

# ASEAN Civil Society Conference / ASEAN Peoples' Forum 2016



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## **EXPANDING PEOPLES' SOLIDARITY FOR A JUST AND INCLUSIVE ASEAN COMMUNITY** **ACSC/APF 2016 – CSO STATEMENT**

### **Introduction**

ASEAN Civil Society Conference/ASEAN Peoples' Forum (ACSC/APF) marks a new history in this region by holding it in Timor Leste. The ACSC/APF 2016 will not take place in Lao PDR, due to concerns over possible restrictions and limited freedom of expression on key issues of concerns of ASEAN which are inconsistent with the agreed ACSC/APF's modality of engagement. Timor-Leste, a country in Southeast Asia, since its independence, has repeatedly put in its motion to be included in ASEAN. Although ASEAN has not taken any position to ratify the membership of this newly independent country, after a long and thorough process of consideration, we ASEAN Civil Society organisations agreed to organize the ACSC/APF 2016 in Timor-Leste as our show of solidarity.

1. We reaffirm our commitments to monitor and engage in the ASEAN processes towards a people-centric ASEAN as member states continue to aspire for political cohesiveness, economic integration, and in maintaining a socially responsible, people-oriented and rules-based ASEAN. This year's ACSC/APF reiterates the struggle and marks a pivotal and historic decision by ASEAN peoples to reclaim our region and expand peoples' solidarity towards a just, responsive and inclusive ASEAN community, which is represented by all its peoples, including the marginalized and oppressed.
2. We embark first in a show of solidarity by organising the ACSC/APF 2016 in Timor-Leste, to reiterate civil society's support for the inclusion of Timor-Leste as a full member of ASEAN. The delay in including Timor-Leste as a full member of ASEAN is no longer justified as they have progressively fulfilled all the necessary requirements. Its demography, historical, social and political environment is in general similar to those of other ASEAN member states and they are in a position to contribute towards the regional vision of solidarity and cohesiveness. Timor-Leste also experiences challenges common to those other states in Southeast Asia. In particular, issues related to human rights violations continues to prevail and can benefit from a common platform in addressing and overcoming them. It is essential to qualify that inclusion as full member of ASEAN shall be in accordance to norms of regional solidarity and not in any way be used as means to undermine the economic development of its peoples or led to denial or violation of human rights in all aspects of the lives of its peoples.
3. A key challenge experienced by Timor-Leste revolves around its maritime boundaries and exploitation of its natural resources. We renew our solidarity with the peoples of Timor-Leste in their unfinished struggle to achieve full sovereignty and to be able to exercise their right to self-determination. In this context, regionalism and regional solidarity are instrumental in supporting their right to determine their own path of development and in reclaiming their lawful seas and addressing the maritime challenges experienced by Timor-Leste is common to other ASEAN member states that are equally being pressured and exploited by other non ASEAN giants across the maritime borders of South China Sea and the Pacific Ocean. ASEAN should thus reaffirm its commitment to ensuring realization of human rights, peace, security, stability and freedom of navigation and over flight, and consider all means of peaceful resolution of maritime disputes, in accordance to international law, including the 1982 UN Convention on the Law of the Sea (UNCLOS) and the Declaration on the Conduct of Parties in the South China Sea.

