



ACSC/APF 2012

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ASEAN Civil Society Conference/ASEAN Peoples' Forum 2012

JOINT STATEMENT OF THE 2012 ASEAN CIVIL SOCIETY CONFERENCE / ASEAN PEOPLES' FORUM

31 March 2012

Phnom Penh, Cambodia

Preamble

We, more than 1,200 delegates representing various civil society organizations and movements of workers from rural and urban sectors as well as the migrant sector, peasants and farmers, women, children, youth, the elderly, persons with disabilities, urban poor, Indigenous Peoples, victims of human rights violations, domestic workers, lesbian gay transgender/transsexual intersex and queer (LGBTIQ) people, human rights defenders and other groups, gathered together in Phnom Penh for the 2012 ASEAN Civil Society Conference / Peoples' Forum (ACSC/APF) on 29-31 March 2012, to discuss issues under the theme “Transforming ASEAN into a People Centered Community”.

We reaffirm our commitment to ensure that ASEAN upholds the fundamental principles of democracy, rule of law, human rights and dignity, good governance, the best interests of the child, meaningful, substantive and inclusive people's participation and sustainable development in the pursuit of economic, social, gender and ecological justice and development so as to bring peace and prosperity to the ASEAN region.

We express serious concerns over the fact that since 2005, the ASEAN Civil Society Conference has been submitting extensive recommendations to ASEAN leaders and that not much progress has been made. Therefore, we reiterate our recommendations from the 2011 Forum and call on the ASEAN leaders to take positive actions promptly to implement them.

We reiterate that the people's participation and a truly people-centered ASEAN is an essential part of the ASEAN community building. The growing awareness of ASEAN and its meetings and institutions by the region's people is encouraging. However, we note with deep disappointment that during the ACSC/APF unacceptable restrictions were imposed on participants' human rights to freedom of expression and assembly. Certain participants were actively discouraged from attending the ACSC/APF, and workshops on land rights and on Burma/Myanmar were not allowed to take place.

We urge ASEAN leaders to ensure people's participation and a people-centered ASEAN during 2012, as well as in Brunei in 2013 and Burma/Myanmar in 2014.

We deeply appreciate and commend the efforts of the organizers of the ACSC/APF in Cambodia who ensured a robust and independent ACSC/APF and present this statement of key issues and recommendations to the 20th ASEAN Summit in Cambodia.

1. ECONOMIC AND ENVIRONMENT

Land Rights

Many land deals gravely violate human rights, ignoring adverse impacts on society, local economies and the environment. In most cases, people who live on or make a living from that land are not consulted, treated fairly or properly compensated.

Many land deals involve forced evictions, destruction of livelihoods, and conflicts between locals and investors, some of which have continued for years. In the rush for land by local powerful elites and foreign investors, many families, and sometimes whole communities, are losing their homes and the land they rely on to grow enough food to eat and make a living.

In addition to losing their land and livelihoods, members of affected communities who struggle to protect their homes and livelihoods continue to face court cases filed by powerful investors. Government authorities and judicial systems often fail to protect the interest of the people, working instead in favour of powerful investors.

We urge ASEAN and/or its member states:

- Immediately end land grabs, forced evictions and violence against their people who are exercising their basic human rights to their land, homes and livelihoods;
- Speed up the process to improve tenure security for citizens and must prioritize protecting the land and livelihoods of their own citizens, rather than pandering to investors;
- Respect all existing land use rights, irrespective of whether or not legal titles or formal ownership rights exist. This includes lands owned and managed by community, and lands owned by indigenous people or others who have been farming and living on the land for generations but do not have legal documents confirming ownership;
- Solve land disputes between local communities and powerful investors urgently and fairly;
- Ensure that infrastructure, including education and healthcare facilities and job opportunities is in place before sending people to new locations.

Climate change – impact on Indigenous Peoples and forest dependent communities

People in ASEAN, especially forest dependent and indigenous communities, women and children are directly, significantly and adversely impacted by climate change. ASEAN governments are beginning to engage actively in the international negotiations for the promotion of the Reducing Emissions from Deforestation and forest Degradation (REDD+ mechanism as incentive for conservation and sustainable management of the forest and biodiversity. However, this process would be counterproductive if it excludes indigenous communities and forest dependent in the REDD+ decision-making at all levels. Moreover, REDD+ as applied in some ASEAN countries is marred by governance problems including corruption, cronyism and human rights violations, including by the military.

