



9th Inter-Parliamentary Forum on Security Sector Governance in Southeast Asia

Workshop Report

**“JUSTICE REFORM IN SOUTHEAST ASIAN COUNTRIES:
WHAT ROLE FOR PARLIAMENTS?”**

17-18 September 2011

Raffles Hotel Le Royal, Phnom Penh, Cambodia

Organized by



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STIFTUNG**

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Executive Summary

The Inter-Parliamentary Forum on Security Sector Governance (IPF-SSG) in Southeast Asia promotes ongoing dialogue and exchange of good practices among parliamentarians in Southeast Asian countries. The Forum aims at enhancing civilian oversight and national parliamentary involvement in security sector governance and features regular workshops, publications as well as activities of national caucuses in participating countries. Its work is led by a Steering Committee composed of Members of Parliament from Cambodia, Indonesia, Malaysia, Philippines and Thailand. The IPF-SSG is supported by the Friedrich-Ebert-Stiftung (FES) and the Geneva Centre for Democratic Control of Armed Forces (DCAF). For further information on the Forum see: www.ipf-ssg-sea.net.

The Forum's 9th workshop, held on 17-18 September 2011 in Phnom Penh, focused on justice reform as an important aspect of security sector governance in Southeast Asia. This workshop continued on the foundation of past discussions at previous IPF-SSG workshops. The objective of the workshop is to examine the current state of justice reform in Southeast Asia and explore how parliaments can contribute to the reform processes in their own countries. The workshop aims at sharing good practices of various approaches to and strategies for justice reform while at the same time keeping in mind the specific requirements of national and regional contexts. In the context of the workshop, the justice sector was understood to encompass the judiciary,

prosecution and investigative authorities, the penal system, ministries of justice, professional lawyer's associations as well as oversight institutions including parliament and civil society watchdogs. Justice reform refers to all activities aimed at improving the governance of the justice sector, particularly the accessibility, accountability, transparency and the effectiveness of the sector. However, there has been debate regarding the conception of justice reform with the concern that the justice sector could be militarised if including in SSG, or the concept could be stretched too far. Security and justice are interdependent concepts, and have significant overlap in regards to public order. Civilian control and democratic oversight are crucial for both sectors, and thus highly relevant to parliamentarians.

The key challenges for justice reform identified included examining and analysing institutional involvement, recognising the importance of regional cooperation and context, the difficulties in addressing the long-term aspect of justice reform and dealing with opposition to reform and vested interests in justice reform outcomes. In particular, legal education and external tools such as the UN Peer Review mechanisms were identified as ways to address some of these challenges. The regional overview of justice reform in Southeast Asia highlighted the fact that in many countries, the emphasis on the maintenance of public order has resulted in laws that can lead to the abuse of both arbitrary and discretionary power. Political interference was also identified as an issue in the region. The need to balance individual liberties when addressing national security concerns, and how check and balances can

Justice Reform refers to all activities aimed at improving the governance of the justice sector, particularly the accessibility, accountability, transparency and the effectiveness of the sector.

lead to the good governance of the security sector, including the involvement of the public were areas identified for future improvement. The role of parliamentarians in justice reform was discussed in depth, with their key roles involving accountability, budgetary and legal oversight and contributing to an independent judiciary free from political influence. The difficulties of implementing newly created legislation, and power imbalances between different committees and houses of parliament were also identified. Parliamentarians should play a role in maintaining necessary political will for implementation. The importance of an educated and active citizenry in justice reform was also emphasised.

Involving *external assistance* in justice reform was also discussed in-depth. External assistance can benefit justice reform when programme funding is designed to avoid dependency, inclusive of country's needs and motivations, and it has been identified that multiple partner programmes are most successful. In regards to external assistance, there is a key role for parliamentarians in the oversight of these programmes, and facilitating programmes that pair or "twin" institutions with bilateral or multilateral partners.

The issue of *accessibility* was addressed at the workshop, with concerns ranging from geographic, linguistic, gender access to justice, and also the cost of filing cases and the lack of legal training opportunities. Discussion regarding accountability highlighted the use of court (electronic) records to keep judges accountable, a code of ethics amongst judicial and legal professionals and the difficulties of ensuring impartial judicial appointments. Access to information regarding court proceedings and case results was a large part of the discussion on transparency. Corruption was also a big issue raised, involving problems with impunity for officials, and also the success of impeachment of judiciary officials as a tool to

tackle corruption. In regards to *effectiveness*, procedural problems, the overburden of courts, a lack of public confidence in the system, and large delay in processing cases were emphasised. Participants at the IPF-SSG shared their experiences and good practices and also their specific national challenges with the workshop. The discussions were used as the basis for the development of a national action plan concerning justice reform in each of the participant countries (see annex of this report).

The *role of parliamentarians, CSOs and justice and legal professionals* were discussed in-depth, with some key areas for coordination and cooperation identified. These areas included increased education of parliamentarians on justice reform, and continuing to develop a regional body of knowledge on the subject, and sharing identified best practices within the region.

Important developments related to the Association of Southeast Asian Nations (ASEAN) were also presented at the workshop. The ASEAN Political Security Community (APSC) blueprint paves the way for shaping norms in the ASEAN region regarding justice and security, and provides ASEAN with a supporting role to play in conflict management and prevention in the region. The APSC also will enable ASEAN states to cooperate on non-traditional security challenges and provide for necessary legislation, institutions and tools to link SSR issues to both political and security developments. The establishment of the ASEAN Intergovernmental Commission on Human Rights (AICHR) was seen as an important step for protecting and promoting human rights issues in the region, and will uphold international human rights standards and norms. The ASEAN Interparliamentary Assembly (AIPA) has recently passed a resolution that urges parliamentarians to maximise their role in building the ASEAN community, and cooperating on issues such as justice reform.

Report IPF-SSG_finalThe active contribution and appreciation of the various participatory methodologies (fishbowl, moderated dialogue, mapping exercise) by participants was commended, and the high level of discussion led to the consolidation and exchange of views, involving the multitude of stakeholders including high-level personalities. The stimulating discussions aimed to inspire IPF-SSG participants to take up the challenge to address SSG issues such as justice reform at the regional and national level, and to focus on the long-term future of SSG in Southeast Asia.

Keynote Speech by the President of the National Assembly of Cambodia

Samdech Heng Samrin, President of the National Assembly of Cambodia, opened his keynote speech with a message of welcome and thanks to all distinguished guests, to DCAF and FES for their ongoing support. He identified justice reform as a crucial and timely topic to be addressed, particularly in relation to governance of the security sector. He highlighted the fact that justice reform in Southeast Asia will require engagement by all sectors, including the legislative, judicial, and executive bodies as well as civil society. Justice reform is needed in order to build a people-centered ASEAN community.

The President of the National Assembly of Cambodia mentioned some of the challenges faced by Cambodia in overcoming the legacy of the Khmer Rouge, and its damage to the judicial system. After securing peace in Cambodia, the focus is now on improving the justice system. The aims of this reform are to ensure that the needs of people are met, and that trust can be built with the public. Some major developments and achievements include the establishment of a Council for Judicial Reform, the creation of the Extraordinary Chambers of the Cambodian Court (ECCC), the passage of the Civil Code and the Criminal Code, the enactment of the Anti-corruption Law and efforts in building

capacities of judges and prosecutors as well as in promoting women in the justice sector.

The President of the National Assembly of Cambodia referred to the assistance that national and international agencies can give in regards to justice reform, such as bilateral donors and UN agencies and other partners such as FES and DCAF. He emphasized Cambodia's commitment to exchange experiences with countries in the region with a vision of harmonizing ASEAN judicial systems with respect to human rights and democratic principles. The ability to seek common solutions among ASEAN members could be beneficial to wider justice reform in the region.

In order to continue with justice reform, His Excellency mentioned that political will and support from all sectors is required, in addition to support from like-minded countries and organisational assistance. The important role of ASEAN cooperation and the role of forums such as the IPF-SSG was emphasised by the President.

