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Statement of the ASEAN Civil Society Conference/ASEAN Peoples' Forum (ACSC/APF) 2014

Advancing ASEAN Peoples' Solidarity Toward Sustainable Peace, Development, Justice and
Democratisation

We, more than 3,000 delegates from civil society, peoples' and grassroots organisations and individuals in Myanmar, the ASEAN region and beyond, jointly discussed a wide range of thematic and systematic issues currently confronting the ASEAN people at the ACSC/APF 2014 in Yangon, Myanmar from 21st to 23rd March 2014. We urge the ASEAN leaders of the 24th ASEAN Summit to consider the following statement and recommendations made with a view to ensuring peace, plurality, justice, collaboration, and sustainable and gender responsive development in the region, particularly to improve the quality of life and wellbeing of the people of ASEAN. The theme for the forum, "Advancing ASEAN Peoples' Solidarity Toward Sustainable Peace, Development, Justice and Democratisation," reflects current challenges in the region and calls for strengthening diverse national and regional voices in the decision making processes of ASEAN towards a genuinely people-centred ASEAN.

We reaffirm the fundamental principles of a people-centred ASEAN with sustainable peace and development, democratic and just governance, rule of law (not rule by law), universal human rights and dignity (including women and child rights, etc.), social, cultural, economic and ecological justice, gender equality and gender justice, non-discrimination, inclusivity, reasonable accommodation for persons with disabilities, in the best interests of the people of ASEAN, especially of vulnerable and marginalised groups, including but not limited to women, children, older persons, persons with disabilities, ethnic and indigenous peoples, LGBTIQ and persons of diverse sexual orientation, gender identities and expressions, including intersex persons, all workers including migrants and workers in the informal economy, religious minorities, young people, political prisoners and their families, refugees, internally displaced persons, stateless and landless people, artisanal fisherfolks, sex workers, victims of prostitution and all forms of violence and forced labour, trafficked persons, drug users, and persons living with HIV/AIDS.

We pledge to work cooperatively and engage constructively with ASEAN governments and other regional and international stakeholders in the spirit of partnership, ownership and self-determination for the improvement of the quality of life and dignity of the ASEAN people.

As civil society, peoples' and grassroots organisations and individuals, we are not only beneficiaries, but also active partners and contributors for social, economic and political transformation and community development. We are therefore creatively responsive to the needs and rights of the peoples of ASEAN.

Civil society will continue monitoring laws, policies and actions at the national, regional and global levels, and contribute to the realisation of a genuinely people-centred ASEAN.

We fully support the amplification of the voices of young people, their empowerment and the increase of their capacity to ensure that ASEAN is youth-driven as well as people-centred.

We are determined to contribute to all ASEAN processes including and in particular the upcoming review of the ASEAN Charter and Community Blueprints, the Terms of Reference of ASEAN Inter-Governmental Commission on Human Rights (AICHR), the ASEAN Commission on Promotion and Protection of the Rights of Women and Children (ACWC) and other global initiatives and processes that affect the lives of people in ASEAN.

ACSC/APF 2014 in the Context of Myanmar's Transition

This year, we have the privilege of being hosted in Myanmar, a country in transition. Despite its progress, Myanmar still must overcome its overdue deficit in meeting the needs of the people. As Myanmar engages in its peace process to end more than 60 years of civil war, we wish to emphasise that sustainable peace cannot be achieved without truth, transparency, accountability, social justice and trust. Truth requires an honest discussion of the events of the war, transparency requires freely available information in language that people understand regarding investment and development plans in ethnic areas, and trust requires the immediate cessation of all military pressure and operations. Given the remaining climate of distrust and fear, the government must take significant care to implement all upcoming projects, such as the census-taking process, within an atmosphere of transparency and responsiveness to the peoples' concerns. For peace-building efforts, all peoples must be included in the process, including women. Even with the reform process, women still face the risk of sexual violence, especially in areas affected by conflict.

The furthering of democratisation in Myanmar will require full, transparent, and participatory reform to reinstate all fundamental rights and freedoms. We call for the repeal or amendment of all laws that do not confirm with international human rights standards and legal principles, including the reform of the 2008 Constitution, the building of a genuine federal state and the decentralisation of power.

