

ASEAN **H**uman **R**ights **D**eclaration

and the Phnom Penh Statement on the Adoption
of the ASEAN Human Rights Declaration (AHRD)



one vision
one identity
one community

The Association of Southeast Asian Nations (ASEAN) was established on 8 August 1967. The Member States of the Association are Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand and Viet Nam.
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ASEAN HUMAN RIGHTS DECLARATION

**AND
THE PHNOM PENH STATEMENT
ON THE ADOPTION OF THE
ASEAN HUMAN RIGHTS DECLARATION (AHRD)**

**THE ASEAN SECRETARIAT
JAKARTA**

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ASEAN HUMAN RIGHTS DECLARATION

WE, the Heads of State/Government of the Member States of the Association of Southeast Asian Nations (hereinafter referred to as "ASEAN"), namely Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic, Malaysia, the Republic of the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Viet Nam, on the occasion of the 21st ASEAN Summit in Phnom Penh, Cambodia.

REAFFIRMING our adherence to the purposes and principles of ASEAN as enshrined in the ASEAN Charter, in particular the respect for and promotion and protection of human rights and fundamental freedoms, as well as the principles of democracy, the rule of law and good governance;

REAFFIRMING FURTHER our commitment to the Universal Declaration of Human Rights, the Charter of the United Nations, the Vienna Declaration and Programme of Action, and other international human rights instruments to which ASEAN Member States are parties;

REAFFIRMING ALSO the importance of ASEAN's efforts in promoting human rights, including the Declaration of the Advancement of Women in the ASEAN Region and the Declaration on the Elimination of Violence against Women in the ASEAN Region;

CONVINCED that this Declaration will help establish a framework for human rights cooperation in the region and contribute to the ASEAN community building process;

HEREBY DECLARE AS FOLLOWS:

GENERAL PRINCIPLES

1. All persons are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of humanity.
2. Every person is entitled to the rights and freedoms set forth herein, without distinction of any kind, such as race, gender, age, language, religion, political or other opinion, national or social origin, economic status, birth, disability or other status.
3. Every person has the right of recognition everywhere as a person before the law. Every person is equal before the law. Every person is entitled without discrimination to equal protection of the law.
4. The rights of women, children, the elderly, persons with disabilities, migrant workers, and vulnerable and marginalised groups are an inalienable, integral and indivisible part of human rights and fundamental freedoms.
5. Every person has the right to an effective and enforceable remedy, to be determined by a court or other competent authorities, for acts violating the rights granted to that person by the constitution or by law.
6. The enjoyment of human rights and fundamental freedoms must be balanced with the performance of corresponding duties as every person has responsibilities to all other individuals, the community and the society where one lives. It is ultimately the primary responsibility of all ASEAN Member States to promote and protect all human rights and fundamental freedoms.
7. All human rights are universal, indivisible, interdependent and interrelated. All human rights and fundamental freedoms in this

Declaration must be treated in a fair and equal manner, on the same footing and with the same emphasis. At the same time, the realisation of human rights must be considered in the regional and national context bearing in mind different political, economic, legal, social, cultural, historical and religious backgrounds.

8. The human rights and fundamental freedoms of every person shall be exercised with due regard to the human rights and fundamental freedoms of others. The exercise of human rights and fundamental freedoms shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition for the human rights and fundamental freedoms of others, and to meet the just requirements of national security, public order, public health, public safety, public morality, as well as the general welfare of the peoples in a democratic society.
9. In the realisation of the human rights and freedoms contained in this Declaration, the principles of impartiality, objectivity, non-selectivity, non-discrimination, non-confrontation and avoidance of double standards and politicisation, should always be upheld. The process of such realisation shall take into account peoples' participation, inclusivity and the need for accountability.

CIVIL AND POLITICAL RIGHTS

10. ASEAN Member States affirm all the civil and political rights in the Universal Declaration of Human Rights. Specifically, ASEAN Member States affirm the following rights and fundamental freedoms:
11. Every person has an inherent right to life which shall be protected by law. No person shall be deprived of life save in accordance with law.

12. Every person has the right to personal liberty and security. No person shall be subject to arbitrary arrest, search, detention, abduction or any other form of deprivation of liberty.
13. No person shall be held in servitude or slavery in any of its forms, or be subject to human smuggling or trafficking in persons, including for the purpose of trafficking in human organs.
14. No person shall be subject to torture or to cruel, inhuman or degrading treatment or punishment.
15. Every person has the right to freedom of movement and residence within the borders of each State. Every person has the right to leave any country including his or her own, and to return to his or her country.
16. Every person has the right to seek and receive asylum in another State in accordance with the laws of such State and applicable international agreements.
17. Every person has the right to own, use, dispose of and give that person's lawfully acquired possessions alone or in association with others. No person shall be arbitrarily deprived of such property.
18. Every person has the right to a nationality as prescribed by law. No person shall be arbitrarily deprived of such nationality nor denied the right to change that nationality.
19. The family as the natural and fundamental unit of society is entitled to protection by society and each ASEAN Member State. Men and women of full age have the right to marry on the basis of their free and full consent, to found a family and to dissolve a marriage, as prescribed by law.
20. (1) Every person charged with a criminal offence shall be presumed innocent until proved guilty according to law in

a fair and public trial, by a competent, independent and impartial tribunal, at which the accused is guaranteed the right to defence.

