



**Experts' Note
on the ASEAN Human Rights Declaration**

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Rule of Law Initiative

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INTRODUCTION

In recent years, the Association of Southeast Asian Nations (ASEAN) has taken significant steps to develop its own regional human rights system. ASEAN Member States signed the ASEAN Declaration against Trafficking in Persons Particularly Women and Children and the ASEAN Declaration on the Promotion and Protection of the Rights of Migrant Workers, in 2004 and 2007, respectively. The ASEAN Committee on the Implementation of the ASEAN Declaration on the Promotion and Protection of the Rights of Migrant Workers (ACMW) was formally established in September 2008 to establish effective mechanisms to safeguard migrant workers. The ASEAN Intergovernmental Commission on Human Rights (AICHR) was established in 2009, followed by the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) in 2010.

Now AICHR is exercising its mandate to develop ASEAN's first human rights declaration, "with a view to establishing a framework for human rights cooperation through various ASEAN conventions and other instruments dealing with human rights."¹ The declaration is expected to be adopted some time in 2012.

This Experts' Note suggests some tools that may be useful in the drafting and negotiation of the ASEAN Human Rights Declaration (AHRD or Declaration). The Note results from an online collaboration facilitated by the American Bar Association Rule of Law Initiative (ABA ROLI). More than 15 international legal experts from within and outside ASEAN countries participated in the collaboration, contributing comments and research from October to March 2012. Through this initiative, the Note also aims to support dialogue among governments, nongovernmental groups, academia, and other individuals as the Declaration is being drafted. Such discussion among stakeholders from a variety of sectors will be essential to the final Declaration's success and the progression of human rights in the region.²

As a regional Declaration, the AHRD can first, affirm and consolidate international and national human rights obligations already subscribed to by ASEAN Member States; second, articulate "a common standard of achievement" for the region³; and third, show leadership in the advancement of human

¹ ASEAN Intergovernmental Commission on Human Rights Terms of Reference (AICHR TOR), art. 4(2) (2009).

² The Arab Charter on Human Rights (Arab Charter) was revised in 2004 partly because the 1994 version was seen to have suffered from inadequate stakeholder consultation. See Mohammed Amin Al-Midani, "The Enforcement Mechanisms of the Arab Charter on Human Rights and the Need for an Arab Court of Human Rights," Arab Centre for International Humanitarian Law and Human Rights Education (2008), available at http://www.acihl.org/articles.htm?article_id=22 (describing conferences and consultations held regarding amendments to the Arab Charter). See also SAPA Task Force on ASEAN and Human Rights (SAPA TF-AHR), "Civil Society's Position Paper on ASEAN Human Rights Declaration," 6 (June 2011) (affirming that "the process of drafting the AHRD should be inclusive, participatory, consultative and transparent"); University of the Philippines Law Center, Institute of Human Rights, Position Paper, "The Critical Role of the Philippines in the Drafting of the ASEAN Human Rights Declaration," 8 (2011) ("Participation of the civil society organizations and nongovernment organizations should also be continually encouraged. Additionally, the drafting process must be consistently done in a genuinely transparent, detailed and inclusive manner.").

³ Universal Declaration of Human Rights (UDHR), Preamble (1948) (stating that the purpose of the UDHR is to provide "a common understanding" of the human rights and fundamental freedoms set out in the UN Charter and to serve "as a common standard of achievement for all peoples and all nations"). See also American Declaration on the Rights and Duties of Man, Introductory Provisions (1948) (adopted partly on the basis that it is "an affirmation of essential human rights by the American States together with the guarantees given by the internal regimes of the states . . ."); ASEAN Declaration against Trafficking in

rights through reference to rights and principles of special relevance to the region. The goal is to create a Declaration that reflects and promotes adherence to international human rights standards within ASEAN.

These last two components – a common standard and a unique regional contribution – may not necessarily be reflected in states’ existing legal obligations, but in their aspiration to fulfil ASEAN’s main purpose “to strengthen democracy, enhance good governance and the rule of law, and to promote and protect human rights and fundamental freedoms, with due regard to the Rights and Responsibilities of the Member States of ASEAN.”⁴ The non-binding nature of the AHRD can, as other declarations have, accommodate variation among different states’ current obligations and set out ASEAN’s general aspiration to uphold international human rights and fundamental freedoms.⁵ This approach recognizes that the ASEAN human rights system, like other regional systems, will evolve over time, as the different Member States reconcile varying interpretations.

The first part of this document discusses ASEAN’s **current human rights obligations and a common standard of achievement** to be considered as part of the Declaration. This section draws from Member States’ human rights obligations under international and national laws, generally accepted principles of international law, as well as from examples in other regional human rights systems in Africa, the Americas, Europe, and Arab states. The second part of the document further explores common aspirations by analyzing a few specific **rights and principles of special relevance to ASEAN, through which ASEAN can make a unique contribution to the advancement of human rights**. By setting forth current obligations, common aspirations, and principles of regional relevance, the AHRD will reflect the basic features of a regional human rights declaration and establish ASEAN as a human rights leader in matters of concern in the region.

PART I: CURRENT COMMITMENTS AND TOWARD A COMMON STANDARD OF ACHIEVEMENT

This part summarizes ASEAN Member States’ international human rights obligations, drawing from ASEAN documents, international agreements, and national laws. It also sets out some rights and

Persons Particularly Women and Children, Preamble (2004) (setting out framework for regional cooperation based on “ASEAN’s unwavering desire to embrace the spirit behind the United Nations Convention against Transnational Organized Crime and its relevant protocols”); and ASEAN Declaration on the Promotion and Protection of the Rights of Migrant Workers (2008) (setting out framework for regional cooperation and commitment to develop binding regional instrument on migrant workers’ rights).

⁴ Charter of the Association of Southeast Asian Nations (ASEAN Charter), art. 1(7) (2007).

⁵ This observation is consistent with past practice within ASEAN. For example, while not all ASEAN Member States have ratified the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons (TIP Protocol), all Member States adopted the ASEAN Declaration Against Trafficking in Persons Particularly Women and Children in 2004. Similarly, while not all ASEAN Member States have ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, in 2007 all Member States adopted the ASEAN Declaration on the Promotion and Protection of the Rights of Migrant Workers, which commits Member States to develop a binding instrument. While these declarations do not mirror the rights and obligations of their corresponding international conventions, they do not explicitly reject them. They articulate complementary approaches.

principles to help reflect common understandings of and aspirations to uphold human rights consistent with international standards. These concepts are based on commitments made by ASEAN States, widely accepted international human rights principles, and comparative perspectives drawn from regional human rights systems in Africa, the Americas, Europe, and Arab states.

Referenced throughout this part are tables in the Annex which present the various human rights concepts that can be drawn upon in the course of drafting the AHRD. Table 1 summarizes how common human rights commitments and legal principles support a core set of human rights for inclusion in the AHRD. This table draws in part from rights appearing in the African, American, Arab, and European systems. Table 2 lists the international human rights instruments ASEAN Member States have signed or ratified. Table 3 compares the national constitutions of ASEAN countries to key provisions of the Universal Declaration of Human Rights and other basic rights.

The rights and principles discussed below and listed in the tables are not intended to constitute an exhaustive list of all conceivable human rights concepts that should be considered for inclusion in the AHRD. Instead, this Note highlights the sources of rights that AICHR and other stakeholders could look to in developing the AHRD's framework.

It should be noted, however, that all major international and regional human rights instruments refer to and draw from the United Nations (UN) Charter and the Universal Declaration of Human Rights (UDHR). But whether the AHRD should adopt a short or long list approach to enumerating rights and principles is a question to be resolved in the course of the Declaration's drafting and negotiation. If not all rights are explicitly enumerated, human rights commitments can be incorporated by reference, for example, through a provision stating that the AHRD encompasses rights enshrined in the ASEAN Charter, the AICHR TOR, and all other human rights instruments ratified by ASEAN Member States. Most commentators on this Note opined that a long, yet non-exhaustive list would be preferable to a short list.⁶ One reason given for this view is that other ASEAN documents already incorporate human rights commitments by reference, and so the AHRD can clarify and elaborate on what these commitments actually mean.

⁶ The long list approach was taken in the Universal Declaration of Human Rights, the American Declaration of the Rights and Duties of Man and in the American Convention on Human Rights. A short list approach was adopted by the European Convention of Human Rights (ECHR), which included the UDHR by reference and focused on approximately 15 key rights, with robust enforcement measures and provisions concerning exceptions and exclusions. These rights were subsequently augmented in six optional protocols to the Convention while seven protocols modify the institutional design prescribed in the ECHR. See *European Convention on Human Rights, Preamble (1950)* (European governments resolve "to take the first steps for the collective enforcement of certain of the Rights stated in the Universal Declaration"); see also *Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights*, art. 3(1) (1998) ("The jurisdiction of the Court shall extend to all cases and disputes submitted to it concerning the interpretation and application of the [African] Charter, this Protocol and any other relevant Human Rights instrument ratified by the States concerned."), available at http://www.achpr.org/english/info/court_en.html.

A. Shared Human Rights Commitments

Under the ASEAN Charter, Member States reaffirm their adherence “to the fundamental principles contained in the declarations, agreements . . . and other instruments of ASEAN.”⁷ Member States must also “uphold[] the United Nations Charter and international law, including international humanitarian law, subscribed to by ASEAN Member States.”⁸ Members are also bound to adhere to rights recognized in customary international law, which are universally applicable.

1. ASEAN Instruments.

The Terms of Reference (TOR) of the ASEAN Intergovernmental Commission on Human Rights (AICHR) specify that one of AICHR’s purposes is to “uphold international human rights standards as prescribed by the Universal Declaration of Human Rights [UDHR], the Vienna Declaration and Programme of Action [VDPA], and international human rights instruments to which ASEAN Member States are parties.”⁹ Moreover, under Article 5(1) of the ASEAN Charter, “Member States shall take all necessary measures, including the enactment of appropriate domestic legislation, to effectively implement the provisions of this Charter and to comply with all obligations of membership.”¹⁰ Accordingly, the AHRD must be consistent with Member States’ obligations under ASEAN instruments and international law,¹¹ including the UN Charter and humanitarian law, and their commitment through the AICHR TOR to the UDHR and the VDPA.

In addition, the AICHR TOR highlight a broad set of principles relating to civil-political and socio-economic rights. For example, the TOR recognize the “right of the peoples of ASEAN to live in peace, dignity, and prosperity.”¹² AICHR’s purpose is also to “contribute to . . . the well-being, livelihood, welfare and participation of ASEAN peoples in the ASEAN Community building process.”¹³ AICHR is guided by the principle of “[r]espect for international human rights principles, including universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms, as well as impartiality, objectivity, non-selectivity, non-discrimination, and avoidance of double standards and politicisation.”¹⁴ The ASEAN Declaration on the Promotion and Protection of the Rights of Migrant Workers seeks to strengthen regional cooperation surrounding migrant workers’ rights and commits

⁷ ASEAN Charter, art. 2(1).

