

**October 22nd, 2009**

Cha-am, Thailand, 18 – 20 October 2009

We, more than 500 delegates at the 2nd ASEAN Peoples' Forum (APF II) / 5th ASEAN Civil Society Conference (ACSC V), representing various civil society organizations and , movements of workers from rural and urban sectors as well as migrant sector, peasants and farmers, women, children, youth, the elderly, people with disability, urban poor, indigenous peoples, ethnic minorities, fisher folks, stateless persons and other vulnerable groups, gathered together in Cha-am, Thailand, 18-20 October 2009 to discuss the main concerns confronting the peoples of ASEAN and developing key proposals for the 15th ASEAN Summit.

We would like to extend our deepest condolences and solidarity with victims and survivors of the natural disasters currently affecting lives of people in Cambodia, Indonesia, the Philippines, Vietnam, and the Pacific. We call for ASEAN to ensure the protection for the population affected by natural disasters encompasses all relevant guarantees which include civil and political rights as well as economic, social and cultural rights. These rights are attributed to the people through fundamental human rights and international humanitarian law. We urge governments to take concrete measures to eliminate all forms of discrimination, especially against women and minorities, in the relief, humanitarian assistance and development processes following the occurrence of these disasters.

We reaffirm the fundamental principles of democracy, human rights and dignity, good governance, the best interests of the child, meaningful and substantive peoples' participation, and sustainable development in the pursuit of economic, social, gender and ecological justice so as to bring peace and prosperity to the ASEAN region.

We are deeply disappointed by the absence of our government officials in this meeting. This is a step backward on ASEAN's commitment to promote a people-oriented ASEAN. It runs contrary to the principles in the ASEAN Charter that encourages people's participation. We call on ASEAN to recognise the role of civil society and institutionalize people's participation and engagement in all the ASEAN processes and pillars.

Human conditions and issues confronting the peoples cut across all current pillars of the ASEAN. ASEAN governments must adopt a more holistic approach with regards to development, equal and just treatment of the peoples, and harmonize its policies and practices of all its pillars. Particularly, human rights violations experienced by women and girl-children are often compounded by the intersection of different and multiple layers of discrimination resulting from the intersection of gender with other systems of power, such as race, class/caste, rural location, ethnicity, immigrant status, sexual orientation and gender identities, citizenship, religion and other factors. Furthermore, the principle of free, prior and informed consent of for all peoples, especially indigenous peoples must be pursued in the fulfilment of all political, economic and social agreements under the ASEAN. The ASEAN must ensure that its development initiatives do not further aggravate global warming.

**Economic Pillar**

The ASEAN Economic Community (AEC) envisions a stable, prosperous and highly competitive region with equitable economic development, reduced poverty and economic disparities through complete liberalization and opening up of the regional economy by 2015. However, this framework of a competitive market economy, which mainly benefits MNCs/TNCs, and developed by ASEAN governments, has impoverished people, undermined, and harmed livelihoods, especially small scale farmers, fishers, and workers in developing countries. This has further exacerbated regional asymmetries and has led to greater inequality and dispossession. The economic integration model pursued by ASEAN has negatively impacted local and migrant workers and their families, including the undocumented, stateless, and people with HIV/AIDS; especially where working conditions, livelihoods and living standards have deteriorated.

We will work in unity to ensure that all ASEAN workers enjoy basic workers' rights as outlined in the ILO core labour standards. We urge governments to facilitate dialogue between trade unions, civil society, and employers at national and ASEAN levels.

7 We call on ASEAN to institute rights-based pathways to regularize semi and low-skilled labor migration, reduce barriers to cross-border and internal migration, and guarantee labor protection for informal workers, especially domestic workers. To achieve these objectives, we demand the protection of migrants' rights regardless of legal status, such as those of undocumented migrant workers. We urge ASEAN governments to respond to the impacts of the global financial crisis in a sustainable way by investing in a strong social economic infrastructure, specifically in the sectors of education, public healthcare, childcare, social insurance and rural areas. This infrastructure should create sustainable growth and long-term employment. Working women comprise 60% of the workforce, are threatened by the financial crisis. We urge the ASEAN to take immediate steps to extend social protection to women workers.