- (2) No person shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed and no person shall suffer greater punishment for an offence than was prescribed by law at the time it was committed.
 - (3) No person shall be liable to be tried or punished again for an offence for which he or she has already been finally convicted or acquitted in accordance with the law and penal procedure of each ASEAN Member State.
21. Every person has the right to be free from arbitrary interference with his or her privacy, family, home or correspondence including personal data, or to attacks upon that person's honour and reputation. Every person has the right to the protection of the law against such interference or attacks.
 22. Every person has the right to freedom of thought, conscience and religion. All forms of intolerance, discrimination and incitement of hatred based on religion and beliefs shall be eliminated.
 23. Every person has the right to freedom of opinion and expression, including freedom to hold opinions without interference and to seek, receive and impart information, whether orally, in writing or through any other medium of that person's choice.
 24. Every person has the right to freedom of peaceful assembly.
 25. (1) Every person who is a citizen of his or her country has the right to participate in the government of his or her country, either directly or indirectly through democratically elected representatives, in accordance with national law.

- (2) Every citizen has the right to vote in periodic and genuine elections, which should be by universal and equal suffrage and by secret ballot, guaranteeing the free expression of the will of the electors, in accordance with national law.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

26. ASEAN Member States affirm all the economic, social and cultural rights in the Universal Declaration of Human Rights. Specifically, ASEAN Member States affirm the following:
 27. (1) Every person has the right to work, to the free choice of employment, to enjoy just, decent and favourable conditions of work and to have access to assistance schemes for the unemployed.
 - (2) Every person has the right to form trade unions and join the trade union of his or her choice for the protection of his or her interests, in accordance with national laws and regulations.
 - (3) No child or any young person shall be subjected to economic and social exploitation. Those who employ children and young people in work harmful to their morals or health, dangerous to life, or likely to hamper their normal development, including their education should be punished by law. ASEAN Member States should also set age limits below which the paid employment of child labour should be prohibited and punished by law.
28. Every person has the right to an adequate standard of living for himself or herself and his or her family including:
 - a. The right to adequate and affordable food, freedom from hunger and access to safe and nutritious food;
 - b. The right to clothing;
 - c. The right to adequate and affordable housing;

- d. The right to medical care and necessary social services;
 - e. The right to safe drinking water and sanitation;
 - f. The right to a safe, clean and sustainable environment.
29. (1) Every person has the right to the enjoyment of the highest attainable standard of physical, mental and reproductive health, to basic and affordable health-care services, and to have access to medical facilities.
- (2) The ASEAN Member States shall create a positive environment in overcoming stigma, silence, denial and discrimination in the prevention, treatment, care and support of people suffering from communicable diseases, including HIV/AIDS.
30. (1) Every person shall have the right to social security, including social insurance where available, which assists him or her to secure the means for a dignified and decent existence.
- (2) Special protection should be accorded to mothers during a reasonable period as determined by national laws and regulations before and after childbirth. During such period, working mothers should be accorded paid leave or leave with adequate social security benefits.
- (3) Motherhood and childhood are entitled to special care and assistance. Every child, whether born in or out of wedlock, shall enjoy the same social protection.
31. (1) Every person has the right to education.
- (2) Primary education shall be compulsory and made available free to all. Secondary education in its different forms shall be available and accessible to all through every appropriate means. Technical and vocational education shall be made generally available. Higher education shall be equally accessible to all on the basis of merit.

- (3) Education shall be directed to the full development of the human personality and the sense of his or her dignity. Education shall strengthen the respect for human rights and fundamental freedoms in ASEAN Member States. Furthermore, education shall enable all persons to participate effectively in their respective societies, promote understanding, tolerance and friendship among all nations, racial and religious groups, and enhance the activities of ASEAN for the maintenance of peace.
32. Every person has the right, individually or in association with others, to freely take part in cultural life, to enjoy the arts and the benefits of scientific progress and its applications and to benefit from the protection of the moral and material interests resulting from any scientific, literary or appropriate artistic production of which one is the author.
33. ASEAN Member States should take steps, individually and through regional and international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realisation of economic, social and cultural rights recognised in this Declaration.
34. ASEAN Member States may determine the extent to which they would guarantee the economic and social rights found in this Declaration to non-nationals, with due regard to human rights and the organisation and resources of their respective national economies.

RIGHT TO DEVELOPMENT

35. The right to development is an inalienable human right by virtue of which every human person and the peoples of ASEAN are entitled to participate in, contribute to, enjoy and benefit equitably and sustainably from economic, social, cultural and

political development. The right to development should be fulfilled so as to meet equitably the developmental and environmental needs of present and future generations. While development facilitates and is necessary for the enjoyment of all human rights, the lack of development may not be invoked to justify the violations of internationally recognised human rights.