⁸ ASEAN Charter, art. 2(2)(j).

⁹ AICHR TOR, art. 1(6). The Terms of Reference (TOR) of the ASEAN Commission on Women and Children (ACWC) contain very similar language. See ACWC TOR, art. 2(5).

¹⁰ ASEAN Charter, art. 5(1).

¹¹ See Table 2 in the Annex for a chart showing dates of ratification and accession by ASEAN Member States to certain key international human rights instruments, including references to declarations and reservations.

¹² AICHR TOR, art. 1(2).

¹³ AICHR TOR, art. 1(3).

¹⁴ AICHR TOR, art. 2(2).

ASEAN States to develop a binding instrument. Under the ASEAN Declaration against Trafficking in Persons, members pledge “to undertake concerted efforts” to respond to human trafficking.¹⁵

AICHR is also guided by the ASEAN Charter’s principles of respect for national sovereignty and “non-interference in the internal affairs of Member States.”¹⁶ Several observers have questioned how these principles will be applied in the course of upholding obligations to promote and protect human rights within the region. From a practical perspective, principles of sovereignty and non-interference create space for varying interpretations of legal obligations. However, these principles cannot sweep aside clear human rights commitments. The challenge of reconciling norms relating to sovereignty and human rights is not unique to ASEAN. As seen in the implementation of the UN Charter and the concept of Responsibility to Protect, how Member States navigate these principles will likely generate debate and reassessment as the ASEAN system evolves and responds to human rights issues.

2. International Law.

a. **UN Charter.** The ASEAN Charter commits Member States to uphold the Charter of the United Nations, of which all ASEAN countries are members. Under the UN Charter, Member States pledge to maintain international peace and security, “reaffirm faith in fundamental human rights, in the dignity and worth of the human person,” “establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained,” and “promote social progress and better standards of life.”¹⁷ Among its purposes is to “achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.”¹⁸ The ASEAN Charter and ASEAN human rights bodies and declarations reinforce these principles.

b. **Human Rights Conventions.** All ASEAN States have ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC), the provisions of which ASEAN States pledge to uphold in the Terms of Reference of the ASEAN Commission on Women and Children (ACWC). Among other rights, CEDAW guarantees equal rights for women, including rights to property and rights regarding marriage and family planning. CEDAW also prohibits trafficking in women and grants women equal rights to participate in government.¹⁹ The CRC guarantees children the right to life, a broad range of rights relating to legal processes, freedom of

¹⁵ ASEAN Declaration Against Trafficking in Persons Particularly Women and Children, Preamble ¶ 9 (2004).

¹⁶ AICHR TOR, art. 2(1)(a)-(c). See ASEAN Charter, art. 2.

¹⁷ United Nations (UN) Charter, Preamble (1945).

¹⁸ UN Charter, art. 1(3).

¹⁹ See Convention on the Elimination of Discrimination against Women (CEDAW), arts. 2-4 and 15 (equal rights), 16 (rights regarding property, marriage, and family planning), 6 (anti-trafficking), and 7 (political participation).

association and assembly, freedom to practice religion and culture, and rights to asylum, expression and information, health, education, and privacy.²⁰ Both Conventions guarantee the right to nationality.²¹

Additional binding instruments to which some but not all ASEAN States have subscribed are discussed below in Part 1(B).

c. **UDHR and VDPA.** As noted, one of AICHR’s purposes is to uphold standards prescribed by the Universal Declaration of Human Rights (UDHR) and the Vienna Declaration and Programme of Action (VDPA). These standards include but are not limited to:

- the principle of non-discrimination and equal protection of the law;
- the right to life, liberty and security of person;
- prohibitions against slavery, torture, and arbitrary detention;
- the right to fair and independent legal processes;
- freedom of movement;
- the right to seek asylum from persecution;
- freedom of conscience;
- the right to participate in government;
- the right to nationality; and
- the right to work and to adequate living standards.

These principles and others appear in several ASEAN States’ national constitutions,²² additional instruments to which ASEAN States are party, and in the constitutive documents of other regional human rights systems, which are discussed more below. Table 1 in the Annex links various human rights to the UDHR, VDPA, and to other sources.

d. **Customary International Law.** Some rights have evolved to be considered as part of customary international law,²³ meaning they are universally applicable even absent a state’s explicit agreement to be bound by them.²⁴ Among these norms are the right to be free from torture and other inhumane or

²⁰ See Convention on the Rights of the Child (CRC), arts. 6 (life), 37 and 40 (legal and judicial rights), 15(1) (freedom of association and assembly), 14 and 31 (freedom to practice religion and culture), 22 (asylum), 13(1) (expression and information), 24 (health), 28 (education), and 16 (privacy).

²¹ CEDAW, art. 9; CRC, art. 7.

²² See Table 3 in the Annex for a chart comparing provisions from ASEAN States’ national constitutions to key principles in the UDHR and other basic rights. The comparison with national constitutions is to provide at best a rough snapshot of domestic standards. It is by no means a comprehensive analysis of any state’s compliance with international norms, as national constitutions do not necessarily reflect the full body of domestic law relating to certain rights. Different countries also incorporate international obligations into their national laws through different processes, many of which may not necessarily result in changes in a national constitution. For a more thorough examination of ASEAN countries’ constitutions, see Human Rights Working Groups, “Constitutionalism and the Declaration of ASEAN Human Rights” (Nov. 26, 2011).

²³ In deciding disputes, the International Court of Justice applies among other legal principles “international custom, as evidence of a general practice accepted as law.” Statute of the International Court of Justice, art. 38(1)(b) (1946).

²⁴ See, e.g., International Court of Justice, *Case Concerning the Barcelona Traction, Light and Power Company, Ltd. (Belgium v. Spain)*, ¶¶ 33-34 (1970) (stating that certain rights – such as protection from slavery and racial discrimination – are obligations

degrading treatment, the right to be free from slavery or servitude, and the right to be free from discrimination. Rights upheld under customary international law appear in various instruments to which ASEAN States are party (discussed below), in the constitutive documents of other regional human rights systems, and are referenced in Table 1 in the Annex.

e. **Humanitarian Law.** Humanitarian law regulates the conduct of armed forces during war. All ASEAN States are parties to the four 1949 Geneva Conventions establishing the rights of persons not taking part in hostilities.²⁵ The first two treaties concern the rights of wounded and sick members of armed forces, the third relates to the treatment of prisoners of war, and the fourth concerns the protection of civilians.²⁶ Many of these rights resonate with those found in the Universal Declaration of Human Rights and in instruments protecting other subsets of persons, such as women, children, and workers, and to which many ASEAN Member States are party.

Article 3 of each Geneva Convention, known as “Common Article 3,” emphasizes the right of protected persons to humane treatment “without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.” It prohibits violence to life; cruel or degrading treatment; torture; taking of hostages; and adjudication absent “a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.”²⁷ Parties to the Conventions are obligated to enact legislation to prosecute “grave breaches,” which include wilful killing or causing great suffering, torture or inhuman treatment, extensive destruction and appropriation of property, “not justified by military necessity and carried out unlawfully and wantonly.”²⁸ Persons accused of grave breaches “shall benefit by safeguards of proper trial and defence,” consistent with those judicial rights afforded prisoners of war under Geneva Convention III.²⁹ In addition to judicial

erga omnes, in which “all states can be held to have a legal interest in their protection”), available at <http://www.icj-cij.org/docket/files/50/5387.pdf>.

²⁵ Vietnam submitted two sets of reservations, in 1957 and 1973, respectively.

²⁶ See generally Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field. Geneva (1949); Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea. Geneva (1949); Convention (III) relative to the Treatment of Prisoners of War. Geneva, (1949); and Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, (1949) (Geneva Conventions I, II, III, and IV); available at <http://www.icrc.org/eng/war-and-law/treaties-customary-law/geneva-conventions/index.jsp>.

²⁷ Geneva Conventions I, II, III, and IV, art. 3(1) (1949).

²⁸ Geneva Convention I, arts. 49-50 (1949) and Geneva Convention II, arts. 50-51 (1949).

²⁹ Geneva Convention I, art. 49 (1949); Geneva Convention II, art. 50 (1949).

rights,³⁰ prisoners of war and civilians under occupation are also afforded a set of protections relating to health³¹ and labour.³²

B. Toward a Common Standard of Achievement

1. Other ASEAN Commitments. This section highlights additional sources to support the common purpose of ASEAN Member States under the ASEAN Charter to enhance the rule of law and protect human rights and fundamental freedoms. Sources include human rights commitments made by some but not all ASEAN States and standards drawn from other regional systems. Because of the non-binding nature of a declaration, these sources need not reflect human rights obligations that all ASEAN States have explicitly undertaken. These sources can be drawn upon to help articulate common aspirations and standards of achievement, and to draw attention to certain rights of special relevance to ASEAN (discussed more in Part II below).

While ASEAN States have all ratified CEDAW and the CRC, and have committed to uphold principles under the UN Charter, humanitarian law, the UDHR, and the VDPA, a substantial number of ASEAN States are also party to other international human rights treaties:

- Nine out of ten have ratified or acceded to the Conventions Concerning Forced or Compulsory Labour and Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour³³
- Six have ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR)

³⁰ For prisoners of war, *see* Geneva Convention III, arts. 99-108 (guaranteeing various protections in judicial proceedings, including but not limited to opportunity to present defense, choice over qualified counsel, use of same courts and procedures as for members of armed forces of Detaining Power, speedy trial, notification of Protecting Power, communication of charges to the accused). For civilians, *see* Geneva Convention IV, arts. 64-78 (guaranteeing various legal protections, including but not limited to non-retroactive application of Occupying Power's laws, right to trial before sentence, right to defense such as to present evidence and call witnesses, notification and presence at trial of Protecting Power, sufficient detention conditions to be kept in good health, and access to spiritual assistance).

³¹ For prisoners of war, *see* Geneva Convention III, arts. 25-33 (providing that prisoners of war be quartered under conditions as favorable as those for the forces of the Detaining Power billeted in the same area, including adequate heat and light, sufficient food rations and drinking water, sufficient clothing, as well as ensuring cleanliness, healthfulness, and access to medical services). For civilians, *see* Geneva Convention IV, arts. 38-40, 49, 56, 76, 81, 91, 92, and 100 (protecting rights to health and safety under various circumstances, including detention, labor, internment, and access to medical services and prevention of contagious disease).

³² For prisoners of war, *see* Geneva Convention III, arts. 51-56 (prescribing "suitable working conditions" comparable to those enjoyed by nationals of the Detaining Power, with respect to *inter alia* accommodation, food, clothing, equipment, appropriate training, avoidance of unhealthy or dangerous labour, reasonable duration, and entitlement to rest). For civilians, *see* Geneva Convention IV, arts. 39-40 (granting equal opportunity to find paid employment and requiring that "protected persons compelled to work shall have the benefit of the same working conditions and same safeguards as national workers").