We ask ASEAN to support and cooperate with the peoples to conduct independent and strategic assessments in trade and investment agreements, projects, and industrial processes before they are negotiated. They should use the following assessments: Environmental Impact Assessment (EIA), Social Impact Assessment (SIA), Human Impact Assessment (HIA) and gender impact assessment. Any trading agreement must not have a negative impact on access to medicine and medical treatment.

ASEAN must enforce fundamental rights of people to access medical treatment including medical technology and medicine. Therefore, any trading agreement must not have a negative impact on such access.

We urge ASEAN to give priority to building a people's community, supporting grassroots economies and peoples' livelihoods, including traditional occupations. We reject the unbridled liberalization of investments in intensive industrial agriculture in the sector of land and marine aquaculture that gives MNCs and TNCs undue control over fisheries, forests farmlands, and other natural resources. It should invest in building people's capacity to participate in the decision making processes in trade and investment activities instead of favoring MNCs and TNCs. Its economic policies must be responsive to sensitive sectors such as food security, and must reject investment liberalization in the sectors of agriculture, aqua culture, both marine and inland, and forestry.

10. We call on the attention and action of ASEAN to the cause of small fisherfolk. The Coral Triangle Initiative (CTI) in particular has the objective of preserving fishing grounds in the region yet there is no consultation with small fishers. The millions of fisherfolk, especially in the South China Sea, must be heard and supported by ASEAN. Further, we reiterate our call on ASEAN to come up with a Council for Small Farmers, Fishers, Social Entrepreneurs and Producers and create agricultural policies that uphold the rights of small farmers, food sovereignty, and protect land rights.

11. We call upon all ASEAN states that have not done so to ratify the International Convention on Economic, Social and Cultural Rights, and ask the AICHR to ensure full ratification, and that its provisions are fully implemented in law and in practice.

12. We call on ASEAN to develop a common ASEAN trade policy that:

12.1 defines terms and principles that will govern future trade agreements;

12.2 sets the parameters for levies and renegotiation of existing FTAs and EPAs;

12.3 strengthens parliamentary scrutiny of these agreements;

12.4 opens the negotiation and trade policy process to peoples' participation; and

12.5 develops a framework on investment regulation, which recognizes the rights of member countries to regulate investments in a manner consistent with determined development needs and priorities.

13. We oppose all speculative activities, especially those related to agricultural products, land, and basic commodities. Governments should develop mechanisms to prevent speculative activities and impose controls on speculative activities in the distribution and re-distribution of resources.

### **Socio- Cultural Pillar**

The primary goal of the ASEAN Socio-Cultural Community (ASCC) is to contribute to the realization of an ASEAN Community that "is people-centered and socially responsible with a view to achieving enduring solidarity and unity among the nations and peoples of ASEAN by forging a common identity and building a caring and sharing society which is inclusive and harmonious where the well-being, livelihood, and welfare of the peoples are enhanced". The ASCC aims to address the region's aspiration to lift the quality of life of its peoples through cooperative activities that are people-oriented towards the promotion of sustainable development. While respecting the building of a caring and sharing society in ASEAN, we call on ASEAN to adopt the people-centered which is transformative social agenda that includes the principles of equity, substantive equality, inclusion, solidarity and sustainability.

14. ASEAN must ensure that people live with dignity and a barrier-free society by ensuring delivery of adequate, appropriate, accessible, quality, and essential services for all, especially for poor and vulnerable groups. Such essential services encompass access to employment/livelihood, food, housing, universal healthcare, education, safe and clean water, electricity and social protection pensions and securities.

15. We call on the ASEAN to recognize and respect distinct identities, cultures and ways of life, including indigenous peoples. As a region we must ensure their continuing cultural diversity, collective survival, development, protection against commodification and commercialization. We call on ASEAN to address the issue of statelessness and ensure stateless peoples have access to basic rights and benefits in ASEAN society.

16. The ASEAN Youth Policy must prioritize ensure the participation of young people in related ASEAN processes, universal health care, decent employment, human rights and the development of life skills of children, such as sexual and reproductive health rights education and HIV/AIDS. It must ensure that HIV/AIDS is part of the health and education agenda in all ASEAN countries. It must also promote local wisdom education through youth networking and youth volunteerism.