Other risks include failure to adequately safeguard the right of Indigenous People to free prior and informed consent (FPIC), secure tenure and livelihood Insufficient information at the local level and limited capacity and awareness about the REDD+ mechanism.

We recommend that ASEAN and/or its member states:

- Honour their duty to serve the interest of their peoples affected by REDD+, which includes the protection of community forests, traditionally-owned land, forests and natural resources;

- Provide an opportunity and support to civil society organizations to fully engage in the consultation, decision- making and implementation of the REDD+ process;
- Seriously address the drivers of deforestation and forest degradation through policy studies and associated reforms and represent the interest of their citizenry in the UN Framework Convention on Climate Change (UNFCCC) negotiations;
- Respect, protect and fulfil the rights of affected Indigenous Peoples, including through applying the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), in particular the right of IPs to free, prior and informed consent, empowering IPs to manage their spirit forests and customary land as well as to continue practicing indigenous natural resource management system;
- Ensure clarity in benefit sharing mechanisms in climate change adaptation and mitigation;
- Include gender safeguards in any environmental and climate related policies and schemes at national and regional levels;
- Stop all evictions without FPIC;
- Engage in national and regional consultations with effective and active participation of multi stakeholders including affected communities and CSOs;
- Strengthen the existing strategy and policy on disaster risk reduction.

Rivers and Hydropower

Existing and proposed large scale hydropower dams on the Mekong River, the Sesan River and other Mekong tributaries pose a major threat to the people's livelihood and the ecosystem of the Mekong basin and the Mekong River from the upstream to the delta.

Apart from the hydropower dams, the communities along Mekong and Sesan Rivers also included the problem of flood, drought, and impacts from climate change, resettlement, illegal fishing, hunting, logging, Economic Land Concession, Mining, and population growth. All the problems affected directly to the people livelihood, especially on food security.

We recommend that ASEAN and/or its member states:

- Cancel the Thailand and Laos PDR Xayaburi Dam and delay the Lower Sesan 2 dam pending further studies and more consultation with local communities;
- The Mekong River Commission should adopt and implement its own findings and recommendations through Strategic Environment Assessment (SEA) reports;
- Provide correct and accessible information on any hydropower projects, so that people can review and monitor them
- Ensure fair reparations for communities affected by existing dams, including providing agricultural land;
- ASEAN should play a role in promoting alternative solutions for Mekong hydropower projects and sustainable development and prosperity.

Extractive industries

The extractive industries development, such as oil, coal and other minerals, has contributed to the economic growth of the ASEAN region. However, development has also caused harm to the environment and has taken a toll on human rights. Poor resource management, the limited capacity to govern this sector and the issue of corruption involving in each process of extractive industries development are sources of major concern.

We recommend that ASEAN and/or its member states:

- Ensure, for any large scale development project, quality studies, correct information, public consultation process, and due diligence, especially with affected communities before making decision on development project in the most transparent and accountable manner;
- Establish an ASEAN framework on Extractive Industries and adopt the Extractive Industries Transparency Initiative (EITI), as effective regional mechanisms for corporate accountability, whereby corporate actors are held to answer for abuses wherever they operate;
- Develop multi-stakeholder mechanisms to promote good governance and transparency in Extractive Industries and the Natural Resources Management;
- Prioritise the promotion sustainable livelihoods over unsustainable, irresponsible and abusive business practices.

Loss of forest and agricultural land to monoculture plantations.

The continuing expansion of monoculture plantations in ASEAN countries - such as plantations of eucalyptus, rubber, palm oil, jatropha, and sugar cane has been accompanied by forced evictions, often carried out using extreme violence, resulting in individuals and families being permanently removed from their homes and lands without appropriate measures of protection. Among other dire results have been severe degradation of the environment, further marginalization of the rural poor and loss of traditional livelihood and opportunities for employment, replaced, if at all, by poorly paid and unsteady work with poor labor standards.

