

**EU-Southeast Asia CSOs Recommendations to the 4th EU-ASEAN Policy
Dialogue on Human Rights 2022
Jakarta, Indonesia**

On behalf of the CSOs^[1] that participated at the 2nd EU-Southeast Asia CSOs Forum held on October 21-22, 2022 in Jakarta, and in parallel with the 4th EU-ASEAN Policy Dialogue on Human Rights, we would like to express our gratitude to the EU-ASEAN Forum on Human Rights for the space and opportunity to engage in a dialogue with civil society representatives. We believe that this is proof of commitment for improved communication, coordination, and meaningful engagement between CSOs, ASEAN, and the EU to achieve our common aspiration to leave no one behind.

On this occasion, we hereby submit the following recommendations to strengthen human rights protection within the ASEAN and the EU. The recommendations are based on present and emerging challenges faced by human rights defenders and pro-democracy activists, and on recommendations submitted by CSOs at the EU-ASEAN Human Rights Dialogue in 2019. We request for the inclusion of the attached submission as part of the official meeting notes. In this light, we urge immediate steps to be taken, collectively with civil society organisations across both regions, towards the implementation and monitoring of our recommendations.

Present and Emerging Challenges

After the First EU-ASEAN Human Rights Dialogue with CSO in 2019, the socio-political and economic situations in the ASEAN and the EU have tremendously regressed. These were mainly brought about by the COVID-19 pandemic, climate crisis, and the rise of militarism and authoritarianism. With respect to critical security issues, the Russian invasion of Ukraine led by President Vladimir Putin has resulted in deaths and injuries of thousands of civilians. Since 1 February 2021, the attempted military coup in Myanmar has spurred a cross-regional political, human rights, and humanitarian crisis. As of this writing, more than 1,000,000 people have been displaced, with more than 2,000 civilians killed, and 15,000 arrested. The use of excessive force by police and military against civilians claiming their basic human rights and fundamental freedoms has been perpetuated with impunity across the region.

The COVID-19 pandemic has, indeed, aggravated the shrinking of civic spaces. Instead of meaningfully addressing challenges and needs of the vulnerable, authoritarian states have even accumulated more power by convoluting health emergencies and national security approaches. Numerous documents have revealed how COVID-19 was used as a pretext to adopt restrictive laws to curb access to information, justice, and basic services. State-sponsored disinformation and

misinformation were intensified. Dissenting opinions towards government pandemic measures were purged. Furthermore, measures to mitigate viral infection limited peoples' movement and participation in social, economic and political affairs. The proclivity towards securitized approaches has led ASEAN to further exclude civil society and neglect peoples' voices. This is in breach of the ASEAN Community Vision 2025, which aims to promote a people-centred and people-oriented regional community.

The climate crisis has led to the global health emergency, political upheavals, gross human rights violation, and humanitarian disasters. Climate change has disproportionately affected planetary health, which is closely linked with the health of its population and their ability to achieve their right to life. These have contributed to the uncertainty and instability of the future, particularly of those who live in fragile situations. In fact, Southeast Asia is already bearing the brunt of climate emergencies. Moreover, rising sea levels, flooding, and typhoons have tremendously increased more recently.

The current economic systems have perpetuated capitalist greed. Extractive industries have greatly contributed to multiple rights violations, particularly land grabbing. Moreover, they have put the lives of indigenous communities and environmental human rights defenders. With respect to climate action, communities' access to decision-making processes and participation remains virtually absent. As their concerns are neglected, this crisis continues to hinder State obligations to protect and fulfil human rights, Sustainable Development Goals (SDGs). Worse, more and more people have become vulnerable and disempowered.

Amidst these crises, communities with pre-existing intersectional vulnerabilities are further discriminated against and marginalised. Pandemic recovery plans have failed to meaningfully address the specific needs of women, youth, children, LGBTQIA+ communities, and persons with disabilities. Furthermore, conflicts and climate emergencies have forcibly displaced people, rendering many stateless and without protection.