Plenary Session 1: Key Issues and Challenges of Justice Reform by Herta Däubler-Gmelin, former Minister of Justice of Germany

This first session focused on the central issues and challenges of justice reform. The former minister eloquently presented the case of justice reform in Germany during reunification, the opportunity to rebuild and transform the communist system to the democratic rule of law. Despite the difference in the contexts between reunited Germany and Southeast Asia, it served as an excellent example for highlighting the key issues and challenges for justice reform, and both positive and negative experiences to learn from.

One of the key issues related to justice reform is the importance of examining the

institutions effected by reform, including the Ministry of Justice, legal education and legal infrastructure. The restructuring of the police, prison, military and secret service institutions are also important steps to undertake, and this wide range of actors shows the everyday impact of justice reform on citizens. Important aspects of justice reform include the length of the reform process. Participants were reminded that Germany required support even 15-20 years after the reforms had begun, after the Second World War Justice reforms have a huge impact on the transformation of state and society, and it is an essential foundation for economic growth.

The use of external tools can also be beneficial to justice reform processes. The UN Human Rights Council in Geneva has developed tools in regards to providing recommendations for improving the justice sector in all countries, with the “Universal Peer Review Mechanism”.

Some challenges include the controversial vested interests present in every society, and opposition to reform. Migration and multicultural societies also pose new challenges, as migrants bring different judicial traditions with them. Transparency is also difficult to obtain and can be a challenge for justice reform.

Key Challenges of Justice Reform

- *Vested interests and resistance against reform*
- *Politicisation of the judiciary*
- *Lack of legal education among of judiciary personnel*
- *Lack of transparency*
- *Lack of budget*

Other challenges can be met through educating the broader public on legal issues, which helps in transforming the justice system. Legal education is one of the most important elements of justice reform if the reform is to be truly transformative, and this is a key area highlighted for parliamentary involvement. Parliamentarians can also have a pro-active role and assist in overcoming hesitancy regarding justice reform. Parliamentarians can support transparency and use their influence regarding budget allocations for justice reform. They also have access to the complexity of the process of justice reform and the long-term goal it represents. The access to experts, budgetary knowledge and persistence are crucial ways parliamentarians can contribute to the justice reform process.

In brief, the role of parliamentarians in this context is to control, support, oversee and legislate these processes of justice reform.

Interjections from participants reinforced previous points regarding the importance of cultural tradition in the legal system, and that political, social, and cultural realities all affect the outcomes of justice reform. The role of external factors also featured in the discussion. Despite the fact that external factors need to be taken into account, it was highlighted that it is impossible in reality to analyse every facet of the justice reform process before it begins.

Plenary Session 2: Justice Reform and Security Sector Governance

In this session, four panellists from different countries and professional backgrounds discussed the various perspectives of the justice sector and its reform, particularly in the context of wider security sector governance.

1. Regional Overview on the State of Play of Justice Reform in Southeast Asia

The first panellist, Professor Suchit Bunbongkarn, Chair of the Thai Political Development Council, opened with a definition of the rule of law and how this relates to good governance. The definition stipulates equality before the law, the absence of arbitrary power and the predominance of regular and legal power. The distinction between arbitrary power and discretionary power was outlined clearly. The rule of law was explored in the modern world. The direct link to human rights and the balance of public order with civil liberties is closely connected to the concept of Security Sector Governance. The example of maintaining public order under martial law, emergency decrees and terrorism laws was presented, and how this expanded discretionary power can lead to arbitrary power and abuses of power in some cases. It was emphasised that the challenges pertaining to non-traditional security must be addressed within a framework of good governance.

The panellist also asserted that it is generally accepted that courts also need to be free from political interference in decisions. Prosecution authority is one of the challenges faced by justice reform, as the police force can be affected by significant interference from the executive branch of government. An example presented in the Southeast Asian context is the difficulty of the direct election of legal officials by the public as found in Japan and the USA. Without sufficient public legal education, this

Like any other public sector, good governance applies to the justice sector, i.e. it should be accountable, responsible, accessible, transparent, efficient and effective.

may not be possible in SEA, due to the fact that the process may become politicised.

In conclusion, some key principles based on the reality of making the rule of law work include a balance between the respect of individual liberties when dealing with national security concerns, the independency of the judiciary and investigatory authorities, the good governance of the security sector and the challenge of making sure that check and balances work effectively and how the public can be involved in this process.

2. The Role of Government and Parliament in Justice Reform – a Critical Assessment

The second panellist, Niel Tupas Jr., member of the House of Representatives of the Philippines, began his presentation with a short introduction to the Filipino system of government, involving the presidential system, a bicameral house and independent judiciary. The three branches of government, executive, legislative and judiciary are supreme in their area, but not completely independent due to inter-linkages between the branches. In terms of their role in regards to justice, the legislative has the power to impeach officials and exerts budgetary control, the executive appoints judiciary and executes laws, and the judiciary has the power to interpret laws. The political involvement in each of these branches is difficult to quantify.

Currently in the Philippines, the House Committee on Justice composed of 55 members has the central goal of justice reform and benefits from a wide jurisdiction. Some of the important pending bills in Congress include whistleblower protection, security and benefit act relating to graft and corruption, improving the witness protection law, ensuring bail for a known person of integrity in the preparation of a case relating to the overburden on the courts. The panellist drew attention to a recent landmark case where the House Committee on Justice

enforced the Involuntary Disciplinary Act, based on human rights concerns and holds state and state agencies accountable for disappearances of witnesses. Other tools used by parliamentarians in justice reform are the legislative and oversight function of Congress. Parliamentarians also can investigate ministers and prosecutors, court officials and the judiciary if necessary. Impeachment has been used as a successful means in holding public officers accountable. The Ombudsman was impeached in March 2011 for the first time in Filipino history, and this was considered a huge success and a step towards rebuilding the public trust in the judicial system. The power of public opinion in the Philippines was highlighted, and this creates a specific context where the residual powers of the people can override the government at times, and ensure the delivery of justice. The panellist emphasised that the power of an enlightened, educated and active citizenry should not be underestimated, as it can be useful for the effective delivery of justice.

3. Justice Reform from a Non-governmental Perspective – a Critical Assessment

The current situation in Cambodia was presented as difficult by the third panellist, Attorney Sok Sam Oeun, Executive Director of the Cambodian Defenders Project. Particularly the independence of the judiciary is a crucial element in a democracy, and the fact that a weak and corrupt judiciary can create instability and a lack of trust in the government was highlighted. Another related key issue is the level of competence and education for judges in order to ensure a strong judiciary. Access to justice was presented as another key priority for justice reform in Cambodia. Some of the problems associated with access to justice include access in regional areas, and also the high level of court tax imposed in pursuing a case, which often prevents people seeking justice as the costs are prohibitive.

Although a comprehensive strategy for justice was developed in 2005 in Cambodia, with a focus on justice reform, it was identified that some of these approaches have not been particularly successful mainly due to the large number of points and laws involved, and the limited budget available to enforce all the different components of the strategy. Law enforcement and implementation have become an issue.

Key priorities for justice reform may include:

- *Training of the justice sector professionals*
- *Increasing access to the judiciary*
- *Eradication of corruption among justice sector personnel*

Due to the lack of funds, budget proposals become politicised between ministries and the momentum and focus on justice reform is lost.

Difficulties in the law making process, within the Supreme Council of Cambodia and the Ministry of Justice were also highlighted. Due to the political nature of the law-making process, the government is reluctant to pass legislation created by the Supreme Council, however the Ministry of Justice is also prevented from accurately reviewing legislation created by the Supreme Council and thus the law making process becomes very lengthy and difficult. As legislation created by the Supreme Council is not approved, they have no real power. The case of Extraordinary Chambers in the Courts of Cambodia, which was set up to try crimes committed during the Khmer Rouge regime, was also discussed. In this instance, Cambodia has had some success, so it could be useful to examine these Cambodian

judges, and train judges who serve in the ordinary Cambodia courts in a similar way.

4. The Role of External Assistance in Justice Reform Processes

The fourth panellist, former German Minister of Justice Herta Däubler-Gmelin, proceeded with a variety of examples of bilateral and multilateral assistance and support that has previously been given to justice reform. The key element is analysing which experiences are useful and favourable to the specific national context of the chosen country. It was emphasised that the motives for assistance in the justice reform process have to be developed nationally from the country in question, and alerted us to the problems of imports and transplanted systems, which can be both dangerous and ineffective.

