

The 2nd ASEAN Conference on Crime Prevention and Criminal Justice

**“Promoting the ASEAN Culture of Prevention
for a Collaborative and Innovative Justice for All”
27 – 28 February 2020
Bangkok, Thailand**

The Eighteenth ASEAN Senior Law Officials Meeting (18th ASLOM) held in Vientiane, Lao PDR on 9 – 10 October 2018 welcomed Thailand’s proposal to organize the Consultative Group Meeting to be participated by ASLOM and relevant ASEAN sectoral bodies to discuss the theme and issues to be covered at the Second ASEAN Conference on Crime Prevention and Criminal Justice (2nd ACCPCJ), and requested Thailand to consult on detailed information of the 2nd ACCPCJ with all ASEAN Member States.

On behalf of the Government of Thailand, the Thailand Institute of Justice organized the Consultative Group Meeting on 13– 14 October 2019 in Phuket, Thailand. The Consultative Group Meeting agreed that the theme of the 2nd ACCPCJ would be “Promoting the ASEAN Culture of Prevention for a Collaborative and Innovative Justice for All.” Having considered various options on the substantive issues of the 2nd ACCPCJ, the Meeting agreed to settle on cybercrime whereas the proposed thematic issues such as access to justice (legal aid and education for justice) and justice reform (prison overcrowding and alternative justice system) could be considered within this context.

This paper aims to provide ideas and background information on the main theme with particular focus on the linkage with the cybercrime. Details on proposed substantive topics and format of discussion are also provided.

1 The theme: “Promoting the ASEAN Culture of Prevention for a Collaborative and Innovative Justice for All”

The Consultative Group Meeting noted the importance of culture of prevention which cuts across various fields including crime prevention and criminal justice. According to the ASEAN Declaration on Culture of Prevention for a Peaceful, Inclusive, Resilient, Healthy and Harmonious Society¹ at the 31st ASEAN Summit on 13 November in 2017 in Manila, Philippines, the core objective of the CoP is to promote and embed a culture of preventive mind-set at all levels. To achieve this, the CoP calls for the effective implementation of six substantive thrusts. In reference to cybercrime, the relevant thrusts identified are Thrust 3 on promoting a culture of good governance at all levels and Thrust 6 on promoting a culture supporting the values of moderation.

For thrust 3, it is to instil the principles of good governance, and to promote responsible citizenship, equitable socio-economic development and growth including access to education and employment so as to prevent social ills including poverty, crime, drugs and corruption, among others. The related activities in the Draft Plan of Action under Thrust 3 include the programme on Leaders in e-Government: Towards Citizen-Centric Public Service Excellence organized by the ASEAN Cooperation on Civil Service Matters (ACCSM).

The indicative purpose for Thrust 6 is to promote values of literacy in all aspects, and at all levels as a way of life, so as to prevent deliberate falsehoods and radicalization, among others, and to forge partnership with various existing networks, in order to drown out the voices of extremism, radicalism and falsehoods. The related activities include Media and Information Literacy Forum, ASEAN Youth Workshop on Media Literacy, and the promotion of positive narratives on the importance of the values of tolerance and moderation in social media by the Senior Officials Meeting Responsible for Information (SOMRI), the Senior Officials Meeting on Education (SOM-ED), and the Senior Officials Meeting on Youth (SOMY). Research and activities in collaboration with the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) to address cyberbullying and online sexual exploitation in partnership with the private sector is also being explored.

There will be continued consultations on the draft plan of action through the Working

¹ https://asean.org/storage/2017/11/9.-ADOPTION_12-NOV-ASCC-Endorsed-Culture-of-Prevention-Declaration_CLEAN.pdf

Group on CoP with the aim to mainstream CoP into regular projects and foster synergy with the Sectoral Bodies in a multi-stakeholder approach. Through the cross-pillar, cross-sectoral prism of the CoP, the 2nd ACCPCJ can serve to advance a meaningful dialogue on enhancing regional cooperation on the crime prevention and the legal framework needed to address the impact of cybercrime.