The poor and marginalised are deprived of their rights through land grabbing by private and military actors. Special Economic Zones in the country have been oriented around the pursuit of profit, and not the wellbeing of the people. Workers continue to struggle for their right to decent work. We call for economic policies that uphold the principle of 'do no harm,' and which protect the rights and dignity of the affected people.

Similarly, this government must work to revise the decades-long deterioration of the education system, which has deprived the youth of their foundation to become the future leaders of this country.

Peace

Our region faces serious challenges to peace and security involving sovereignty, internal conflicts arising from assertions of right to self-determination and ethnic struggles for autonomy, disputes over cross-

border territorial and maritime issues, political unrest, poverty, human trafficking, forced migration, competition for access to and control of natural resources, human insecurity and a high level of violence. These are glaring manifestations of ASEAN's failure and inability to bring about sustainable peace, justice and development in the region.

We contest ASEAN's claim of its success to maintain peace and security in this region. The conflict and post conflict situation in ASEAN have impacted human security, particularly of vulnerable and marginalised groups.

Conflicts in the ASEAN region have occurred due to different reasons. In many cases the roots of conflict stem from the unjust treatment, unjust resource allocation and denial of rights of the people, which are obstacles for ASEAN and its peoples to achieve sustainable peace and human security in the region. Recognising the impacts of intra- and inter-state conflict on the peace and stability within the entire ASEAN region, and the lack of any existing redress mechanism, it is recommended that a Disputes and Conflict Prevention Settlement Mechanism is established as a regional mechanism for preventive and emergency response.

It is important for government, non-state actors and all parties involved in conflict to recognise the local and indigenous initiatives in peacebuilding and reconstruction processes. The roles of affected women and young people are also often overlooked despite the disproportionate impact on their lives. Governments engaging in peace processes must show their sincerity to put the interest of the people as the priority in the situations of conflict. In some cases, international communities, financial institutions and the private sectors investing in conflict areas exacerbate on-going conflict.

Recommendations

- Include a chapter on Regional Dispute Prevention and Settlement Mechanism in the future review of ASEAN Charter.
- Develop a National Action Plan on Women, Peace and Security according to principles enshrined in the UN Security Council Resolution 1325 on Women, Peace and Security, CEDAW and General Recommendation 30.
- Demonstrate commitment to comprehensive security as stated in the ASEAN Political-Security Blueprint by cutting military spending, and ensuring accountable and transparent utilisation of state budgets for community development, providing an enabling environment for women's meaningful participation and representation in decision-making processes at all levels, including support for women's leadership, and community education to counter all forms of gender-based discrimination and violence.
- Integrate peace education programs with gender and human rights perspectives both in formal and non-formal education systems at all levels as well as supporting peace initiative activities of young people and civil society.

- Ensure the rights of freedom of expression and assembly and freedom of media to promote peace through mainstreaming peace in traditional and digital media.

Human Rights and Justice

Despite having its own human rights mechanism, countries within ASEAN continue to face a multitude of challenges relating to protection of human rights and access to justice for all, especially for vulnerable and marginalised communities.

Women, children, young people, people with disabilities and LGBTIQ and persons of diverse sexual orientation, gender identities and expressions, including intersex persons, continue to be neglected by ASEAN Member States in shaping its future. It is important to recognise that violence against women inhibits both the fulfilment of women's rights and participation in all decision-making and community building processes. Despite all states within ASEAN having ratified CEDAW and other relevant international treaties and declarations, ASEAN has failed to establish effective, rights-based and indicator-based monitoring mechanisms to address violence against women. Similarly, significant gaps exist in meeting the sexual and reproductive health and rights of all, particularly women and other vulnerable and marginalised groups. Furthermore, lack of comprehensive sexuality education and youth friendly services, in addition to existent gender inequality, stigma and discrimination, create barriers to young people's access to sexual and reproductive health and rights to information and services. Persons of diverse sexual orientation, gender identities and expression continue to face criminalisation denying them of enjoyment of basic rights, freedoms and benefits of development guaranteed to all persons within ASEAN.

