

Declaration of the Basic Duties of ASEAN Peoples and Governments

INSPIRED by Asian reverence for human life and dignity which recognizes in all persons basic individual and collective rights, rights that it is the duty of other persons and of governments to respect;

MOVED by the wretchedness, the hunger, the pain, the suffering and the despair which engulf untold millions of Asians;

AWARE that these inhuman conditions are neither predestined, inevitable nor irremediable, but are mainly caused by the failure to recognize, or the refusal to collective rights of Asian peoples;

CONVINCED that these conditions prevent or retard the transformation of social, cultural, economic and political institutions that denigrate human life and dignity, and retard the development of Asian peoples; and

DEPLORING the failure of most Asian governments to ratify the International Covenants on Human Rights and their protocols, and to provide effective machinery for their implementation;

The REGIONAL COUNCIL ON HUMAN RIGHTS IN ASIA adopts this Declaration of the Basic Duties of ASEAN Peoples and Governments, and urges all governments and peoples of the Region to incorporate these duties in their national constitutions and laws, and to faithfully implement and enforce them forthwith.

Article I. Basic Principles

1. It is the duty of every government to insure and protect the basic rights of all persons to life, a decent standard of living, security, dignity, identity, freedom, truth, due process of law, and justice; and of its people to existence, sovereignty, independence, self-determination, and autonomous cultural, social, economic and political development.

2. In particular, it is the duty of every government to respect, implement, enforce, guarantee, preserve and protect, at all times, the following fundamental liberties and rights of the people and ensure that such rights and liberties are incorporated in its national constitution beyond impairment or abridgement by statute or executive action:

2.0.1 The rights to life, liberty and security of person;

2.0.2 The right to freedom from torture, cruel, inhuman and degrading treatment or punishment;

2.0.3 The right to equal protection before the law, equality before the law and to an independent and impartial judiciary;

2.0.4 The right to freedom from arbitrary arrest, detention, exile, search or seizure;

2.0.5 The right to freedom of movement and residence;

2.0.6 The right to freedom of thought, conscience and religion;

2.0.7 The right to freedom of opinion and expression;

2.0.8 The right to freedom of assembly and association;

and the other rights and freedoms of individuals and of peoples set forth in:

The Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, and the International Covenant on Social, Economic and Cultural Rights;

All Declarations of the General Assembly of the United Nations on particular human rights, such as, for example, the right of peoples to self-determination, the rights of women, of children, of the disabled, and of refugees, freedom from genocide, freedom from racial discrimination, and freedom from torture;

The Declaration and Action Program for the Establishment of a New International Economic Order and the Charter of Economic Rights and Duties of States;

International humanitarian law, including the protocols to the Geneva Conventions of 1949

ILO Conventions, particularly those on the rights of workers to self-organization and collective bargaining;

The bill of rights of its own national constitution and laws, including customary law, when said rights are broader in scope than the basic rights recognized in international instruments; and

This Declaration.

It is likewise the duty of every government to ratify the International Covenant on Human Rights and their protocols, of the United Nations.

3. It is the duty of all individuals and peoples to exercise their rights and freedoms in the spirit of human solidarity, respecting and defending the rights and freedoms of others. It is likewise the duty of the all individuals and peoples to assert, defend and protect their sovereignty, to preserve and enhance their culture and identity, to develop and use their native talents, abilities and resources for the betterment of society, to respect and obey the laws which accord with this Declaration, and to denounce and resist persistent violations of their basic rights and freedoms.

4. The specification of a duty in this Declaration dose not preclude the existence of other duties.

Article II. Peace

1. It is duty of all governments and all peoples to strive actively and continuously for peace. Since social injustices frequently lead to breaches of peace, internally and externally, it is the duty of governments to promote and enhance social justice both within their countries and internationally. While recognizing that, given present conditions, every country has the right to equip itself for defense against aggression, it is nonetheless the duty of government to refrain from excessive military spending. In times of peace, military expenditures for education or health.