17. We call on the ASEAN Committee on the Promotion and Protection of the Rights of Migrant Workers (ACMW) to refer to the civil society submission on the framework for the protection of migrant workers and their families regardless of status; and ensure that the ASEAN instrument on the protection of migrant workers is a legally binding instrument throughout the region. We reiterate our call in the 1st ASEAN Peoples Forum/4th ASEAN Civil Society Conference to ASEAN member states to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members and Members of Their Families.

18. The ASEAN Commission of the Protection and Promotion of the Rights of Women and Children (ACWC) must be an independent specialised body to promote, protect and fully realise the human rights and fundamental freedoms of women and children in the Southeast Asia. It must uphold the principles of non-discrimination and substantive equality as enshrined in United Nations Convention on the Elimination on the Discrimination Against Women (CEDAW), as well as uphold the principles of best interests of the child and children's participation as enshrined in the United Nations Convention on the Rights of the Child (CRC).

19. We acknowledge the ongoing process of establishing ACWC and stress that its Terms of References (TOR) should have balanced protection and promotion mandates. It should be vested with a strong protection mandate with the following mechanisms: on-site country visits, conduct investigations and issue recommendations to a member state. It should also be able to follow-up on those recommendations to the states, receive individual complaints, and institute a mechanism for receiving and addressing complaints. We urge the Working Group on ACWC to ensure the ACWC's mandate includes that of seeking redress and guarantees of non-recurrence, undertaking independent periodic reviews and monitoring of national laws and policies in order to identify discriminatory laws and policies.

20. The ACWC shall be composed of independent experts selected through a democratic and transparent process with direct participation and consultation with civil society. We are concerned that the non-inclusion of protection mandates sends a signal to children that ASEAN is unwilling and incapable of ensuring their safety and security amidst existing threats they experience - armed conflict, exploitation, cultural degradation, displacement, and lack of access to opportunities.

21. The ACWC must ensure violations of human rights and fundamental freedoms of women and other marginalized groups cannot be justified or legitimized in the name of culture, tradition or so-called "Asian values."

### **Political-Security Pillar**

The ASEAN Political-Security Community (APSC) envisions the peoples and Member States of ASEAN live in peace with one another and with the world at large in a just, democratic and harmonious environment. It aims to promote political development in adherence to the principles of democracy, the rule of law and good governance, respect for and promotion and protection of human

rights and fundamental freedoms as inscribed in the ASEAN Charter. APSC shall be “a means by which ASEAN Member States can pursue closer interaction and cooperation to forge shared norms and create common mechanisms to achieve ASEAN’s goals and objectives in the political and security fields”. While appreciating that the APSC mentions the promotion of a people-oriented ASEAN in which all sectors of society, we perceive that the APSC is still state-centric. ASEAN and its member states must work hard to institutionalize its involvement with civil society on political and security issues. Civil society should have a direct and substantive engagement in the national and regional political security community to gather inputs on, assess and assist in the implementation of the blueprint.

22. We applaud the establishment of the AICHR and the open selection process of commissioners by Indonesia and Thailand. AICHR should use its mandate to develop strategies for the promotion and protection of human rights and establish strong mechanisms to protect human rights, including country visits, complaint handling of human rights violations, periodic reviews of the human rights situation in ASEAN member states, and a recourse mechanism against violations.

23. AICHR must encourage ASEAN members to ratify and implement all international mechanisms relevant to human rights standards and appoint an indigenous expert to advise the AICHR on the human rights concerns of indigenous, ethnic, and religious minorities, especially the Rohingya peoples. AICHR must establish a mechanism for consultation between member states and indigenous peoples to address the issues and concerns of indigenous peoples. These consultations can be participated in by concerned UN agencies and national human rights mechanisms.

24. We call on ASEAN to take a more pro-active role in responding to all conflict situations, including Mindanao, South Thailand, West Papua, Burma/Myanmar and the South China Sea. ASEAN must continue to monitor and learn from the post-conflict and peace building challenges in Aceh and Timor Leste.

