

AMNESTY INTERNATIONAL

Public Statement

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ASEAN: human rights in the Charter and beyond

Amnesty International notes that the Charter of the Association of Southeast Asian Nations (ASEAN), has been signed by leaders of ASEAN at its 13th Summit now being held in Singapore. Amnesty International welcomes the inclusion of a commitment within the ASEAN Charter to promote, protect and respect human rights and to establish a regional human rights body. However, the organisation is deeply concerned that the process followed thus far to establish an ASEAN Charter has been largely opaque and non-participatory. Despite the existence of a vibrant, active and dedicated civil society in the region which has been at the forefront of efforts to push forward an ASEAN Charter with a strong human rights component, consultation with civil society on the content of the Charter has been severely limited.

The organisation is concerned that any commitments made within the existing Charter to human rights protection will remain empty gestures unless they are followed by concrete action in a timely manner. This would include immediately addressing serious violations of human rights within ASEAN member states, and by setting up an effective human rights body. Such a body should be capable of addressing the human rights violations which are so prevalent a feature in parts of the ASEAN region, and to ensure that what the Charter calls "a people-oriented ASEAN" means in reality a human rights-oriented ASEAN.

Human rights in the ASEAN region

Over the years Amnesty International has documented a wide range of human rights violations- civil and political as well as social economic and cultural - across the ASEAN region, and notes that the region has seen violations that are both national and transnational in nature.

The current crisis in Myanmar, which is in fact a continuation of decades of serious human rights violations, some of which constitute crimes against humanity, is a case in point. ASEAN has so far been unable to bring about a halt to these violations, despite Myanmar being a member state. It is unclear to Amnesty International how the military government of this state was able to – or indeed was allowed to - sign the ASEAN Charter, when that government is clearly already in what the Charter reportedly calls "a serious breach" of its human rights provisions. Amnesty International is concerned that the ASEAN Charter may have lost credibility right from the beginning. Amnesty International is encouraged by reports that some ASEAN leaders share these concerns.

The cross-border movement of individuals across the region has included serious violations of human rights; whether it be the exploitation of victims of human trafficking, refugees and asylum seekers moving in search of protection from persecution, or the movement of migrant workers in search of a livelihood in the more prosperous ASEAN countries where they are often subject to abuse of their human rights including labour rights. While ASEAN has recently declared its intention to address some of these issues, concrete improvements on the ground are yet to be seen. Other violations prevalent across the ASEAN region include torture and other cruel, inhuman or degrading treatment or punishment, extrajudicial executions, widespread violations of international humanitarian law and international human rights law within internal armed conflicts, violence against women, restrictions of freedom of expression, assembly and association and disregard for economic, social and cultural rights of marginalised communities. Amnesty International calls on ASEAN to take up the challenge of comprehensively addressing all of these human rights concerns.

ASEAN human rights body

Amnesty International urges ASEAN to adopt a transparent and participatory approach to the setting up of the human rights body. Civil society organisations, including human rights NGOs, trade unions, social movements, women's organizations, minority groups and members of the public, must have a prominent role in both the shaping of the human rights body's mandate and its ongoing function. Civil society can contribute substantially to the human rights body's ability to bring about compliance with international human rights law and standards on both the regional and national levels, as well as provide essential feedback on the work of the human rights body.

Amnesty International calls on ASEAN to establish a reasonable timeframe within which the human rights body will be

set up. The organization also calls on ASEAN, when determining the terms and reference of the body, to ensure as a priority that international human rights law and standards provide a benchmark for all action undertaken by the body, in common with other regional human rights monitoring bodies.

The ASEAN human rights body must itself be – or else, if representative of governments, must have the power to appoint - an independent, impartial, competent, well-resourced, professional human rights body, whose membership reflects the region's diverse peoples and cultures as well as gender parity. Members should be nominated and elected in a transparent process involving civil society at every stage of the proceedings.

As a minimum, the human rights body should:

- o Work for and provide advice on the ratification and implementation of human rights and international humanitarian law treaties, including establishing effective training;
- o Encourage and support states parties' timely and adequate reporting to UN human rights treaty-monitoring bodies;
- o Urge member states to invite UN Special Procedures to visit and to provide them with full assistance and access;
- o Encourage states to implement recommendations of UN treaty bodies and Special Procedures, and provide advice regarding such implementation;
- o Encourage the establishment and operation of national human rights institutions in accordance with the UN Principles relating to the status of national institutions (the "Paris Principles");
- o Investigate specific human rights situations, in response to submissions by individuals, organisations or states, or on its own motion;
- o Develop tools and materials for human rights education and help member states in providing human rights education and training, both for state officials and for the public as a whole; and
- o Work with and provide advice to national and regional human rights defenders, as well as ensuring that states allow them to carry out their work unhindered.

The human rights body must have the authority and be provided with sufficient resources to carry out these tasks in a timely and effective manner.

Finally, Amnesty International strongly recommends that the human rights body's initial mandate should allow the future development, expansion and elaboration of mechanisms which will be able to prevent human rights violations and provide an effective level of protection, monitoring and promotion of human rights throughout the ASEAN region. Amnesty International urges ASEAN leaders to ensure that the future process of elaboration of the human rights body enables the effective and transparent engagement of civil society groups in order to ensure that people and their human rights are at the heart of this body.