36. ASEAN Member States should adopt meaningful people-oriented and gender responsive development programmes aimed at poverty alleviation, the creation of conditions including the protection and sustainability of the environment for the peoples of ASEAN to enjoy all human rights recognised in this Declaration on an equitable basis, and the progressive narrowing of the development gap within ASEAN.
37. ASEAN Member States recognise that the implementation of the right to development requires effective development policies at the national level as well as equitable economic relations, international cooperation and a favourable international economic environment. ASEAN Member States should mainstream the multidimensional aspects of the right to development into the relevant areas of ASEAN community building and beyond, and shall work with the international community to promote equitable and sustainable development, fair trade practices and effective international cooperation.

RIGHT TO PEACE

38. Every person and the peoples of ASEAN have the right to enjoy peace within an ASEAN framework of security and stability, neutrality and freedom, such that the rights set forth in this Declaration can be fully realised. To this end, ASEAN Member States should continue to enhance friendship and cooperation in the furtherance of peace, harmony and stability in the region.

COOPERATION IN THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

39. ASEAN Member States share a common interest in and commitment to the promotion and protection of human rights and fundamental freedoms which shall be achieved through, inter alia, cooperation with one another as well as with relevant national, regional and international institutions/organisations, in accordance with the ASEAN Charter.
40. Nothing in this Declaration may be interpreted as implying for any State, group or person any right to perform any act aimed at undermining the purposes and principles of ASEAN, or at the destruction of any of the rights and fundamental freedoms set forth in this Declaration and international human rights instruments to which ASEAN Member States are parties.

Adopted by the Heads of State/Government of ASEAN Member States at Phnom Penh, Cambodia, this Eighteenth Day of November in the Year Two Thousand and Twelve, in one single original copy in the English Language.

PHNOM PENH STATEMENT ON THE ADOPTION OF THE ASEAN HUMAN RIGHTS DECLARATION (AHRD)

WE, the Heads of State/Government of the Member States of the Association of Southeast Asian Nations (ASEAN), on the occasion of the 21st ASEAN Summit in Phnom Penh, Cambodia;

REAFFIRMING ASEAN's commitment to the promotion and protection of human rights and fundamental freedoms as well as the purposes and the principles as enshrined in the ASEAN Charter, including the principles of democracy, rule of law and good governance;

REITERATING ASEAN and its Member States' commitment to the Charter of the United Nations, the Universal Declaration of Human Rights, the Vienna Declaration and Programme of Action, and other international human rights instruments to which ASEAN Member States are parties as well as to relevant ASEAN declarations pertaining to human rights;

ACKNOWLEDGING the importance of the role of the ASEAN Intergovernmental Commission on Human Rights (AICHR), as the overarching institution responsible for the promotion and protection of human rights in ASEAN, that contributes towards the building of a people-oriented ASEAN Community and as a vehicle for progressive social development and justice, the full realization of human dignity and the attainment of a higher quality of life for ASEAN peoples;

COMMENDING AICHR for developing a comprehensive declaration on human rights, in consultation with ASEAN Sectoral Bodies and other relevant stakeholders;

ACKNOWLEDGING the meaningful contribution of ASEAN Sectoral Bodies and other relevant stakeholders in the promotion and protection of human rights in ASEAN, and encourage their continuing engagement and dialogue with the AICHR;

DO HEREBY:

1. **ADOPT** the ASEAN Human Rights Declaration (AHRD);
2. **AFFIRM** our commitment to the full implementation of the AHRD to advance the promotion and protection of human rights in the region; and
3. **REAFFIRM** further our commitment to ensure that the implementation of the AHRD be in accordance with our commitment to the Charter of the United Nations, the Universal Declaration of Human Rights, the Vienna Declaration and Programme of Action, and other international human rights instruments to which ASEAN Member States are parties, as well as to relevant ASEAN declarations and instruments pertaining to human rights.

DONE at Phnom Penh, Kingdom of Cambodia, this Eighteenth Day of November in the Year Two Thousand and Twelve, in a single original in the English language.

For Brunei Darussalam:
HAJI HASSANAL BOLKIAH
Sultan of Brunei Darussalam

For the Kingdom of Cambodia:
SAMDECH AKKA MOHA SENA PADEI TECHO HUN SEN
Prime Minister

For the Republic of Indonesia:
SUSILO BAMBANG YUDHOYONO
President

For the Lao People's Democratic Republic:
THONGSING THAMMAVONG
Prime Minister

For Malaysia:
DATO' SRI MOHD NAJIB TUN ABDUL RAZAK
Prime Minister

For the Republic of the Union of Myanmar:
U THEIN SEIN
President

For the Republic of the Philippines:
BENIGNO S. AQUINO III
President

For the Republic of Singapore:
LEE HSIEN LOONG
Prime Minister

For the Kingdom of Thailand:
YINGLUCK SHINAWATRA
Prime Minister

For the Socialist Republic of Viet Nam:
NGUYEN TAN DUNG
Prime Minister



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