

Open Letter to the ASEAN Foreign Ministers' Meeting (AMM) on the ASEAN Human Rights Declaration

7 July 2012

To,

1. His Royal Highness Prince Mohamed Bolkiah, Minister of Foreign Affairs, Brunei Darussalam
2. His Excellency Hor Namhong, Minister of Foreign Affairs, Cambodia
3. His Excellency Dr. Marty Natalegawa, Minister of Foreign Affairs, Indonesia
4. His Excellency Dr. Thongloun Sisoulith, Minister of Foreign Affairs, Laos PDR
5. His Excellency Dato' Sri Anifah Aman, Minister of Foreign Affairs, Malaysia
6. His Excellency U Wunna Maung Lwin, Minister of Foreign Affairs, Myanmar
7. His Excellency Albert F. Del Rosario, Secretary of Foreign Affairs, the Philippines
8. His Excellency K. Shanmugam, Minister of Foreign Affairs, Singapore
9. His Excellency Dr. Surapong Tovichakchaikul, Minister of Foreign Affairs, Thailand
10. His Excellency, Pham Binh Minh, Minister of Foreign Affairs, Vietnam

Cc to

1. His Excellency Om Yenteng, Chair of ASEAN Intergovernmental Commission on Human Rights
2. His Excellency Surin Pitsuwan, Secretary General of ASEAN

Your Excellencies,

We, the undersigned organizations, welcome the important initiative of the ASEAN Intergovernmental Commission on Human Rights (AICHR) in drafting the ASEAN Human Rights Declaration (AHRD) and the determination that the Declaration will not be lower than international human rights norms and standards, as expressed in AICHR's first official consultation meeting with civil society organizations on 22 June 2012 in Kuala Lumpur. We understand that the draft prepared by the AICHR will be presented at the 45th ASEAN Foreign Ministers' Meeting (AMM) on 9 July 2010. As such, we appeal to you to take into considerations our following concerns in discussing the draft of the AHRD at the AMM.

Firstly, we regret that the draft AHRD was prepared without sufficient and meaningful public consultation. Throughout the entire drafting process of the Declaration, only one regional-level consultation was held by AICHR – and even that was only partially represented by civil society as several national and regional as well as international organizations were barred from the consultation. This, coupled with the absence of national-level consultations in at least half of all ASEAN member

states, has resulted in many civil society organizations, especially grassroots organizations, being totally sidelined from the entire process.

Secondly, the continued non-disclosure of the draft Declaration by AICHR has rendered all previous limited consultations largely meaningless, and has hindered civil society's substantive contributions and input to the contents of the AHRD.

Without the benefit of the Declaration at hand and based on the very limited information gathered from the national consultation meetings with civil society in several countries and the meeting in Kuala Lumpur, we are further alarmed by some of the problematic provisions in the Declaration that may run counter to international human rights standards. These include the provisions on national and regional particularities in promoting and protecting human rights, the concept of balancing of rights and duties of individual that is alien to international human rights instruments, and the superimposing of overarching restrictions of rights on broad terms such as national security and public morality. Furthermore, we also learned that certain rights, such as the right to self determination, rights of the indigenous peoples, right to sexual orientation and gender identity, and the prevention of enforced disappearances may not be included or adequately recognized in the Declaration.

We also recall that all ASEAN member states have committed, under the ASEAN Charter, to "promote 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". This commitment is far from being met in the drafting process of the AHRD to date.

Thus, in view of the upcoming submission of the draft AHRD by AICHR to the 45th AMM on 9 July 2012, we urge the AMM to:

1. Postpone the finalization of the AHRD at the upcoming 45th AMM;
2. Make public the draft AHRD after the 45th AMM without further delays;
3. Allow AICHR to organize more public consultations after the 45th AMM with all stakeholders in a transparent, meaningful and inclusive manner, and ensure the participation of all relevant stakeholders, especially civil society organizations, national human rights institutions, independent human rights experts, the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) and other ASEAN sectoral bodies and the public members that are to be the beneficiaries of this Declaration;
4. Secure expert assistance and technical support from the United Nations Office of the High Commissioner for Human Rights (OHCHR), UN Women, United Nations Children Fund (UNICEF) and other UN specialized agencies in order to ensure that the AHRD will not be lower than international human rights standards.

We believe that only once these steps are taken by ASEAN and the AICHR will

the AHRD be a regional human rights declaration that is authoritative, credible, legitimate, and more importantly, enjoying the support and sense of ownership by the peoples in the Southeast Asian region.