We recommend that ASEAN and/or its member states:

- Stop forced evictions in the interests of large-scale agriculture;
- In all cases where development projects will result in dispossession, international human rights standards should be fully observed. Affected communities should be fairly compensated, including by ensuring access to agricultural land
- Ensure sufficient budgets for sustainable agriculture and develop policies and programs to support small-scale farmers - women, men and young persons. In particular ensure access to land, waters and seed, provide support to organic farming, cooperative marketing, access to affordable credit, infrastructure, agricultural extension and meaningful participation of small-scale farmers in decision-making processes towards ensuring food and nutrition security;
- Ensure that all agriculture development programs and policies are gender sensitive and gender responsive;
- Extend technical assistance to improve competitiveness of small-scale farmers through sharing and learning exchanges on sustainable farming technologies, the establishment of an ASEAN Farmers' Bank and ASEAN Small-scale Farmers' Council to ensure institutionalized participation in ASEAN processes;
- Install monitoring mechanisms to hold transnational corporations accountable for their role with respect to large-scale food and agro-fuel production, toxic chemicals, land grabbing and the displacement of food crops including provision of guidelines for ASEAN governments on how to strengthen coherence between national and global food policies;
- Ratify and implement international treaties and provisions pertaining to natural resource management and agriculture, such as the International Covenant on Economic, Social and Cultural Rights, which provides for the right to adequate food and to a decent living, which in the case of small-scale farmers includes the right to seeds and land.

Labour trends and development

Many workers in ASEAN are deprived of their right to establish and join trade unions, and those who do suffer discrimination. Workers often work in harsh and dangerous conditions without proper safety systems, are paid low wages and work long hours. Human trafficking and exploitation of labour are widespread throughout the region. Neither ASEAN instruments nor domestic laws are sufficient to protect workers' rights .

We recommend that ASEAN and/or its member states:

- Create room for trade unions to be represented and to participate in ASEAN decision making processes relevant to the rights of workers;
- Ensure that all workers enjoy a safe and healthy working environment;
- Ensure that the human rights of all workers without discrimination are respected, protected and fulfilled, in particular their rights to establish or join trade unions and wages that can provide a decent living for every worker and his or her family;
- State should ratify the International Covenant on Economic, Social and Cultural Rights and relevant ILO conventions protecting the rights of workers. These instruments should be incorporated into national laws and fully implemented in practice.

ASEAN Economic Integration of 2015 and the Greater Mekong Sub-region

The countries of the Mekong region include some of the poorest and most recently developing countries in ASEAN. Transient factories are moving around the region to find the cheapest labour, lowest labour protections and highest incentives. Recently, Myanmar has become the most attractive production base for businesses who are forever "racing to the bottom," ignoring – or actually exploiting - the fact that the country offers few and grossly inadequate mechanisms to secure workers' rights. This trend could suppress wages and labour standards in the whole region.

We recommend that ASEAN and/or its member states, in particular those in the Mekong sub-region to:

- Develop enforceable regional codes of conducts or ethical business principles;
- Establish a standard regional system for calculating minimum living wages, to be revised annually;
- Standardize working conditions regionally;
- Make skills training accessible to all workers, particularly lower-skilled ones;
- Establish a regional system to protect workers' rights to unionization and collective bargaining;
- Uphold workers' right to justice by reforming judicial systems and increasing transparency;
- Expand the key elements of the ASEAN free flow of skilled labour to include other workers; and
- Work towards the establishment of a regional system for protecting labour rights as provided in ILO and human rights treaties, including an ASEAN labour court.

2. SOCIAL AND CULTURAL

LGBTIQ rights

Across the ASEAN region, Lesbian, Gay, Bisexual, Transgender/Transexual, Intersex and Queer (LGBTIQ) persons are either treated as second class citizens, criminals, are seen as deviants, and in some cases are not even recognized as human beings. They are made to lead dual lives and be ashamed of themselves or for who they are. Discrimination and violence come not only from their families, friends, communities, and employers but also from state institutions such as state actors, especially police and religious authorities.

We recommend that ASEAN and/or its member states:

- Include sexual orientation and gender identity (SOGI) provision into the ASEAN Human Rights Declaration – specifically inclusion of reference to ‘gender identity’ and ‘sexual orientation’ within Article 2;
- Immediately repeal laws that directly and indirectly criminalize SOGI, recognize LGBTIQ rights as human rights, and harmonize national laws, policies and practices with the Yogyakarta Principles;
- Adopt a common Anti-discrimination Law;
- Strengthen national level mechanisms and review existing regional human rights mechanisms (e.g. AICHR, ACWC) to include the promotion and protection of the equal rights of all people regardless of SOGI with the active engagement of the LGBTIQ community; and
- Depathologize transsexuality in order to promote psychosocial well-being of people of diverse SOGI in accordance with World Health Organization (WHO) standards.