*"Expanding Peoples' Solidarity for a Just and Inclusive ASEAN Community"*

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4. Nonetheless, it is essential to qualify that inclusion of Timor Leste as full member of ASEAN shall be in accordance to norms of regional solidarity and not in any way be used as means to undermine the development of its peoples or lead to denial or violation of human rights in all aspects of the lives of its peoples. Any possible repercussions related to economic and trade agreements likely to be experienced by Timor Leste, which are also common to other member states of ASEAN, are to mitigated based on international human rights norms and standards.
5. We have witnessed significant developments in ASEAN over the years. This includes the Kuala Lumpur Declaration on the Establishment of the ASEAN Community and the Kuala Lumpur Declaration on the ASEAN Community Vision 2025, adopted at the 27<sup>th</sup> ASEAN Summit and Related Summits in 2015. Further, we acknowledge the adoption of the Regional Plan of Actions (RPAs) on the Elimination of Violence Against Women (EVAW), the Elimination of Violence Against Children (EVAC) and the ASEAN Convention against Human Trafficking in Persons, especially Women and Children (ACTIP) with its regional plan of action, despite the lack of a more effective and open consultation process with civil society organizations. The work of AICHR and ACWC continues, but remain highly politicized and impactless. Both institutions experience severe shortages in resources and continue to fall far below human rights mechanisms in other regions; with its lack of strong protection mandate, including failure to institute a complaints and enforcement mechanism; and failure to act with greater transparency and accountability to the peoples of ASEAN, including in the selection of the representatives as well as in its restrictive and regulatory process accreditation for civil society organisations which limits and curtails the open, inclusive and representative nature of engaging in any consultative processes.
6. For the peoples of ASEAN, the establishment of the ASEAN Community and ASEAN Community Vision 2025 signifies the premise and commitment of ASEAN towards a people-centred community. Nonetheless, there remains serious skepticism as to what the agreements reached and commitments made by ASEAN governments will actually mean for human rights, democracy, development and the environment for the peoples of ASEAN, in particular for the indigenous peoples. There has been lack of substantive compliance and implementation of international human rights treaties and standards, including the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of a Child (CRC) and the Convention on the Rights of Persons with Disabilities (CRPD), to which all 10 member states are now states parties, as well as the numerous declarations, particularly the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) adopted by all 10 member-states. This is fundamentally due to lack of political will to move towards a transformative agenda that would promote human rights and continue to foster inequality and discrimination.
7. The Kuala Lumpur Declaration on ASEAN 2025: Forging Ahead Together, which incorporates the ASEAN Community Vision claims to be a “bold, visionary, progressive and forward-looking document to reflect the aspirations of the next generation of ASEAN nationals”. Nonetheless, a review of the document in itself and its current measures fall short of the above aspirations and continue to retain mediocre ASEAN commitment. It continues to be premised on the ASEAN’s ‘lowest common denominator’ threshold, rather than actual commitment on policy and institutional changes that are in adherence to internationally recognized standards. Furthermore, the ASEAN Vision 2025 still embraces the same harmful policies of liberalising trade, investment, services, as well as extension of corporate rights it set out to implement in the previous policies.

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8. We recognize that this region has huge disparities in political, economic and social development and bargaining powers in the region. The ASEAN Community and the ASEAN Vision 2025 cannot focus only on integration policies, which clearly provide economic and development gains for some while harming others, without concrete plans of accountability. It must also address issues such as internal conflict, territorial and maritime disputes, environmental degradation, climate change, excessive exploitation of natural resources, severe human rights violations such as torture, forced disappearances, human and drug trafficking, land grabbing and forced evictions of indigenous peoples, labour rights violations, including exploitation of migrant workers and low-paid workforce, and use of draconian and new laws aimed at restricting freedom of expression and information as well as resulting in arbitrary deprivation of liberty, which have negative national, and transboundary impacts and consequences. Without full respect for and protection of human rights, what is hailed as economic integration and development in ASEAN will only result in continuing widespread human rights violations, including an increase in transboundary issues, and further marginalization and suppression on the basis of race, ethnicity, gender, age, nationality, political opinion, religion, faith or belief, class, status (including marital and HIV status), and sexual orientation, gender identity, expression and sex characteristics (SOGIESC). Therefore, it should ensure measures are in place to guarantee fair representation of diverse interests of the peoples in ASEAN, including women, children, indigenous peoples, LGBTIQs, amongst others in the design, implementation and monitoring of strategies, rather than solely of certain dominant nations and groups, especially the businesses and the multi-national corporations. Further, ASEAN should ensure that the recently launched ASEAN Economic Community creates decent jobs for the people of ASEAN, and establish a Community where fundamental rights of all its workers, trade unions and consumers are upheld and enforced.
9. The ASEAN Vision 2025 has also limited focus of addressing the prevalence of corruption and its multi-faceted adverse impact on human and territorial security, including economic development, human rights and the environment. While, at a political level each ASEAN member state recognize combating corruption as one of its the top priorities, and ASEAN is also committed to establish the ASEAN Integrity Dialogue, there is a lack of access to information on national and regional targets or progress for implementation as well as on how these changes will be monitored and measured. There should be an inclusive and representative process where the participation and views of all stakeholder, in particular civil society, are integral part of both in setting targets and their review.
10. Notably, the ASEAN Vision 2025 should be carried out within the framework of the global 2030 Sustainable Development Goals (SDGs). This transformative agenda, with its commitment to “leaving no one behind” and the 17 goals outlining the global framework to eradicate poverty and address the economic, social and environmental dimensions of sustainable development, should guide ASEAN in fulfilling its mandate to its people and address the unequal economic growth that is exacerbated by poverty. It shall form the normative framework and provide the mechanism whereby the interests of diverse groups are meaningfully represented and to ensure transparency, accountability and participation of all peoples. Further, ASEAN should adhere to and implement the principles and standards as enshrined in the Paris Agreement (adopted in December 2015) which aims to strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty. Additionally, ASEAN states should set up concrete plans to implement the Sendai Framework for Disaster Risk Reduction 2015-2030 (adopted in March 2015) that would enhance risks reductions. The principle of “free, prior and informed consent” and ‘human rights’ must be respected and adhered to in implementing and monitoring development and business projects by ASEAN member states.

