

**INDONESIA'S NGO COALITION FOR INTERNATIONAL HUMAN RIGHTS
ADVOCACY (HUMAN RIGHTS WORKING GROUP – HRWG)**

**Submission on ASEAN Human Rights Declaration (AHRD) based on Constitutions
of ten ASEAN Member States**

26 April 2012

GENERAL PRINCIPLES

Article 1

All persons are born free and equal in dignity¹ and rights. They are endowed with reason and conscience and should act towards one another in a spirit of humanity.

Article 2

Every person is entitled to the rights and freedoms without distinction of any kind, such as race, colour, ethnicity, descent, sex, gender identity and sexual orientation, age, language, religion, political or other opinion, national or social origin, economic status, birth, disability or other status. No one shall be discriminated against, by any public authority or any third parties, on any grounds.²

Article 3

All persons have the right to recognition everywhere as a person before the law. All persons are equal before the law and are entitled without any discrimination to equal protection of the law.³

Article 4

All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.⁴

Article 5

Every person whose human rights have been violated has the right to an effective and enforceable remedy, to be determined by a court or other competent authorities.⁵

CIVIL AND POLITICAL RIGHTS

Article 6

Every person has an inherent right to life. No one may be arbitrarily deprived of this right.⁶

Article 7

Every person has the right to personal liberty and security. No one shall be subject to arbitrary arrest, search or detention.⁷

Article 8

No one shall be held in slavery, servitude, forced labour or be subjected to human smuggling or trafficking.⁸

Article 9

No one shall be subjected to torture or to other cruel, inhuman or degrading treatment or punishment.⁹

Article 10

Every person has the right to freedom of thought, conscience, and free practice of religion or belief.¹⁰

Article 11

Every person has the right to freedom of opinion and expression.¹¹

Article 12

Every person has the right to freedom of peaceful assembly and association.¹²

Article 13

Every person has the right to seek, receive and impart information of all kinds, whether orally, in writing or through any other media of his or her choice, in accessible formats, regardless of geographical boundaries.¹³

Article 14

Every person has the right to freedom of movement and residence within the borders of each Member State. Every person has the right to leave any country including his or her own, and to return to his or her country.¹⁴ Aliens have the right to be treated humanly and to be protected from dangers, including forced return to a situation of persecution, serious human rights violation, armed conflict or violence.

Article 15

Every person has the right to seek asylum in another country in order to escape persecution. No one shall be forcibly returned or transferred to a place where he or she may face persecution, torture, enforced disappearance or other serious human right violations.¹⁵

Article 16

Every person has the right to a nationality. No one shall be arbitrarily deprived of his or her nationality or be denied the right to change his or her nationality.¹⁶ Statelessness shall be overcome through national and international cooperation.

Article 17

Every person has the right to establish a family. No such relationship shall be entered into without the free, informed and full consent of both parties and there shall be no limitation due to race, nationality, religion or beliefs.¹⁷

Article 18

Every person charged with a criminal offence has the right to be presumed innocent until proven guilty, based upon guarantees for due process of law including the right to be defended by counsel of his or her choice.¹⁸

Article 19

No one shall be held guilty of any criminal offence on an 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.¹⁹

Article 20

Every person has the right to a fair trial that affords adequate procedural guarantees before a competent, independent and impartial court that have been constituted by law to hear any criminal charge against him or her.²⁰

Article 21

No one shall be liable to be tried or punished again for an offence for which he or she has already been finally convicted or acquitted.²¹

Article 22

No one shall be subjected to arbitrary interference with his or her privacy, family, home or correspondence. Every person has the right to the protection of the law against such interference or attacks.²²

Article 23

Every person shall have the right to participate freely in the government of his or her country, either directly or through freely chosen representatives in accordance with the provisions of the law.²³

Article 24

Every person shall have the right to vote or to be elected in periodic elections, which should be by universal and equal suffrage and by secret ballot, guaranteeing the free expression of the will of the electors.²⁴

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Article 25

Every person has the right to work, to free choice of employment, to enjoy just and favourable conditions of work and to protection against unemployment on the basis of

international standards.²⁵ Every person, without any discrimination, has the right to work, which ensures:

- (a) Equal pay for equal work;
- (b) Safe and healthy working conditions;
- (c) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay.²⁶

All persons have the right to form trade unions and join the trade union of their choice for their protection.²⁷

All children and young persons should be protected from economic exploitation and from being forced to perform any work that is likely to undermine their education or be hazardous or harmful to the child's health or physical, mental, spiritual, moral or social development.

