

## **ASEAN Peoples' Demands for a Just, Equitable, and Humane Southeast Asian Region**

*Statement of the ASEAN Civil Society Conference/ASEAN Peoples' Forum 2017 (ACSC/APF 2017) on the occasion of the 50<sup>th</sup> Anniversary of ASEAN in Manila, Philippines*

As ASEAN marks its 50<sup>th</sup> anniversary this 8 August 2017, we, civil society organizations in the ASEAN Civil Society Conference/ASEAN Peoples' Forum 2017 (ACSC/APF) gather to make peoples' voices resoundingly heard and to assert the urgency of ending poverty, deprivation, injustice, inequality and discrimination in the region. For many years we have critically engaged the ASEAN, despite minimal outcomes in terms of substantive improvements in the lives of our people. In this light, we, the ACSC/APF 2017 continue to strongly reiterate our demands for ASEAN leaders to respect the peoples' aspirations and fulfill recommendations expressed in this statement, which are intended to build a truly people-centred Southeast Asia that is based on the principles of social justice, equity, and human rights.

While the Southeast Asian region is lauded for rapid economic growth rates, we also find ourselves on a path of rapidly rising inequality. Hunger and food insecurity remain a huge challenge, as farmlands are rapidly converted into export crop and biofuel plantations. Sharp economic disparities manifest across and within countries, and from local to regional levels. Social and cultural inequalities, reinforced by patriarchal norms and practices, are deepening, with vulnerable communities pushed further into the margins through many years of exclusion and discrimination. In this context, gender inequality, including gender-based violence, is exacerbated in both production and reproduction where women remain among the poorest populations, and continue to suffer discrimination and violence throughout their lifespan. Women's lowly paid labor is in demand and their unpaid care work is relied upon by a rising preference by states for private rather than public provision of social services.

In its 50<sup>th</sup> year, ASEAN is presented with a momentous opportunity to prove its relevance and responsiveness to peoples in the region by moving towards the realization of its vision. As the host of this year's ASEAN summits, we specifically call on President of the Republic of the Philippines Rodrigo Duterte to rise to the challenge of demonstrating leadership in building a just, equitable, and humane Southeast Asia. This can only be done credibly if Pres. Duterte starts with policies and programs here at home that enable the delivery of the many pro-people pronouncements he made during his campaign, such as putting an end to contractualization, ending corruption, opening new public health facilities, and pursuing an independent foreign policy in line with international human rights standards. Ultimately, the success of this year's summits will be judged by its ability to respond to the people's needs and advance the principles of social justice, and human rights and welfare across all dimensions in Southeast Asian region.

In this light, we wish to reiterate the long-standing issues of peoples in Southeast Asia:

**Assert Peoples' Rights, Not Corporate Greed and Power.** The ASEAN Economic Community (AEC) blueprint follows the neoliberal logic of shrinking the role of governments and giving the market free rein over economic activities without regard for the adverse consequences especially for ordinary working people, small landholders and local producers, many of whom are women. ASEAN's unwavering focus on creating a single market is now seriously undermining people's food sovereignty and reducing policy flexibility of member countries to protect their small-scale farmers and fishers. Agriculture tariffs have been reduced to 0.00-5.00% for intra-ASEAN trade on top of tariff reductions under WTO that have increased import dependency of members, state-owned lands have been privatized, and policies strengthening monopoly control of TNCs on seeds, plants and genetic materials have been entrenched. ASEAN's food security hinges on opening the acceptance of GMOs of member countries and promoting trade in genetically modified crops benefiting major Agri-TNCs countries and exporters to the detriment of the people.