Migration is a reality within the region and yet ASEAN does not have adequate protection for all migrants especially forced migrants and stateless persons. Children are particularly vulnerable to the negative effect of migration and many Children on the Move (COM) are not recognised by existing laws or law enforcers and therefore are denied access to basic services and exposed to heightened risk of economic or sexual exploitation, abuse or neglect. Most importantly while workers' wages in most ASEAN countries fall far below living wages, which fail to cover basic living expenses, migrant workers experience additional discrimination in terms of denial and restrictions on basic rights to freedom of movement, freedom of assembly, access to quality education and health services, and legal remedies.

The above situations fail to be addressed by AICHR and ACWC because of a lack of power as human rights bodies. One of the causes of weakness of the bodies stems from the weak Terms of Reference (TOR) of AICHR. Due to be reviewed in 2014, improvement to AICHR's TOR can contribute to the strengthening of its mandate, particularly that of human rights protections. Key problems in the TOR are the existing principles of consensus, non-interference and the lack of independence of the Commission, which must be addressed by ASEAN Member States. In the review of the TOR, it is important to ensure the inclusive and meaningful participation of other human rights institutions, such as ACWC and national human rights institutions, as well as civil society.

Recommendations

- Establish indicators that recognise the diversities of women to ensure holistic monitoring of progress in addressing violence against women. ASEAN governments should utilise indicator-based methods and establish partnerships with civil society in monitoring progress on implementation of commitments and obligations in eliminating violence against women, and involvement of women in the process of peacebuilding in resolving conflicts.
- Demonstrate stronger political commitment and provide sustained investments to improve the sexual and reproductive health and rights status of women, young people and other vulnerable and marginalised groups. These include the provision of comprehensive sexuality education and youth-friendly services.
- Immediately repeal laws and regulations that directly and indirectly criminalise LGBTIQ and persons of diverse sexual orientation, gender identities and expressions, including intersex persons, and harmonise national laws and regional human rights instruments, policies and practices with the United Nations human rights treaties and the Yogyakarta Principles through consultation with and active engagement of LGBTIQ and persons of diverse sexual orientation, gender identities and expressions, including intersex persons.
- Stop the immigration detention of children, forced migrants and stateless persons, and implement alternatives to detention for these populations. Use immigration detention only as a measure of last resort for other forced migration populations. The rights of Children on the Move, including those who are affected by disasters and natural calamities, should be promoted and protected without discrimination by providing access to free compulsory basic education and quality health services, legal protection, provision of alternative care, and protection from all forms of abuses and exploitation.
- Guarantee the right of all workers including migrant workers to non-discrimination, entitlement to the equal social and labour rights regardless of their legal status, and access to justice through free legal aid and rights education. We call upon the ASEAN Member States to immediately stop all forms of oppression against workers who exercise their right to freedom of expression and assembly and association, including their right to strike. Additionally, we call upon the ASEAN Member States to ensure minimum wages are living wages and decent work for all workers in ASEAN Countries.
- Recognise sex workers as equal rights bearers for their economic contribution and share in the opportunities and benefits that tourism brings to ASEAN, including but not limited to equal protection under national labour law and freedom from discrimination.

Development

Our region also faces the challenge of [rapid increase in older population due to low fertility rates and improved longevity] and exacerbated social, economic and gender inequalities, due to the impact of globalisation and the Free Trade Agreement. Current unsustainable market or corporate driven economic policies are resulting in negative impacts including the diminution of our natural resources,

the rise of greenhouse gas emissions leading to climate change, deepening poverty and increased hunger, exacerbated vulnerability for workers both within countries and across borders, lack of social protection and basic services especially among vulnerable and marginalised groups and widespread land grabbing which devastates communities and robs people of their livelihoods, cultural heritage and collective rights, especially those of indigenous peoples. Large-scale investment and development projects, including those in ethnic or indigenous areas, have triggered massive forced displacement and enabled human rights abuses. Civil Society leaders, like Sombath Somphone, who highlight these negative impacts and promoted sustainable participatory development, have been increasingly targeted. We are deeply concerned that the advent of the ASEAN Economic Community will only worsen the situation if it continues with these harmful development policies.