Article 26

All persons shall have the right to social security, including social insurance, protecting them from the consequences of old age and of disability which prevents him or her, physically or mentally, from securing the means for a dignified and decent existence.²⁸

Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.²⁹

Article 27

Every person has the right to own, use, dispose of and give his or her lawfully acquired possessions alone or in association with others.³⁰

Article 28

No one shall be deprived of their property on arbitrary grounds.³¹

Article 29

All persons have the right to an adequate standard of living for themselves and their family including:³²

- (a) The right to adequate and affordable food, free from hunger and access to safe and nutritious food, in particular in times of emergency;
- (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 security in the event of unemployment, sickness, disability, death of spouse, old age or other lack of livelihood in circumstances beyond their control;
- (f) The right to safe drinking water and sanitation.
- (g) The right to a safe and clean environment

This will be realized progressively to the maximum extent of the State's available resources, and through international assistance and cooperation.

Article 30

Every person has the right to the enjoyment of the highest attainable standard of physical, mental and reproductive health, to free basic health-care services, and to have access to medical facilities without discrimination of any kind.³³

Article 31

Every person has the right to the enjoyment of the highest attainable standard of physical, mental and reproductive health, to free basic health-care services, and to have access to medical facilities without discrimination of any kind.³⁴

Article 32

Every person has the right to education.³⁵ Primary education shall be compulsory and free and secondary education shall be free. Education on and for human rights shall be promoted.

Education shall be directed to the full development of the human personality and the sense of its dignity, and to the strengthening of respect for human rights and fundamental freedoms. It shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations, racial or religious groups, and for the maintenance of peace.

Article 33

Every person has the right, individually or in association with others, to freely take part in the cultural life, to enjoy the arts and to enjoy 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 artistic production of which one is the author.³⁶

RIGHTS OF WOMEN, CHILDREN AND OTHER VULNERABLE GROUPS

Article 34

The human rights of women are an inalienable, integral and indivisible part of universal human rights. Member States shall undertake to ensure the equal rights of men and women³⁷ to the enjoyment of all the rights set forth in the present Declaration.

Article 35

Every child shall be entitled to the enjoyment of the human rights and fundamental freedoms recognized and guaranteed in the UN Convention on the Rights of the Child.³⁸

Article 36

Every elderly person has the right to special protection, including to lead a life of dignity and independence and to participate in civil, political, economic, social and cultural life.³⁹

Article 37

Everyone affected by a diminution of his physical or mental capacities is entitled to receive special attention designed to help him achieve the greatest possible development of his

personality. States shall promote, protect and ensure the full realization and equal enjoyment of all human rights and fundamental freedoms by persons with disabilities. States shall promote respect for their inherent dignity and individual autonomy. States shall consult and involve them with respect to decision-making processes concerning issues related to persons with disabilities.⁴⁰

Article 38

All persons belonging to national or ethnic, religious and linguistic minorities have the right to enjoy their own culture, to profess and practice their own religion or belief, and to use their own language, in private and in public, freely and without interference or any form of discrimination.⁴¹

Article 39

Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms⁴² as recognised in this Declaration.