³³ Regarding labor rights, eight have ratified the Equal Remuneration Convention, five have ratified the Discrimination (Employment and Occupation) Convention, five have ratified the Right to Organise and Collective Bargaining Convention, four have ratified the Freedom of Association and Protection of the Right to Organise Convention, and three have ratified the Employment Policy Convention. *See* Table 2, Annex.

- Six have ratified the Convention on the Elimination of all Forms of Racial Discrimination (CERD)
- Six have ratified (and a seventh has signed) the Protocol to Prevent, Suppress and Punish Trafficking in Persons (TIP Protocol)
- Six have ratified (and a seventh has signed) the CRC Protocol on the Involvement of Children in Armed Conflicts
- Five have ratified (and three more have signed) the 2008 Convention on the Rights of Persons with Disabilities
- Four have ratified (and a fifth has signed) the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- Four are party to the two 1977 Additional Protocols to the Geneva Conventions³⁴

2. Other Regional Human Rights Systems. Rights protected under other regional human rights systems, such as in Africa, the Americas, Europe, and within Arab states can serve as a reference for the standard of achievement for human rights in ASEAN.³⁵ These systems can help articulate that standard in two ways: first, in terms of which rights the regional systems have in common; and second, as will be explored in Part II, they demonstrate how different systems adopt certain rights as a result of those regions' unique contexts.³⁶

As detailed in Table 1 in the Annex, principles that are commonly affirmed in these systems include but are not limited to:

- right to life
- right to be free from torture
- right to be free from slavery or servitude
- right to seek remedies to redress human rights violations in competent, independent courts
- right to due process and to be free from arbitrary detention
- the right to participate in government; right to freedom of expression and right to receive and impart information
- right to free association
- right to freedom of movement

³⁴ Brunei Darussalam (Brunei), Cambodia, Lao PDR, and Vietnam are party to the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) (1977). Brunei, Cambodia, Lao PDR, and Philippines are party to the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) (1977). Philippines and Singapore are party to the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III) (2005). For a useful resource on ASEAN Member States' commitments to the Geneva Conventions and Protocols, see National University of Singapore, Center for International Law, *at* <http://cil.nus.edu.sg/1949/1949-geneva-convention-i-for-the-amelioration-of-the-condition-of-the-wounded-and-sick-in-armed-forces-in-the-field/>.

³⁵ See Dinah Shelton, REGIONAL PROTECTION OF HUMAN RIGHTS 17 (2008) (noting that "[e]ach [regional system] uses the jurisprudence of the other systems and amends or strengthens its procedures in reference to the experience of others").

³⁶ See Table 1 in the Annex for a chart conveying the rights appearing in the African, American, European, and Arab systems. This table also draws comparisons between these systems and the UDHR, the VDPA, ASEAN documents, and national constitutions.

- right to seek and obtain asylum when persecuted
- prohibition against collective expulsion of non-nationals
- right to work under dignified and decent conditions
- right to property
- right to equal enjoyment of rights without discrimination on any ground
- equality of women
- right to participate in cultural life
- freedom of conscience and religion
- right to health
- right to education
- right to establish a family
- prohibition of race-based discrimination and
- rights relating to women and children.

3. Assessing the Authority of a Right. As the tables in the Annex help demonstrate, a comparison of ASEAN Member States' human rights obligations under international and national laws, as well as standards espoused in other systems, can yield insight on the acceptance of these rights within the region and beyond. Rights relating to judicial proceedings provide one example. First, the UDHR affirms the right to fair and independent legal processes. The Convention on the Rights of the Child (CRC) and the Geneva Conventions, to which all ASEAN States are party, and the International Covenant on Civil and Political Rights (ICCPR), to which six out of ten ASEAN States are party, also contain a number of rights protecting individuals in legal processes. These rights in turn can be compared with ASEAN States' national laws, such as their constitutions,³⁷ to shed light on the nature of these rights in ASEAN, while looking to other regional systems and international practice can help illustrate the extent of these principles' acceptance worldwide.

Regarding the prohibition of arbitrary arrests, for instance, Article 9 of the UDHR prohibits arbitrary arrests, detention, or exile. Article 37(b) of the CRC prohibits unlawful or arbitrary deprivations of liberty, and Article 9(1) of the ICCPR extends this right to all persons. With the exception of Brunei Darussalam, nearly every ASEAN country's constitution addresses deprivations of liberty.³⁸ Based on this review, all ASEAN countries prohibit arbitrary detention of children. All ASEAN countries (with the possible exception of Brunei) extend this right to all *citizens*, and six (Cambodia, Indonesia, Lao PDR,

³⁷ See *supra* note 22 and accompanying text.

³⁸ The constitutions of the Philippines (art. 3(1)), Singapore (art. 4(9)(1)), and Malaysia (art. (5(3)) generally prohibit the deprivation of life or personal liberty except in accordance with law. The Philippines' constitution also provides that no search or arrest warrant shall issue except upon probable cause to be determined personally by the judge according to certain requirements (art. 3(1)). Thailand's constitution (art. 3(32)) prohibits arrest and detention except by order or warrant issued by the courts or where there are grounds as provided by the law. Cambodia's constitution (art. 38) similarly prohibits prosecution, arrest, police custody or detention except in accordance with law. The constitution of the Lao PDR prohibits arrest or search of citizens without the order of the Public Prosecutor of the people's courts, except if otherwise provided by law (art. 42). Under Article 71 of Vietnam's constitution, no citizen may be arrested without a warrant from the People's Court or ratification by the People's Inspectorate except in the case he or she is caught in flagrant violation of the law.

Philippines, Vietnam, and Thailand) extend the right to all *persons* under the ICCPR. All other regional systems also prohibit arbitrary arrest and detention.³⁹ Based on this analysis, the prohibition of arbitrary arrest and detention has become a widely accepted human rights principle within ASEAN and worldwide. Similar comparisons can be conducted with respect to other rights, including those involving legal and judicial proceedings, such as but not limited to:

- prohibition of retroactive application of penal laws
- right of the accused to be informed of the reasons for arrest
- right to counsel⁴⁰
- right to be presumed innocent until proven guilty
- right to trial by a judiciary that is impartial, independent, and speedy
- prohibition of torture or cruel, inhuman or degrading treatment
- prohibition of double jeopardy
- right against self-incrimination
- right to question witnesses
- right to an interpreter
- right to appeal, and
- right to compensation for unjust detention

PART II: ASEAN'S UNIQUE CONTRIBUTION TO HUMAN RIGHTS

In addition to drawing from ASEAN Member States' human rights obligations and commonly accepted principles, the AHRD can also highlight certain rights and principles of special relevance to the region. By comparison, as shown in its title, the African Charter on Human and Peoples' Rights emphasizes individual *and* group rights, the latter particularly in relation to self-determination, freedom from foreign domination, and collective rights to land and natural resources. The African Charter and American Declaration contain sections on individual duties, and under the European Convention on Human Rights, a majority of states agreed according to the evolution of their legal traditions to abolish the death penalty in Protocol 13.⁴¹

³⁹ See African Charter on Human and Peoples' Rights (African Charter), art. 6 (1981); American Convention on Human Rights (American Convention), art. 7 (1969); American Declaration on the Rights and Duties of Man (American Declaration), art. 25 (1948); European Convention on Human Rights (European Convention), art. 5 (1950); Arab Charter on Human Rights (Arab Charter), art. 14 (2004).

⁴⁰ See CRC, art. 37(d) (guaranteeing child deprived of liberty the right to prompt access to legal assistance) and art. 40(b)(ii)-(iii) (providing for legal or other appropriate assistance in the preparation and presentation of a child's defence); ICCPR, art. 14(3)(d) (providing right to counsel for all persons and specifying that counsel must be provided free of charge if accused cannot pay). See also Singapore constitution, arts. 4(9)(3) and 4(9)(5); Malaysia constitution, arts. 5(3) and 5(5); Thailand constitution 3(40)(7) and 3(40)(8); Vietnam constitution, art. 132; Philippines constitution, arts. 3(11) and 12(1) (together showing how all ASEAN countries except Brunei extend some right to defence to all persons through constitutional provisions, that Philippines is the only ASEAN country guaranteeing free counsel to the indigent in its constitution, although Cambodia, Indonesia, Lao PDR, and Thailand guarantee this right through ICCPR ratification).

⁴¹ Eleven states have also ratified the Protocol to the American Convention on Human Rights to Abolish the Death Penalty (1990).

Through the AHRD, ASEAN can also make a unique contribution to the advancement of human rights based on its regional perspective, based in part on values and concerns reflected in the ASEAN Charter and other regional agreements. ASEAN has already placed noteworthy emphasis on the rights of women and children with the establishment of the ASEAN Commission on the Promotion and Protection of Women and Children (ACWC), protection against human trafficking with the ASEAN Declaration against Trafficking in Persons, and the rights of migrant workers through the respective Declaration and Committee. Given that much of the global migrant workforce originates in the ASEAN region, ASEAN is unique in its efforts to grapple with defining and securing the rights of migrant workers. It would therefore make sense for the AHRD to reiterate and even expand on these concepts.

Other rights which have been raised as important for the AHRD to highlight and develop further due to ASEAN's unique context include:

- right to information on matters of public interest
- right to prior consultation on programs that would cause significant impact on other rights
- right to clean environment
- right to food⁴²
- right to freedom of conscience and religion
- right to freedom of expression
- rights of lesbian, gay, bisexual and transgender (LGBT) persons

Discussed in more detail below are some suggestions for broad rights concepts to be considered for, if not further developed in, the AHRD. These have been selected for more discussion because of their regional relevance. Additionally, their broad scope could benefit large populations and allow for the development of more specific rights as the ASEAN human rights system evolves.⁴³ They are by no means exhaustive and include:

⁴² ASEAN reflects the region's concern about food security and preserving the livelihoods of farmers and the sustainability of agro-industries in the ASEAN Integrated Food Security (AIFS) Framework and Strategic Plan of Action on Food Security in the ASEAN Region (SPA-FS) 2009-2013, available at <http://www.aseansec.org/22338.pdf>.

⁴³ Other organizations have also highlighted certain rights and principles for inclusion in the AHRD, several of which overlap with or relate to those suggested in this Note. *See, e.g.*, SAPA Task Force on ASEAN and Human Rights (SAPA TF-AHR), "Civil Society's Position Paper on ASEAN Human Rights Declaration," 5 (June 2011) (asserting that the AHRD should provide for principles relating to compliance with international standards, human dignity, democracy, universality and interdependence of human rights, equality and non-discrimination, and right to development); University of the Philippines Law Center, Institute of Human Rights, Position Paper, "The Critical Role of the Philippines in the Drafting of the ASEAN Human Rights Declaration," 8 (2011) (suggesting for inclusion (among other concepts) principles of universality and interdependence of human rights; overarching state duties to promote and protect human rights, non-discrimination; state obligations to adopt legislation to give effect to rights and duties under the AHRD; rights of people to know the truth about human rights abuse; right to protection against poverty and against violations by businesses; right to development, including environmental rights; adherence to human rights processes; and a "statement that civil and political rights cannot be dissociated from economic, social and cultural rights"). *See also* Working Group for an ASEAN Human Rights Mechanism, "Human Rights Declaration of the Association of Southeast Asian Nations (ASEAN) (Draft)" (2011) (providing for example in Article 27 that "[e]very person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development in which all human rights and fundamental freedoms can be fully realized as part of their right to development" and that "[n]ational and international development policies shall be formulated to reflect the right to development, . . . bearing in mind the need for equitable distribution of resources and the concerns of marginalized groups").

