authorities and regulatory bodies.

### 11.5 Quality

- (n) The provision of safe drinking water of good quality involves a holistic approach, beginning with the protection of raw water sources, to the provision and maintenance of good infrastructure and equipment for treatment and distribution.
- (o) The minimum standards for the quality of water should be in accordance with the WHO's guidelines. Water-related diseases should be effectively prevented, controlled and treated.
- (p) Essential hygienic sanitation facilities should be made available.
- (q) There should be proper systems for the treatment of sewage and proper

maintenance of such systems.

12. Similar to other human rights, there are three types of obligations in the realisation and implementation of the right to safe drinking water and sanitation: the obligations to respect, protect and fulfil. The examples below under each type of obligation are illustrative rather than exhaustive examples.

### **12.1 The Obligation to Respect**

The obligation to respect includes State actors refraining from engaging, directly or indirectly, in any activity or practice that interferes, denies or limits access to adequate and safe drinking water and proper sanitation facilities, on the basis of equality and non-discrimination.

### **12.2 The Obligation to Protect**

The obligation to protect requires State actors to prevent third parties from interfering in any way with the enjoyment of the right to safe drinking water and sanitation. Third parties include individuals, groups, corporations and other entities as well as agents acting under their authority. The obligation also includes adopting necessary and effective legislative and other measures to restrain third parties for example, from denying or compromising equal, affordable and physical access to sufficient and safe drinking water and proper sanitation.

### **12.3 The Obligation to Fulfil**

The obligation to fulfil can be further disaggregated into the obligation to facilitate, promote and provide:

The obligation to facilitate requires State actors, among others, to take positive steps to assist individuals and communities, without discrimination, to enjoy the right to safe drinking water and sanitation. Particular attention should be paid to women and children in vulnerable and marginalised groups.

The obligation to promote includes taking steps to ensure that there is appropriate education and awareness concerning the hygienic use of drinking water and sanitation facilities, protection of water sources and methods to minimise water wastage. Active, free and meaningful participation should be encouraged as part of the exercise of the right.

The obligation to provide safe drinking water and sanitation to individuals and groups who are unable, for reasons beyond their control, to provide for themselves by the means at their disposal. Examples of such situations include emergencies

and crisis situations such as extreme weather events, disasters and conflicts.

The obligation to fulfil requires sufficient recognition of the right to safe drinking water and sanitation within the national, political and legal systems preferably by the adoption of legislation, a national water strategy framework and/or a plan of action to realise the right.

13. As Article 28(e) is an economic, social and cultural right, it should be read with Article 33. Therefore, ASEAN Member States should take steps, individually and through regional and international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realisation of the economic, social and cultural rights recognised in the AHRD. Further, Article 28(e) is to be complemented by the right to development and its related facets contained in Articles 35 to 37 of the AHRD.

#### **IV. Towards Implementing Good Practices and Developing a Common Approach on the Right to Safe Drinking Water and Sanitation in ASEAN**

14. The positive and progressive work being undertaken by the sectoral bodies to deliver safe drinking water and sanitation to the peoples of this region is encouraging and should be supported.

15. Further measures that could be considered are noted as follows.

##### **15.1 Indicators and Collection of data**

- Indicators on the availability, accessibility, affordability, acceptability and quality of safe drinking water and sanitation should be identified for data collection. This will assist in the evaluation of the access to safe drinking water and sanitation.
- Data to be collected should also be disaggregated based on the prohibited grounds of discrimination, including by gender, ethnicity, age and restrictions due to physical disabilities. This is to ensure that no particular group is being left behind in accessing safe drinking water and sanitation.

##### **15.2 Communication and Dissemination of Information**

- A regional programme of communication will augment efforts to share information and raise awareness regarding good hygiene practices and the right to safe drinking water and sanitation.

##### **15.3 Integrated Water Resources Management**

- The provision of safe drinking water and sanitation involves multiple sectors

within government as well as the private sector and civil society organisations. Multi-sectoral coordination and engagement is thus key to ensuring that the right to safe drinking water and sanitation is realised. This coordination should be holistic and should extend coverage to include the protection of raw water resources, ensuring efficient treatment and distribution of water and waste water, and appropriate transboundary and water efficiency approaches.

#### 15.4 Disaster Management

- A regional plan or guidelines to mitigate the negative impacts on the availability, accessibility, affordability, acceptability and quality of safe drinking water and sanitation during natural disasters or emergencies will augment efforts to build the capacity of first responders in the emergency services.

## PHOTO GALLERY

25 - 27 OCTOBER 2017



↑ AICHR Chairperson H.E. Leo M. Herrera-Lim delivering his welcome remarks.



↑ Sabah Assistant Minister Datuk Yong Oui Fah delivering the keynote address of Sabah Chief Minister Tan Sri Musa Aman.



↑ Representative of Malaysia to AICHR H.E. Edmund Bon delivering his welcome remarks.



↑ Participants at the Regional Consultation on the Right to Safe Drinking Water and Sanitation in ASEAN (with emphasis on rural communities).



↑ From (L) to (R): Nur Azman Abd Rahim, Datuk Nor Rizan Mohd Thani, H.E. Edmund Bon, Datuk Yong Oui Fah, H.E. Leo M. Herrera-Lim, Cynthia Veliko, Helena Olsson.



↑ Asia Indigenous Peoples Pact (AIPP) Programme Officer, Ms Marie Joyce Godio, speaking from the floor during the consultation.



↑ Members of the ASEAN-Malaysia National Secretariat, Ministry of Foreign Affairs, Malaysia.



↑ Day 1, Session 3:  
Sharing by Ms Virginia Dandan, former UN Independent Expert on Human Rights and International Solidarity and former Chairperson of the UN Committee on Economic, Social and Cultural Rights.



↑ Arrival of Sabah Minister of Tourism, Culture and Environment, Y.B. Datuk Seri Panglima Masidi Manjun.



↑ Planning discussions during the Regional Consultation.



↑ Members of the Secretariat from Malaysia.



↑ A bird's eye view of the conference room.





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