Indigenous Peoples

Indigenous Peoples and their children share common historical injustices of marginalization, exclusion, discrimination and forced assimilation. They have distinct identities, self-governance, traditional livelihoods and resource management systems as well as their own socio-cultural institutions in the midst of mainstream political, cultural and economic systems and legal frameworks. Indigenous Peoples, including children, continue to suffer from the imposition of government and corporate projects on their ancestral domain without respecting the right to free prior and informed consent. In some countries they are denied recognition of their identities as distinct peoples with collective rights, including their right to citizenship, which excludes them from receiving adequate social services from the government.

We recommend that ASEAN and/or its member states:

- Recognize Indigenous Peoples as distinct peoples with collective rights;
- Recognise the rights of Indigenous Peoples to free prior and informed consent in relation to the planning, design and implementation of programmes and projects they may affect them;
- Urge ASEAN member states to adopt the UN Declaration on the Rights of Indigenous Peoples and strictly implement relevant provisions of the Convention on the Rights of the Child; and
- Designate an Indigenous Peoples focal person within the ASEAN Intergovernmental Commission on Human Rights (AICHR) and establish a working group on Indigenous Peoples for the respect, promotion and protection of Indigenous Peoples and their children's rights within ASEAN.

Migrant workers

Migrant workers often come from poor communities; they are poorly educated and are not given preparation orientation on their work, the culture of the country where they will work and their contracts. As a result there are a lot of cases of abuse and become victims of human trafficking syndicates and employment agencies take advantage of them.

Migrant workers often face problems obtaining or maintaining recognition. Hosts countries offer very limited services for migrant workers such as education, health, integration and re-integration training. Those services available are often only for documented migrant workers but do not extend to their families.

Neither applicable national laws nor international standards protecting the rights of migrant workers and their families are properly applied leaving them exposed to abuse including violence and exploitation by law enforcement officers and employers.

Informal and undocumented migrant workers are even more exposed to abuse and exploitation and constantly exposed to the risk of arrest and deportation.

Women migrant workers, especially domestic workers, are exposed to gender-based violence including sexual abuse and as domestic workers are very rarely recognized as workers: they are therefore not protected under most national laws.

We recommend that ASEAN and/or its member states:

- Ensure access to justice and protective mechanisms for migrant workers regardless of status;
- Provide social services, training and integration programs for migrant workers and their families regardless of status;
- Ratify the UN Convention on The Rights of The Migrant Workers and Their Families and the ILO Convention 189 Decent Work for Domestic Workers and; and reform national laws and policies to recognise domestic work as work and to protect their rights under labour laws;
- Ensure that the ASEAN Economic Integration in 2015 Plan provides for the rights of all migrant workers - formal, informal and undocumented - and in particular recognizes informal and undocumented migrant workers;
- Develop a legally binding ASEAN instrument which would cover all migrant workers, without exception, and comply with international standards;
- Train/educate employers on the rights of migrant workers and relevant labour laws. Employers must not employ children;
- Develop mechanisms which provide access to justice for migrant workers in transit including interpretation services, legal assistance, temporary shelters and the right of migrants to stay and work during legal process;
- Remove all practices of mandatory health testing, including for HIV, and deporting migrant workers based on health status;
- Develop social security systems which include migrants;
- Uphold migrant workers' rights to decent work, including the rights to change employers, just wages, maternity leave, and rest days;
- Work towards the abolition of exploitative labour outsourcing companies, recruitment agencies and labour suppliers;

- Provide equal and adequate access to health care for migrant workers and their families;
- Promote and protect migrant workers' rights to mobility and freedom of movement;
- Ensure migrant workers can organize and have freedom of association and collective bargaining;
- Ensure the ASEAN instrument on the protection and promotion of the rights of migrant workers integrates women migrant workers and their families;
- Ensure women's livelihood options at home and abroad, thereby generating choices in employment;
- Remove all mandatory pregnancy testing and immediately call a halt to the practice of terminating employment contracts and deporting women migrant workers based on pregnancy status; and
- Encourage member countries to enforce strictly policies relevant to the just issuance of Identity Card and observant of the right age for migration and work.

Other migrant issues

Marriage migrants, asylum seekers, refugees and their families do not enjoy the rights as other citizens in the hosts countries neither do they have protection or recognition of their country of origin. There are also issues on the citizenship and recognition of migrants such as undocumented migrants.

We recommend that ASEAN and/or its member states:

- Ensure the right to citizenship, including undocumented migrants, especially for marriage migrants and refugees;
- Provide for the rights of marriage migrants, including the right to acquire citizenship, under the ASEAN Economic Integration in 2015 plan;
- Ensure rights based and secure migration to facilitate movement of people and guarantee the human rights of individuals;
- In the context of refugees, facilitate humanitarian response to States with protracted conflicts (i.e. Kachin State, Burma); and
- Develop mechanisms which provide access to justice for migrants in transit including interpretation services, legal assistance, temporary shelters and the right of migrants to stay and work during legal process.