- right to sustainable development
- right to public participation
- right to nationality and
- duty of corporate responsibility

For each right or principle, the sections below provide information on its legal basis or mandate under ASEAN instruments, the state of international law, and its relevance to ASEAN. Wording for provisions that could be included in the AHRD may be drawn from ASEAN documents, other international instruments and regional systems, or other sources. By introducing or elaborating on these suggestions in a regional instrument, ASEAN can show leadership in advancing international human rights.

Expert contributors to this Note have also observed that a regional instrument’s uniqueness is not limited to the introduction or amplification of certain rights, but in conveying principles and approaches through which rights should be exercised or enforced. These principles may derive from the region’s shared history or common traditions or challenges, such as by comparison the emphasis on community in the African system or collective responsibility in the European system. In ASEAN, the concept of “unity in diversity,”⁴⁴ of respect for cultural variety and cooperation, is one principle with broad and unique resonance within the region.

A. Right to Sustainable Development

1. *Mandate under ASEAN.* Relevant provisions in the ASEAN Charter include:

- Preamble ¶ 6: United by a common desire and collective will to live in a region of lasting peace, security and stability, sustained economic growth, shared prosperity and social progress
- Preamble ¶ 9: RESOLVED to ensure sustainable development for the benefit of present and future generations and to place the well-being, livelihood and welfare of the peoples at the centre of the ASEAN community building process
- Article 1(6): To alleviate poverty and narrow the development gap within ASEAN through mutual assistance and cooperation
- Article 1(9): To promote sustainable development so as to ensure the protection of the region’s environment, the sustainability of its natural resources, the preservation of its cultural heritage and the high quality of life of its peoples
- Article 1(11): To enhance the well-being and livelihood of the peoples of ASEAN by providing them with equitable access to opportunities for human development, social welfare and justice
- Article 1(13): To promote a people-oriented ASEAN in which all sectors of society are encouraged to participate in, and benefit from, the process of ASEAN integration and community building

⁴⁴ ASEAN Charter, art. 2(2)(l) (“respect for different cultures, languages and religions of the peoples of ASEAN, while emphasising their common values in the spirit of unity in diversity”).

- Article 2(2)(i): [calling upon parties to show] respect for fundamental freedoms, the promotion and protection of human rights, and the promotion of social justice

The compatibility of these provisions with the right to sustainable development invites consideration of formally introducing the right as a provision under the AHRD. A reference to the right to sustainable development would enhance legal tools available to achieve some of ASEAN's goals.

2. State of the Law. The right to development was first codified under the African Charter on Human and Peoples' Rights in 1981.⁴⁵ The UN General Assembly later adopted the Declaration on the Right to Development in 1986. This was followed by the commissioning of a UN Independent Expert, a UN Working Group, as well as a UN Task Force on the Right to Development. Together, these mandate holders progressively developed the scope of the right. In 2010, the African Commission on Human and Peoples' Rights (ACHPR) drew from these sources and adjudicated upon the right to development under Article 22 of the African Charter.⁴⁶ The Commission found that development must be equitable, non-discriminatory, participatory, accountable, and transparent. Where an investment project could have "a major impact" on a community's territory, "the State has a duty not only to consult with the community, but also to obtain their free, prior, and informed consent, according to their customs and traditions."⁴⁷ In addition, the realization of the right to development must be measured in terms of increased capabilities and sharing of benefits, as well as the extent to which the range of choice has increased for beneficiaries.⁴⁸ Accordingly, the right was found to be comprised of two components: (1) the right to participate in the development process, and (b) the right to an improvement in well-being. It is a right of process and outcome.

Moreover, the right to *sustainable* development emphasizes economic, environmental, and social dimensions.⁴⁹ The 1992 United Nations Conference on Environment and Development (Earth Summit) resulted in five significant documents relating to sustainable development, the Convention on Biological Diversity (CBD), the Framework Convention on Climate Change (FCCC), the Rio Declaration on Environment and Development, Agenda 21, and the Forest Principles. Both the CBD and the FCCC, which call for sustainable development,⁵⁰ have been ratified by 193 countries, including all ten ASEAN Member States. The Rio Declaration describes states' obligations to promote sustainable development and identifies 27 guiding principles, including intergenerational equity, the precautionary approach, the

⁴⁵ Article 22 of the African Charter on Human and Peoples' Right (1981), provides that:

1. All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.
2. States shall have the duty, individually or collectively, to ensure the exercise of the right to development.

⁴⁶ *Minority Rights Group International and the Centre for Minority Rights Development (on behalf of the Endorois Welfare Council) v Kenya*, Communication 276/2003, African Commission on Human and Peoples' Rights (2010).

⁴⁷ *Id.* at ¶¶ 291-293.

⁴⁸ *Id.* at ¶¶ 294-298.

⁴⁹ See, e.g., *Our Common Future: Report of the World Commission on Environment and Development*, A/42/427 ¶¶ 1-82 (1987).

⁵⁰ Convention on Biological Diversity, arts. 8 and 25 (1992) and Framework Convention on Climate Change, arts. 2-4 (1992).

polluter pays principle, and the principle of common but differentiated responsibilities. The Vienna Declaration and Programme of Action allude to sustainability in the right to development in providing that “the right to development should be fulfilled so as to meet equitably the developmental and environmental needs of present and future generations.”⁵¹ The 2002 Johannesburg Declaration on Sustainable Development reaffirms national commitments to sustainable development, as well as the need for regional cooperation, corporate responsibility, and poverty eradication.⁵² In June 2012, the United Nations will convene another Conference on Sustainable Development in Rio de Janeiro.

3. Relevance to ASEAN. ASEAN countries have experienced substantial economic growth, yet income disparity intensifies, leading to social tensions and conflict. ASEAN Member States also rely on extensive coastlines, river systems, and other natural resources, and therefore stand to lose considerably from climate change and environmental mismanagement. Development that lacks safeguards to prevent the pollution of resources vital to communities is neither sustainable, nor conducive to fulfilling the ASEAN promise of shared prosperity. It also runs counter to the core principles of the Millennium Development Goals, to which ASEAN Member States have committed.⁵³ The right to sustainable development will contribute to development in ASEAN which is participatory and which promotes strategies that benefit all stakeholders, from marginalized communities to relevant business interests.⁵⁴ Inclusion of the term “sustainable” into the concept would also mark an original contribution in clarifying the meaning of this right.

B. Right to Public Participation

1. Mandate under ASEAN. Provisions relevant to the right to public participation under the ASEAN Charter include Article 1(13): “To promote a people-oriented ASEAN in which all sectors of society are encouraged to participate in, and benefit from, the process of ASEAN integration and community building”; and Article 2(2)(g), calling upon Member States to act in accordance with the principle of “enhanced consultations on matters seriously affecting the common interest of ASEAN;” and Article 1(4), which reflects a commitment to living in a “just, democratic and harmonious environment.”

⁵¹ Vienna Declaration and Programme of Action, art. 11 (1993).

⁵² Johannesburg Declaration on Sustainable Development, arts. 16, 23, 29, and 11 (2002).

⁵³ See, e.g., Joint Declaration on the Attainment of the Millennium Development Goals in ASEAN (Mar. 1, 2009), available at <http://www.aseansec.org/22334.htm>. Targets under Millennium Development Goal 7, to ensure environmental sustainability, include integrating principles of sustainable development into country policies and programs; reversing loss of environmental resources; reducing biodiversity loss; achieving, by 2010, a significant reduction in the rate of loss; reducing by half the proportion of people without sustainable access to safe drinking water and basic sanitation; and achieving significant improvement in the lives of at least 100 million slum dwellers by 2020. United Nations Development Program, “Millennium Development Goals, Goal 7,” at <http://www.undp.org/mdg/goal7.shtml>.

⁵⁴ Established in 2004, the Roundtable on Sustainable Palm Oil (RSPO) is one example of a mechanism that facilitates multi-stakeholder engagement for sustainable development. According to its website, “RSPO is a not-for-profit association that unites stakeholders from seven sectors of the palm oil industry - oil palm producers, palm oil processors or traders, consumer goods manufacturers, retailers, banks and investors, environmental or nature conservation NGOs and social or developmental NGOs - to develop and implement global standards for sustainable palm oil.” “Who is RSPO?”, at <http://www.rspo.org/page/9>.

As noted, one of AICHR's purposes is "[t]o contribute to the realisation of the purposes of ASEAN as set out in the ASEAN Charter in order to promote . . . the well-being, livelihood, welfare and *participation of ASEAN peoples* in the ASEAN Community building process"⁵⁵ (emphasis added). AICHR's TOR identify civil society organizations as stakeholders with whom AICHR should engage in dialogue and consultation alongside other entities associated with ASEAN.⁵⁶ The TOR also address AICHR'S adherence to the rule of law, good governance, as well as to the principles of democracy and constitutional government.⁵⁷ Such commitments inherently uphold the right to public participation insofar as this right forms the basis of democratic governance.

2. State of the Law. Under international law, the right of everyone to participate in the conduct of public affairs appears in the Universal Declaration of Human Rights,⁵⁸ the Vienna Declaration and Programme of Action,⁵⁹ the International Covenant on Civil and Political Rights,⁶⁰ as well as the African and American

⁵⁵ AICHR TOR, art. 1(3).

⁵⁶ AICHR TOR, art. 4(8) ("To engage in dialogue and consultation with other ASEAN bodies and entities associated with ASEAN, including civil society organisations and other stakeholders, as provided for in Chapter V of the ASEAN Charter."). See also AICHR TOR, art. 4(9) ("To consult, as may be appropriate, with other national, regional and international institutions and entities concerned with the promotion and protection of human rights.").

⁵⁷ AICHR TOR, art. 2(1)(d).

⁵⁸ UDHR, art. 21, which provides that

(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

⁵⁹ VDPA, art. 1(8) ("Democracy is based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives.").