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- ¹Cambodia (Art. 38); Indonesia (Art. 28G(1)); Myanmar (Art. 44); Philippines (Arts. II(11), XIII(1)); Thailand (Arts. 4, 28); Viet Nam (Art. 71).
- ²Cambodia (Art. 31); Indonesia (Art. 28(I)(2)); Malaysia (Arts. 8(2), (3), (4)); Myanmar (Art. 348); Singapore (Art. 12(2)).
- ³Cambodia (Art. 31); Indonesia, (Arts. 27(1), 28(D)(1)); Malaysia (Art. 8(1)); Myanmar (Art. 347); Singapore (Art. 12(1)); Thailand (Art. 30).
- ⁴Indonesia (Art. 28G(1)); Myanmar (Art. 44); Philippines (Arts. II(11), XIII(1)); Thailand (Arts. 4, 28, 32); Viet Nam (Art. 71).
- ⁵Cambodia (Art. 39); Lao PDR (Art. 41); Philippines (Art. III(12)(4)); Thailand (Arts. 28, 59, 60); Viet Nam (Art. 74).
- ⁶Cambodia (Arts. 32, 38, 48); Indonesia (Art. 28(A)); Malaysia (Art. 5(1)); Myanmar (Art. 353); Philippines (Art. III(1)); Singapore (Art. 9(1)); Thailand (Art. 32); Viet Nam (Art. 71).
- ⁷Cambodia (Art. 32); Lao PDR (Art. 42); Malaysia (Art. 5); Myanmar (Art. 353); Philippines (Art. III(1)).
- ⁸Indonesia (Art. 28(I)(1)); Malaysia (Art. 6); Myanmar (Arts. 358, 359); Philippines (Art. III(18)(2)); Singapore (Art. 10); Thailand (Art. 38).
- ⁹Cambodia (Art. 38); Indonesia (Arts. 28(G)(2), (I)(1)); Philippines (Arts. III(12)(2), III(19)(1),(2)); Thailand (Art. 32); Viet Nam (Art. 71).
- ¹⁰Brunei Darussalam (Art. 3(1)); Cambodia (Art. 43); Indonesia (Arts. 28(E)(1), 29); Lao PDR (Art. 43); Malaysia (Art. 11); Myanmar (Art. 354); Philippines (Art. III(5)); Singapore (Art. 15); Thailand (Art. 37); Viet Nam (Art. 70).
- ¹¹Cambodia (Art. 41); Indonesia (Arts. 28, 28(E)(2), (3)); Lao PDR (Art. 44); Malaysia (Art. 10(1)(a)); Myanmar (Art. 354(a)); Philippines (Art. III(4)); Singapore (Art. 14(1)(a)); Thailand (Arts. 36, 45, 46); Viet Nam (Art. 69).
- ¹²Cambodia (Arts. 37, 41, 42); Indonesia (Arts. 28, 28(E)(3)); Lao PDR (Art. 44); Malaysia (Arts. 10(1)(b), (c)); Myanmar (Art. 354(b), (c)); Philippines (Arts. III(4), III(8)); Singapore (Arts. 14(1)(b), (c)); Thailand (Arts. 63, 64); Viet Nam (Art. 69).
- ¹³Indonesia (Art. 28(F)); Philippines (Art. III(7)); Thailand (Arts. 56, 57); Vietnam (Art. 69).
- ¹⁴Cambodia (Art. 40); Indonesia (Art. 28(E)(1)); Lao PDR (Art. 40); Malaysia (Art. 9(2)); Myanmar (Art. 355); Philippines (Art. III(6)); Singapore (Art. 13(1)); Thailand (Art. 34); Viet Nam (Art. 68).
- ¹⁵Indonesia (Art. 28(G)(2)); Lao PDR (Art. 51); Viet Nam (Art. 82).
- ¹⁶Cambodia (Art. 33), Indonesia (Art. 28(D)); Malaysia (Art. 14); Myanmar (Art. 346); Philippines (Art. 4); Singapore (Art. 120); Thailand (Art. 34); Viet Nam (Art. 49).
- ¹⁷Cambodia (Art. 45); Indonesia (Art. 28(B)(1)); Viet Nam (Art. 64).
- ¹⁸Cambodia (Art. 38), Myanmar (Art. 375), Philippines (Arts. III(12)(1), III (14)(2)); Thailand (Arts. 39, 40(7)); Viet Nam (Art. 72).
- ¹⁹Indonesia (Art. 28(I)(1)); Malaysia (Art. 7(1)); Myanmar (Art. 373); Singapore (Art. 11(1)), Thailand (Art. 39).
- ²⁰Cambodia (Art. 38); Indonesia (Art. 24(1)); Lao PDR (Arts. 82, 83); Malaysia (Art. 7); Myanmar (Arts. 373, 374, 375); Philippines (Arts. III(12)(3), III(13), (14), (16), (17), (21), (22)); Singapore (Art. 11); Thailand (Arts. 40, 197); Viet Nam (Arts. 72, 130, 132, 133).
- ²¹Lao PDR (Arts. 82, 83); Malaysia (Art. 7(2)); Myanmar (Art. 374); Philippines (Art. III(12)(1)); Singapore (Art. 11(2)); Thailand (Arts. 40, 197); Viet Nam (Arts. 72, 130, 131, 132, 133).
- ²²Cambodia (Art. 40); Lao PDR (Art. 42); Myanmar (Art. 357); Philippines (Arts. III(2), III(3)(1)); Thailand (Arts. 33, 35); Viet Nam (Art. 73).
- ²³Cambodia (Art. 35); Philippines (Arts. V, XII(16)); Thailand (Arts. 58, 87).
- ²⁴Cambodia (Art. 34); Indonesia (Art. 22(E)), Lao PDR (Arts. 4, 36); Myanmar (Arts. 38, 369); Thailand (Art. 87(5)); Vietnam (Art. 54).
- ²⁵Cambodia (Art. 36); Indonesia (Arts. 27(2), 28(D)(2), 28(E)(1)); Lao PDR (Art. 39); Myanmar (Art. 349(b)); Philippines (Art. II(18)); Thailand (Art. 43); Viet Nam (Arts. 55, 56).
- ²⁶Cambodia (Art. 36); Indonesia (Art. 28(D)(2)); Lao PDR (Art. 39); Myanmar (Art. 350); Thailand (Art. 44); Philippines (Art. XIII(3)).
- ²⁷Cambodia (Art. 36).
- ²⁸Cambodia (Arts. 36, 75); Indonesia (Arts. 28(H)(3), 34(2)); Lao PDR (Art. 28).
- ²⁹Cambodia (Art. 46).