Effective external assistance to justice reform is depending on three elements:

- *Inclusion of the recipient country's needs and ambitions as point of departure*
- *A funding strategy that avoids dependency on a single donor*
- *Making use of twinning programmes that link institutions of donor countries with those in recipient countries*

Experiences in Afghanistan and Kyrgyzstan were given as examples where development assistance had not been beneficial in ensuring successful justice reform.

The role of parliamentarians in these cases is oversight, particularly of the government agencies that shape these programmes, and also to scrutinise related legislation and budgets. A successful strategy presented by the panellist is the concept of twinning

projects, those that link assistance or donor countries and institutions with local institutions. This allows for common analysis, the combination of multiple legal and institutional traditions, and common decisions regarding sequencing, priorities and the allocation of funds. Involving judges and other professionals in these processes is also very useful, and in public awareness programmes, practitioners and experts are needed from both sides. Another crucial aspect of external assistance in justice reform programming is the joint evaluation (both local and donor partners) of the project, and funding which takes into account the changing conditions and evolution of working models. Evaluation needs to be completed on a regular basis, and be designed to allow changes in justice reform programming, reflecting the long-term nature of these reforms.

Moderated Dialogue: Current Developments and Key Issues in Justice Reform in Southeast Asian Countries

The moderated dialogue focused on the issues of accessibility, accountability, transparency and effectiveness. These issues were chosen because they provide entry points for parliamentarians to become involved.

1. Accessibility

The session opened the different developments regarding access to justice. These include court-annexed mediation to reduce the pressure on the court system, and to resolve disputes outside the framework of the court, present in both the Philippines and other countries like Singapore. Another programme sponsored by the courts established rules of procedure for small claims, ensuring that decisions will be made within 24 hours, in the Philippines with a similar Small Claims Tribunal present in

Singapore. There are also discussions in place to create a petty crimes court bus that can access regional areas of the Philippines, creating justice on wheels. It was also mentioned that access to justice in regional areas is also a problem in Cambodia, as there is only one court per province. There have been district offices created where people can access paralegal advice, and the bar association has created a hotline for citizens to access advice regarding lawyers, and how to access the courts free of charge.

The moderator approached accessibility from a different point of view, in regards to entrance conditions for graduating law students and their ability to work in courts. A discussant responded that a graduating law student must pass an additional bar examination at the cost of \$50 USD.

Suggestions of workshop participants to improve access to the justice sector include the following:

- *Providing free (or lowering the costs of) legal assistance*
- *Lowering the costs of filing lawsuits and imposing no fees charges on certain cases (e.g. sexual crimes)*
- *Scholarships for law students in exchange of service in the public justice sector*
- *Setting up mobile courts that reach out to remote areas of the country*
- *Promoting a gender approach to access to justice as well as maintaining a gender balance among judiciary personnel*
- *Online access to information*

However, difficulties arise due to the fact that there are only 40 positions, minimal resources and not enough training for these graduating students. In the Philippines, the issue of gender balance in the legal system is changing.

Currently there are more female judges appointed than male, and there are more women studying law. However, the challenge is that many good judges will prefer to practice law instead of working for the government, which is a challenge across all public sectors.

Online access to information was also discussed in regards to access to justice. The Philippines is currently strengthening websites of courts in order for the public to have increased access, however this development has not taken place yet in Cambodia.

2. Accountability/Impartiality

The principles of accountability are particularly important for the justice sector. Justice sector needs to be open to external feedback and criticism and be able to criticise other bodies and agencies. Accountability is now an established norm, and a discussant shared Singapore's approach to accountability. In regards to the judicial system, citizens can request to change the judge if they perceive that it is unfair or not impartial, a Code of Ethics for judges has been developed to ensure that there is no conflict of interests, and judges are sensitive to cultural differences, and treat all witnesses and parties equally. This is designed to ensure impartiality in process, appointments of judiciary, and also in decision making. In Singapore, the parliament has the power to hold the chief justice accountable through a mechanism of five other judges and parliament. In the Philippines, the state parliament does not have any power to hold judges accountable and the federal parliament can only act on a majority in this

case. In Malaysia, it was discussed that an independent mechanism for court and judge complaints was necessary, divorced from the executive and other powers. Court records and DVDs are also used as tools to ensure accountability of judges, as they can be used in an appeal.

Another issue affecting accountability is the Internal Security Act and terrorism laws enacted in many countries across the region. It was highlighted that fundamental rights must be respected by the legislation, and a high-level judge should review the case to see if prosecution is warranted. Both panellists emphasised this issue, with one discussant stating that the Code of Ethics in Singapore is very instructive regarding the Internal Security Act, and the other indicating that there is the political will present for repealing the same act in Malaysia.

3. Transparency

This discussion opened on the question of transparency and corruption. The discussant asserted that the constitutional courts in Indonesia are quite transparent, but the Supreme Court is less so as they do not disclose information to the public. The high profile case of the *“gecko and the crocodile”*¹ Special Commission on Corruption was mentioned, and demonstrated the role that civil society can play in addressing corruption.

The panellists referring to the situation in the Philippines, where the biggest issue with injustice is transparency as ongoing decisions and developments on cases are not being made available to the public and there is no mechanism for dealing with the unnecessary delay in processing cases. The Filipino parliament has intervened in the most visible cases but these are the exception to the rule. Thus, transparency remains an important

¹ This image illustrates the Indonesian anti-corruption agency’s battle in 2009 against corrupt practices of the police.

issue in the Philippines, as a lack of transparency means that actors are able to delay cases and interfere in court business.

The civil society and the media is playing an important role in exposing corruption in Indonesia. Law #14 was highlighted as a public disclosure law that has been very effective in increasing transparency in Indonesia. However, the biggest problem is political parties where 43 members of 570 in parliament have been imprisoned due to corruption between 2007 and 2009. Within the Indonesia context, the strength of civil society was emphasised and that they possess the power necessary to provide checks and balances when the government does not perform as expected.

Recent political changes had brought human rights violation cases forward, and explored the issue of impunity for officials. Reforms in the criminal justice system are necessary due to ongoing problems with impunity. Public opinion was identified as the only way to reform this area and emphasised the fact that civil society has a strong role to play in pushing for these reforms.

4. Effectiveness

Continuing on the discussion in the previous sessions concerning the delays in justice and case backlogs, the current situation in Thailand was described. The burden on the court system in Thailand is a severe problem in Thailand with over one million cases in the courts. The discussant suggested that new measures need to be introduced to deal with the volume, through justice reform programmes. The two key issues that need to be addressed are case management, such as the introduction of a two-track system, and the introduction of a pre-trial judge to identify key witnesses, issues and a timeframe for the case.

The discussion continued, describing Indonesia’s reform efforts, such as the

revision of the constitution, and the adoption of new laws and instruments. However, there have been both positive and negative changes. The constitutional court has been able to establish a new legal culture and build public confidence. However, public opinion and trust of the Supreme Court

Justice delayed is justice denied.

remains low as reform has been slow. The freedom of press has been important for increased oversight of the justice system. It was suggested that the role of civil society is crucial to maintaining oversight of the justice system. Even after the introduction of Alternative Dispute Resolution, case processing times are still too long for time limits imposed.

Effectiveness was identified to be directly related to public confidences, as inefficiency and slow processing of cases reduces public trust, and hence two panellists identified this as a key area for justice reform.

Discussion

A lively discussion followed the moderated dialogue with many different issues contributed by participants. One participant noted that compensation procedures in Singapore have been changed to empower the judge to award damages to the victim to reduce their court fees in some cases. Other strategies used to reduce the cost burden on citizens seeking justice were also discussed. In the Philippines, a party, that cannot afford to file a case, can file a petition stating his lack of income. A judge then reviews this petition, and he has the right to waiver the fees if he believes it justified. In important cases, such as those regarding serious violations of human rights, there are no fees in the Filipino justice system.

Case processing times continued to be a key feature of discussion, and the case of

Malaysia where lawyers were given specific limited timeframes for their cases was unpopular, as lawyers felt they could not prepare appropriately. In comparison, in the Philippines case preparation can take two to four years, and these delays should not only be attributed to the judge but to the whole system. The proposal of a pre-trial judge, as per the European model, was discussed as a viable option for improving case processing times, as mentioned in the moderated dialogue.