The Consultative Group Meeting in Phuket also noted the on-going work of the Senior Officials Meeting on Transnational Crime (SOMTC) Working Group on Cybercrime and shared the view that the ACCPCJ which is the platform to promote the exchange of views and good practices among ASEAN Member States on an integrated approaches to crime prevention and criminal justice would complement and contribute to the SOMTC's efforts in addressing cybercrime.

2 Substantive Issue: Cybercrime

There are multifaceted challenges with regard to cybercrime. Cyber criminals operate in cyberspace which cuts across jurisdiction. The complex nature of the crime is further complicated by the involvement of organized criminal groups. Perpetrators of cybercrime and their victims more than often are located in different countries and regions.

Against the backdrop of economic integration, rapidly changing technology, and digital disruption, cybercrime has increasingly become a major concern in recent years. Criminals have been quick to adopt new technological tools for illicit activities. These highlighted the need for urgent international responses.

According to the United Nations Office on Drugs and Crime (UNODC), there is no international definition of cybercrime. However, it is observed that cybercrime can be broadly described by the following categories²:

- Data-related offences refer to cyberattacks on computer data and system (or cyber-dependent crime), including creation, dissemination and deployment of malware, ransomware, attacks on critical national infrastructure, etc.

² <https://www.unodc.org/unodc/en/cybercrime/global-programme-cybercrime.html>

- Computer-related offences are crimes which traditionally were committed in the offline world but within the context of cybercrime they are now facilitated by ICT (or cyber-enabled crime), including online frauds, purchases of drugs online and online money laundering, etc.
- Content-related offences cover online content that is considered illegal, including child sexual exploitation and darknet forums

The language and explanation of cybercrime by the UNODC is consistent with the categorisation of cybercrime offences covered in the Council of Europe's 2001 Budapest Convention on Cybercrime³.

With reference to the emerging harmful effects of crimes caused by the misuse and abuse of ICTs and the trans-border nature of cybercrime in the region, the ASEAN Member States adopted the ASEAN Declaration to Prevent and Combat Cybercrime at the Summit in Manila in November 2017⁴. The ASEAN Member States acknowledged the importance of harmonization of laws related to cybercrime and electronic evidence and encouraged accession to existing regional and international instruments in combating cybercrime. Moreover, the ASEAN Member States committed to enhance cooperation and coordination among ASEAN bodies, national bodies, and Dialogue Partners at regional and international levels such as ASEANAPOL, EUROPOL, and the INTERPOL to enhance cyberspace security, prevention and response capabilities with regard to cybercrime. This represents the first ever high-level political commitment specific to cybercrime in ASEAN. The implementation of the Declaration is being led by the SOMTC and the ASEAN Ministerial Meeting on Transnational Crime (AMMTC).

Under the Chairmanship of Singapore in 2018, the Core Values on Digital Literacy for ASEAN was adopted by the Fourteenth Conference of the ASEAN Ministers Responsible for Information (14th AMRI) in May that same year. This document is deemed relevant to cybercrime prevention as it underlines the importance of digital literacy for the region in order to create a safer digital environment where individuals practice socially responsible behaviour online and to foster an inclusive ASEAN online community⁵. The core values therein, so-called "READI", consist of Responsibility (to think first and be responsible for what we post online), Empathy (to be respectful and thoughtful of how our online

³ https://www.europarl.europa.eu/meetdocs/2014_2019/documents/libe/dv/7_conv_budapest_/7_conv_budapest_en.pdf

⁴ <https://asean.org/wp-content/uploads/2017/11/ASEAN-Declaration-to-Combat-Cybercrime.pdf>

⁵ <https://asean.org/storage/2012/05/Annex-4-Core-Values.pdf>

interactions may affect others), Authenticity (to be sincere in our online interactions and prepared to stand by what we post), Discernment (to critically evaluate the online information before acting on it), and Integrity (to stand up for what is right and speak up against negative online behaviour).