2. It is the duty of governments to transform Asia into a region of peace and neutrality. In particular, it is their duty to abstain from alignment with any power bloc, to eliminate military entanglements with foreign powers, to abstain from military adventures, to ban foreign military bases and troops

from their land, to refrain from developing, storing or using nuclear, biological or chemical weapons, and to bar the use of their oceans and sea lanes to armed vessels of foreign powers.

3. It is likewise the duty of all governments and of all peoples to strive towards general and complete disarmament.

Article III. Independent Development

1. It is the duty of government to insure the autonomous political, economic social and cultural development of its people. In particular, it is the duty of government, by the appropriate use and development of indigenous or foreign technology, to achieve the optimum and, just use of domestic resources in order to meet the basic needs of the people and to ensure an improvement in their quality of life, in accordance with goals and processes freely chosen or approved by the people themselves.

2. It is the duty of government to eliminate all forms and consequences of foreign control or domination in the political, economic, social and cultural life of the nation. It is likewise the duty of government to eliminate the domination of the economy or any sector thereof by domestic monopolies or conglomerates, whether private or state owned. In particular, it is the duty of government:

(a) To control the activities of transnational corporations and other foreign and domestic investors to prevent exploitation of the people and to ensure that such activities contribute to the development of the nation and the equitable distribution of wealth and income among the different social classes;

(b) To reject all forms of aid or loans that impair national sovereignty, foster dependence on foreign capital, or create or aggravate social inequality; and

(c) To place under social control strategic industries or economic activities vital to the attainment of national development plans and goals chosen or approved by the people, such as energy production, telecommunications and public transport.

3. It is the duty of government and of the people to judiciously manage and use the nation's natural resources to preserve them for future generations, to prevent environmental and atmospheric degradation, to prevent monopolies of genetic pools of plants and animals, and to preserve and foster indigenous species.

4. It is the duty of government to eradicate nepotism, favoritism, corruption, and waste in public life. It is the duty of government officials to lead a simple and modest life, and to set an example of impartiality, integrity and service to the people.

5. It is the duty of all persons to refrain from wasteful or conspicuous consumption and ostentatious display of wealth and power.

Article IV. People's Participation

1. It is the duty of government to respect and promote the right of the people freely to participate directly at all levels of social, political and economic decision-making, to ensure that the people are provided with the information needed to make informed decisions, and to encourage the

organizations or movement at local, regional and national levels, rather than creating or supporting its own organizations. Government may not, directly or indirectly, compel the people to join any organization.

2. While the people should make all endeavors to fully participate in social, economic and political decision-making and in the formulation and implementation of local, regional and national priorities, plans, programs and projects, such participation must be voluntary and not subject to any sanction or threats on the part of the authorities.

Article V. Social Justice

1. It is the duty of government to ensure a minimum decent standard of living for all the people, reduce the gap in access to goods and services by different economic and social sectors, and equalize wealth, power and opportunities without distinctions based on race sex, language, religious belief, political conviction, economic or social status, or ethnic origin.

2. It is the duty of government to provide adequate support to families who have lost their breadwinners by death, disability detention, imprisonment or the like, or whose head is unsuccessful in finding employment despite his efforts.

3. It is the duty of government to adopt policies to eliminate disparities between rural and urban areas and between geographic regions. In particular, such policies should insure, throughout the nation, basic social services, adequate food and nutrition, safe drinking water, clean air, and health care, free and compulsory education to at least the secondary Level, and adult education in health, hygiene, voluntary family planning and vocational training, adequate housing, access roads and public transport, and proper technology.