The neoliberal thrust for an integrated regional market steers member states into preparing the region to take its place in a global market ever hungry for profit accumulation. This is evidenced and reinforced, for one, by FTAs such as the Regional Comprehensive Economic Partnership (RCEP) and new generation bilateral treaties that are a growing cause for concern owing to its impending attacks on the region's agricultural sector, on labor rights including those of migrant workers, women, marginalized sectors, indigenous populations, access to cheap and life-saving medicines and a threat to national sovereignty. A wide range of



“enhanced” investment protection measures are increasingly being put in place such as the notorious Investor-State Dispute Settlement (ISDS). There is now also a proposal for a Multilateral Investment Court, an agenda to the ISDS mechanism and establish a global corporate court system. The ISDS is a flawed mechanism that gives more leverage to corporations than to the States by allowing investors to sue governments over actions that “harm” expected future profits and challenge State regulations and policies that are meant to protect natural resources and environment, public welfare and interest, including providing a living wage, implementing agrarian reform, ensuring health and safety of the public from hazards, sound environmental policies, and so on. Several Southeast Asian governments have been subject to ISDS cases. Even at times when a State wins the court battles, the funds used in the process of dispute settlement is sourced from public taxes, and they amount to billions of dollars.

In pursuing foreign investment instead of developing key local industries, several Southeast Asian governments through ASEAN have diligently slashed trade tariffs to almost zero, cut corporate income tax rates and offered generous and redundant tax incentives. These can only work towards the benefit of corporations, not the people. Foregone revenues run in the billions of dollars, while health, education, housing, community development and disaster preparedness and other urgent needs remain grossly under-resourced and are made contingent on private sector investment or accessing more loans.

Corporate greed, strengthened by the support of Northern governments and International Financial Institutions, also manifests in the exploitation of the climate crisis by dirty energy corporations. More than 130 million people in the region still have no access to electricity, despite popular recognition that this is a vital requirement for the fulfillment of basic human needs and rights. Several Southeast Asian countries face high risks from sea-level rise, increased precipitation and flooding, heat extremes, higher intensity of tropical cyclones, and ocean warming and acidification. Despite having committed to the Paris Agreement aiming for the 1.5 degrees-Celsius target global average temperature by 2030 through decarbonization, Southeast Asian countries are still among the world's coal hotspots, having among the highest capacity of coal-fired power plants in the pipeline. ASEAN States must collectively step up as a true representative voice of the climate-vulnerable by shedding this deadly hypocrisy through raising the ambition of their nationally determined contributions (NDCs) and following through with responsive policies, particularly along the lines of the environment and energy, and by holding corporations accountable. The principle of Common But Differentiated Responsibilities (CBDR) must also be in place. While countries in Southeast Asia are exercising the right to development, there should also be appropriate actions and response by developed countries like the US, Canada, China, etc. who are among the biggest carbon emitters in the world. Kept unchecked, corporate greed and power will only further exacerbate the devastating tolls of climate change.

***Uphold Just and Lasting Peace and Human Security.*** Our region faces serious challenges to peace and human security including the rise of atrocity crimes. The presence of US military troops in the region has long been a cause of escalating military tensions especially with the rise of Chinese aggression in the disputed South China Sea. The increased militarization of Southeast Asian countries and the South China Sea/West Philippine Sea/Vietnam East Sea due to overlapping territorial disputes does not bode well for peace and human security in the region. In addition to collectively spending USD 2833 million in 2016, ASEAN States have reported a 30% increase in arms import from 2015. Most ASEAN States have correspondingly increased their spending for importing arms anywhere from 6% to more than 100%, fuelling more conflict in the region. At the forefront of the maritime conflicts are the coastal communities facing insecurity, as well as the apparent degradation of the marine resources that further impacts on the communities' food security. The militarization of communities paves the way for corporate resource grabs as well as for counterinsurgency purposes. In addition, human trafficking, forced migration and other security risks are threatening human security and livelihood as well as stability in the region. In addition, there is also growing concern among Southeast Asian countries on the rise of terrorism, which impact on human rights of certain groups and sectors.

Territorial disputes should be resolved by peaceful means in accordance to international law, including the 1982 UN Convention on the Law of the Sea (UNCLOS) and the Declaration of the Conduct of Parties in South China Sea (DOC). Efforts to bring peace in the region, between and within countries, such as the ongoing peace processes in the Philippines, Burma/Myanmar and South Thailand, must address the root causes of conflict as well as put people’s rights, particularly their right to self-determination, and the attainment of just

peace at the center. In all of these conflicts, the primacy of democratic processes over military 'solutions' must be re-affirmed.