⁶⁰ International Covenant on Civil and Political Rights (ICCPR), art. 25 (1966) ("Every citizen shall have the right and the opportunity . . . to take part in the conduct of public affairs, directly or through freely chosen representatives."). See also Office of the High Commissioner for Human Rights, Human Rights Committee, Fifty-seventh Session, *General Comment 25: The right to participate in public affairs, voting rights and the right of equal access to public service (Art. 25)*, CCPR/C/21/Rev.1/Add.7, General Comment No. 25, ¶ 5 (1996) ("Public affairs" in this provision have been interpreted as "a broad concept, which relates to the exercise of political power, in particular the exercise of legislative, executive and administrative powers."). Six ASEAN States have ratified the ICCPR.

regional human rights systems.⁶¹ The Convention on the Elimination of Discrimination against Women (CEDAW) upholds the equal rights of women to participate in public and political life.⁶²

Additional instruments address minority groups' right to public participation. The UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (UNDM) states that "persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life."⁶³ The UNDM also articulates the right of minorities to "participate effectively in decisions on the national, and where appropriate, regional level concerning the minority to which they belong or the regions in which they live."⁶⁴ The Council of Europe's Framework Convention for the Protection of National Minorities also requires states to "create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in the public affairs, in particular those [matters] affecting them."⁶⁵ From the Organization for Security and Cooperation in Europe (OSCE), the Lund Recommendations on the Effective Participation of National Minorities in Public Life "aim to facilitate the inclusion of minorities within the state and enable minorities to maintain their own identity and characteristics, thereby promoting the good governance and integrity of the State."⁶⁶

⁶¹ African Charter, art. 13(1) ("Every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives . . ."); *Id.* art. 13(2) ("Every citizen shall have the right of equal access to the public service of his country."); Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), art. 8(e) ("States Parties shall . . . ensure . . . that women are represented equally in the judiciary and law enforcement organs."); *Id.* art. 9 (requiring signatories to "promote participative governance and the equal participation of women in the political life of their countries"); American Convention on Human Rights, art. 23(1) (granting all citizens the right "to take part in the conduct of public affairs, directly or through freely chosen representatives"; "to vote and to be elected in genuine periodic elections"; and "to have access, under general conditions of equality, to the public service of his country"); American Declaration on the Rights and Duties of Man, art. 20 ("Every person having legal capacity is entitled to participate in the government of his country, directly or through his representatives, and to take part in popular elections, which shall be by secret ballot, and shall be honest, periodic and free.").

⁶² CEDAW, arts. 7-8.

⁶³ UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (UNDM), art. 2(2) (1992) (adopted unanimously by the UN General Assembly).

⁶⁴ *Id.* art. 2(3). See also Asbjorn Eide, Chairperson of the Working Group on Minorities of the Sub-Commission on the Promotion and Protection of Human Rights, *Final Text of the Commentary to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, UN Commission on Human Rights, Sub-Commission on the Promotion and Protection of Human Rights, Fifty-Third Session, Working Group on Minorities, Seventh Session, E/CN.4/Sub.2/AC.5/2001/2, ¶ 36 (May 14-18, 2001) (stating that rights underlying public life include "rights related to election[s] and to being elected, the holding of public office and other political and administrative domains"). The Working Group on Minorities decided at its tenth session to "endorse the commentary . . . as the commentary of the Working Group on Minorities as a whole, to reissue it as such and to give it the widest possible distribution." *Prevention of Discrimination and Protection of Minorities, Report of the Working Group on Minorities at its tenth session*, UN Commission on Human Rights, Sub-Commission on the Promotion and Protection of Human Rights, Fifty-Sixth Session, Item 5(c) of the Provisional Agenda, E/CN.4/Sub.2/2004/29, ¶66(2)(b) (Mar. 1-5, 2004).

⁶⁵ Council of Europe Framework Convention for the Protection of National Minorities, art. 15 (1995).

⁶⁶ The Lund Recommendations on the Effective Participation of National Minorities in Public Life (Lund Recommendations), General Principles ¶ 1 (1999), available at http://www.osce.org/documents/hcnm/1999/09/2698_en.pdf. See also Organization for Security and Cooperation in Europe, *Guidelines to Assist National Minority Participation in the Electoral Process* (review and analysis of Lund Recommendations).

3. Relevance to ASEAN. In addition to an emphasis on *effective* participation, these normative standards require strict application of non-discrimination principles found in various international conventions to which ASEAN Member States are party.⁶⁷ They also suggest the need to afford safeguards for the inclusion of those at greatest risk of being disenfranchised. The right to public participation will yield its greatest potential when not only read as the right to participate in the selection of government officials, but as the right of civil society to actively engage *with* these officials through access to information and formal spaces of dialogue and consultation in matters that can or already do affect them. These concepts are consistent with ASEAN's own commitment to respect "the different cultures, languages and religions of the peoples of ASEAN, while emphasizing their common values in the spirit of unity in diversity."⁶⁸ Effective public participation increases the capacity of all peoples across ASEAN States to achieve the goals of security and stability, sustained economic growth, shared prosperity, and social progress. It is a vital tool to prevent conflict and loss of economic opportunity.

C. Right to Nationality

1. Mandate under and Relevance to ASEAN. Approximately 12 million people worldwide lack effective nationality, and nearly all ASEAN countries face challenges relating to statelessness.⁶⁹ A *de jure* stateless person is someone "who is not considered as a national by any state under the operation of its law."⁷⁰ Persons who are *de facto* stateless have not been formally denied or deprived of nationality, but lack effective proof of any nationality or, despite documentation, are denied access to human rights on the grounds that they lack nationality. Because recognition of nationality serves as a key to a host of other rights, such as education, health care, employment, equality before the law and the right to vote, people without effective citizenship in any country are extremely vulnerable.⁷¹ The threat of expulsion hangs over the vast majority of stateless persons, whose lack of citizenship is often the result of discrimination based on ethnicity or gender, in law or practice. Many stateless people are said to belong to ethnic

⁶⁷ See, e.g., International Convention on the Elimination of All Forms of Racial Discrimination, art. 1 ("In this Convention, the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."); CEDAW, art. 1; CRC, art. 2; and ICCPR, arts. 4, 20, 24, and 26. One expert contributor has also emphasized that the right to assembly must be guaranteed to ensure the right to public participation.

⁶⁸ ASEAN Charter, art. 2(2)(l).

⁶⁹ In 2008, the United Nations High Commission for Refugees (UNHCR) estimated that 12 million people around the world are *de jure* stateless or have undetermined nationality. See UNHCR, *2007 Global Trends 20* (2008), available at <http://www.unhcr.org/statistics/STATISTICS/4852366f2.pdf>. Regarding statelessness in the ASEAN region, see generally United Nations High Commission for Refugees (UNHCR), *Good Practices: Addressing Statelessness in South East Asia*, Report of the Regional Expert Roundtable on Good Practices for the Identification, Prevention and Reduction of Stateless Persons in South East Asia (Oct. 28-29, 2010), available at <http://www.unhcr.org/refworld/docid/4d6e0a792.html>; see also Katherine Southwick and Maureen Lynch, Refugees International, *Nationality Rights for All: A Progress Report and Global Survey on Statelessness*, 36-39 (Mar. 2009), available at http://www.refintl.org/sites/default/files/RI%20Stateless%20Report_FINAL_031109.pdf.

⁷⁰ Convention relating to the Status of Stateless Persons, art. 1(1) (1954).

⁷¹ For the purpose of this paper, citizenship and nationality are used interchangeably. See generally Indira Goris, Julia Harrington and Sebastian Kohn, "Statelessness: What It Is and Why It Matters," 32 FORCED MIGRATION REVIEW 4 (2009), available at <http://www.fmreview.org/FMRpdfs/FMR32/FMR32.pdf> (providing a useful overview of the nature and scope of statelessness).

minority groups that have resided for generations in the same country, such as certain hill tribes in Thailand or the Rohingya in Myanmar.

Poverty and marginalization resulting from statelessness run counter to the ASEAN Charter's commitment "to uphold the right of peoples of ASEAN to live in peace, dignity and prosperity"⁷² and threatens the Charter's goal to promote stability and harmony in the region.⁷³ To be consistent with the Charter's principles, the Declaration could include a provision on the prevention of statelessness.

2. State of the Law. International law has traditionally afforded states broad discretion to define eligibility for nationality. The two most commonly employed principles for granting citizenship – *jus soli* (law of the soil or place of birth) and *jus sanguinis* (law of blood or descent) – operate at the moment of birth, and many states apply a hybrid regime with elements of both principles. Article 15 of the Universal Declaration of Human Rights grants the right to a nationality in general but gives no indication as to when responsibility for granting citizenship should fall on a particular state.

Broad state discretion in the granting of nationality, along with the requirement that nationality laws be consistent with international norms, were first enunciated in the 1930 Convention on Certain Questions relating to the Conflict of Nationality Laws.⁷⁴ Since the mid-twentieth century, a right to nationality has gradually emerged under international law, initially motivated by the need to redress mass denationalizations that occurred during the Second World War.⁷⁵ The 1954 Convention relating to the Status of Stateless Persons affirms that the fundamental rights of stateless persons must be protected.⁷⁶ The 1961 Convention on the Reduction of Statelessness created a framework to avoid future statelessness.⁷⁷ Other instruments such as the American Convention on Human Rights, the European Convention on Nationality, and the Convention on the Elimination of all Forms of Discrimination Against Women, oblige States not to deprive arbitrarily persons of citizenship or in such a way as to cause

⁷² ASEAN Charter, art. 1(2).

⁷³ ASEAN Charter, art. 1(3).

⁷⁴ Convention on Certain Questions relating to the Conflict of Nationality Laws, art. 1 (1930) ("It is for each State to determine under its own law who are its nationals. This law shall be recognised by other States in so far as it is consistent with international conventions, international custom, and the principles of law generally recognised with regard to nationality.").

⁷⁵ Manley O. Hudson, the International Law Commission's Special Rapporteur appointed in 1951, provided a historical account of ethnic persecution and mass denationalizations from the First World War, the interwar period, and the Second World War in Europe and in the Middle East and their impact in developing international legal frameworks to address refugee and statelessness issues. Manley O. Hudson, *Report on Nationality, Including Statelessness*, A/CN.4/50 (Feb. 21, 1952), available at http://untreaty.un.org/ilc/documentation/english/a_cn4_50.pdf.

⁷⁶ Convention relating to the Status of Stateless Persons (1954).

⁷⁷ Convention on the Reduction of Statelessness (1961).

statelessness.⁷⁸ Deprivation of citizenship must be prescribed by law, non-discriminatory, and accompanied by procedural due process, including review or appeal.⁷⁹

As a group, children enjoy the most specific protections of their right to nationality. The Convention on the Rights of the Child (CRC), ratified by all ten ASEAN Member States, guarantees children's right to acquire a nationality, and obliges states to use laws to avoid statelessness among children.⁸⁰ The International Covenant on Civil and Political Rights (ICCPR) recognizes the right of "[e]very child...to acquire a nationality."⁸¹ Similarly, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families states that "[e]ach child of a migrant worker shall have the right to . . . a nationality."⁸²

Minimum standards regarding right to nationality should include protection of children and non-discrimination, particularly regarding gender and ethnicity. With respect to children, numerous sources have called for the right to include that every child has a right to nationality in the state of birth if he or she would otherwise be stateless.⁸³ This obligation is in line with regional standards in Europe, Africa and the Americas.⁸⁴ Regarding gender discrimination, minimum requirements for consideration include, according to CEDAW Article 9(1), granting women equal rights with men to acquire, change or retain their nationality, and according to CEDAW Article 9(2), the obligation to ensure equality between men and women with respect to conveying nationality to their children. With respect to racial or ethnic discrimination, CERD Article 5 prohibits discrimination relating to citizenship. The United Nations Committee on the Elimination of Discrimination affirmed that "deprivation of citizenship on the basis of race, colour, descent, or national or ethnic origin is a breach of States' parties obligations to ensure non-

⁷⁸ Universal Declaration of Human Rights, art. 15(2); and 1961 Convention on the Reduction of Statelessness, art. 8. *See also* International Convention on the Elimination of All Forms of Discrimination against Women, art. 9(1); American Convention on Human Rights, art. 20(3); and European Convention on Nationality, arts. 4 and 7(3). Arbitrary deprivation of citizenship may also raise concerns under Articles 3 and 8 of the European Convention of Human Rights.

