



[Press Release] AICHR should adopt a significantly more comprehensive ASEAN Declaration on Environmental Rights

JAKARTA, Indonesia, 7 Mei 2024 – The Asian Forum for Human Rights and Development (FORUM-ASIA), Raoul Wallenberg Institute of Human Rights and Humanitarian Law (RWI), and Strengthening Human Rights and Peace Research and Education in ASEAN/Southeast Asia (SHAPE-SEA) are calling for the ASEAN Intergovernmental Commission on Human Rights (AICHR) and ASEAN Environmental Rights Working Group (AERWG) to adopt a significantly more comprehensive declaration on environmental rights.

This call was expressed through a [joint consolidation output](#) generated from a regional consultation with various civil society organisations (CSOs) working on environmental rights and its intersectionality conducted on 18 to 19 April 2024 in Jakarta.

The AICHR and AERWC are set to discuss the development of the ASEAN declaration on environmental rights on 6 to 8 May 2024. We urge them to take our concerns and recommendations into careful consideration.

Lack of compliance with international human rights standards and principles

The declaration's current draft does not meet international standards in comparison with existing regional environmental rights instruments, such as the Aarhus Convention and Escazu Agreement.

In addition, the draft does not explicitly require ASEAN Member States to comply with relevant international human rights treaties and other non-binding agreements related to environmental rights. The draft only mentions ASEAN regional standards such as the ASEAN Human Rights Declaration, a document that civil society has criticised for falling below international standards.

The draft also lacks affirmation to human rights principles, particularly that of equality, non-discrimination, transparency, and accountability which are crucial to guiding any subsequent implementation documents.

Lack of clarity and definition on terminology

The draft lacks clear definitions that can be used as a regional standard setting for environmental rights protection. For example, under Article 28 (1), the term 'large-scale' refers to activities that require an environmental impact assessment. However, the draft lacks clear parameters for what constitutes 'large.' Furthermore, Article 29 uses the phrase 'relevant to their age and circumstance' in prescribing children and youths' right to environmental rights education. This is ambiguous as it may be interpreted to exclude people of certain ages and circumstances from receiving environmental education.

Weak obligation from ASEAN Member States and corporations

The draft does not specifically acknowledge the fact that ASEAN Member States are increasingly perpetrating environmental rights violations.

Several articles related to obligations are followed by conditional clauses such as 'when appropriate' or 'with appropriate standards' which are ambiguous and open to multiple interpretations, thereby potentially allowing authoritarian governments to misuse such loopholes.

The document also lacks a sense of urgency, which is essential for communicating the ASEAN Member States' strong commitment to addressing environmental rights issues in the region.

Likewise, the draft does not extend obligations for environmental rights protection to the private sector.

No recognition for Indigenous Peoples and Environmental Rights Defenders

The draft does not recognise protection for environmental rights defenders, indigenous peoples, and affected communities.

For example, Articles 21 and 22 do not include 'environmental human rights defenders' or even 'human rights defenders' in its section on recognition and protection.

Article 17—which addresses the right of free, prior and informed consent (FPIC) for activities that are likely to impact surrounding communities—excludes any reference to indigenous peoples’ rights to FPIC. This is ironic given the fact that indigenous people are often involved in land disputes resulting from both the public and private sectors’ arbitrary use of indigenous land.

Lack of clarity on the cooperation among ASEAN bodies and member states on implementation

The draft does not include any plans on how ASEAN Member States, ASEAN dialogue partners, and relevant ASEAN bodies—under the Political-Security Community, the Economic Community, and the Socio-Cultural Community—will cooperate in terms of implementing, monitoring, and reviewing the Declaration and its subsequent action plans.

Call to action

For ASEAN to fulfil its commitment to environmental rights—particularly on the right to a safe, clean, and sustainable environment as well as the right to development—it must strengthen the language it uses to prescribe obligations for member states.

In order for the draft declaration to achieve its goal of ensuring maximum protection for environmental rights, there is a need for an extended consultation process with CSOs and the general public.

Such consultations should be thoroughly inclusive, especially among indigenous peoples who have been historically impacted the most by the inadequate fulfilment of environmental rights.

Given Southeast Asia’s vulnerability to the impacts of climate change and natural disasters, it is crucial for ASEAN to adopt a stronger, more inclusive, and genuinely participatory regional environmental rights instrument that does not overlook the situation and specific needs of the most affected individuals and communities.

We call on the AICHR and all ASEAN Member States to heed to the abovementioned suggestions made by CSOs.

We urge the AICHR and ASEAN Member States to prove that their commitment to fulfil environmental rights goes beyond statements. To do this, they must create a significantly more comprehensive declaration.