Mapping Exercise: Identifying Good Practices, Challenges and Gaps in Justice Reform

In this session, country groups discussed internally, aiming to identify national good practices, challenges and gaps in justice reform with regards to factors such as but not limited to accessibility, accountability, transparency and effectiveness. The outputs of the discussion are a multi-grid matrix national map, showing the current state of justice reform in the respective countries. These grids are summarised below and can be found in Annex I.

Participants of **Malaysia** identified several challenges facing justice reform currently. Accountability and effectiveness were the more challenging areas, with the parliament unable to criticize judges, and lack of independence of the judicial commission, and the lack of oversight present in the anti-corruption agency and the Internal Security Act. Effectiveness of the justice system also presented problems such as the differences in pay and experience between public and private lawyers, and the need for improvement in the training and pay packages for judges. Another issue with transparency was identified with the lack of disclosure of the evidence presented against the defence also a problem to be addressed. In regards to good practices, Malaysian participants identified many positives in

Perceived challenges to justice reform in some Southeast Asian states include the following:

- *Large salary difference between the public and private justice sector professionals*
- *Lack of disclosure of the evidence in the context of internal security*
- *Financial barriers: High case filing fees, costly litigation and lack of legal aid for the poor*
- *Uneven geographical distribution of courts*
- *Political interference with court rulings and appointments and promotion of justice sector officials*
- *High case load is not matched by sufficient justice sector personnel (judges, prosecutors and lawyers) and infrastructure (buildings, IT system), leading to large backlog of cases*
- *Insufficient legislation on the role and position of judges and prosecutors*
- *Corruption in the justice sector*
- *Expensive, lengthy and complicated judicial processes*
- *Overcrowded prisons*

regards to accessibility including the physical location of courts and other justice mechanisms, low case fees and the provision of legal aid. The political will necessary to increase transparency was also present, including the desire to establish an anti-corruption body with prosecution power.

In addition, the effectiveness of the justice system is being improved with administration, case processing and information technology efforts. The

motivation to repeal the Internal Security Act was also identified.

Cambodian participants were able to identify some core issues involved in their proposed justice reform programming. In regards to challenges, accessibility and effectiveness were the largest concerns. In regards to accessibility, the high case filing fees and geographical distribution of courts has proven problematic. In addition, the lack of lawyers, and level of legal education amongst citizens also affect access to justice negatively. The effectiveness of the Cambodian legal system has several clear areas for improvement, including the poor facilities and resources, and information technology. The lack of capacity also can be seen as a gap, with only one court of appeal in Cambodia currently. The conservative and restrained nature of the judiciary was also seen to be adversely affecting the effectiveness of the justice system. In regards to accountability and impartiality, the absence of legislation on the statute of judges and prosecutors, corruption, a weak supreme council and the political legacy of the Pol Pot regime were all identified as challenges for justice reform. The good practices and positives identified by Cambodia include the presence of several strong legal aid organizations, the Arbitration Awards published online, and the opportunity to learn from the Extraordinary Chambers in the Courts of Cambodia. Also the introduction of Alternative Dispute Resolution and Arbitration Council of Labour Disputes will improve the situation by reducing the burden on the court system.

Indonesian participants used the exercise to identify several challenges nationally. In terms of accessibility, the lack of infrastructure and development in relation to Indonesia's vast territory poses a large challenge. The lack of budget for justice reform and impunity of officials were shown to be barriers to accountability in the justice sector. Effectiveness is hindered by the lack

of judges and high volume of cases, and the expensive, complicated and lengthy judicial processes. In regards to transparency there were both challenges and good practices identified. Despite the lack of an IT system for the judiciary, and corruption, improvements had been made with the adoption of the freedom of information bill, increased freedom of press and the use of IT in the constitutional court. Good practices were also identified in the role of legal aid increasing access to justice, the active role of civil society in increasing accountability, and

the legal precedent set by the constitutional court in improving effectiveness.

Thai participants identified several challenges in the accessibility and effectiveness of the justice sector. The lack of legal aid for poor defendants was considered a gap in the system, and it was suggested that an inquisitorial system could benefit the justice sector.

Effectiveness is limited by the lack of cooperation with witnesses and a large backlog case problem. Overcrowded prisons and plea bargaining were also identified as problems. Among the good practises, the new e-filing system has increased access to justice, and Supreme Court decisions have been published online increased the accountability and transparency of the system. Improved transparency has also come from the public hearing of new bills, and that high ranking officials and the executive must declare their property and assets to combat corruption. A court annexed mediation centre has also improved effectiveness and efficiency, and technological resources such as VDO (online conferencing) and digital testimony have been identified as good practices. The enforcement of court warrants was also identified as a good practice in Thailand.

The participants from the **Philippines** identified several gaps and challenges in the justice sector. The accessibility of the justice sector could be improved by addressing the challenges posed by excessive filing fees, costly litigation and a lack of judges, prosecutors and public attorneys in the court system. Corruption of judges and prosecutors is a problem, and they are also vulnerable to political intervention which affects both the accountability and impartiality of the justice sector. This political influence also affects the transparency of the justice sector through the selection and promotion process of high-ranking judges and officials. The information available to the public is also limited

Selected good practices of justice reform in selected Southeast Asian states as perceived by workshop participants

- *Provision of legal aid and low case fees*
- *Political will to reform the justice sector*
- *Anti-corruption bodies set up during the last decade*
- *The presence of legal aid organisations (in civil society)*
- *Alternative dispute resolution mechanisms (mediation)*
- *Adoption of freedom of information laws has increased transparency of judiciary*
- *Increased use of IT systems within the courts*
- *Public parliamentary hearing of new laws*
- *Improved enforcement of court warrants*
- *Simplification of court procedures*
- *Introduction of small claims procedure*
- *Modernisation of the prison*

regarding the status of cases, reducing transparency significantly. There were many issues that limited the effectiveness of the justice sector, including the lack of budget for judiciary, weak witness protection, outdated and irrelevant laws, the incompetence of judges and prosecutors and an overburdened system. In addition, the delay of trials through manipulation of court procedure and overcrowded jails were also shown to be challenges for the justice sector. Good practices identified by Filipino participants include the innovation of concepts such as justice on wheels to increase accessibility. Improving accessibility was also achieved through Alternative Dispute Resolution mechanisms, and legal aid and advice programmes. The impeachment of officials shows that the parliament can exercise their function of the oversight of the judiciary and increases accountability. The role of civil society has also contributed to improved transparency, and with the adoption of pending bills in congress, this situation should continue to improve. The introduction of small claims procedure has also increased effectiveness, and the political will for reform, decentralisation of court administration and the simplification of court procedures are all ways to improve the justice sector. Prison reform and modernisation also will contribute to the improvement of the justice sector.

“Fishbowl”-Conversation: Defining the Role of Parliamentarians in Justice Reform

Through three rounds of conversation using the “fishbowl” methodology², stakeholder-

² Each round of fishbowl conversation involves a small group of people seated in circle and having a conversation (fishbowl). They are surrounded by a larger group of observers, seated in an outer circle. Whenever someone wants to participate and move to the inner circle, a participant from the fishbowl must free a chair and move to the outer circle.

Suggestions of workshop participants to promote good governance of the justice sector in Southeast Asia.

For members of parliaments

- *Organise public hearings on new laws*
- *Evaluate past justice reform projects in your own country and across the region*
- *Introduce scholarship schemes for law students in exchange for service in the public justice sector*

For Justice sector professionals

- *Introduce peer review among judges*
- *Promote cross-national learning of justice professionals in Southeast Asia*
- *Introduce code of conduct for justice officials based on the “Bangalore Principles of Judicial Conduct”*

For civil society

- *Educate members of parliament on justice reform*
- *Provide legal expertise to members of parliament*
- *Report on corrupt judges to parliament*

specific groups (justice sector professionals, MPs and civil society) discussed their perspectives on the role of parliamentarians in justice reform. The first round of discussion among parliamentarians allowed many different suggestions and ideas to emerge, defining the role of parliamentarians in the justice reform process. A key issue was the concept of broader education of parliamentarians, the public and the

politicians and political elite. Educating these different actors on justice reform, creating political will and commitment to justice reform and creating a space for the public to participate in justice reform were suggested

as important steps. Building upon these ideas is the sharing of best practices within the region and neighbours, and contributing to the body of knowledge on justice reform. A *mapping study* could be a useful tool to analyse the justice reform projects in ASEAN states, and assist in identifying these good practices. Peer reviews were also suggested as a useful tool.