⁷⁹ *See* Johannes M. M. Chan, "Nationality as a Human Right," *Human Rights Law Journal* 12, 11 (1991); and Amnesty International, "Nationality, Expulsion, Statelessness and the Right to Return," ASA 14/01/00 (Sept. 2000).

⁸⁰ CRC, art. 7.

⁸¹ ICCPR, art. 24(3).

⁸² International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, art. 29. The Philippines has ratified this Convention, and Cambodia and Indonesia have signed it. While the ASEAN Declaration on the Promotion and Protection of the Rights of Migrant Workers does not explicitly reference right to nationality, it invokes the UDHR, obligates receiving states to "[i]ntensify efforts to promote the fundamental human rights, promote the welfare and uphold human dignity of migrant workers," and obligates sending states to "[e]nhance measures relating to the promotion and protection of the rights of migrant workers." ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, Preamble ¶ 3, and arts. 5 and 11 (2007).

⁸³ Article 7(2) of the CRC suggests that the obligation to implement the right to acquire a nationality is particularly important in cases where the child would otherwise be stateless. *See* CRC, art. 7(2) ("States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.").

⁸⁴ Open Society Justice Initiative, Children's Right to a Nationality, *available at* http://www.soros.org/initiatives/justice/articles_publications/publications/children-nationality-20110624/children-nationality-20110624.pdf.

discriminatory enjoyment of the right to nationality.”⁸⁵ Non-discrimination principles pervade international instruments and regional human rights systems.⁸⁶

In short, while the right to nationality is not a new concept and is well-established in international law, the problem of statelessness remains a widespread global phenomenon and stateless persons face substantial obstacles in enforcing their rights. Accordingly, the AHRD presents an opportunity to draw overdue attention to this problem and, as a region which has both grappled with and succeeded in addressing the plight of stateless persons, ASEAN can lead important advancements in securing the right to nationality.

D. Principle or Duty⁸⁷ of Corporate Responsibility

1. Mandate under ASEAN. Frameworks relating to business and human rights have gained increasing attention over the last five years. Though the ASEAN Charter does not explicitly refer to these frameworks, various provisions highlighted above in Section A reflect the region’s commitment to prosperity through sustainable development, good governance, and human rights.⁸⁸ Other relevant provisions include:

- Article 1(5): [Calling upon parties] to create a single market and production base which is stable, prosperous, highly competitive and economically integrated with effective facilitation for trade and investment in which there is free flow of goods, services and investment; facilitated movement of business persons, professionals, talents and labour; and freer flow of capital

⁸⁵ Committee on the Elimination of Racial Discrimination, General Recommendation No. 30, Discrimination against Non-Citizens, HRI/Gen/1/Rev.7/Add.1, ¶ 14 (2005), available at http://www.bayefsky.com/general/cerd_genrecom_30.pdf.

⁸⁶ In the event that the AHRD Drafting Committee considers the inclusion of the right to nationality in the forthcoming Declaration, it may wish to draw upon the CRC, CERD, CEDAW and other provisions cited above. One expert contributor provided the following suggestions:

- 1) Every child has a right to nationality in the state of birth if he or she would otherwise be stateless.
- 2) Children shall have a right to acquire a nationality on a non-discriminatory basis, without regard to their race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. Further, the law must not permit discrimination with regard to acquisition of nationality between children born in and out of wedlock.
- 3) States have an obligation to register immediately after birth all children born in its territory, and where applicable provide them with documents necessary to prove their nationality
- 4) National constitutions and nationality laws should provide for an explicit right to nationality from birth (of origin) on the basis of an appropriate connection to the country, such as birth in the territory or having a father or mother who is a citizen.
- 5) States shall accord equal rights to men and women with respect to the nationality of their children.
- 6) The law should provide that a child found in the territory of the state shall, in the absence of clear proof to the contrary, be considered to have been born within the territory of parents possessing the nationality of that state.
- 7) States have an obligation to provide a clear and expedited path to nationality for stateless children who are not born but habitually resident on its territory. States may require a period of habitual residence prior to application for nationality, but the required period may not extend beyond five years.

⁸⁷ Following the model of other treaties and declarations, statements of duties generally appear after statements concerning rights. Accordingly, corporate responsibility is discussed after the rights considered in this section.

⁸⁸ See ASEAN Charter, Preamble ¶¶ 6 and 9, arts. 1(6), 1(9), 1(11), 1(13), and 2(2)(i).

- Article 1(9): [Calling upon parties] to promote sustainable development so as to ensure the protection of the region’s environment, the sustainability of its natural resources, the preservation of its cultural heritage and the high quality of life of its peoples
- Article 1(3) of the AICHR TOR: [Setting out AICHR’s purpose] to contribute to the realization of the purposes of ASEAN as set out in the ASEAN Charter in order to promote stability and harmony in the region, friendship and cooperation among ASEAN Member States, as well as the well-being, livelihood, welfare and participation of ASEAN peoples in the ASEAN Community building process.

Accordingly, the AHRD could elaborate on ASEAN’s commitment to sustainable development and good governance to include business and human rights, incorporating principles of corporate responsibility.

2. State of the Law. In 2008, Professor John Ruggie, the United Nations Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, presented a report to the UN Human Rights Council titled *Protect, Respect and Remedy: a Framework for Business and Human Rights*. The Framework consists of three core principles: 1) the duty of states to protect against human rights abuses by third parties, including business enterprises; 2) the corporate responsibility to respect human rights; and 3) the need for greater access by victims to effective judicial and non-judicial remedies.⁸⁹ In 2011, the UN Human Rights Council adopted Guiding Principles on Business and Human Rights, outlining steps that states should take to foster businesses’ respect for human rights, and providing guidance to companies on how to adhere to international human rights standards.⁹⁰

3. Relevance to ASEAN. The Guiding Principles elaborate on “the implications of existing standards and practices for States and businesses,” rather than create new international law obligations. Like the Framework, they are therefore consistent with the non-binding nature of declarations. As a result, the incorporation of an article relating to corporate responsibility into the AHRD could serve as a symbol of the region’s commitment to these emerging standards, without the immediate effect of rendering them justiciable.

⁸⁹ See generally *Protect, Respect and Remedy: A Framework for Business and Human Rights, Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie*, United Nations Human Rights Council, Eighth Session, A/HRC/8/5 (Apr. 7, 2008) (Protect, Respect and Remedy Framework or Ruggie Framework), available at <http://www.reports-and-materials.org/Ruggie-report-7-Apr-2008.pdf>.

⁹⁰ See *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework, Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie*, Human Rights Council, Seventeenth Session, A/HRC/17/31 (Mar. 21, 2011), available at <http://www.business-humanrights.org/media/documents/ruggie/ruggie-guiding-principles-21-mar-2011.pdf>. See also Steptoe & Johnson LLP, “UN Guiding Principles for Business and Human Rights: Issuance of Ruggie Principles Portends Increasing Needs for Multinational Businesses to Focus on Human Rights Compliance” (Apr. 20, 2011), at http://www.steptoe.com/publications-newsletter-pdf.html/pdf/?item_id=172 (providing a concise analysis of the Protect, Respect and Remedy Framework).

The incorporation of a provision relating to corporate responsibility would mark the first instance in which business and human rights principles are formally included in a regional normative instrument. Much like the African Commission on Human and Peoples' Rights has become recognized for developing the scope of the right to development in the African context, the adoption of corporate responsibility principles within the ASEAN Declaration would enable ASEAN to lead in determining how these principles are articulated worldwide.

AICHR's selection of business and human rights as the focus of its forthcoming report reflects growing interest in this thematic area within the ASEAN context. The Singaporean Representative's explicit reference to the Ruggie Framework as a useful reference for AICHR's study reinforces this interpretation.⁹¹ In September 2011, the Government of Myanmar, noting its responsibility "to respect the will of the people," halted construction of a dam when public concerns about the project were raised.⁹² Research institutions within the region are also focusing on this area, such as the Human Rights Resource Centre for ASEAN, which will likely publish a report on this topic in 2012. In the wider region, the Hong Kong Stock Exchange's adoption of new disclosure rules for mineral companies in 2010 is also a notable example of momentum in the region regarding business and human rights. Among other requirements, the revised rules call for applicants to the exchange to provide information on social and environmental issues, liabilities, and mitigation practices. Claims that may exist regarding land on which exploration or mining activity is being carried out, including any ancestral or native claims, must also be disclosed.⁹³ These new rules mark a significant step forward in strengthening transparency and accountability in the extractive industries.

Based on the Protect, Respect and Remedy Framework, possible wording for a provision on corporate responsibility could be the following:

1. States shall protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication.
2. Rights and obligations in relation to the above shall be matched by appropriate and effective remedies when breached.

⁹¹ Letter by Richard Magnus, Representative of Singapore, ASEAN Intergovernmental Commission on Human Rights, ASEAN National Secretariat, Ministry of Foreign Affairs, Singapore (May 23, 2011).

⁹² Rachel Harvey, "Burma Dam: Work Halted on Divisive Myitsone Project," BBC News (Sept. 30, 2011), *available at* <http://www.bbc.co.uk/news/world-asia-pacific-15121801>.

⁹³ See, e.g., Revenue Watch Institute, "Hong Kong: Stock Exchange to Require Greater Transparency" (May 28, 2010), *at* <http://www.revenuewatch.org/news/hong-kong-stock-exchange-require-greater-transparency> (outlining requirements of Hong Kong Stock Exchange's disclosure rules). See also Protect, Respect and Remedy Framework, ¶ 30 (noting that several states, subnational authorities, and stock exchanges are calling for "sustainability reporting" to enable stakeholders to compare rights-related performance, drawing particular attention to initiatives in Sweden, the United Kingdom, and China).

CONCLUSION

In establishing a human rights commission, as well as mechanisms bolstering the rights of women, children, migrant workers, and human trafficking survivors, ASEAN has signalled that the region's development and growing influence must be underpinned by robust commitments to human rights. The ASEAN Human Rights Declaration presents a significant opportunity for ASEAN to strengthen that human rights foundation. As a non-binding instrument, the AHRD can affirm current human rights obligations of Member States, articulate a common standard of achievement for the region, and establish ASEAN as a leader in human rights issues of particular regional relevance. It can set out guidelines for assessing Member States' progress on human rights and serve as a basis for strengthening the region's identity and cohesiveness.