Child rights

Children's issues and concerns are not being prioritized and given due consideration by ASEAN. The absence of child protection legislation in many countries are coupled with the increasing social acceptance of certain forms of violence such as corporal punishment. Children in the region face issues such as violence, discrimination, lack of access to justice and protective mechanisms for child victims of human rights violations. There is also an absence of effective participation mechanisms for children in the ACWC. Children are also affected invariably during disasters and their specific needs and protection are not being met.

We recommend that ASEAN and/or its member states:

- Ensure that laws aimed at protecting and promoting the rights of children are strictly enforced;
- Establish, or in some cases, enhance the mandate of existing disaster response mechanisms to address the rights of children;
- Establish a mechanism and process that guarantees meaningful participation of children

in addition to the ASEAN Children's Forum that is accessible to marginalized groups of children and is informed by and follows accepted guidelines;

- Provide emergency relief to ASEAN member countries during flood disaster and integrate the knowledge on emergency relief and preparedness for children in their school curriculum and through media;
- Provide adequate resources so that children from different backgrounds could exercise their rights without discrimination;
- Develop ASEAN Action Plan for Children with allocating adequate budget for implementation;
- Ratify the 3rd Optional Protocol of the UN Convention on the Rights of the Child on Communication procedures and develop ASEAN independent complaint mechanism based on Child rights principles;
- Develop a child friendly feedback mechanism to receive and respond to recommendation of and disseminate to children;
- Increase budget for supporting children's activities and initiatives; and
- Enforce persons with disabilities laws mainly with children in mental and intellectual disability.

Youth

Youth confront issues of insufficient qualified teaching staff, poor education facilities, unequal education opportunities for key populations, vulnerable and marginalized groups, and lack of programs that cater to the career wants of the youth; limited and restricted space for freedom of expression and meaningful participation among youth; conflict and violence; immense inadequacy of information related to sexual and reproductive health and rights and sexuality comprehensive information of young people's sexuality available to youth.

We recommend that ASEAN and/or its member states:

- Establish regional minimum education standards (at least 20% national budget allocation on education) which ensure the full implementation of "Education for All";
- Establish and implement a rights-based legal framework and mechanism on the protection of youth specifically young local and migrant workers and political youth individuals, groups and movements;
- Fully integrate peace learning modules (crafted with meaningful participation of the youth) in all levels of education;
- Acknowledge and prioritize the universality of young people's sexual and reproductive health and rights (SRHR) as human rights especially in addressing our sexual diversity and gender identity;
- Establish an environmental fund for natural disaster to address the needs of children and youth affected by natural and human-made calamities; and
- Fully recognize all regional and national efforts of the children and youth through the ASEAN Youth Media and Monitoring teams in responding and evaluating their issues at all levels.

Right to quality education

In 2009 in South East Asia & the Pacific the ratio of youth to adult unemployment was 5:1 -- the worst in the world.

We recommend that ASEAN and/or its member states:

- Fully implement Education For All Goal 3, ensuring that enough resources are allocated for non-formal education and training and life skills, especially for the poor, youth, children, women migrant work and internally displaced people;
- Ensure that the teaching profession is given more value and this is reflected in their salaries and incentives by developing a salary scale minimum standard for teachers;
- Address education standards and improve curriculum in ways that are relevant, scientific, meaningful and gender-responsive;
 - Address issues relating to gender equality in education, with a focus on boys and girls' aspirations, relevance of education in disadvantaged communities, remote, rural and mountainous areas and ethnolinguistic minorities;
 - Introduce gender issues in early childhood care and development, including fathers' involvement in early childhood care, and for gender-responsive early childhood care for migrants and stateless children;
- Address the issue of underperformance of children based on gender analysis;
- Implement policies to enhance household perceptions of the value of daughters and expand opportunities for young women. Support systems for women participation must be integrated in literacy programmes;
- Develop and implement a child-friendly school standard based on children's rights principles;
- Integrate life skills education for youth, indigenous, and disability youth; and
- Increase government funding for non-formal education.

Female Sexual and reproductive health and rights

Women and girls are often subjected to multiple forms of discrimination in their day-to-day lives. Laws, policies and practices deny them an equal status in society and control over their lives, bodies and well-being. One form of such discrimination is the denial of their sexual and reproductive health and rights (SRHR). This is manifested by the large number of preventable maternal deaths and injury suffered by women and girls, among others. HIV-related causes contributed to at least 20% of maternal deaths.