Parliamentarians also have a role in providing budget allocation for justice reform programmes, and to support the government's strategy on justice reform. Building reform through legislation was also proposed as a key role for parliamentarians, enacting specific bills on the good governance of the justice sector, and establishing oversight of the executive, and human rights. Another suggestion was the possibility for law students to receive scholarships for their studies, in exchange for service as a public prosecutor or judge.

The second round of discussion among **justice and legal professionals** was also very fruitful, and allowed many different proposals to be shared with the IPF-SSG participants. These suggestions defined possible roles held by justice and legal professionals during justice reform, and also the goals of justice reform from their perspective. Many suggestions referred to how justice professionals can support justice reform, through being the catalyst for change, increasing their accessibility, contributing to the social movements and political will for justice reform. Other strategies included the concept of education, and that justice professionals had a duty to educate their peers in ASEAN countries, and to monitor and oversee their colleagues. Combating corruption was identified in the

session, and the establishment of a code of conduct based on the Bangalore principles was discussed, and ensuring that the justice sector self-manages issues of corruption through peer pressure, and monitor other judges' cases. Another suggestion was to enact a whistleblower law to protect justice professionals who uncover corruption. In more concrete proposals, judges were suggested to be assigned to courts to distribute the workload, and to develop capacity building measures for law enforcement officers.

In the third round of discussion, **civil society actors and academics** outlined their perceived role in justice reform, and how they can support the process. Many of the suggestions centred on the concept of education. Increased public legal and human rights education was proposed, and how this interacts with justice reform. The education of parliamentarians and academia on justice reform was also highlighted. The provision of legal and judicial experts for parliamentarians was also suggested. The establishment of an ASEAN Human Rights Court was discussed, and the issue of ensuring the legislators and judiciary also received access to justice was raised. In addition, corruption was discussed in depth with proposals of investigations into corruption, reporting of corrupt judges to parliaments by civil society organisations. The need for a long-term commitment to justice reform in the form of advocacy and persistent scrutiny of the just sector was emphasised. Expert recommendations for each country could be developed to help countries in their national justice reform programme planning.

Plenary Session 3: Short Report on National Activities since the last IPF-SSG Workshop

The presentation by the secretary of the IPF-SSG began with a short summary of the

evolution of the IPF-SSG since the last workshop held in June 2010 in Jakarta, Indonesia. As trust has developed, the IPF-SSG has moved away from the traditional forum format, and has introduced participatory methods. Activities initiated at the IPF-SSG have provided the basis for successful national study groups in the Philippines and Thailand. Three main strategies were identified that different countries have introduced: a parliamentary caucus looking at SSR, increasing civil society engagement, and efforts to create a national caucus involved parliamentarians and other actors in an SSR discourse. However, the difficulties of working with parliaments were noted, as they are always subject to changing national dynamics and interests. Despite the progress made by previous IPF-SSG workshops, it was brought to attention that this progress can only be limited, due to the need for implementation at the national level.

The importance of developing the national capacity for dealing with issues such as SSR, was emphasised strongly and also orienting national strategies towards ASEAN, and a concept of regionalism. Coordinating initiatives across the region presents a continual challenge, and increased cooperation would be very beneficial. In addition, ASEAN and AIPA should continue to be regular features of the IPF-SSG, due to the importance of regular updates on progress in relevant areas and continued engagement with these bodies.

Plenary Session 4: Recent Developments Related to ASEAN (APSC / AICHR / AIPA)

ASEAN-related issues have become regular features of the IPF-SSG workshops. The 9th workshop included discussions on the ASEAN Political Security Community (APSC), the ASEAN Intergovernmental Commission on Human Rights (AICHR) and the ASEAN Inter-

Parliamentary Assembly (AIPA) – important to note that the 9th IPF-SSG workshop was held on the eve of the 2011 AIPA General Assembly in Phnom Penh.

1. ASEAN Political Security Community (APSC)

Mely Caballero-Anthony, Director of the APSC External Relations at the ASEAN Secretariat began by commending the IPF-SSG on the success of their sustained workshops, involved the key actors in the planning and implementation of SSG concepts. The different array of actors was identified as very useful. The presentation continued to elaborate on the progress made within ASEAN on the APSC. The adoption of the rules-based ASEAN Charter in 2008 established three pillars for an ASEAN Community, developing an economic, a socio-cultural and a political security community (APSC). The blueprint for this APSC contains five key elements:

- Political development
- Shaping and sharing of norms
- Conflict prevention
- Conflict resolution
- Post-conflict peacebuilding

These five key elements of the APSC were then linked to the concept of security sector governance in detail. The speaker explained the multifaceted nature of each of these elements that need to be explored in great detail. The political dimension was highlighted in the presentation. Understanding was emphasised as of central importance; both the different political systems, and institutional mechanisms involved. The promotion of concepts and ideals such as democracy, human rights, good governance, and anti-corruption initiatives are part of the political dimension, in addition to the sharing of information both legal and judicial.

Some important developments were made in the context of the APSC, including the establishment of the ASEAN

Intergovernmental Commission on Human Rights (AICHR) and the ASEAN Commission on Women and Children (ACWC). The creation of the AICHR was considered as an important step as there is now a body to protect and promote human rights, in turn promoting good governance across the region. This body will also be able to support nation states in upholding human rights. The ACWC also links to the SSG discourse in promoting women's and children's rights. The creation of these two bodies gives governments and CSOs the ability to source information from the ASEAN Secretariat, which was highlighted as another key development.

In addition to the political aspect of the APSC, conflict prevention and conflict resolution are a central mechanism to prevent conflict in ASEAN states. The ASEAN Charter provides ASEAN with a role to play in conflict management in the region. It was noted that this is an important shift, as previously conflict management was viewed as interference, but the Charter now legitimises ASEAN's multilateral approach, and supporting role in conflict management processes. This development is closely linked to SSG, and is very new in the ASEAN discourse.

In regards to the security aspect of the APSC blueprint there are a number of sectoral bodies in the region that cooperate on the management of security challenges in the region. This includes piracy and maritime challenges, terrorism, human trafficking, transnational crime, and the challenge of regional cooperation on natural disasters. These security aspects are relevant to SSG, as the displacement of people increases insecurity, and can adversely affect women and children.

ASEAN can be seen to have a role in post-conflict situations and peacebuilding, but needs to identify how to enhance capacity building measure for mediation and national

reconciliation. An area of development would be to improve cooperation between ASEAN and the UN, ensuring the transferral of skills from the UN to ASEAN for the purpose of peacebuilding capacity development.

In summary, the APSC has managed to establish institutions, and the necessary adoption of legislation and programme of work. The biannual review of the APSC will report on developments and provide better measurement of progress and. There are clear linkages between the APSC and SSG, and entry points for SSR issues in both political and security developments.

2. ASEAN Intergovernmental Commission on Human Rights (AICHR)

From his personal perspective, Richard Magnus, Singapore Representative to AICHR, presented the achievements of AICHR, specifically the importance of the subsequent norms and standards now present in the ASEAN community. In celebration of ASEAN's 40th birthday, the heads of state established the ASEAN Charter, which began to recognise several principles. These central principles of rule of law, good governance, and democracy, are now established in the Charter, and the preamble requires the ASEAN heads of state to establish an ASEAN human rights body. This became the AICHR. There is some debate on the categorisation of this new body, but ultimately it is a cross-cutting issue, set out in the Terms of Reference as an overarching body designed to discuss human rights.