Current development trends in ASEAN are resulting in serious transboundary problems caused by mega-hydropower dams, extractive industries, expansion of large-scale monoculture plantations, climate change, unaccountable corporate investment, and government and military involvement in business. These are having negative impacts on communities and their livelihoods, land, natural resources, water and food sovereignty and security, identity, health and environment, leading to increased conflicts and instability in the region.

The governments of ASEAN have prioritised economic development over a just, equitable and sustainable development model that truly places the people and their wellbeing at the centre. Social protection and basic services are not prioritised and remain limited, non-inclusive and inadequate to ensure peoples' dignity. The local communities affected by investment and development projects are not provided sufficient relevant information about these projects, are not meaningfully consulted or asked for their consent, and are not able to participate in decision-making processes.

While most ASEAN states have fairly robust legal frameworks governing the core areas of land, natural resources, labour and the environment, enforcement of these laws and regulations remains a challenge. Corruption and lack of transparency and accountability exacerbate negative impacts of development projects and investment on local communities. Militarisation of resource rich areas results in intensified repression in terms of enforced disappearances, extra-judicial killings, land grabbing and displacement of communities.

Recommendations

- Adopt measures to counter the adverse impacts of climate change and globalisation, including an increased focus on education, health, social protection for all, poverty-reduction, food sovereignty and security, pro-people economic institutions, effective regulations and mechanisms to hold governments and companies to account, and to safeguard sustainable development and human rights.
- Establish an Environmental Pillar in ASEAN which includes an independent monitoring mechanism, a regional framework on the transboundary utilisation and sharing of natural resources, protect all peoples' rights including indigenous peoples' rights and resolve cross border impacts, stop all destructive hydropower dams and promote sustainable renewable energy alternatives.

- Establish an ASEAN safeguard policy to ensure accountability, transparency and the meaningful participation of all stakeholders, including local communities and indigenous peoples, civil society organisations, and vulnerable and marginalised groups in the design, implementation and monitoring of national and regional investment and development projects and policies in order to protect the rights and wellbeing of all peoples in ASEAN.
- Abide by and ensure compliance of businesses with international best practices including but not limited to the UN Guiding Principles on Business and Human Rights, Extractive Industries Transparency Initiative and ISO 26000 to respect the rights of all affected individuals and communities, improve peoples' living conditions, which involves consulting fully and meaningfully with affected communities, providing fair and suitable compensation and ensuring adequate resettlement sites when people accept to be moved.
- Implement the newly issued rights-based and inclusive ASEAN Declaration on Strengthening Social Protection with meaningful and substantive participation of civil society, peoples' and grassroots organisations and individuals.

Democratisation

Democracy literally means “government by the people” through the enjoyment of civil and political freedoms that enable people to govern and determine their own lives. ASEAN, as envisioned in the ASEAN Charter and Community Blueprints, commits itself to promoting “a people-oriented ASEAN” in which all sectors of society are encouraged to participate in, and benefit from, the process of ASEAN integration and community building. However in its implementation, this commitment by ASEAN Member States is still far from being achieved. There are still crucial issues in the region that need serious further attention by all ASEAN Member States.

Continued existence of military rule, military sanctions and threats to civilian governments, control of economic resources by military enterprises, as well as defence policies that are non-compliant with rule of law, pose grave challenges to democratisation and democratic transition.

All people, especially vulnerable and marginalised groups, are negatively impacted by ASEAN integration and various domestic challenges and threats relating to democratisation. Such challenges include:

1. Severe restrictions of fundamental freedoms, both online and offline, such as freedom of assembly, association, expression, information and religion;
2. A lack of protection from violence, arrest, imprisonment, and harassment, including the unlawful imprisonment of human rights defenders, activists and union representatives;
3. Impunity and a lack of judicial redress in the absence of the rule of law;
4. A lack of democratic participation, consultation and self-governance;

5. Severe restrictions on land and labour rights as a result of development projects and businesses' refusal to abide by international standards on business and human rights; and

6. Pervasive corruption and a lack of transparency at all levels of government.

However, civil society across the ASEAN region has achieved many positive results in the face of such challenges. Civil society has successfully employed various advocacy strategies, including solidarity and collaboration between groups, establishing regional networks, information sharing, raising awareness and educating people about their human rights, consultations at local and national levels, engaging in non-violent and legitimate protests, directly lobbying and intervening with businesses, directly engaging with ASEAN Member States, and monitoring human rights abuses and other actions by ASEAN Member States.