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11. The human rights agenda of ASEAN in the Vision 2025 yet again continues to focus almost exclusively on the promotional aspect rather than putting in place a solid protection framework. Civil society's call for the mainstreaming human rights in the ASEAN Community 2015 process and in the ASEAN Vision 2025 has again been ignored and given peripheral attention. Commitment to human rights is again rather fragmented and established in silos in the 3 pillars' blueprints. Neither has holistically and clearly set out how ASEAN plans to respond to and provide resources to address on-going and emerging issues, including issues exacerbated by regional integration such as migration, trafficking, asylum seekers and refugees, and transboundary crimes such as drug trafficking, and heightened extremism and terrorism. Addressing these regional concerns as security issues without a grounding in human rights principles and standards creates the path for continued human rights violations. Importantly, gender equality and discrimination on the basis of Sexual Orientation, Gender Identity and Expression, and Sexual Characteristics (SOGIESC)<sup>1</sup> and the diversity of peoples of ASEAN, including indigenous peoples, are also not reflected comprehensively in the ASEAN Vision 2025. Even where ASEAN has attempted to address cross-cutting human rights issues, they remain side-lined in informing national level policy. The Projected Gender Impact of the ASEAN Economic Community, for example, released in March 2016, can be commended for highlighting linkages between economic integration and gender disparities in the ASEAN region. However, it continues to remain unclear on how the report can be used as an instrument by states to ensure that economic policies integrate gender perspectives.
12. At a time of shrinking civic spaces and increasing suppression of freedom of expression, information, association and peaceful assembly around the region, and threats against human rights defenders who face imprisonment, torture and sometimes pay with their lives, ASEAN should immediately take action to respect, protect and fulfil the human rights of its people, and apply international human rights and humanitarian laws and standards. Eliminating all forms of discrimination and ending violations of both individual and collective human rights is fundamental towards achieving true regional integration that is intersectional and is rooted in achieving substantive equality of all ASEAN countries and its peoples by ensuring equal opportunities, equal access and equal benefits to all peoples in every sector.
13. Coupled with the need for greater leadership in developing norms in the regions, ASEAN instruments need to materially inform and impact domestic policy and laws, in compliance with international human rights obligations. ASEAN must ensure the capacity, resources, and political mandate of its institutions and those of its member states at the national level to deliver on political commitments to sustainable development, human security and human rights at the international level and at ASEAN, as well as substantive change which will impact the lives of ASEAN peoples.
14. ASEAN civil society remain extremely concerned about ASEAN's prevailing silence and lack of attention and response to the observations and recommendations raised in all previous ACSC/APF Statements, particularly on issues related to development justice; democratic processes, good governance, human rights and fundamental freedoms; peace and security; and discrimination and inequality. This continues to connote disregard of the need to engage substantively with civil society in ASEAN and is cemented in the lack of open and safe space that promotes meaningful and substantive participation, inclusion and representation of all peoples of ASEAN, including indigenous peoples,

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<sup>1</sup>SOGIESC represents people with diversity of sexual orientation, gender identity and expression as well as sex characteristics. The term includes but not limited to Lesbian, Gay, Bisexual, Transgender/Transsexual, Intersex, Queer and Heterosexual, and other sexual diversity.

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women and children, amongst others, in the various processes of ASEAN structures and mechanisms. ASEAN needs to stop using its rhetoric on “people-centred” or “people-oriented” without genuinely making the commitment and institutionalizing a process where all interests of its diverse peoples are included in its policy documents and agreements through meaningful dialogue with all stakeholders. This in principle requires ASEAN to recognize the robust role of a free and independent civil society movement in the best interest of the region and in the respective member states that is key in supporting and upholding good governance, fundamental freedoms and rule of law. It is critical thus for ASEAN to take all measures to respect, promote and create a safe and open space for civil society that is free from threats, attacks and unjustified detention of human rights defenders.

15. We are compelled to again reiterate our call for ASEAN to escalate its responses to the interventions by the civil society.
16. Our specific demand for 2016:
  - a. ***Accord, without delay, full ASEAN membership to Timor Leste, without in any way undermining its development and realization of the human rights of its peoples;***
  - b. ***Review and commit to implement the recommendations of the ACSC/APF 2015 and of those of the preceding years;***
  - c. ***Engage all stakeholders through multifaceted dialogue, capacity building, feedback and timely and effective participation in determining and shaping the future of the region and in realising its peoples' aspirations. This includes repealing all laws, policies and practices that limit peoples' meaningful participation in public life and freedom of information and expression.***