The ASEAN Working Group on Cybercrime established under SOMTC in May 2014 as a formal mechanism for cooperation on cybercrime among the ASEAN Member States. Its purpose is to provide a platform to discuss and adopt a coordinated approach to deal with cybercrime; follow up on recommendations on cybercrime from other ASEAN-related fora; and engage Dialogue Partners on cybercrime collaboration. Most recently, the 6th SOMTC Working Group on Cybercrime was held in Nay Pyi Taw, Myanmar. Among the progresses reported included the ASEAN Cyber Capacity Development Project and its aim to conduct specialised and targeted training incorporating digital evidence handling.

Despite these notable developments, there remains gaps which require immediate regional attention, particularly in the areas of law development and criminal justice cooperation. Promoting application of the existing regional agreements, judicial training, and digital forensics are among the top priority concerns. Equally important is the effective implementation of preventive strategies including digital literacy and cybercrime awareness, and the rule of law in cyberspace. Another major challenge is the indispensable collaboration between multi-sectoral stakeholders and particularly public-private partnership on capacity building in this area.

There will be continued consultations on the draft plan of action through the Working Group on CoP with the aim to mainstream CoP into regular projects and foster synergy with the Sectoral Bodies in a multi-stakeholder approach. Within that context, and through the cross-pillar, cross-sectoral prism of the CoP, the 2nd ACCPCJ can serve to advance a meaningful dialogue on enhancing regional cooperation on the crime prevention and the legal framework needed to address the impact of cybercrime.

3 Substantive Topics

The 2nd ACCPCJ aims to serve as a platform to promote cross-sectoral, cross-pillar dialogues on a holistic and integrated approach to address cybercrime. The conference aims to promote greater awareness and broad understanding of cybercrime in the ASEAN region. It will also provide a unique opportunity for high-level ASEAN leaders and different sectoral bodies to come together and exchange ideas and experiences in preventing and combating cybercrime from all relevant perspectives. Accordingly, three clusters of topics under the single substantive issue of Cybercrime are proposed as follows:

- **Cluster I: Culture of Prevention**
 - Promoting Prevention through a Culture of Good Governance and Respect
 - Promoting Prevention through a Culture of Peace and Moderation

- **Cluster II: Law and Justice**
 - International Cooperation in Criminal Matters
 - National Legislative Framework

- **Cluster III: Innovation and Collaboration**
 - Promoting Capacity Building through Partnership
 - Opportunities and Challenges of Industry 4.0

The discussion guide for each of the above-proposed substantive topic is also provided.

4 Format and Proceedings

The 2nd ACCPCJ will be a two-day conference consisting of panel discussions and breakout sessions.

DAY 1

- The 2nd ACCPCJ will begin with an opening ceremony with high level remarks and keynotes. The morning session will consist of two panel discussions. An open discussion will be facilitated at the end of each.
- In the afternoon, participants are invited to engage in two breakout sessions and join one of three clusters they are interested in.

DAY 2

- The morning session will begin with presentations of the breakout sessions by rapporteurs, followed by the 2nd TIJ Youth Forum presentations and open discussion.
- For the afternoon, the Chair will deliver the Chair's Summary before giving closing remarks. The Chair's Summary capturing the salient points and recommendations discussed will be submitted to the 19th ASLOM to be held in Myanmar in 2020 and circulated to relevant sectoral bodies of ASEAN.

Additionally, the 2nd TIJ Youth Forum will be organized in parallel to the 2nd ACCPCJ. The Forum will feature a "Design Thinking" workshop to enable the youth participants to adopt innovating and collaborative approach in addressing the main theme, and essentially cybercrime prevention.

Additional documents accompanying this Draft Concept Paper includes the following:

- I. Discussion Guide for the Substantive Topics
- II. Draft Programme of the 2nd ACCPCJ
- III. Concept Paper of the TIJ Youth Forum