The steady rise of militarism and authoritarianism has many lives at greater risk. Repressive laws and practices, both in offline and online spheres, have become dangerously normalised. These include systematic proliferation of censorship, harassment, arbitrary arrests, violence, misinformation, and state-sponsored propaganda. As of this writing, human rights and environmental rights defenders, pro-democracy activists, dissenters, children, youth, journalists, academics, LGBTQIA+ communities - historically marginalized based on their sexual orientation, gender identity & expression and sexual orientations and sex characteristics (SOGIESC) are finding themselves on the edge of uncertainty and danger.

These shared lived experiences have proven the urgent need to establish and sustain safe and brave transnational and cross-sectoral networks and solidarity. It is crucial for marginalised individuals and communities to meaningfully engage in multilateral advocacy on human rights, and intersectional issues that matter to them the most.

Recommendations

Building on the 2019 Consolidated Recommendations from the first EU-ASEAN CSO Forum, our key recommendation is for EU and ASEAN Member States (referred to as 'States') to develop policies, implement measures, and invest in programmes that are inclusive, non-discriminatory, participatory, and proportionate. These should promote greater accountability and sustainability in order to address issues related to public health emergencies, security and climate crises, and the rise of authoritarianism.

States should ensure that development programs, which are in line with international human rights standards and the UN Sustainable Development Goals (SDGs), are designed and implemented to fully advance inclusion, equality, dignity and justice in all corners of ASEAN and the EU.

Thematic Area 1: Pandemic & Post Recovery

Reflecting on the failure of the States in responding to the COVID-19 pandemic, the following are key recommendations to prepare States for, and protect communities from future health crises.

1. Policy, Governance and Mechanisms

- States must take measures that prevent disproportionate impacts of future crises on vulnerable groups. Moreover, no one should be denied social protection based on their nationality, citizenship, disability, and migration status.
- AMS should transition from a security approach to rights-based responses and recovery measures for future health crises.
- States must develop policies that prevent exploitation of workers, including migrant workers. Policies and frameworks must allow migrant workers, refugees, asylum seekers, those at risk of being stateless and their families to fully enjoy health services and social protection.

2. Access

- States must guarantee the right to health (physical and mental health) without any discrimination.

- States must ensure that resources and services are adequately accessible and affordable to vulnerable groups, both online and offline, so that they can enjoy their rights and freedoms amid present and future health crises.
- AMS must provide accessible and reliable information in accessible formats, such as, in braille, audio description, sign language, captioning, and easy read.
- AMS must provide legal frameworks ensuring compliance by the private sector, with regards to fulfilling their obligations to the fulfilment of the right of access to information.

3. Participation and Collaboration

- States must ensure active and meaningful participation of vulnerable groups, including women, LGBTQIA+ communities, youth, elderly, indigenous people, children, people with disabilities, migrants, refugees, asylum seekers, people at risk of statelessness and CSOs representing them in all stages of policy making processes in responding to and recovering from future health crises.
- States must collaborate with CSOs to build community preparedness, response, and resilience against future shocks underpinned by human rights.
- States must ensure that policies, regulations, and measures, including campaigns to address health crises do not perpetuate stigmatisation, discrimination, and xenophobia against vulnerable groups.

4. Data and Knowledge

- States must reflect on past and existing COVID-19 pandemic responses and recovery policies in order to attain more robust and rights-based policies for future health crises.

Thematic Area 2: Militarism and Authoritarianism

Reflecting on the serious threat of shrinking civic space amidst the rise of militarism and authoritarianism, with stark repression of freedom of expression, thoughts, assembly, association, and religion—both offline and online, the following are key recommendations to be implemented by States:

1. Policy, Governance and Mechanisms

- States should repeal laws and policies that criminalise, persecute, and/or prosecute human rights and environmental rights defenders, and adopt legislation and policies to ensure full protection of their rights and freedoms.