**Respect, Protect, and Fulfill Human Rights, and Ensure Access to Justice.** Despite having its own human rights mechanisms, ASEAN States continue to ignore the universality and interdependence of human rights and face a multitude of challenges relating to protection of human rights and access to justice for all, especially for vulnerable and marginalized communities. In a number of ASEAN countries, governments are installing laws and committing actions that continue to destroy the enabling environment for CSOs and grassroots organizations to preserve in power and protect their own political interests. Ordinary innocent people become targets of extra judicial killings. Leaders of groups challenging government policies are harassed, jailed, disappeared, or even killed. There are at least 625 open cases of forced disappearances in the Philippines, 81 in Thailand, 163 in Indonesia, 1 in Cambodia, 2 in Lao PDR, 2 in Myanmar and 428 in Timor-Leste. The cases of Jonas Burgos, Sherlyn Cadapan, Karen Empeno, and Gloria Capitan from the Philippines, Sombath Somphone from Laos, Thailand's SomchaiNeelaphaijit and Porlajee "Billy" Rakchongchaoren, Malaysia's Raymond Koh, and Myanmar's U Ko Ni among hundreds of other cases of enforced disappearances and extra-judicial killings in Southeast Asia remain unresolved showing how impunity still prevails in the region. The Lumads of the Philippines, and indigenous peoples and ethnic communities in ASEAN region continue to be dispossessed of their ancestral lands. Freedoms of expression, religion, belief, peaceful assembly and association are being curtailed in many ASEAN States both in online and offline spaces, contravening State commitments to UN conventions they have acceded to while hate speeches targeting LGBTI groups, human rights defenders, journalists, parliamentarians, and minorities continue to be tolerated. This negative toleration leads to further stigmatization, discrimination, and violence against marginalized groups, whose rights to privacy and rights to an effective remedy are frequently violated. Recently in Banda Aceh, Indonesia, two gay men were attacked, humiliated publicly and arrested from their home by vigilantes. The accused were caned 86 times in front of more than 1000 people on the basis of violating Sharia law; a verdict that was made in the absence of legal assistance that supposed to be provided to the victims.

There is a pervasive culture of impunity in violence against women and girls, due mostly to the ASEAN governments' lack of attention and action that reflects blatant disregard of the massive women's rights violations in the region and within the member states. Prisons across the region remain overcrowded with inadequate health and rehabilitative programs. The lack of public defenders and congested courts in addition to harsh sentences for minor drug offences; to name a few: in the Philippines, Thailand and Indonesia. The latter has carried out a series of executions against drug-related offences, with children being shrugged off as "collateral damage," despite scientific publications and global evidences showing the ineffectiveness of militaristic approaches in solving the drug problem. The host country, led by Pres. Duterte, has seen thousands of its people being victims of extra-judicial killings condoned by the current administration. In view of these dire situations, it is imperative that drug policies, as carried among ASEAN member states, should be based on the respect and promotion of human rights and scientific evidences that show the necessity to replace the current *war on drugs* instead with humane and effective approaches.

**Ensure Decent Work, Living Wage, Human Capacity Development, Essential Services, and Social Protection for All.** Decent work, living wage, essential services and social protection for all still continue to be out of reach for a large number of populations in Southeast Asia even as States boast of growth of new industries and new jobs. This has led to the depression of worker's wages, unsafe and precarious working conditions, and violations of the freedom of association and assembly, violation of the rights of Persons with Disabilities (PWD) to work on equal basis with others, and rampant contractualization all of which are becoming the new "norm" for labour standards in the region. Part of our assertion of Decent Work is also to uphold the rights of workers to freedom of assembly that includes the right to unionize, mobilize and strike. Unfortunately, as States boast of the growth of investment and creation of industries (i.e. export processing zones) has also meant heavy union busting and the further flexibilization of labor. Despite commitments made by governments across Southeast Asia, workers in many countries are still prohibited from forming independent trade unions. Labor policies across ASEAN states do not protect people from discrimination based on various grounds such as disability, sexual orientation, gender identity, and expression, religion and ethnicity. States should recognize and ensure that the work of trade unions in reducing inequalities in all its forms are

unhampered by restrictive national laws and anti-union behavior by corporations must be curbed, as this forms part of an enabling environment cognizant of just, equitable and humane development.