It was also detailed how the AICHR and the Terms of Reference were up-to-date standards regarding the protection and promotion of human rights, based on the Universal Declaration of Human Rights (UDHR). The AICHR must uphold international human rights standards as prescribed by the UNHCR, the Vienna Declaration and other international instruments, and provides a clear minimum

standard for the AICHR to meet. The work of AICHR undertakes 14 domain areas which include strategy development for the promotion of human rights, encouragement of ASEAN nations to accede and ratify international human rights instruments, promote full implementation of ASEAN human rights instruments, provide advice and assistance to ASEAN bodies, and engage in dialogue and consultation with CSOs and other stakeholders.

At the regional level, the utility of an understanding of other regional bodies was highlighted and how this can assist ASEAN and AICHR in identifying challenges in future implementation. The current 5 year work plan was identified as very ambitious, yet possible and has already received funding from ASEAN member states, and has implementation began in 2011. Topics under discussion include Corporate Social Responsibility in ASEAN, a critical study on labour and migration, the statelessness of persons, and engagement with ACWC on the protection of women and children in both war and peacetime. It was emphasised that regional representatives need to have ongoing local discussions with NGOs on these issues, in order to update NGOs and other partners in AICHR activities, and share inputs when necessary.

The need to recognise the working principles of ASEAN and thus AICHR was also highlighted. There is a strong need to respect sovereignty, independence and the territorial integrity of ASEAN states, and abide by the principle of non-interference in the domestic affairs of ASEAN states.

3. ASEAN Inter-Parliamentary Assembly (AIPA)

The panel began with a discussion of the issues in the Philippines relating to the concept of “justice delayed is justice denied”. The speaker, Antonio Cuenco, Secretary-General of AIPA, exposed many of the

procedural problems in the Philippines and shared an example of how this problem can really limit the delivery of justice.

In regards to recent AIPA developments in the Justice Sector, the General Assembly held in Hanoi in 2010 passed two resolutions. The panellist emphasised that the AIPA does not have a legislative capacity similar to the European Parliament but instead provide resolutions that ASEAN members can be encouraged to adopt. Another relevant resolution has been proposed for the coming AIPA General Assembly in Cambodia in September 2011 that focuses on the cooperation between ASEAN and AIPA. This resolution is designed to strengthen the links and integration between ASEAN and AIPA. In particular, this resolution urges parliamentarians to maximise their role in building the ASEAN Community, and cooperating on issues such as justice sector reform, terrorism and human trafficking. The AIPA has so far approved 727 resolutions, and then it is the responsibility of each nation to act national, and pass any necessary pieces of legislation.

Closing Session: Wrap up and the Way Ahead

The Secretary of IPF-SSG, together with FES and DCAF representatives, reflected on the discussion held over the forum, and noted that much had been achieved, with very complex issues brought to the table, and discussed by a wide range of stakeholders present at the IPF-SSG. The active participation and appreciation of the participatory methodologies used was also highlighted. The wish that the “cognitive compression” of these issues would inspire IPF-SSG participants to take up the challenge to address SSG issues at the regional and national level was expressed. The excellent contribution of the resource persons was noted, and the participatory methods at this workshop led to such stimulating discussions. The generous participation and contributions

of participants have allowed the consolidation and exchange of views, and to visualise good practices for future IPF-SSG workshops. The workshop closed with the Secretary of the IPF-SSG expressing his desire for IPF-SSG to continue to focus on the long-term future of security sector governance and related reform processes in Southeast Asia.

Explanatory Note on the Annexes

The tables listed in the annexes one and two are the result of discussions among participants. They represent the opinion of workshop participants about challenges, good practices and initiatives for justice reform. The status of the results of the various tables are for illustrative purposes and do not necessarily represent the opinion of the conference organisers. Annex One gives an overview of the perceived challenges and good practices concerning justice reform in Southeast Asian states. Annex Two gives an overview of suggestions of workshop participants for future justice reform in their own respective countries. Annex Three contains the list of abbreviations. Annex Four provides the workshop programme. Annex Five includes the list of participants.

Annex I – Identifying Challenges and Good Practices within Justice Reform

Malaysia					
Factors	Accessibility	Accountability/ Impartiality	Transparency	Effectiveness	Others
Challenges/Gaps		Parliament cannot criticize Judges		Need to close the salary gap between the private sector lawyers and career judges	
		Judicial commission not independent from executive	Lack of disclosure of evidence against defence	Insufficient training of judges, pay and perks of judges are not attractive	
		Anti-corruption agency needs oversight from Judges			
		ISA needs reform with oversight from Judges			
Good Practices	Good accessibility - Geographical distribution of courts over the country - No filing fees		Political will to repeal ISA		
	Legal aid provided by government		Formation of Anti corruption body with criminal power	Reform of the court administration system with timelines, speed of case processing and IT.	

Cambodia					
Factors	Accessibility	Accountability/ Impartiality	Transparency	Effectiveness	Others
Challenges/Gaps	High filing fees/deposit for civil case (complicated exemption)	Absence of law on Statute of Judges and Prosecutors	No legal reasoning on decisions	Only one court of Appeal	
	Lack of lawyers	Corruption	Corruption	Lack of capacity	
	Only one court per province	Weak Supreme Council of Magistracy		Lack of means/facilities	
	Low legal knowledge among citizens	Judges and prosecutors were active members of Pol Pot regime (political)		No computerised files	
	Lack of legal aid lawyers			Executive deference	
Good Practices	A few strong legal aid organisations exist in civil society		Arbitration Council awards (online)	Introduction of Alternative Dispute Resolution	Opportunity to learn from ECCC (Extraordinary Chambers in the Courts of <i>Cambodia</i>)
				Arbitration Council of Labour disputes	

Indonesia					
Factors	Accessibility	Accountability/ Impartiality	Transparency	Effectiveness	Others
Challenges/Gaps	Lack of infrastructure, development vs. wide scope of territory	Impunity	Judicial corruption	High volume of cases and not enough judges	
		Lack of budget	Lack of IT system	Expensive, complication and lengthy process in judicial process	
Good Practices	Role of legal aid institutes and public interest lawyers	Active role of CSO in controlling the judicial process	Adoption of freedom of information bill	Legal precedence made by Constitutional Court	
			The use of IT in the Constitutional Court		
			The development of the Freedom of Press		

Thailand					
Factors	Accessibility	Accountability/ Impartiality	Transparency	Effectiveness	Others
Challenges/Gaps	Legal aid for poor defendants			Not enough cooperation with witnesses	Plea bargaining
	Judiciary should use more inquisitorial system			Backlog problem	Overcrowded prisons
Good Practices	e-filing	Supreme court decisions on internet	Court warrant	Case management IT system has been used	Court warrant enforcement
			Public hearing of new bills	Court-annexed mediation centre	
			Declare property inability/assets (executive High ranking etc)	Digital testimony recording system	

				VDO conference for hearings	
Philippines					
Factors	Accessibility	Accountability/ Impartiality	Transparency	Effectiveness	Others
Challenges/Gaps	Excessive filing fees	Vulnerability to political interference	Political influence in the selection/promotion process	Lack of budget for the judiciary	Court procedure rules delay trial
	Costly litigation	Corrupt judges and prosecutors	Lack of transparency in selection of judges	Weak witness protection programme	overcrowded prisons
	Lack of judges, prosecutors, public attorneys in the courts		Right of the public to know the status of cases	Outdated/irrelevant laws	
				Incompetence of judges and prosecutors	
				Clogged dockets	
Good Practices	Justice on wheels	Impeachment/oversight function of congress	Pending bills in congress	Small claims procedure	Political will for reform
	Alternative Dispute Resolution		Civil society intervention		Decentralisation of court administration
	Pauper litigants				Simplify court procedures
	Free legal service				Prison reforms/modernisation

Annex II – Suggestions for justice reform in Southeast Asian states (put forward by workshop participants)

Cambodia			
Action Item	When	Who	Measure of Success
Capacity building for police officers: legal and justice education; ST and LT trainings; Training for trainers	Long term project (now to 2018)	Police academy	Level of understanding increased, 300 students per year, 30-40 trainers per year
Close cooperation between law enforcement officer and lawyers, multi-stakeholder workshop mechanism/coordination mechanism	Long term	Cambodia National Police, Court	
Propose an amendment to the law of Supreme Council of Magistracy (SCM)	2012	National Assembly, Experts	Adopted legislation
Code of ethics for Judges and prosecutors	2013		Adopted legislation
Statute on Judges and prosecutors	2012	National Assembly, Experts	Adopted legislation
SSG/SSR and Defence reform: Constitution; Supreme Council of the Armed Forces; England, JP, Thai models	2013-2015		
Train 100 para-legal officers at community level	2012	Community Legal Education Center (CLEC)	Target of 100 achieved
Pilot project on legal aid/justice fund for MPs and Communities	2012	Community Legal Education Center (CLEC)	Target of 3 communities