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- ³⁰ Cambodia (Art. 44); Indonesia (Arts. 28(G)(1), 28(H)(4)); Lao PDR (Arts. 16, 17); Malaysia (Art. 13); Myanmar (Art. 372); Philippines (Art. III(1)); Thailand (Arts. 41, 42); Viet Nam (Arts. 23, 58).
- ³¹ Cambodia (Art.44); Malaysia (Art.13); Philippines (Art. III(1)); Thailand (Art.41, 42); Vietnam (Art. 23, 58); Indonesia (Art. 28 (G), (I), 28 (H)(4).); Lao PDR (Art. 16,17).
- ³²Indonesia (Arts. 28(C)(1), 28(H)(1)); Philippines (Art. XIII(9)).
- ³³ Cambodia (Art. 72); Indonesia (Art. 28(H)(1), 34(3)); Myanmar (Art. 367); Philippines (Art. II(15)); Thailand (Art. 51); Viet Nam (Art. 61).
- ³⁴ Cambodia (Art. 72); Indonesia (Art. 28(H)(1), 34(3)); Myanmar (Art. 367); Philippines (Art. II(15)); Thailand (Art. 51); Viet Nam (Art. 61).
- ³⁵ Cambodia (Arts. 65, 66, 67, 68); Indonesia (Art. 28(C)(1), 28(E)(1), 31(1)); Lao PDR (Arts. 22, 38); Myanmar (Art. 366); Philippines (Arts. II(17), XIV(1), (2)); Singapore (Art. 16); Thailand (Art. 49); Viet Nam (Art. 59).
- ³⁶ Cambodia (Art. 35); Indonesia (Arts. 28(C)(1), 28(I)(3)); Lao PDR (Arts. 8, 23, 45); Myanmar (Arts. 354(d), 365, 366(c)); Viet Nam (Arts. 5, 60).
- ³⁷ Cambodia (Art. 45); Lao PDR (Art. 37); Myanmar (Art. 351); Philippines (Art. II(14)); Viet Nam (Art. 63).
- ³⁸ Cambodia (Art. 48); Indonesia (Art. 28(B)(2)); Lao PDR (Art. 29); Myanmar (Art. 351); Philippines (Art. XV(3)(2)); Thailand (Arts. 52, 80); Viet Nam (Art. 65).
- ³⁹ Lao PDR (Art. 39); Philippines (Art. XIII(11)); Thailand (Arts. 40(6), 53); Viet Nam (Art. 67).
- ⁴⁰ Cambodia (Art. 74); Lao PDR (Art. 28); Philippines (Arts. XIII(11), (13), XIV(2)(5)); Thailand (Arts. 40(6), 49, 54, 80); Vietnam (Art. 67).
- ⁴¹ Viet Nam (Art. 5).
- ⁴² Indonesia (Arts. 18(B)(2), 26(1), 28(I)(3)); Malaysia (Art. 161A(6)); Philippines (Arts. II(22), XIV(17)); Thailand (Art. 66).