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Civil society rejects flawed ASEAN Human Rights Declaration

Phnom Penh, Cambodia -- Today, 64 grassroots, national, regional, and international civil society groups are calling upon ASEAN Member States to postpone the adoption of the ASEAN Human Rights Declaration, which is not worthy of its name.

The organizations vow to reject the Declaration if it is adopted with its current text. Instead, they urge ASEAN Member States to send the draft back to the ASEAN Intergovernmental Commission on Human Rights (AICHR) with instruction to revise it so that it accords with international human rights law.

The Declaration as it stands now unquestionably fails to meet existing international human rights standards, let alone add value to them. It flies in the face of the international consensus on human rights principles that has been in place for more than six decades. Of utmost concern are specific provisions in the Declaration's General Principles, which tear at the heart of long accepted human rights precepts. Under these provisions, the enjoyment of the rights provided in the Declaration is to be "balanced with the performance of duties" (GP 6), subjected to "national and regional contexts" and to considerations of "different cultural, religious and historical backgrounds" (GP 7). Moreover, **all** of the rights provided in the Declaration would be subject to restriction on a wide array of grounds including "national security" and "public morality" (GP 8).

No other universal or regional instrument applies a "balance" between the enjoyment of rights and freedoms against duties and responsibilities. On the contrary, these instruments are founded upon the idea that human rights are the birthright of all persons, not some kind of commodity that must be earned. International law and practice do not permit such broad restrictions that could, in effect, serve to excuse the violation of the rights guaranteed elsewhere in the Declaration. Finally, international law imposes on all ASEAN Member States the duty, regardless of their "national and regional contexts," to respect and protect all human rights and fundamental freedoms.

Civil society groups have repeatedly expressed grave concerns over both the drafting process and the substance of the Declaration since the initiative began. The AICHR met with regional civil society only towards the very end of the process and ignored most of their recommendations. Some individual AICHR representatives held consultations with civil society groups nationally, but such meetings were mostly ineffective. In some countries, no consultations were held at all. Most of the drafting process was conducted in secret and texts were rarely shared and never publicized.

For the Government of Cambodia, the adoption of this fundamentally flawed Declaration during the 21st ASEAN Summit in Phnom Penh will reflect negatively on its role and legacy in building the region's human rights system.

The AICHR should also conduct a drafting exercise in a transparent manner and invite grassroots, national, regional, and international civil society to participate meaningfully in the process.

If the ASEAN Member States decline to continue the drafting process and proceed with the adoption of the Declaration in its current form, the organizations will reject the Declaration and condemn its adoption. The people of the region and the international human rights community and stakeholders will continue to rely primarily upon existing international instruments for human rights protection in the ASEAN.