25. It is also time for ASEAN to seriously address justice, impunity and reconciliation issues, including regressions of democracy in the region.

26. AICHR should immediately investigate ongoing widespread or systematic human rights violations [including criminalization of legitimate community actions], especially situations of systematic rape and other forms of sexual violence and violations committed against women and girl-children, use and/or recruitment of child soldiers, forced labour, extrajudicial killings and other serious human rights violations in affected countries. Countries which commit serious breaches of the charter, including violations of good governance, human rights and the rule of law should be referred to the ASEAN Summit for discussion. We call for AICHR to complement and support the work of mechanisms and representatives of the UN Human Rights Council working on matters of particular relevance to the region, including the Special Rapporteurs on Burma/Myanmar and Cambodia respectively, as well as those working on thematic issues such as torture, violence against women, independence of the judiciary, and human rights defenders.

27. ASEAN must work to promote democratization and establish independent election commissions to ensure free, fair, and clean elections are held in member states. ASEAN must take firm measures to ensure that before the 2010 elections in Myanmar/ Burma, there is genuine political dialogue between all stakeholders, as well as an inclusive review of the unilaterally written 2008 constitution.

28. All political prisoners, including those who are charged under Lese Majeste laws and draconian laws in ASEAN member states must be unconditionally released, especially Aung San Suu Kyi and the over 2,100 political prisoners in Myanmar/ Burma.

29. ASEAN should address the persistent failures and denial of the responsibilities of ASEAN States to refugees, Internally Displaced Peoples (IDPs) and other persons of concern and call on the ASEAN member states to immediately ratify the United Nations Convention on Refugees, and adhere to Guiding Principles on Internal Displacement as well as principles of non-refoulement under international law. ASEAN states should also grant documentation to the stateless, especially to those who have been denied recognition in their countries of origin, such as the Rohingya.

30. APSC needs to further elaborate on its support of a comprehensive approach to security, especially concerning gender mainstreaming – encouraging women's participation on all levels, especially as agents and decision makers in conflict resolution, and protecting women's security in their homes, communities, nationally, and regionally.

31. ASEAN must establish legal frameworks that are in accordance with international laws, in order to address issues of armed conflict, develop indicators, and ensure that human rights and human security is guaranteed in all conflict-situations. ASEAN should uphold and institutionalize mechanisms to ensure the upholding of peace-oriented norms, including arms control, the renunciation of use of force, nuclear weapons and other weapons of mass destruction (WMD).

32. ASEAN should work to develop and enhance specific mechanisms to ensure a peaceful ASEAN, including the implementation of the agreed Declaration of Conduct in the South China Sea. ASEAN needs to expand its dispute settlement mechanism to include conflict prevention and post-conflict processes.

33. We call on ASEAN to ensure cultural integrity for all peoples, including respect for languages, and develop mechanisms to resolve and address intra-state conflict, on-going conflicts, emerging threats, and uphold the universal right to self-determination of peoples, including indigenous peoples. ASEAN governments should review their laws and policies to ensure full protection of freedom of expression, association, assembly and religion.

34. ASEAN must end the culture of impunity by strengthening genuine, just and a transparent judicial system, as well as create a mechanism to protect human rights defenders.

### **Environment Pillar**

In response to the urgent, multi-fold environmental crisis and climate change, ASEAN must instigate a process to launch a fourth pillar on Environment in its structure and governance that will place environmental sustainability, economic, gender, social and climate justice at the center of decision-making. ASEAN's current economic expansion propels the implementation of large-scale development projects, such as mines, dams, nuclear power plants, and industrial plantations that have led to environmental degradation and caused negative impacts on the culture and livelihoods of local and indigenous peoples. Commodification of knowledge, practices and natural resources through trade agreements, investments and patenting has alienated communities, especially indigenous peoples, from the use of their own resources. Collective rights over land, territories and resources continue to be denied and violated in the name of development. The climate crisis brought

about by this development model is now an everyday reality, witnessed through increasingly frequent extreme weather events that are impacting the ASEAN region and its peoples and requires an immediate response.