Indonesia			
Action Items	When	Who	Measure of Success
Push parliament to increase judiciary budget - state budget judiciary budget is very low, police can only have 4000USD per case	November 2011 - July 2012	Indonesian Corruption Watch (ICW), ICW has already completed research on budgetary needs for cases.	Becoming part of the parliamentary agenda
Investigate corrupt judges	Ongoing work - January 2012 – December 2013	ICW and Community and Legal Aid Institute	Judicial commission to provide recommendations for punishment
Developing an integrity pact for lawyers, say “no” to corruption	9 December 2011	Community and Legal Aid Institute	At least 100 lawyers sign pact. Develop a national network.
Training for CSOs about investigating corruption cases and legal aid	2012	ICW and Community and Legal Aid Institute	At least 1 corruption case for each partner
Prepare roadmap for justice reform	January 2012 - December 2012	ICW and Community and Legal Aid Institute	Becoming part of the parliamentary agenda

Malaysia			
Action Items	When	Who	Measure of Success
ISA	3 months (parliament session end of 2011)	Johari	Repeal by parliament
Independence of the judiciary - appointment of the judges, advice of the PM prevails (has an upper hand) The judiciary commission needs to be truly independent,	12 months (end of 2012 session)	Johari	Amendment to JAC Act 2009
Ability of legislature to assess judiciary to ensure integrity and impartiality	12 months (end of 2012 session)	Johari	Amendment to standing order of parliament.
Review composition of judiciary - balance between private and public sector 50% public 50% private in past But currently private sector is diminishing, because govt prefers to maintain larger 50% of public judges, so government can control (because judges are technically civil servants)	12 months (end of 2012 session)	Johari	More judges from the Bar

Philippines			
Action Items	When	Who	Measure of Success
Proposed Court re-engineering - submit study and draft bill - File bill and lobby senator counterparts - Lobby for prioritisation	15 th Congress - January 31 2012 - March 31, 2012 - April 1, 2012	Commission on Justice - Supreme Court - Congressman Biazon -	Law passed
Proposed law that grants full scholarships with stipend for law students, for their future service	December 31, 2011	Congressman Biazon	
Implement computerisation of courts	Ongoing	Supreme Court	Case processing automised
Proposed law strengthening of Witness Protection Programmes (Lobbying)	Ongoing	CSOs and other stakeholders	Law passed
Proposed law on recognizance (Lobbying)	Ongoing	CSOs and other stakeholders	Law passed
Proposed law on whistleblowing (Lobbying)	Ongoing	CSOs and other stakeholders	Law passed
Proposed law modernising the jail system (Lobbying)	Ongoing	CSOs and other stakeholders	Law passed

Thailand			
Action Items	When	Who	Measure of Success
Addressing the backlog problem, revising and enacting procedural laws	Ongoing - 12 months	Standing committee of Justice and Police affairs	Report submitted to government. Deliberation of report in Parliament.
Expedite justice administration, mediation in the investigation process and court warrant enforcement	Ongoing - 12 months	Standing committee of Justice and Police affairs	Report submitted to government. Enactment of recommendations.
Monitor professional ethics - at least 11 groups of professional, aim to introduce Bangalore code of conduct for all judicial personnel	2011-2012	Summit workshop of Justice Organisations, Mahidol University, Thailand	Recommendations submitted to the government. Establishment of a Committee on Corruption Investigation

Annex III - List of Abbreviations

AICHR	ASEAN Intergovernmental Commission on Human Rights
ACWC	ASEAN Commission on Women and Children
AIPA	ASEAN Inter-Parliamentary Assembly
ASEAN	Association of Southeast Asian Nations
APSC	ASEAN Political Security Community
CSO	Civil Society Organisations
DCAF	Geneva Centre for the Democratic Control of Armed Forces
FES	Friedrich-Ebert-Stiftung
IPF-SSG	Inter-Parliamentary Forum on Security Sector Governance
IT	Information Technology
ISA	Internal Security Act
IWC	Indonesian Corruption Act
SSG	Security Sector Governance
SSR	Security Sector Reform
UDHR	Universal Declaration of Human Rights

Annex IV - Workshop Programme

Friday, September 16th 2011

Arrival of Participants

18:30 – 19:00 Preparatory Meeting of Chairs, Moderators, Speakers

19:00 – 21:00 Meeting of Steering Committee

Saturday, September 17th 2011

08:30 – 09:00 Registration at Le Royal, Lobby Level

09:00 – 09:30 Welcome and Introduction

Stefanie Elies, Director, Friedrich-Ebert-Stiftung (FES), Office for Regional Cooperation in Asia, Singapore

Heiner Hänggi, Assistant Director and Head of Research, Geneva Centre for the Democratic Control of Armed Forces (DCAF)

09:30 – 10:00 Keynote Speech

Heng Samrin, President of the National Assembly of Cambodia

10:00 – 10:30 Group Picture Taking

Coffee/Tea Break

10:30 – 11:00 Plenary Session 1: Key Issues and Challenges of Justice Reform

Herta Däubler-Gmelin, former Minister of the German Federal Ministry of Justice, former Chair of the Committee on Human Rights and Humanitarian Aid of the Parliament of the Republic of Germany, Honorary Professor, Free University Berlin

Introduced by

Hans Born, Senior Fellow, Head of Research Groups on Parliamentary Accountability of the Security Sector and Legal Aspects of Security Sector Governance, DCAF

Points for Discussion:

- *What are the key issues in justice reform?*
- *What are the main challenges of justice reform?*
- *Why should members of parliament be involved in justice reform? How can they play a meaningful role in promoting good governance of the justice reform?*

11:00 – 12:30 Plenary Session 2: Justice Reform and Security Sector Governance

1. **Regional Overview on the State of Play of Justice Reform in South East Asia**
Suchit Bunbongkarn, *Chair, Political Development Council, Thailand*
2. **The Role of Government and Parliament in Justice Reform – a Critical Assessment**
Niel C. Tupas Jr., *Chair, Committee on Justice, House of Representatives, Philippines*
3. **Justice Reform from a Non-governmental Perspective – a Critical Assessment**
Sok Sam Oeun, *Lawyer and Executive Director, Cambodian Defenders Project*
4. **The Role of External Assistance in Justice Reform Processes**
Herta Däubler-Gmelin, *former Minister of the German Federal Ministry of Justice, former Chair of the Committee on Human Rights and Humanitarian Aid of the Parliament of the Republic of Germany, Honorary Professor, Free University Berlin*

Chair: Mario Mayong Aguja, *Secretary, IPF-SSG; Former Member of Parliament, Professor, Mindanao State University, Philippines*

Points for Discussion:

- *What are different perspectives of the justice sector and its reform, particularly in the context of wider security sector governance?*
- *How are cross-cutting issues such as human rights protection and gender equality mainstreamed into criminal justice and penal reform?*
- *What are the main challenges for the justice sector in Southeast Asia?*
- *What is the role of parliament in justice sector governance?*

12:30 – 13:30 Lunch

13:30 – 15:00 Moderated Dialogue: Current Developments and Key Issues in Justice Reform in Southeast Asian Countries?