4. In agriculture, it is the duty of government, with the participation of the people, to establish and enforce appropriate and equitable land use and land conservation measures, prevent depletion of land productivity, prevent the manufacture, importation and sale of agricultural inputs known to be biologically or environmentally harmful, subsidize the equitable distribution of land to tillers or cooperatives of tillers, prevent concentration of control or ownership of land, prevent land grabbing, enforce floor prices on agricultural products and ceiling prices on agricultural inputs, provide technical assistance to farmers free or at a nominal cost, provide and maintain an effective marketing system for agricultural products, and foster the voluntary organization of independent associations or institutions that will enable farmers, by their organized cooperative efforts, to derive an adequate income from the land they till.

5. It is likewise the duty of government to ensure that lands of public domain, particularly those that are settled, are not placed under the beneficial use or control of foreign corporations or investors or of domestic monopolies or conglomerates, whether private or state owned, and to distribute idle lands of public domain to landless peasants, small farmers or cooperatives of such peasants and farmers.

(a) It is the duty of the people to respect the dignity of all kinds of labor and services rendered by workers and employees, both in the public and private sectors. It is also the duty of government to ensure that dignity and promote the well being of all such workers and employees by providing opportunities for workers and employees to upgrade their skills, guaranteeing rank and file workers

and employees participation in the management of enterprises they are employed in, and in labor boards, commissions, tribunals, and arbitration bodies, and providing them with compensation for work-related injuries or disabilities, unemployment and retirement benefits, and old age pensions.

(b) It is the duty of government to respect the rights of all workers and employees, under any and all circumstances, to free association and collective bargaining and to engage in concerted activities for their mutual aid and protection.

(c) It is the duty of government to foster the formation of genuine, voluntary and democratic trade unions, to recognize the right of such trade unions to affiliate with international trade union bodies, to respect the right of workers to engage in industrial agitation, including the right to strike, and to provide full protection to labor leaders, union members, organizers and persons engaged in labor activities, against harassment, threats, violence, or any form of arbitrary arrest or indefinite or prolonged detention.

(d) It is the duty of government to enact and enforce special legislation for the benefit of household and domestic workers to ensure that they receive and enjoy the same benefits and rights (particularly as regards wages, security of employment, working hours, social security benefits and maternity leave, etc.) as industrial workers. Particular protection must be afforded to female workers of this sector to ensure that they are not sexually harassed.

7. It is the duty of government to establish and maintain an effective health care delivery systems, with emphasis on primary health care, maintain an effective food and drug monitoring body eliminate the importation and use of dangerous or unles drugs, keep the cost of medical and hospital care within the reach of average citizens, eliminate or prevent control by foreigners or by domestic monopolies or conglomerates of nation's food and drug industry, guard against the homogenization of food culture and discourage the importation or production and sale of foods without or with low nutritive value, maintain and effectively supervise a health manpower development and distribution program, and promote appropriate research into the most pressing health problems of the nation.

8. It is the duty of government to adopt and implement development plans and programs that provide opportunities for income, employment and amenities of life in rural areas equal to these in urban centers. With reference to communities of urban areas, so as to discourage the excessive concentration of populations in cities and the continued migration from the countryside to urban centers. With reference to communities of urban and rural poor, it is the duty of government to recognize and respect their right to freely organize themselves to resist unjust eviction. In particular, it is the duty of government not to displace them or demolish their homes solely or principally for purposes of beautifying the site, providing facilities or structures for tourists, multinational corporations or domestic monopolies, or implementing a plan or project that enhances the advantages of the rich and the better-off. Where displacement of poor communities is to be undertaken for a justifiable cause, it is the duty of government to first consult with the community to be displaced, informing them of the reason for the displacement, considering in good faith any alternative plan they may propose, and involving them in the planning and scheduling of the relocation. In all cases of justified relocation, it is the duty of government to provide relocation sites that provide income and employment opportunities and social services such as water, food, schools,

power and transportation at least equal in quality, quantity and price to those available at the site from which the community is to be displaced.