Majority of workers in the region are not only fighting for regular jobs, but also for living wages and better working conditions. In the Philippines, thousands of workers are feared dead from the fire that consumed a Housing Technology Industries factory owned by a Japanese company. The lack of sources of income - aggravated by loss of jobs and source of livelihoods due to natural and manmade calamities- has led to prevalence of hunger in the region. Moreover, increasing privatization of social services, including through public-private partnerships (PPPs), has made essential services unaffordable and inaccessible to many, violating rights such as rights to health, water, energy, housing and education. Instead of recognizing human capacity development through the promotion of quality education and inclusive lifelong learning as peoples' rights that allow them to claim other rights, to participate fully in local community development, and to promote cultures of solidarity, these are reduced to 'enhancing competitiveness of ASEAN human resources' and catering to the needs of big business in the push for an integrated economic community.

Adequate income especially in times of old age, chronic and serious illness, disability, and unemployment, as well as guaranteed essential services are most needed by majority. But amid the continuing interlocking economic, climate and social crises, only an average of less than 30% of the population have social protection. Each country in Southeast Asia spends an average of only about 3% of its GDP for social protection. This is only about half of the ILO-recommended 6% of GDP expenditure for social protection. In 4 of the ASEAN countries, the social protection expenditure is even lower -- below 2%. Indigenous peoples knowledge remains undervalued, but at the same time development of people's knowledge is hampered by lack of universal access and freedom of information.

**Protect Migrants' Rights abroad, Address the roots of Forced Migration at Home, and humanitarian consideration to refugees.** ASEAN's economic integration and migration policies continue to neglect realities of the region which is characterized by large labour mobility and different migration flows. While the integration will provide greater mobility for workers, it fails to recognize that the majority of migrant workers are found in low-skilled sectors and in the informal economy many of whom are women migrant workers who are more vulnerable to greater risks. It also fails to recognize the social cost of migration, in particular, the impact on families and children left behind. People escaping from conflict such as Rohingya, who face constant abuse and harassment including systematic violation of human rights in Myanmar, are at the mercy of traffickers and horrendous treatment in countries of destination. Protection of migrant workers' rights remains inadequate, subjecting them to low wages, long hours and dangerous work, and have led to the endangerment of the lives of migrants. High profile cases of migrant workers like Erwiana Sulistyaningsih who was maltreated in Hong Kong, Mary Jane Veloso who is still in the Indonesian death row for drug trafficking, and Jennifer Dalquez, also on the death row, in UAE for accidentally killing her employer while defending herself from attempted rape—illustrate the current state of ineffectiveness and unwillingness of ASEAN countries to protect the lives and rights of migrant workers.

Forced migration has increased in the wake of climate change and its intensifying impacts. Persistent poverty and deprivation, and the presence of archipelagos and large coastal populations make Southeast Asia one of the most climate-threatened regions in the world. Unless we seriously build resilience and embark on a low-carbon development path, we will face a human disaster of massive proportions when the climate crisis heightens further and homes and livelihoods are irretrievably lost.

Victims of political or religious persecution seeking refuge in neighboring countries are not fully protected according to international standards on refugee protection. Treated as illegal migrants, and diplomatic or security risksthey are detained, or pushed back. If they are allowed to stay, they are vulnerable to exploitation, their families have no stable means of livelihood, and their children have limited access to education. Many of asylum seekers have been and many more are facing the prospect of being involuntarily repatriated without effective monitoring by independent parties.

## Our Calls

Though we appreciate the ASEAN Chair's recognition of the important role that ACSC/APF plays in achieving its mantra of having a people-centred and people-oriented community, and recognize its consequent efforts to meet civil society's insistent demands for genuine people's participation through a more open, inclusive and meaningful dialogue, ASEAN still remains largely inaccessible to the people as it has been through its 50 years of existence. In this regard, working towards an ASEAN that is well-grounded in the concerns of its peoples and receptive to active civil society participation can only work to its benefit. It can begin right here, with ASEAN heeding the following recommendations formulated during the 2<sup>nd</sup> Regional Consultation Meeting of the ACSC/APF:

### 1. Assert People's Needs and Rights, not Corporate Greed and Power

- A. Prioritize the participation and representation of marginalized sectors including people's organizations, women, indigenous peoples, children, youth older persons etc. In addition, we ask States to:
  - a. Ensure meaningful participation of local communities that are affected by government policies especially economic or so-called development projects in decision-making processes that affect their lives.
  - b. Comply with the Free Prior and Informed Consent (FPIC) of indigenous peoples especially in development and corporate projects that threaten their lands and livelihoods;
  - c. Terminate or subject to transparent, participatory investigation any initiative, from the part of governments or corporations that are found to violate peoples' rights and cause harm to the environment and resources that communities are dependent on.
- B. Adhere to international standards of human rights as its primary guide posts as they consider entering various trade agreements or new development policies. Specifically, this entails:
  - a. Integrating and upholding human rights in the implementation of AEC Blueprint and desisting from initiating and joining unequal or unjust trade deals that favor corporate interests over people's rights;
  - b. Reviewing all existing trade and investment agreements and if necessary amend or terminate existing ones that do not serve people's interests; and
  - c. Ensuring transparency and accountability in negotiating trade deals in behalf of the people.
  - d. Recognizing and upholding food sovereignty of member countries and their peoples and allow greater policy flexibility in protecting the livelihoods of small farmers, fishers, pastoralists especially women.
  - e. Support the drafting process of the proposed UN treaty on Transnational Corporations and other business enterprises.
- C. Work towards fiscal justice, greater transparency, democratic oversight and redistribution of wealth in national tax systems to stop and reverse growing inequality, combat poverty, guarantee public services and sustainable development, and address climate change. As a step forward:
  - a. Build the capacity of tax administrations to implement progressive, gender fair and distributive tax policies while ensuring that spending on public services are prioritized in revenue allocation;
  - b. Review, amend and/or repeal/cancel treaties, laws and policies to close loopholes used by corporations and wealthy individuals in tax dodging, and protect financial resources for the public good.
- D. Ensure the integration of a social dimension and sustainable development into ASEAN's development plans, policies and strategies in order to implement people-centered and ecologically-sustainable development policies and programs, rather than harmful activities are undertaken in the name of development.

In the process of Timor Leste's accession into ASEAN, protecting its economy and resources from plunder and protecting the people's rights must be a top priority.

- E. Ensure the protection and sustainable use of the environment and natural resources as part of our right to the commons, benefitting everyone. This can be done by:
  - a. Changing policies that perpetuate or exacerbate the climate crisis;
  - b. Empowering affected communities and engaging CSOs to deal with the impacts of the climate crisis;
  - c. Working towards transforming social and economic structures and technologies to move away from profit-driven, growth oriented, high-carbon, elite-dominated exploitative systems;
  - d. Embarking on a just transition to people-driven, sustainable, equitable, and democratic post-carbon systems.

## 2. Uphold Just and Lasting Peace and Human Security

- A. Push for the demilitarization of the South China Sea/West Philippine Sea/Vietnam's East Sea, and for the finalization of the Code of Conduct of Parties in the South China Sea (COC) that is, first and foremost, founded on the human security of the communities affected by the conflict and on environmental sustainability; and
- B. Call for an urgent, independent and impartial investigation under the auspices of ASEAN of the various reported human rights violations in Rakhine state, as well as in Kachin and Northern Shan states.
- C. Re-affirm the primacy of politically negotiated settlement and local peace building over military 'solutions' in addressing roots of armed conflict and in preventing violent extremism
- D. Prioritize public spending on basic social services over military and arms spending
- E. Repeal and/or review counter-terrorism and counter-insurgency laws and policies that don't address human rights issues and standards at all levels.
- F. Urge ASEAN governments to implement respective action plans on women, peace and security
- G. Push for China, US and North Korea to recognize and sign the ASEAN Nuclear-Free Zone Treaty
- H. Review proposed and existing cyber security plans, including anti-cybercrime laws, to ensure that they respect and protect human rights