An estimated 1.27 million of young people aged 15 – 24 years in the region are infected with HIV. Around 75% of all HIV infections involve drug users, men having sex with men and sex workers as well as those who buy sex and subsequently put their partners at risk. People who do not engage in high risk sex, especially women homemakers, should also be considered a vulnerable group.

Women and girls have the right to the highest attainable standard of health. They have the right to determine whether and when they become pregnant, but they are often denied access to family planning, contraception and information and the ability to exercise control over their own bodies. However, access to health services, including the information on sexual and reproductive health is still denied based on legal, economic and social grounds.

We recommend that ASEAN and/or its member states:

- Integrate SRHR into the ASEAN Human Rights Declaration;
- Fully implement ICPD Programme of Action, in particular the SRHR, as well as the MDG 5 and MDG 6 commitments;
- Ensure access to sexual and reproductive healthcare taking into account a human rights approach;
- Address unsafe abortion, maternal mortality and teenage pregnancies as public health and

- human rights issues;
- Put SRHR at the centre of HIV programmes in order to respond more effectively to the HIV epidemic;
- Ensure equitable and affordable access to contraception, safe and legal abortion, skilled maternity and newborn care including access and referral to pregnancy and delivery complications; prevention, diagnosis, treatment and care of HIV and AIDS and all other sexually transmitted infections, including in humanitarian crisis;
- Ensure maternity protection for both formal and informal sector workers;
- Provide a comprehensive set of integrated sexuality education that includes access to reproductive and sexual health information and counseling;
- Ensure SRHR and HIV services are provided to everyone, taking into account the different needs and realities of varied age groups, sexual orientation and gender identities in the population including the elderly; and
- Remove barriers to women and girls' SRHR, which put their lives and wellbeing at risk, and repeal discriminatory laws, policies and practices.

Youth sexual reproductive health

There is indeed an immense gap on the comprehensive information of young people's sexuality, a key factor in enabling young people to make informed choices to enjoying the highest attainable quality of life.

We recommend that ASEAN and/or its member states:

- Acknowledge and prioritize the universality of young people's sexual and reproductive health and rights (SRHR) as human rights especially in addressing sexual diversity and gender identity;
- Provide access to comprehensive sexuality education within in and out of school curriculum; and youth friendly health service including services for unwanted pregnancies, pre and post safe abortion care, emergency contraception, Sexually Transmitted Infections including HIV and AIDS. The youth friendly health services shall be cost effective, gender sensitive and rights based that put forward the confidentiality, non-judgmental attitudes and provision of wider choices of modern methods;
- Remove legal, policy and cultural barriers, including parental and spousal consent for young people, particularly women, to exercise their rights;
- Utilize evidence based policy making strategies on Sexual and Reproductive Health and Rights;
- Implement a youth centered budget item in national health system financing in all ASEAN countries;
- Utilize International Conference on Population and Development plan of action indicators to enable the community to actively engage in data collection and analysis for the creation of evidence based advocacy and policy making; and
- Strengthen the implementation of humanitarian response on Sexual and Reproductive Health and Rights related to disaster management especially when attending to the needs of youth-survivors.

Persons with disabilities

ASEAN's Strategic Framework on Social Welfare and Development (2011-2015) fails to address "intersectional discrimination", such as discrimination against women or children with disabilities; as a result, such persons in ASEAN suffer multiple discriminations without a targeted framework

to protect them.

Following the adoption of the Bali Declaration on Enhancement of the role of Persons with Disabilities by the ASEAN Summit in November 2011, it is now necessary to seek collaboration among different sectors to address such multiple discriminations. Civil society organizations, including disabled persons' organizations, can and should make a major contribution to this process as they are able to bring the reality from the ground in order to mainstream the disability perspective in the ASEAN community.

We recommend that ASEAN and/or its member states:

- Fully implement the UN Convention on the Rights of Persons with Disabilities (CRPD) in law, policy and practice. The effort should cover all aspects including education, sexual and reproductive health and rights, social security, political participation, accessibility and so forth; which have not yet ratified the CRPD should do so without delay;
- Monitor implementation and bridge any existing gaps within the framework of ASEAN's 3 pillars, with the ASEAN Disability Forum (ADF) playing a pivotal role;
- Develop a regional strategy to mainstream the disability perspectives and ensure disability sensitivity throughout the region, with the active participation of the AICHR, ACWC and civil society;
- Ensure that interface meetings involve persons with disabilities to allow them to express their concerns and recommendations;
- Recognize the central role that persons with disabilities must play in planning, implementing, monitoring and evaluating relevant policies at all levels;
- Utilize the ADF as a platform for incorporating disability perspectives across all social issues; and
- Ensure accessibility in built-up and other environments to allow persons with disabilities full participation and equal opportunities in all of society's activities.