9. It is the duty of government to safeguard the dignity, personality and nationality of women, single or married, prevent their exploitation, particularly as sex objects, and ensure that they receive a share in the fruits of development equal to men. In particular, it is the duty of government to ensure that women enjoy the same rights of inheritance as men, prevent discrimination against them in the exercise of their civil and political rights, in the practice of their profession, and in conditions of employment and opportunities for promotion, and provide maternity leave and other forms of protection for working mothers and adequate child care centers for their children.

10. It is the duty of government to give legal protection to children, incorporating special safeguards and care, before as well as after birth, to insure the right of all children, particularly orphans and the children of broken homes or of the poor and disadvantaged, to develop their native talents in freedom, and grow into responsible, mature citizens of their country and the world, conscious as well of their duties as of their rights. It is further the duty of government to recognize the primary right and duty of parents to guide and educate their children; but it is likewise the duty of government to protect children against all forms of neglect, cruelty and exploitation, particularly in employment harmful to their physical, mental or moral health.

11. It is the duty of government to assist physically and mentally disabled persons to lead as normal a life as possible, consistent with their disability, as integrated members of their family and community, to provide them with the best possible therapeutic and medical treatment within its means, to make special provisions to meet their needs, to prevent all forms of neglect, cruelty or exploitation of disabled persons, and to consult with organizations of disabled persons on all matters of direct concern to them.

12. It is the duty of government to assist the aged to lead as normal a life as possible, consistent with their age, as integrated members of their family and community, to provide them with all possible facilities, care and requirements, including old age pensions and security, within its means, and to prevent all forms of neglect, cruelty or exploitation of the aged.

Article VI. Education

1. It is the duty of government to establish an educational system that provides equal education for all citizens of the highest quality within its means, responds to the needs of society, encourages critical thinking and creativity, promotes a scientific culture, inculcates respect for human rights, fosters loyalty to people and country, respects national traditions, and contributes to national development and the common good.

2. It is further the duty of government to refrain from using education as an instrument of propaganda, and to insure that the faculty and the student body of all institutions of higher learning enjoy full autonomy and academic freedom, free from all police or military surveillance or harassment, with participation in management and educational policy making, and full access to information about institutional and public affairs.

3. It is likewise the duty of government to prevent foreign management, control or domination of the educational system and of research.

4. It is the duty of the people to avail themselves of the national educational system to the fullest extent possible in order to discover and develop their native talents, to continue educating themselves after formal schooling ends, and to participate in the social, economic, cultural and political life of their communities and of the country, using their skills, talents and critical and creative faculties for the promotion and enhancement of the rights of all and for the welfare of the nation.

Article VII. Mass Communications Media

1. It is the duty of government to ensure the freedom of newspapers, radio and television stations and other mass communications media to gather and publish news of public interest as well as views and opinions thereon, and to prevent control over any media by foreign interests or a monopoly of such media by any private person or political interest group.

2. In particular, it is the duty of government to enforce the rights of authors, artists, journalists and writers:

(a) To freedom from imprisonment or other forms of harassment for exercising their right of expression;

(b) To freedom of movement;

(c) To access to information;

(d) To protect their sources of information;

(e) To participate in the management and the making of editorial policy at the medium they are employed in; and

(f) Where government owns any medium of mass communications, to insure its independence by creating an autonomous impartial governing board therefore composed of respected, independent-minded persons representing different social sectors or organizations, including opposition political parties.

3. It is also the duty of government to protect the public from misleading, harmful or deceptive advertising or labelling.

4. It is the duty of authors, artists, journalists and writers to use their rights and freedoms responsibly, respect the right to privacy of all persons, refrain from injuring reputations unless necessary in the public interest, and abstain from all propaganda for, advocacy of, or incitement to war or national, racial or religious discrimination, hatred, hostility or violence.

5. Whenever information sought is withheld or its publication and security of the nation, it is the right of the aggrieved party to raise the question in court. In such cases, the burden of proof shall be on government.