## 3. Respect, Protect and Fulfill Human Rights and Ensure Access to Justice

- A. Halt the current *war on drugs* that is taking place in the region and to open dialogues for evidence-based drug policy reforms.
  - a. Effective approaches for drug users including harm minimization, volunteer rehabilitation and treatment and community-based interventions must be at the forefront of drug control policies.
  - b. Design and implement effective and sustainable drug prevention programs that address the drivers of drug use such as but not limited to poverty, social exclusion, breakdown in family relations and widespread unemployment.
- B. Make ending violence against women and all children in ASEAN a priority by developing legal frameworks and mechanisms at the regional level, particularly those regulating the handling and protection of women and child victims of violence and those prohibiting forms of violence that are accepted as "tradition" or disguised as "discipline."
  - a. Ensure the implementation of the Regional Plan of Action on Eliminating Violence Against Children (RPA-EVAC) and on Eliminating Violence Against Women (EVAW) in line with international commitments at the national level.
  - b. Recognize the particular vulnerability of boy-children to sexual violence and institute mechanisms for protection and response.
- C. Strengthen the protection mandate and the Terms of Reference the of ASEAN Intergovernmental Commission on Human Rights (AICHR), as well as the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC), and create mechanisms, which will expect constructive engagement with CSOs, to:
  - a. Review and assure transparency of trade deals and development agreements between ASEAN states;
  - b. Consolidate a meaningful collaboration with ACWC and ASEAN Committee on Migrant Workers (ACMW), as necessary, along with the existing and related national human rights institutions (NHRI), to investigate and study human rights violations in the region;
  - c. Create an online system for incidents of human rights violations to be reported anonymously.

- D. Strengthen the mandate and review the terms of reference of the ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW);
  - a. Create or strengthen mechanisms to investigate, monitor, and provide effective redress and remedy for human rights violations in the region, and the observance of International Humanitarian Law

#### **4. Decent Work, Living Wage, Essential Services, Human Capacity Development and Social Protection for All**

- A. Guarantee social protection, food, decent work and essential services for all especially for marginalized groups, and reverse the privatization of public services, especially healthcare, education, water and energy. ASEAN governments should consider setting up a regional social protection fund.
- B. To achieve a sustainable Social ASEAN, these structural issues must be addressed -- democratic participation, gender equality, and protection and promotion of rights of workers and vulnerable groups. Existing ASEAN Declarations with a social dimension must also be made binding on governments.
- C. Recognize the role of and protect the work of free and independent trade unions, civil society and people's organizations and social movements as essential elements of democracy and form a large part of an enabling environment for development and human rights work;
- D. Ensure that any and all interventions to provide decent work and social protection pays attention to the gender-differentiated impacts of such interventions on children and includes disincentives for families to ask their children to work alongside adults;
- E. Provide Life-cycle needs for education, training and re-skilling, including for mothers, older persons and PWDs, and progressively eliminate discrimination in all forms by the private sector that stops them from joining the labor force afterwards;
- F. Enact measures to value people's indigenous and local knowledge, while at the same time adopt policies to ensure universal access and freedom of information across ASEAN.  
Social protection for all shall include all ASEAN citizens and other foreign nationals in the region regardless of status.

#### **5. Protect Migrants' Rights Abroad, Address the roots of Forced Migration at Home**

- A. Sign and implement a binding ASEAN Instrument on the protection and promotion of the rights of migrant workers.
- B. Take measures to protect all aspects of migrant workers' rights abroad, address the cases of migrant workers on death row in countries of destination, protect them from exploitation and modern-day slavery, and resolve the issue of widespread unemployment in the region.
- C. Put in place measures for receiving countries to assist the sending country to help families, esp. children left behind, overcome the psychosocial impact of having a migrant worker in the family.
- D. Ensure that victims of persecution receive due protection according to international standards, including the principle of non-refoulement and explore durable solutions for refugees in protected situations.
- E. Develop existing mechanisms within the region for immediate response to large scale forced migration and emergencies to respond tad

Today, more than ever, urgent and sustained action is needed to transform the structures, institutions, and norms – economic, political and social – that are holding back progress in realizing a humane, just, and equitable Southeast Asia.

While we continue our engagement with ASEAN, we also lay down the preparations for developing an alternative Southeast Asian regional integration based on alternative practices on the ground among communities and social movements that challenge the neo-liberal model of development. This alternative regional integration will think and act outside the ASEAN box and link local practices in their economic, political, and socio-cultural dimensions along the principles of cooperation, solidarity, mutual benefit, the commons, and joint development.

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