3. POLITICAL-SECURITY

Burma/Myanmar

Despite encouraging developments, Burma/Myanmar is still a place of systematic and widespread human rights violations that may constitute crimes against humanity and war crimes, and no political space and freedom. Recent negotiations between the government and ethnic armed groups have not ended armed conflict or attacks against ethnic civilians and generated a significant number of IDPs; easing of media censorship has not been accompanied by legislative reforms; repressive laws remain on the books and hundreds of political prisoners remain in jail. People continue to fear arrest for their political activities, thus limiting their ability to participate freely in public life.

Therefore, Burma/Myanmar's chairmanship in 2014 will likely face significant hurdles in providing the space for the people of Burma/Myanmar and the independent regional civil society to gather and take the people's concerns to ASEAN leaders.

We recommend that ASEAN and/or its member states:

- Respect the right to freedom of speech and assembly of independent civil society and the people of ASEAN;
- Promote a genuinely people-centered ASEAN and the free and meaningful participation of the people of Burma/Myanmar and the regional civil society in ASEAN's process of community building during Burma/Myanmar's chairmanship in 2014;

- Urge Burma/Myanmar authorities to:
 - Unconditionally release and rehabilitate all political prisoners;
 - Reach a nationwide ceasefire that addresses the root causes of conflict with ethnic armed groups;
 - Address the issue of truth and accountability for human rights abuses and put an end to impunity; and;
 - Amend or repeal those laws that restrict the human rights of the people of Burma/Myanmar in order to guarantee free and meaningful participation of the people in the transition process.

ASEAN Human Rights Declaration

We are deeply disappointed at the secret, exclusionary and opaque drafting process of the ASEAN Human Rights Declaration (AHRD). The ASEAN Intergovernmental Commission on Human Rights (AICHR) has failed to consult ASEAN civil society to a meaningful extent on the regional level, and only a few representatives consulted on the national level. A draft produced by the Drafting Group in January was never officially published. CSO submissions were left without response, resulting in CSOs being left in the dark as to whether their input has been taken into account.

Substantively, the Working Draft, which has not been officially published, discloses worrying tendencies among the drafters which, if they prevail, would provide the ASEAN people with a lower level of human rights protection than in universal and other regional instruments. There is heavy emphasis on concepts such as duties, national and regional particularities and non-interference – all of which may be abused to legitimise human rights violations. Problematic terms such as “good citizens” and “public morality” may open the door to abusive and discriminatory interpretations, in particular regarding women, LGBTIQ people, children, IPs and minorities and other often-marginalised groups. Several provisions for specific rights are inadequate, open to abuse, or else are missing key components. Thus freedom of expression and assembly, freedom of LGBTIQ people from discrimination and gender rights are not properly provided for.

We recommend that the AICHR, ASEAN and/or its member states:

- Immediately publicize the most current draft of AHRD so that civil society can participate substantively in the drafting process;
- Continue and expand meaningful consultations on national level, in particular by those AICHR representatives who have not yet done so;
- Conduct wide-ranging and inclusive consultations, at both national and regional levels, during which the latest drafts of the AHRD should be discussed. AICHR should seriously consider submissions from CSOs, national human rights institutes and other stakeholders, and provide them with feedback;
- Translate drafts of the AHRD into national languages and other local languages of the ASEAN countries in order to encourage broader public engagement in the region; and
- In regard to women’s human rights perspectives,
 - AHRD enables women’s access to justice in Southeast Asia;
 - ASEAN governments take all appropriate measures to modify or abolish laws, regulations, customs and practices which limit women from enjoying their fundamental freedoms and rights;
 - Women’s human rights perspectives, reflected in the CEDAW and the Vienna Declaration and Programme of Action must be integrated into AHRD;
 - There is no erosion of rights in the AHRD and no inclusion of ‘morality, moral values

- or traditional values' clauses that serve to undermine rights; and
- The AHRD drafting process must be subjected to public consultation and must involve women.