Thank you.

List of organizations that endorsed this open letter

1. Alternative Asean Network on Burma (ALTSEAN-BURMA)
2. Amnesty International Philippines
3. Amnesty International Thailand
4. Asia Pacific Refugee Rights Network (APRRN) Secretariat
5. Asian Center for the Progress of Peoples (ACPP)
6. Asian Forum for Human Rights and Development (FORUM-ASIA)
7. Asian Federation Against Involuntary Disappearance (AFAD)
8. Asia Indigenous Peoples Pact
9. Boat People SOS (BPSOS)
10. Building and Wood Workers Trade Union Federation of Cambodia (BWTUC), Cambodia
11. Burma Partnership
12. Cambodian Committee on CEDAW (NGO-CEDAW), Cambodia
13. Cambodian Human Rights Action Committee (CHRAC), Cambodia
14. Cambodian Human Rights and Development Association (ADHOC), Cambodia
15. Cambodian Food and Service Workers' Federation (CFSWF), Cambodia
16. Cambodian's Independent Civil-Servant Association (CICA), Cambodia
17. Cambodian Labour Confederation (CLC), Cambodia
18. Cambodian League for The Promotion and Defense of Human Rights (LICADHO), Cambodia
19. Cambodian Tourism Service Workers Federation (CTSWF), Cambodia
20. Cambodian Workers Center for Development (CWCD), Cambodia
21. Cambodian Youth Network (CYN), Cambodia
22. Center for Migrant Advocacy, Philippines
23. Claimants 1081, Philippines
24. Coalition to Abolish Modern-day Slavery in Asia (CAMSA)
25. Coalition of Cambodian Farmer Community (CCFC), Cambodia
26. Community Action Network (CAN)- Pax Romana ICMICA Malaysia
27. Community Legal Education Center (CLEC), Cambodia
28. Development Alternatives with Women for a New Era (DAWN)
29. Housing Rights Task Force (HRTF), Cambodia
30. Human Rights Education Institute of Burma (HREIB)
31. Independent Democracy of Informal Economy (IDEA), Cambodia
32. Indigenous Peoples Task Force on ASEAN
33. International Gay and Lesbian Human Rights Commission (IGLHRC)
34. Justice and Peace-Social Action Center – Marbel, Philippines
35. Koalisi Rakyat untuk Keadilan Perikanan (KIARA), Indonesia
36. Makabayan-Pilipinas

37. Messenger Band (MB), Cambodia
38. Migrant Forum in Asia (MFA)
39. Mplus Foundation, Thailand
40. People's Action for Change (PAC), Cambodia
41. People's Empowerment Foundation (PEF), Thailand
42. Persatuan Masyarakat Selangor & Wilayah Persekutuan (PERMAS), Malaysia
43. Philippine Alliance of Human Rights Advocates (PAHRA), Philippines
44. Philippine Human Rights Information Center (PHILRIGHTS), Philippines
45. Philippine Misereor Partnership, Inc., Philippines
46. Pokja 30, Indonesia
47. Positive Change for Cambodia, Cambodia
48. Pusat Komnas (KOMAS), Malaysia
49. Rainbow Community Kampuchea (RoCK), Cambodia
50. Rainbow Sky Association of Thailand, Northern Office, Thailand
51. Social Action for Change (SAC), Cambodia
52. South East Asia Popular Communications Programme (SEAPCP), Malaysia
53. Suara Rakyat Malaysia (SUARAM), Malaysia
54. Sumpay Mindanao, Philippines
55. Task Force Detainees of the Philippines
56. The Alliance of Independent Journalists (AJI), Indonesia
57. The Commission for the Disappeared and Victims of Violence (KontraS), Indonesia
58. The South East Asian Committee for Advocacy (SEACA)
59. Think Center, Singapore
60. Volunteers for Sustainable Development (VSD), Cambodia
61. Women's Aid Organization (WAO), Malaysia
62. Worker's Information Centre (WIC), Cambodia
63. Women's Network for Unity (WNU), Cambodia

For inquiries, please contact:

1. Mr. Haris Azhar, Coordinator, KontraS, Indonesia, +62 815 13302342 (Jakarta)
2. Mr. Yap Swee Seng, Executive Director, Asian Forum for Human Rights and Development, +66 81 8689178 (Bangkok)
3. Dr. Phung Chhiv Kek, President, Cambodian League for the Promotion and Defense of Human Rights (LICADHO), +855 (0) 12589091 (Phnom Penh)