Article VIII. Cultural Communities

1. It is the duty of the government to recognize that members of cultural communities have the same rights as other citizens including the right to participate on an equal basis in public life, and to take

affirmative action to ensure such equality. Where equality had been denied in the past, it is the duty of the government to provide special representation of cultural communities in order to obtain true equality. It is moreover the duty of government to enforce respect for the right of such peoples to preserve their identity, traditions, language, cultural heritage and customary laws, and enforce protection of their ancestral domains, providing them, if they so desire, with all care and facilities to develop, but respecting their right to determine for themselves the manner and extent of their relationship with the larger society. It is the duty of cultural communities, in turn, to exercise their rights with due respect for the legitimate interests of the nation as a whole, respecting the territorial integrity and political unity of the nation.

2. It is further the duty of government to review its land policies with a view to restoring all ancestral lands belonging to cultural communities to the tribe, bearing in mind the changes that have taken or are taking place in those communities.

Article IX. The Military

1. It is the duty of the military to remain loyal at all times and in all places to the people, obey the laws, and submit itself to civilian supremacy.

2. Over and above its duty to obey Superior orders, it is the duty of the military to defend and to preserve the sovereignty, the safety and the welfare of the people.

3. Consequently, it is the duty of the military (a) to respect the rights of all persons and peoples in accordance with this Declaration, without discrimination based on race, sex, language, culture, religion, political conviction, economic or social status or ethnic origin; and (b) to accept the popular will on questions of national policy, refraining from imposing its own views and opinions on the people.

4. It is the duty of all governments and civilian leaders to strictly limit the activities and influence of military and para-military personnel to the function required by an efficient defense against aggression, and to ban such personnel from discharging public functions which are civilian in nature

Article X. Torture and Similar Practices

1. It is the duty of government, under any and all circumstances, to refrain from engaging in or authorizing torture, other cruel and degrading treatment or punishment, unexplained disappearances and extra-legal executions, and to take steps to eliminate such practices by others.

2. In particular, it is the duty of government to remove opportunities and motives to perpetrate these practices by adopting such measures as:

(a) Retaining unimpaired the right of access to civil courts by or on behalf of the person arrested, to question the legality of the arrest and detention.

(b) Banning secret arrests, secret detention places, and incommunicado detentions, requiring all arrests to be reported promptly to judicial authority and to the family of the person arrested, and making information thereon available to all persons interested. Reports shall include at least the date, time, place and cause of the arrest, the identity of the arresting officer, his official station and

authority to effect the arrest the place where the parson arrested is detained, and the name of the officer in charge thereof .

(b)Permitting the family of parsons arrested, lawyers, medical doctors and their choice to visit examine at and advise parsons detained, without delay or hindrance.

(c)Advising persons under arrest or investigation of the right to remain silent and to counsel, and respecting that right; conducting no interrogations, formal or informal; except in the presence of their lawyer of choice; when they cannot afford to pay for the services of counsel, providing a competent, independent lawyer, and when no lawyers are available, some other adviser freely chosen by the detained persons; and accepting no waiver of such rights except in the presence and under advice of such, lawyer or adviser.

(e)Conducting speedy investigations of persons detained and banning indefinite detentions or those in excess of the applicable penalty provided for by law.

(f)Allowing inspection of detention centers and interviews of persons under detention by impartial and independent national and international governmental or. non-governmental organizations, with a view to determining whether treatment and conditions of detention comply with international minimum standards and recommending remedial and preventive measures.

(g)Suspending from office those charged with perpetrating torture or similar acts and disqualifying them from promotion, automatic otherwise, while changes are pending.

(h) Disciplining immediate superiors of officer who are found guilty of perpetrating such acts, unless said immediate superiors show they have taken every reasonable precaution to prevent the acts.

(i)Continuously educating and training police, para-military, military and other investigative personnel to inculcate knowledge and respect for human rights, and to improve methods of investigation detection, and other aspects of law enforcement.