Democracy and elections

Key challenges to achieve a democratic framework include: the electoral system, in particular the seat allocation formula, election administration, election dispute resolution, voter's registration, electoral justice, election observation, election and gender equality, equal access for people with disabilities and other vulnerable persons, party and campaign financing, transparent declaration of politician asset, equal and equitable access to media, military, police and civil servant neutrality, use of state resources, election-related conflict and the use of technology in elections.

Considering the ASEAN Blueprint for Democracy and Free and Fair Elections created by Asian Network for Free Elections (ANFREL), and the Jakarta Declaration on electoral community endorsed by the ASEAN Electoral Management Bodies Forum, we recommend ASEAN and/or its member states that have not yet done so to:

- Ratify the International Covenant on Civil and Political Rights;
- Join the International Parliamentary Union (IPU) and abide by the IPU standards to hold free and fair elections.

ASEAN and/or its member states to:

- Integrate the Universal Declaration of Human Rights into the national framework of each member state to create an environment for free and fair elections;
- Establish independent election bodies to assure a neutral and informed environment for the organization of free and fair elections;
- Continue the fight against illiteracy and introduce specific programmes on politics and human rights in their educational systems to increase citizen's awareness of their rights to participate in democracy.

ASEAN, its member states, civil society and political parties to:

- Learn from each other's experience in conducting free and fair elections.

Peace-Building

Many countries in ASEAN have a history of foreign colonization and armed conflicts, both internal and external. Once independent and at peace, ASEAN nations have tried to build their own identity and social and political structures but this is often accompanied by internal tensions, external interventions and suppressive regimes. In several countries internal violence and conflict continue to this day.

Although ASEAN states have committed to maintaining democracy and peaceful settlement of disputes, peoples of ASEAN have different experiences in building peace in each country.

We recommend that ASEAN and/or its member states:

- Develop, with the meaningful participation of the people, a people-centered history of the south East Asia region.
- Realize strong efforts on democratization, peace building and conflict transformation with the meaningful participation of the people in the whole process;
- Promote mutual understanding among people and provide a space for people-to-people exchange and peace dialogues at all times;

- Establish and fully support an ASEAN Institute for Peace Reconciliation genuinely led by the people;
- Be more understanding, inclusive and settle all issues peacefully with regards to all border conflicts;
- Include the “Right to Peace” in the ASEAN Human Rights Declaration;
- Allocate generously resources for Peace education in all levels and types of education;
- Consider Timor Leste to join as one of ASEAN member countries in 2012.
- ASEAN Mechanisms to Conflict Situations in South East Asia
- 2013 marks the first review of the ASEAN Charter, five years after its adoption. However, in 2012 four out of ten ASEAN states, including Thailand and Burma/Myanmar, are confronted with internal armed conflicts.
- ASEAN has a number of instruments and mechanisms that can be used to deal with conflict situations such as the 2003 Bali Concord II, the ASEAN Charter, as well as the three ASEAN pillars. In light of the upcoming Charter review, it is time to evaluate how far current mechanisms have responded to conflicts in the region, before suggesting new mechanisms and instruments.
- We recommend that ASEAN and/or its member states:
 - Adhere to international law and stop using armed forces to solve their disputes;
 - Ensure a genuinely independent, sovereign, just, democratic and peaceful ASEAN;
 - Review all military cooperation or agreements with the United States;
 - Address basic and fundamental issues such as poverty, human rights violations, repression, militarism that are the basis of internal conflicts in the ASEAN region;
 - Ensure the protection of people, women and children from the military;
 - Raise awareness of human rights and other UN Conventions among government agencies;
 - Establish Conciliation Council and Arbitration Tribunal to settle disputes among ASEAN States.
- Look urgently into the situation of women in conflict-affected areas specifically the gender-based and sexual violence perpetrated in ethnic communities as in the case of Burma/Myanmar;

We recommend that the ASEAN Commission on Promotion and Protection of the Rights of Women and Children (ACWC):

- Facilitate the mainstream of CEDAW and UNSCR 1325 among ASEAN member states;
- Organize gender-sensitive training for officers and staff members of all ASEAN departments, commissions, institutes, and councils, the Secretariat and other bodies training among;
- Issue a Memorandum to all ASEAN government to implement the provision of UNSCR 1325 and urges the governments to develop national action plans;
- Include in its work plan the agenda on women, peace and security and invite the civil society organization to participate in the development, implementation, monitoring and evaluation of its work plan on women, peace and security;
- Ensure the presence and active role of women and peace organizations in the ACWC periodic consultations and dialogue-meetings.

Ends