1. **Accessibility**
Geraldine Faith A. Econg, *Judge, Program Administrator, Action Programme for Judicial Reform (APJR), Supreme Court of the Philippines*
Suon Visal, *Secretary General, Cambodian Bar Association*
2. **Accountability/Impartiality**
Richard Magnus, *Singapore Representative to the ASEAN Inter-governmental Commission on Human Rights*
Brendan Siva, *Chairman, Kuala Lumpur Bar, The Malaysian Bar*
3. **Transparency**
Donal Fariz, *Researcher, Indonesian Corruption Watch*
Teresita Ang, *Founding Chairperson of the Movement for Restoration of Peace and Order, Philippines*
4. **Effectiveness**
Thammanoon Phitayaporn, *Judge, Alternative Dispute Resolution Office (ADRO), Supreme Court, Thailand*
Taufik Basari, *Lawyer, Indonesia*

Moderator: Stefanie Elies, *Director, Friedrich-Ebert-Stiftung (FES), Office for Regional Cooperation in Asia, Singapore*

Guiding questions:

- *How is the quality and independence of the justice systems in Southeast Asia guaranteed?*
- *How accessible is the justice sector in Southeast Asia? Are alternative dispute resolution mechanisms in place?*
- *What is the state of affairs concerning justice sector reform projects in Southeast Asia?*
- *Which factors positively or negatively influence justice sector reform in Southeast Asia?*
- *What are the legacies of past (and current) practices in the justice sector? How have challenges of impunity and corruption been handled?*
- *How has internal accountability within the justice system been improved?*
- *How has accountability to external overseers been improved?*

15:00 – 16:30 Mapping Exercise: Identifying Good Practices, Challenges and Gaps in Justice Reform

With inputs from the previous Plenary Sessions and the Moderated Dialogue, Country groups will discuss to identify national good practices, challenges and gaps in justice reform with regards to factors such as but not limited to accessibility, accountability, transparency and effectiveness. The outputs of the discussion would be a multi-grid matrix national map, showing the current state of justice reform in the respective countries.

Facilitator: Janice Lua, Facilitators Network Singapore

16:30 – 18:00 ‘Fishbowl’ Conversation: Defining the Role of Parliamentarians in Justice Reform

Through three rounds of "fish-bowl" conversation, stakeholder-specific groups will discuss their perspectives on the role of parliamentarians in justice reform, focusing on what they as a stakeholder group could do and what they think parliamentarians could do to address the challenges of justice reform in Southeast Asian countries.

Facilitator: Janice Lua, Facilitators Network Singapore

19:00 – 21:00 Welcome Reception

Sunday, September 18th 2011

08:00 – 08:30 Registration at Le Royal, Lobby Level

08:30 – 10:00 Plenary Session 3: Justice Reform – Action Planning for National Activities

1. Short Report on National Activities since the last IPF-SSG Meeting

Mario Mayong Aguja, Secretary, IPF-SSG; Former Member of Parliament, Professor, Mindanao State University, Philippines

2. Action Planning Exercise

Using the justice reform map and the "fish-bowl" conversations as inputs, country groups will brainstorm to develop a SMART (specific, measurable, achievable, relevant and time-bound) action plan for bringing about progress in justice reform in their countries.

Facilitator: Janice Lua, Facilitators Network Singapore

Chair: Hans Born, Senior Fellow, DCAF

10:00 – 10:30 Coffee/Tea Break

10:30 – 12:00 Plenary Session 4: Recent Developments Related to ASEAN (APSC/ AIPA/ AICHR)

1. **Mely Caballero-Anthony**, *Director of External Relations, ASEAN Secretariat*
2. **Antonio Cuenco**, *Secretary-General of AIPA, Former Member of Parliament, Philippines*
3. **Richard Magnus**, *Singapore Representative to the ASEAN Intergovernmental Commission on Human Rights, former Senior District Judge, Singapore*

Chair: Heiner Hänggi, *Assistant Director and Head of Research, DCAF*

Points for Discussion:

- *What progress has been made in the implementation of the ASEAN Political Security Community (APSC) Blueprint?*
- *How could ASEAN Inter-Parliamentary Assembly (AIPA) contribute to the development of the APSC and the strengthening of the AICHR in particular?*
- *What are the achievements to date of the ASEAN Intergovernmental Commission on Human Rights (AICHR)?*

12:15 – 12:45 Closing Session: Wrap up and the Way Ahead

12:45 – 13:45 Lunch

13:45 – 17:30 Exposure Programme: Tuol Sleng Genocide Museum (S21) and Killing Fields of Cheong Euk

19:00 – 21:00 Farewell Dinner

Monday, September 19th 2011

Departure of Participants

Annex V - List of Participants

CAMBODIA

Dr. Chheang Vannarith, Executive Director, Cambodian Institute for Cooperation and Peace

Samdech Akka Moha Ponhea Chakrei Kittipritbandith Heng Samrin, President, National Assembly

Dr. Nhem Boraden, Assistant Director General, Department of Policy and Foreign Affairs, Ministry of Defence

H.E. Mr. Pal Sam Oeun, Member of Parliament, National Assembly, Vice-Chairman, Commission on Interior, National Defense, Investigation, Anti-Corruption and Civil Service Administration

Mr. Pou Sothirak, Visiting Senior Research Fellow, Institute for Southeast Asian Studies, Singapore
Former Member of Parliament, National Assembly of Cambodia

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Member, Law, Politics and Human Rights Division, PDI-P Party, Executive Director, ASEAN Inter-Parliamentary Myanmar Caucus

Mr. Donal Fariz, Researcher, Indonesian Corruption Watch

Mr. Daniel Reichart, Resident Director, Friedrich-Ebert-Stiftung, Indonesia Office

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Y.B. Dato' Nur Jazlan Mohamad, Member of Parliament, House of Representatives

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Cong. Rodolfo G. Biazon, Chair, Committee on National Defence and Security

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Mr. Berthold Leimbach, Resident Representative, Friedrich-Ebert-Stiftung, Philippines Office

Cong. Niel C. Tupas Jr., Chair, Justice Committee, House of Representatives

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Mr. Veeravit Gongsakdi, Senator, Senate Standing Committee of Anti-Corruption and Good Governance

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Annex VI - The Organisers



The Inter-Parliamentary Forum on Security Sector Governance (IPF-SSG) in Southeast Asia aims to promote ongoing dialogue between Southeast Asian parliamentarians, with the intention of increasing civilian oversight, public accountability and national parliamentary involvement in security sector governance. The Forum features dialogue, publications and workshops which elaborate on systemic and current affairs issues related to parliamentary oversight of the security sector in Southeast Asia. Participants include members of parliament, parliamentary staffers, government and security sector officials, academic experts and civil society representatives from Cambodia, Indonesia, Malaysia, the Philippines, Singapore and Thailand; as well as representatives of the ASEAN Secretariat and international experts. Supported by the Geneva Centre for the Democratic Control of Armed Forces (DCAF) and the Friedrich Ebert Stiftung's (FES) Singapore-based Regional Office for Co-operation in Asia, the Forum is led by a Steering Committee.

The goals of the IPF-SSG in Southeast Asia are:

- To promote the parliamentary dimension of security sector governance in Southeast Asia;
- To promote an improved understanding of the role that parliaments can play in security sector governance;
- To foster a regional dialogue on the role of parliaments in security sector governance and to encourage regional confidence-building through greater parliamentary involvement in SSG.

www.ipf-ssg-sea.net



The **Friedrich-Ebert-Stiftung (FES)** was founded in 1925 as a political legacy of Germany's first democratically elected president, Friedrich Ebert. The Office for Regional Cooperation in Asia focuses on reinforcing social justice as a key factor for inclusive growth and as a core element of political processes in Asia. It cooperates with its partners aiming at strengthening democratic governance and incorporating features of social justice in political and economic processes. The Foundation actively supports dialogue platforms and multi-stakeholder processes for trade unions and civil society organisations related to the Association of Southeast Asian Nations (ASEAN) and the Asia-Europe Meeting (ASEM). FES works with partners from political parties, parliaments and ministries, trade unions, non-governmental and media organisations as well as academics and political think tanks. www.fes-asia.org



DCAF is an international foundation established in 2000 on the initiative of the Swiss Confederation as the 'Geneva Centre for the Democratic Control of Armed Forces'. DCAF contributes to enhancing security sector governance through security sector reform. The Centre's work to support effective, efficient security sectors which are accountable to the state and its citizens is underpinned by the acknowledgement that security, development and the rule of law are essential preconditions for sustainable peace. DCAF is guided by the principles of neutrality, impartiality, gender sensitivity and local ownership as the basis for supporting legitimate, sustainable reform processes. <http://www.dcaf.ch/>