- States should enact legislation and policies prohibiting all forms of discrimination and violence against human rights and environmental rights defenders, women, religious minorities, and non-believers, and LGBTQIA+ persons, as well as repeal laws and policies that criminalise or persecute people on the basis of their gender, sexuality and religious or beliefs.
- States should ensure that the domestic and cross-regional efforts to counter extremism and terrorism shall not undermine the protection and fulfilment of human rights and fundamental freedoms. Policies and measures should be in accordance with international human rights norms and standards.
- ASEAN should recognize all human rights related to sexual orientation, gender identity and expression and sex characteristics (SOGIE-SC). Efforts must be in accordance with international norms and standards, particularly the Yogyakarta Principles. States must object to any propaganda accusing any LGBTQIA+ person as a threat to national security and public morality. Laws and policies that criminalise anyone on the basis of SOGIE-SC must be repealed.
- States must actively collaborate to end all forms of stigmatisation and discrimination against refugees, asylum seekers, and those who forcibly fled from military conscription and participation in war efforts. The principle of *non-refoulement* must be upheld.
- States should reform the security sector, and strengthen judicial oversight leading to the eradication of impunity. Excessive abuse of power by law enforcement agencies must be .
- AMS should expedite the formation of the Panel of Experts mandated to review AICHR's Terms of Reference. This process must enable the advancement of the AICHR's protection mandate, which includes investigation of alleged human rights violations.

On specific political crisis issues in Myanmar:

- ASEAN and EU must recognize and engage with the National Unity Government (NUG) as the legitimate elected government of Myanmar and refrain from engaging, both formally and informally, with Myanmar military in regional and international fora.
- ASEAN and EU must discuss scenarios beyond the Five-Point Consensus on Myanmar with the view of developing alternative plans with clear benchmarks and time-bounded indicators for success.
- The EU should continue to impose and expand targeted economic sanctions against the Military Junta. This includes freezing assets owned by military leaders, their families, and proxies.

- ASEAN and the EU must reject the junta's proposed elections designed to justify continued military rule and to illegally replace the outcome of the November 2020 election.
- ASEAN and EU must work innovatively in cooperation with affected communities to ensure a rights-based and sustainable response to the humanitarian crisis which has serious implications on regional human security.
- ASEAN and EU must halt and avoid refoulement of migrants, asylum-seekers and those fleeing armed conflict and crackdowns in Myanmar.
- ASEAN and the EU must ensure that the plight of Rohingyas is not forgotten. They must collectively work towards achieving justice and accountability, by aligning strategies with existing international efforts. They must continue to explore and forge long term solutions to systemic barriers and root causes.

On the situation in Ukraine:

- The EU and its Member States must step up their efforts to end the invasion and take measures to lasting peace in Ukraine.
- ASEAN and EU must impose arms embargo on Russia, a member of the ASEAN+8, and refrain from engaging with the country and its allies.
- In the spirit of solidarity, ASEAN and its Member States must collectively condemn the atrocities targeted against those living in Ukraine and being affected by the invasion, and most importantly voice its acknowledgement of Ukraine's sovereignty as an independent state.
- ASEAN and EU must align with the UN mechanism to collectively address the crisis in Ukraine.

2. Access

- AMS must end the use of registration status of CSOs, which prevents organisations from accessing and using funds, as well as fully conducting human rights activities in a safe, brave, and secure manner.
- States must not limit access to and restrict the distribution of humanitarian aid.
- The EU, ASEAN and its other development partners must recognize and address the structural discrimination and power imbalance in aid and funding delivery system; and commit to foster meaningful collaboration with civil society organisations to tackle this problem as a form of collective responsibility.
- ASEAN and EU must recognize and put more value on local and indigenous expertise on delivering aid.

3. Participation and Collaboration

- States must strengthen the mechanism of engagement between civil society beyond the imposition of consultative status.
- States should help foster healthy and brave civic spaces by ensuring civil society organisations can operate without undue burdens. This includes the eradicating mandatory registration and measures that limit access to funding.

4. **Data and Knowledge**

- ASEAN and EU must conduct cross-regional collaborations to strengthen the protection of personal data in the region. Efforts must be in accordance with standards set by the EU General Data Protection Regulation.
- To ensure the guarantee for academic and press freedoms, States must not warrant the imposition of censorship, the limitation of access to information, and the criminalisation of the works of academia, journalists, and civil society.