(j)Making violations of any of the above preventive, measures crime, whether or not torture or similar practices resulted therefore, and conscientiously prosecuting and punishing those guilty thereof.

3. It is the duty of government to condensate victims of torture or similar practices and their families for the physical and psychological injuries inflicted upon them, without prejudice to reimbursing itself from those guilty of such practices.

4. Torture, cruel and degrading treatment or punishment, unexplained against humanity. Consequently, it is the duty of government to recognize the rights of victims of such practices and their families to enforce their claims against those who have perpetrated such acts without limitations in space or time.

Article XI. Public Emergencies

1. States of emergency are abnormal situations that threaten the basic rights of the people. Therefore, it is the duty of government:

(a) Not to declare a state of emergency except when a real danger exists to the very existence of the nation, threatening the organized life of the community, of such magnitude that normal measures and restrictions are clearly insufficient to meet it;

(b) To specify the grounds for and the duration of the state of emergency and to limit its effectivity to the existence of the conditions which gave rise to it;

(c) To subject the declaration of a state of emergency to approval by the legislative body and not to dissolve, suspend or adjourn that legislative body during the emergency;

(d) Not to exercise any kind of emergency power unless there is a prior formal, valid declaration of a state of emergency.

2. It is the duty of government, under a state of emergency validly declared, to take only such measures restrictive of human rights as are strictly required by the exigencies of the situation, so that no less stringent measures would suffice, and to enforce such measures without discrimination based on race, sex, language, religious belief, political conviction, economic or social status, or ethnic origin.

3. Even under a validly declared emergency, government may not deny or derogate from the following rights and freedoms: the right to recognition of personal dignity and legal personality, freedom of conscience and of religion, freedom from retroactive penal measures and from cruel and unusual punishments, the right to nationality and to leave from and return to one's country, the rights of workers, the right to habeas corpus, the right of access to civil courts and to fair, public and speedy trial, freedom from imprisonment for civil debt, and the right to participate in public life.

4. Government shall not, under any circumstances, resort to or authorize:

(a) Violence to life, health and physical or mental well-being of persons who are not or are no longer combatants in armed conflict, in particular, murder, political assassination or extra legal executions, kidnapping or unexplained disappearances, torture, mutilation or any form of corporal punishment, use of so-called truth serums and other drugs, and slavery or other forms of involuntary servitude.

(b) Outrages upon personal dignity, in particular humiliating and degrading treatment, rape and enforced prostitution or any form of indecent assault

(c) Arbitrary arrests and detention, that is, those made without probable cause previously determined by a civil court.

(d) Taking of hostages, collective punishments, pillage, and acts of terrorism.

(e) Individual or mass evacuations or forcible transfers, unless imperatively required by the security of the population concerned for military reasons. Such transfers must be effected only after proper accommodation is provided, under satisfactory conditions of hygiene, health, safety and nutrition; and members of the same family must not be separated. Persons evacuated shall be returned to their homes at government expense as soon as the reasons for their evacuation cease.

(f) The passing and execution of sentences upon civilians by military courts or by any civil court which does not afford the judicial guarantees necessary for an adequate defense.

(g)The requisition or seizure of property or the compelling of individuals to perform services, without full and speedy compensation. Compensation shall include indemnity for death or disability resulting from compelled or required services.

(h)Threats to commit any of the foregoing acts. The existence, grounds and legality of the declaration of emergency, its duration, and the measures taken under it, shall be subject to judicial review. In all such cases, the burden of proof shall be on government.

6. It is the duty of government to afford redress, including compensation for damages, to any person aggrieved by acts done during a state of emergency. No grant of amnesty, pardon or immunity shall exempt any government official from responsibility for reparation in damages to any person whom he shall have injured in violation of paragraphs 3 and 4 of this Article.

7. All measures taken during a state of emergency shall, upon its termination, automatically cease to have any further force or effect.