This Experts' Note has sought to provide some tools in the drafting of the ASEAN Human Rights Declaration. By reviewing ASEAN States' human rights commitments under national and international laws, including domestic constitutions, ASEAN instruments, international conventions, and customary international law, this Note has enumerated sources from which the AHRD can draw. This Note has also proposed approaches that AICHR and stakeholders can consider in selecting which rights, if any, ASEAN wishes to amplify in the AHRD based on the organization's regional perspective.

The AHRD can fulfil its potential to strengthen human rights in ASEAN if the drafting process is as meaningful as the Declaration's content. A drafting process that is open and transparent, involving a variety of stakeholders, will help ensure that the AHRD reflects the concerns and aspirations of its chief beneficiaries—the peoples of ASEAN. But dialogue surrounding the AHRD is not limited to the borders of ASEAN. Experts from both inside and outside the region have contributed to this Note based on the recognition that the evolution of ASEAN's human rights system will influence the development of human rights and rule of law worldwide. As with other regional systems, it is hoped that the ASEAN human rights system will draw from and reinforce the universality and interdependence of human rights, for the peoples of ASEAN and beyond.

ANNEX

TABLE 1

Comparison of Core Rights across International & Regional Agreements

<i>Generally Agreed Upon Rights</i>	<i>Ref. to Right in International Declarations & ASEAN Instruments</i>	<i>Reference to Right in ASEAN State Constitutions</i>	<i>Reference to Right in International Conventions Ratified by ASEAN States</i>	<i>Reference to Right in Regional Conventions</i>
Judicial/Legal Rights				
Right to a Remedy When Fundamental Rights Are Violated	<ul style="list-style-type: none"> • UDHR, Art. 8 • VDPA, Art. 1(27) 	<ul style="list-style-type: none"> • 5 ASEAN state const. refer to a right of access to courts 	<ul style="list-style-type: none"> • 6 ASEAN states ratified ICCPR (Art. 2(3) - right to remedy when fundamental rights are violated) 	<ul style="list-style-type: none"> • Africa: Afri. Char., Art. 26; Maputo Pr. Art. 25 • America: Amer. Conv., Art. 25; Amer. Decl., Art. 18 • Arab Char., Arts. 12, 23 • Euro. Conv., Art. 13
Right to/ Respect for Life	<ul style="list-style-type: none"> • UDHR, Art. 3 • VDPA, Art. 2(63) 	<ul style="list-style-type: none"> • 8 ASEAN state const. refer to a right to life 	<ul style="list-style-type: none"> • 10 ASEAN states ratified CRC (Art. 6- right to life for children) • 6 ASEAN states ratified ICCPR (Art. 6- right to life) • 5 ASEAN states ratified Smuggling Migrants Pr. (Arts. 6(3), 16(1) - right to life for migrants) 	<ul style="list-style-type: none"> • Africa: Afri. Char., Art. 4; Afri. Charter Rights Child, Art. 5; Maputo Pr., Art. 4 • America: Amer. Conv., Art. 4; Amer. Decl., Art. 1; Death Penalty Pr., Arts. 1, 2 • Arab Char., Art. 5-7 • Euro. Conv., Art. 2; Pr. 6, 13
Prohibition on Slavery, Forced Labor, Trafficking	<ul style="list-style-type: none"> • UDHR, Art. 4 • VDPA, Art. 2(38) (women) • ASEAN Decl. ag. 	<ul style="list-style-type: none"> • 7 ASEAN state const. prohibit slavery and severely limit forced labor 	<ul style="list-style-type: none"> • 10 ASEAN states ratified CEDAW (Art. 6 prohibits trafficking women) • 6 ASEAN states ratified ICCPR (Art. 8 prohibits forced labor, slavery, and human trafficking) 	<ul style="list-style-type: none"> • Africa: Afri. Char., Art. 5; Afri. Char. Rights Child, Art. 15; Maputo Pr. Art. 4 • America: Amer. Conv., Art. 6;

Generally Agreed Upon Rights	Ref. to Right in International Declarations & ASEAN Instruments	Reference to Right in ASEAN State Constitutions	Reference to Right in International Conventions Ratified by ASEAN States	Reference to Right in Regional Conventions
	Trafficking		<ul style="list-style-type: none"> • 9 ASEAN states ratified CPIAE (Art. 1, 3 prohibits slavery/forced labor for children) • 5 ASEAN states ratified Smuggling Migrants Pr (Art. 6 prohibits trafficking, slavery of migrants) • 6 ASEAN states ratified Punish Trafficking Pr. • 4 ASEAN states ratified the Abolition Forced Labour Conv. • 9 ASEAN states ratified Conv. Concerning Forced or Compulsory Labour • 9 ASEAN states ratified CPIAE • 3 ASEAN states ratified (5 states signed) Conv. Suppression Traffic • 6 ASEAN states ratified Punish Trafficking Pr. • 5 ASEAN states ratified Supp. Conv. Abolition Slavery 	<p>Amer. Decl., Arts. 25-26</p> <ul style="list-style-type: none"> • Arab Char., Art. 10 • Europe: Euro. Conv., Art. 4; Council of Europe Conv. Action ag. Trafficking
Prohibition on Torture, Cruel Punishment	<ul style="list-style-type: none"> • UDHR, Art. 5 • VDPA, Art. 2(54-62) 	<ul style="list-style-type: none"> • 4 ASEAN state const. prohibit torture/cruel punishment 	<ul style="list-style-type: none"> • 6 ASEAN states ratified ICCPR (Art. 7 prohibits torture, cruel punishment) • 5 ASEAN states ratified Smuggling Migrants Pr. (Art. 6, 16 prohibit torture, cruel treatment of migrants) • 4 ASEAN states ratified Conv. Ag. Torture 	<ul style="list-style-type: none"> • Africa: Afri. Char., Art. 5; Afri. Char. Rights Child, Art. 16 • America: Amer. Conv., Art. 5; Amer. Decl., Arts. 25-26 • Arab Char., Arts. 8, 9, 20 • Euro. Conv., Art. 3
Right to Liberty, Prohibition on Arbitrary Arrest or Detention	<ul style="list-style-type: none"> • UDHR, Arts. 3, 9 	<ul style="list-style-type: none"> • 8 ASEAN state const. prohibit arbitrary citizen arrests/ detentions 	<ul style="list-style-type: none"> • All ASEAN states ratified CRC (Art. 37 prohibits arbitrary arrest and detention of children) • 6 ASEAN states ratified ICCPR (Art. 9 prohibits arbitrary arrest and detention) 	<ul style="list-style-type: none"> • Afri. Char., Art. 6 • America: Amer. Conv., Art. 7; Amer. Decl., Art. 25 • Arab Char., Arts. 14, 18 • Euro. Conv., Art. 5

Generally Agreed Upon Rights	Ref. to Right in International Declarations & ASEAN Instruments	Reference to Right in ASEAN State Constitutions	Reference to Right in International Conventions Ratified by ASEAN States	Reference to Right in Regional Conventions
Right to a fair hearing by an independent tribunal	<ul style="list-style-type: none"> • UDHR, Art. 10 • VDPA, Art. 1(27) 	<ul style="list-style-type: none"> • 8 state const. provide some rights to a trial for the criminally accused 	<ul style="list-style-type: none"> • All ASEAN states ratified CRC (Arts. 37 and 40 - prompt trial by an independent court for children) • 6 ASEAN states ratified ICCPR (Art. 9 provides the same right for all) 	<ul style="list-style-type: none"> • Afri. Char., Arts. 7, 26 • America: Amer. Conv., Arts. 7-8; Amer. Decl., Art. 25 • Euro. Conv., Arts. 5-6 • Arab Char., Arts. 12, 13
Right to defense and a presumption of innocence	<ul style="list-style-type: none"> • UDHR, Art. 11(1) 	<ul style="list-style-type: none"> • 9 ASEAN state const. recognize a right to defense • 4 ASEAN state const. recognize a presumption of innocence 	<ul style="list-style-type: none"> • 10 ASEAN states ratified CRC (Art. 37 - legal assistance for children; Art. 40 - presumption of innocence) • 6 ASEAN states ratified ICCPR (Art. 9 provides the same rights for all) 	<ul style="list-style-type: none"> • Africa: Afri. Char., Art. 7(1); Afri. Char. Rights Child, Arts 17(2) • America: Amer. Conv., Art. 8; Amer. Decl., Art. 26 • Arab Char., Art. 13(1), 16 • Euro. Conv., Art. 6
Prohibition on <i>ex-post facto</i> conviction	<ul style="list-style-type: none"> • UDHR, Art. 11(2) 	<ul style="list-style-type: none"> • 6 ASEAN state const. prohibit <i>ex-post facto</i> convictions 	<ul style="list-style-type: none"> • 10 ASEAN states ratified CRC (Art. 40 prohibits ex post facto convictions of children) • 6 ASEAN states ratified ICCPR (Art. 15(1) provides for the same for all) 	<ul style="list-style-type: none"> • Afri. Char., Art. 7(2) • Amer. Conv., Art. 9 • Arab Char., Art. 15 • Euro. Conv., Art. 7
Prohibition on arbitrary exile	<ul style="list-style-type: none"> • UDHR, Art. 9 	<ul style="list-style-type: none"> • 4 ASEAN state const. prohibit expulsion of citizens 	<ul style="list-style-type: none"> • 6 ASEAN states ratified ICCPR (Art. 13 prohibits arbitrary exile of aliens) 	<ul style="list-style-type: none"> • Afri. Char., Art. 12(4) • Amer. Conv. Art. 22(6) • Euro. Conv., Pr. 7, Art. 1 • Arab. Char. 26(2)
Political Rights				
Right to Democracy, Participation in Government	<ul style="list-style-type: none"> • ASEAN Char., Arts. 1(4), 1(7), 2(2)(h) • AICHR TOR, No. 2(1)(d) 	<ul style="list-style-type: none"> • 8 ASEAN state const. provide a participation in government 	<ul style="list-style-type: none"> • All ASEAN states ratified CEDAW (Art. 7 – right for women to participate in government) • 6 ASEAN states ratified ICCPR (Art. 25 - right to participate in government for all) 	<ul style="list-style-type: none"> • Africa: Afri. Char., Art. 13; Maputo Pr. Art. 8-9 • America: Amer. Conv., Art. 23(1); Amer. Decl., Arts. 20, 32