35. We call on ASEAN to recognize that indigenous peoples play a central role in protecting the environment and biodiversity and create mechanisms to ensure accountability for the protection of the environment and communities. We also call on ASEAN governments to sign and implement the Extractive Industry Transparency Initiative (EITI) in order to ensure that natural resources are well managed and used equitably with transparency.

36. The environment pillar should address the gender-differentiated impact, particularly on women, in relation to development projects, climate change and disaster relief management and rehabilitation. Further, patriarchy reinforces the chain of discrimination and multiple forms of rights violations, putting women in a more vulnerable situation such as increased risk in the continuum of sexual violence. In addition, development projects such as mining projects have adverse effect on women's right to health, particularly their reproductive health rights.

37. We call on ASEAN to:

37.1 Promote and protect rights-based access to resources that respect indigenous land rights, fulfils the principle of non-discrimination and substantive equality, and promotes people's sovereignty over food, energy, forests, fisheries, land and water, and sustainable farming practices. Large and transnational corporations must be compelled to protect human rights and adhere to international and national environmental human right standards and conventions.

37.2 Apply the 'precautionary principle' of Agenda 21, the 'respect-protect-remedy' principle of the UN Human Rights Council, and environmental, social and cultural impact assessments for development projects.

37.3 Implement a complete review, and where necessary revision, of economic activities, especially cross-border investments among the member countries to ensure that they comply with the commitments of the new environment pillar.

37.4 Create an ASEAN disaster research centre that will compile geo-hazards assessments of each member states and incorporate local and indigenous knowledge in the formulation of an ASEAN disaster response and mitigation/ adaptation strategy that uphold the principle of non-discrimination with periodic updating and consultation with peoples.

37.5 Ensure necessary relief and protection be accorded to victims of all natural calamities, including those resulting from climate change.

37.6 Establish a blueprint and implementation mechanism to operationalise the environment pillar. An independent regional monitoring mechanism should be established that is mandated to formulate rules on trans-boundary utilization and sharing of natural resources and resolve cross-border impacts where national law is inadequate.

37.7 Demand for the payment of all ecological and climate debts from the developed countries.

### **Our Commitments**

38. We, the people of ASEAN, will continue to mobilize the participation of more grassroots and marginalized communities (such as women, children, indigenous and migrants), peoples' organizations and civil society organizations to work together in using this platform for interaction and dialogue among the peoples' of ASEAN.

39. We, in solidarity with the voice of the people of Myanmar/ Burma, call upon the government of Myanmar to take concrete steps towards national reconciliation to ensure that the 2010 elections are truly free and fair and the country can move towards genuine democracy.

40. We commit to continue our unique brand of people-to-people solidarity and dialogue in ensuring a peoples-oriented ASEAN is realised. We will continue to engage with ASEAN governments in 2010 in Vietnam during the 16th ASEAN Summit to monitor and follow up on the peoples' demands to ASEAN. We call on the Vietnamese government as the next chair of ASEAN and the next host of ASEAN Summit, to support us to maintain and further strengthen the dialogue and broad engagement of civil society with ASEAN.

END

\* NOTE OF DISSENT:

The Cambodia-ASEAN Center for Human Rights Development, Cambodia-ASEAN Youth Association, Cambodia-ASEAN Civil Society and Positive Change of Cambodia have submitted a declaration of disagreement for the entire statement, dated 20 October 2009.

Daw Than Nwe, on behalf of 10 organizations from Myanmar submitted a declaration of disagreement for the last sentence of the Paragraph 27 "we cannot accept the words, as well as an inclusive review of unilaterally written 2008 constitution" on 20 October 2009. The organizations are: Union Solidarity and Development Association, Myanmar Anti-Narcotics Association, Myanmar Textiles Entrepreneurs Association, U Win Mra (Director-General –Retired, Ministry of Foreign Affairs), Myanmar Women Affairs Federation, Myanmar Textiles Entrepreneurs Association, Thanlyin Institute of Technology (Senior Officer, Research Division on National Interest), Union of Myanmar Federation of Chamber of Commerce of Industry, Myanmar Women Affairs Federation, Dr. Daw Wah Wah Maung (Lecturer, Yangon Institute of Economics).