Thematic Area 3: Climate Crisis

Climate change is, without a doubt, a human rights violation and threat, with cross-border causes and consequences. Thus, it requires global, transnational, and transregional responses, underpinned by international and multilateral solidarity. Efforts to address the climate crisis must be based on the principles of transparency, accountability, inclusivity, meaningful participation, and respect for human rights. These principles should underlie the tone and behaviour of how the recommendations are carried out. For the longest time, highly industrialised countries have contributed the most to global warming, and yet, developing nations are the ones who continue to experience the adverse impacts of the climate crisis.

1. **Policy, Governance & Mechanism**

- EU Member States should step up and fulfil their commitment to finance climate actions in developing countries by compensating for loss and damages, particularly for poor and vulnerable countries to build resilience against the impacts of climate change.
- AMS should strengthen social protection systems in light of addressing climate impacts.
- AMS must ensure that the climate fund received is administered with transparency to promote greater accountability and reaches the intended beneficiary communities and groups monitored by CSOs.
- States must acknowledge and respond to the particular needs of those facing heightened vulnerability as a result of conflict and COVID-19.
- States must fully protect the rights and security of environmental human rights defenders, journalists, and whistle blowers, ensure the

prosecution of the perpetrators of any violation and the rights to remedy and reparation for victims. Transnational support mechanisms should be ensured.

- States must promote progressive shifts towards green jobs, while also creating an enabling environment by transforming the educational and societal systems.
- States must promote just energy transitions that include procedural, distributional, recognition-based, remedial justice with a people-centred approach. This approach entails the provision of decent jobs and worker protection; social and economic development; equity, social inclusion, and fairness; and puts people as active participants.
- States must promote phasing out the use of fossil fuel. Efforts must lead towards green and sustainable energy.
- States must promote stronger implementation of the UN Guiding Principles on Business and Human Rights (UNGPs), SDGs framework and environmental, social and governance (ESG) principles by enterprises to create an enabling mechanism for the protection of human rights and the environment.

2. Access

- States must guarantee access to various climate finance schemes for local CSOs and communities.
- States must ensure that climate assistance is given in ways that are adequate, effective, and transparent. It should be administered through participatory, accountable, and non-discriminatory processes, and be targeted toward persons and groups who are most in need.
- States must ensure that the environmental-related documents, research, data, languages, and jargon are adapted to the local context, translated into easy-to-understand language, to be disseminated widely. Efforts should aim at increasing knowledge and understanding on the urgency of the climate crisis and its impacts on human rights.
- States must promote environmental-related information through formal and informal education.

3. Participation and Cooperation

- States must ensure active and meaningful participation of vulnerable groups, including women, elderly, indigenous people, youth, children, people with disabilities, LGBTQIA+, conflict-affected people, and CSOs representing them in all stages of climate mitigation, disaster risk reduction and management (DRRM) and climate change adaptation (CCA) policy making processes.
- States should ensure an enabling environment for CSOs to establish and sustain inclusive transnational and transregional networks.

4. Data and Knowledge

- States must integrate local wisdom and knowledge to inform climate adaptation and mitigation policies at all levels. Efforts must always be supported by solid data and analysis.
- States should collect and publish sex-, gender-, age-, ethnicity-, ability-disaggregated climate change and disaster impact database to support policy planning, implementation, and evaluation. These categorisations are non-exhaustive with due regard to the intersectionality of climate impacts.

[1] The CSOs are representing ASEAN SOGIE Caucus, Asia Justice & Rights (AJAR), ASEAN Disability Forum (ADF), CIVICUS: World Alliance for Citizen Participation, FORUM ASIA, Initiatives for International Dialogue (IID), Human Rights Working Group (HRWG) Indonesia, Strengthening Human Rights and Peace Research and Education in ASEAN/Southeast Asia (SHAPE-SEA), Suara Rakyat Malaysia (SUARAM), Minority Rights, Christian Solidarity Worldwide (CSW), Raoul Wallenberg Institute of Human Rights and Humanitarian Law (RWI), Child Rights Coalition Asia (CRC Asia), Centre for Strategic and International Studies, Islamic Renaissance Front (IRF), ALTSEAN-Burma, Malaysian Confederation of the Disabled (MCD), National Council for the Blind Malaysia, Thailand Association of the Blind, and Disability Mainstreaming Advisory Service Centre.