Despite these positive efforts by civil society, governments still need to show good will and honour their commitments under the ASEAN Charter and address the issue of democratisation in the ASEAN region.

Recommendations

- End impunity by fully investigating all acts of violence and disappearances, and provide a safe space, both online and offline, and an enabling environment for human rights defenders, journalists, community activists and leaders, and other civil society actors to meaningfully engage with authorities and to carry out their legitimate activities without fear of physical or judicial harassment, arrest, imprisonment, killing or other violence, or restrictions on their fundamental freedoms; and immediate release all political prisoners, human rights defenders, community leaders, union leaders and development workers detained by ASEAN Member States.
- Reform the security sector in all ASEAN governments, with the involvement of civil society in monitoring the reforms, using human rights and women's rights perspectives, in collaboration with national parliaments to legislate policies consistent with democratisation.
- Establish robust legal frameworks that are in line with international human rights standards and best practices, ratify and implement applicable international instruments, amend or repeal repressive laws, and ensure that all laws and regulations are properly enforced by reformed judiciaries which are independent, competent and non-corrupt, including at the ASEAN level.
- Ensure that all people – especially vulnerable and marginalised groups – are legally recognised, able to enjoy their civil and political rights free from discrimination and prejudice, entitled to self-governance, empowered through access to information and education to participate in and be consulted about important decisions affecting their lives and livelihoods, and enjoy respect, recognition and protection of their freedom, security, dignity, identity and human rights.

General Recommendations and Conclusion

We, the ACSC/APF 2014, mandate the Steering Committee to formulate a flexible and inclusive mechanism to strengthen the ACSC/APF process and ensure continued linkage between the ACSC/APF and ASEAN.

We call on all ASEAN governments to:

- Commit to achieving justice, equality, inclusion and the elimination of all forms of violence so as to bring about sustainable peace and security. This success can only be achieved through the full participation of grassroots peoples and civil society organisations.
- Recognise the diversity of ASEAN people and develop mechanisms for protection of all human rights irrespective of religion, sex, gender, disability, LGBTIQ and persons of diverse sexual orientation, gender identities and expressions, including intersex persons, ethnicity, race, occupation, political ideology and citizenship. Such mechanisms should be consistent with international law and standards.
- Ensure the independence of the AICHR members as opposed to the current structure of the mechanism as an inter-governmental body. Ensure inclusion of additional human rights protection mandates in the TOR (including provisions that establish the review of the human rights record of ASEAN Member States; enable AICHR to conduct country/on-site visits; and allow AICHR to receive, investigate and address complaints on human rights issues and violations); change/modify the principles of consensus rule and non-interference in AICHR that have resulted in its ineffectiveness. Enable AICHR to establish independent experts (Special Procedures, including Special Rapporteurs), similar to the Special Procedures mechanism of the UN Human Rights Council and other regional mechanisms. These experts shall be independent and not be bound by the consensus rule so that they can effectively implement actual human rights protection work.
- The reviewed TOR must allow for decisions to be reached by a majority in situations where decisions cannot be reached by consensus, especially in addressing and preventing serious human rights violations. Further, the AICHR TOR review should head towards effective cooperation among the different human rights mechanisms and across the different pillars and sectoral bodies of ASEAN to ensure stronger human rights protection in the region.
- Ensure that consultations for the review of ASEAN Blueprints in 2015 are conducted with civil society, peoples' and grassroots organizations and individuals, and especially vulnerable and marginalised groups, to mitigate any negative impacts on them.
- ASEAN Member States should sign and ratify important international conventions and their Optional Protocols in recognition of the universal, inherent, inalienable and inter-related human rights of all ASEAN people, and their diverse and multiple identities.
- ASEAN Human Rights Institutions including AICHR, ACWC, and ACMW are urged to coordinate their efforts and work together for the promotion and protection of human rights for all.

We would like to extend our heartfelt gratitude to Myanmar civil society and people for hosting the conference, and to the Government of the Republic of the Union of Myanmar for its support and cooperation towards ensuring the success of the ACSC/APF 2014.

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