Generally Agreed Upon Rights	Ref. to Right in International Declarations & ASEAN Instruments	Reference to Right in ASEAN State Constitutions	Reference to Right in International Conventions Ratified by ASEAN States	Reference to Right in Regional Conventions
	<ul style="list-style-type: none"> • UDHR, Art. 21 • VDPA, Arts. 1(8), 2(67) 			<ul style="list-style-type: none"> • Arab. Char. 24 • Europe: Euro. Conv., Art. 14; Pr. 1, Arts. 2-3
Right to Peace and Security	<ul style="list-style-type: none"> • UDHR, Art. 3 • VDPA, Art. 1(17) • ASEAN Char., Art. 1(1, 3, 4, 12) • AICHR TOR, No. 1(2) • ACWR TOR, No. 2(2) • ASEAN Decl. Commit. Child., No. 16 	<ul style="list-style-type: none"> • 6 ASEAN state const. refer to a right to security of person 	<ul style="list-style-type: none"> • 6 ASEAN states ratified ICCPR (Art. 9(1) – right to security) 	<ul style="list-style-type: none"> • Africa: Afri. Char., Art. 23(1); Maputo Pr., Art. 10 • Amer. Conv., Art. 26. • Arab Char., Preamble • Euro. Conv., Arts. 5, 15
Right to Nationality	<ul style="list-style-type: none"> • UDHR, Art. 15 	<ul style="list-style-type: none"> • 1 ASEAN state const. recognizes right to nationality • 6 ASEAN state const. provide for citizenship 	<ul style="list-style-type: none"> • All ASEAN states ratified CRC (Art. 7 - right to nationality for children) • All ASEAN states ratified CEDAW (Art. 9 gives women equal rights with men to acquire, change or retain their nationality) • 6 ASEAN states ratified ICCPR (Art. 24 - right to nationality for children) 	<ul style="list-style-type: none"> • Afri. Char. Rights Child., Art. 6(3) • America: Amer. Conv., Art. 20; Amer. Decl., Art. 19 • Arab Char., Art. 29
Freedom of Expression	<ul style="list-style-type: none"> • UDHR, Art. 19 • VDPA, Art. 2(22) 	<ul style="list-style-type: none"> • 9 ASEAN state const. address the right to freedom of expression 	<ul style="list-style-type: none"> • 6 ASEAN states ratified ICCPR (Art. 19 - right to freedom of expression) 	<ul style="list-style-type: none"> • Africa: Afri. Char., Art. 9(2); Afri. Char. Rights Child., Art. 7 • America: Amer. Conv., Art. 13; Amer. Decl., Art. 4 • Arab Char., Art. 32(1) • Euro. Conv., Art. 10
Freedom of Association/	<ul style="list-style-type: none"> • UDHR, Arts. 20, 23 	<ul style="list-style-type: none"> • 9 ASEAN state constitutions 	<ul style="list-style-type: none"> • All ASEAN states ratified CRC (Art. 15(1) - right to freedom of association and assembly for 	<ul style="list-style-type: none"> • Africa : Afri. Char., Arts. 10-11 ; Afri. Char. Rights Child.,

Generally Agreed Upon Rights	Ref. to Right in International Declarations & ASEAN Instruments	Reference to Right in ASEAN State Constitutions	Reference to Right in International Conventions Ratified by ASEAN States	Reference to Right in Regional Conventions
Assembly		provide a right to associate and assemble	children) • 6 ASEAN states ratified ICCPR (Arts. 21-22 - right to freedom of association and assembly for all)	Art. 8 • America: Amer. Conv., Arts. 15-16; Amer. Decl., Art. 21-22; San Salv. Pr., Art. 8 • Arab Char., Arts. 24, 35 • Euro. Conv., Art. 11
Freedom of movement within state, freedom to return to leave and return home country	• UDHR, Art. 13 • VDPA, Art.1(23)	• 9 ASEAN state const. provide for freedom of mvmt. within country • 3 ASEAN state const. provide for freedom to leave country & return	• 6 ASEAN states ratified ICCPR (Art. 12 - right to freedom of intra- and inter-state movement)	• Afri. Char., Art. 12 • Amer. Conv., Art. 22 • Amer. Decl., Art. 8 • Euro. Conv., Pr. 4, Art. 2-3 • Arab Char., arts. 26, 27
Right to Seek Asylum	• UDHR, Art. 14 • VDPA, Art. 1(23)	• 4 ASEAN state constitutions provide for a right to seek asylum	• All ASEAN states ratified CRC (Art. 22 - right to seek asylum for children)	• Africa: Afri. Char., Art. 12(3); Afri. Char. Rights Child, Art. 23; Maputo Pr. Art. 4(2)(k), 11 • America: Amer. Conv., Art. 22; Amer. Decl., Art. 27 • Arab Char., art. 28
Right to Information	• UDHR, Art. 19	• 5 ASEAN state constitutions address rights to information and media	• All ASEAN states ratified CRC (Art. 13(1) - right to information) • 6 ASEAN states ratified ICCPR (Art. 19(2) - right to information) • 9 ASEAN states ratified Conv. ag. Corruption (Arts. 10, 13 - right to information)	• Africa: Afri. Char., Art. 9(1); Afri. Char. Rights Child, Arts. 19(3), 23(2) (whereabouts of family) • Amer. Conv., Art. 13(1) • Arab Char., art. 32(1)

Generally Agreed Upon Rights	Ref. to Right in International Declarations & ASEAN Instruments	Reference to Right in ASEAN State Constitutions	Reference to Right in International Conventions Ratified by ASEAN States	Reference to Right in Regional Conventions
				<ul style="list-style-type: none"> • Europe: Euro. Conv., Art. 10(1); Euro. Social Char., art. 21
Economic Rights				
Right to social security, adequate standard of living	<ul style="list-style-type: none"> • ASEAN Char., Art. 1(6); Decl. Commit. Child., No. 2 (poverty alleviation). • ASEAN Char., Art. 1(9) (high quality of life) • UDHR, Arts. 22, 25 • VDPA, Art. 1(12, 25, 31) 	<ul style="list-style-type: none"> • 7 ASEAN state const. provide for some form of social security; 2 specifically provide for an adequate standard of living 	<ul style="list-style-type: none"> • 6 ASEAN states ratified ICESCR (Arts. 9 & 11 - rights to social security and an adequate standard of living) 	<ul style="list-style-type: none"> • Africa: Maputo Pr., Art. 24 • America: Amer. Conv., Arts. 1, 26; Amer. Decl., Art. 16; San Salv. Pr., Art. 9(1) • Arab Char. Art. 36-38 • Euro. Social Char., Arts. 4, 12-14
Right to Work, Equal Pay	<ul style="list-style-type: none"> • UDHR, Art. 23 	<ul style="list-style-type: none"> • 7 ASEAN state const. address the right to work • 3 ASEAN state const. call for equal pay for equal work 	<ul style="list-style-type: none"> • 8 ASEAN states ratified Equal Remuneration Conv. • 6 ASEAN states ratified ICESCR (Arts. 6, 7 - rights to equal work and pay) • 5 ASEAN states ratified the Discrim. (Employment and Occupation) Conv. (equal pay regardless of race, sex, religion, nationality, politics) 	<ul style="list-style-type: none"> • Africa: Afri. Char., Art. 15; Maputo Pr. Art. 13. • America: Amer. Decl., Arts. 14, 37; San Salv. Pr., Arts. 6-7 • Arab Char., Art. 34 • Euro. Social Char., Arts. 1-4
Right to Property	<ul style="list-style-type: none"> • ASEAN Decl. Cultural Heritage, Nos. 8-9 (intellectual prop.) • UDHR, Art. 17, 27 	<ul style="list-style-type: none"> • 8 ASEAN state const. address property rights • 3 ASEAN state const. address intellectual property rights 	<ul style="list-style-type: none"> • All ASEAN states ratified CEDAW (Art. 16 - women have same rights to property as men) 	<ul style="list-style-type: none"> • Africa: Afri. Char., Art. 14; Maputo Pr. Art. 6, 7, 21 • America: Amer. Conv. Arts. 13, 21; Amer. Decl., Arts. 13, 23; San Salv. Pr. Art. 14 • Arab Char. Arts. 31, 42(2) • Euro. Conv., Pr. 1, art. 1

Generally Agreed Upon Rights	Ref. to Right in International Declarations & ASEAN Instruments	Reference to Right in ASEAN State Constitutions	Reference to Right in International Conventions Ratified by ASEAN States	Reference to Right in Regional Conventions
Equal Rights				
Right to Equality, Freedom from Discrimination	<ul style="list-style-type: none"> • ASEAN Char., Art. 1(11) (equitable access to opportunities) • AICHR TOR, No. 2.2 • ACWC TOR, No. 3.3 • ASEAN Decl. Elim. Violence ag. Women, No. 5 • UDHR, Arts. 2, 7 • VDPA, Art. 1(5, 15), Art. II(19-20) 	<ul style="list-style-type: none"> • 9 ASEAN state constitutions provide for equal protection or prohibit discrimination in some form 	<ul style="list-style-type: none"> • All ASEAN states ratified CEDAW (Art. 4.1 - equality and freedom from discrimination) • 6 ASEAN states ratified ICCPR (Arts. 2.1, 26 - same) • 6 ASEAN states ratified ICESCR (Art. 2.2 – same) 	<ul style="list-style-type: none"> • Africa: Afri. Char., Arts. 2, 3, 19; Maputo Pr. Art. 8 • America: Amer. Conv., Art. 1(1), 24-25; Amer. Decl., Arts. 2, 17 • Arab Char., Arts. 3, 11, 12 • Euro. Conv., Art. 14; Pr. 12, Art. 1(2)
Social and Personal Rights				
Protection of Culture, Traditions	<ul style="list-style-type: none"> • ASEAN Char., Art. 1(9, 14) • AICHR TOR, Nos. 1.4, 2.1 (g) • ASEAN Decl. Cultural Heritage • UDHR, Arts. 22, 27 • VDPA, Art. 1(19-20) 	<ul style="list-style-type: none"> • 7 ASEAN state constitutions address rights to participate in cultural life 	<ul style="list-style-type: none"> • All ASEAN states ratified CRC (Art. 30 - right to culture for children) • 6 ASEAN states ratified ICESCR (Art. 15 – right to participation in cultural life) 	<ul style="list-style-type: none"> • Africa : Afri. Char., Arts. 17(2-3), 18(2) ; Afri. Char. Rights Child, Art. 12 • America: Amer. Conv. Arts. 26, 42; Amer. Decl., Art. 13(1); San Salv. Pr. Art. 14 • Arab Char. Arts. 25, 42
Freedom of Religion	<ul style="list-style-type: none"> • ASEAN Char., Art. 2(2)(i) • AICHR TOR, Nos. 1.4, 2.1 (g) 	<ul style="list-style-type: none"> • All ASEAN state const. provide for freedom of religion, even where there is a 	<ul style="list-style-type: none"> • All ASEAN states ratified CRC (Art. 30 - right to religion for children) • 6 ASEAN states ratified ICCPR (Art. 18(1) - freedom of religion for all) 	<ul style="list-style-type: none"> • Africa: Afri. Char., Art. 8; Afri. Char. Rights Child, Art. 9(1) • America: Amer. Conv., Art 12; Amer. Decl., Art. 3 • Arab Char., Arts. 25, 30(1)

Generally Agreed Upon Rights	Ref. to Right in International Declarations & ASEAN Instruments	Reference to Right in ASEAN State Constitutions	Reference to Right in International Conventions Ratified by ASEAN States	Reference to Right in Regional Conventions
	<ul style="list-style-type: none"> • ACWC TOR, No. 2.1 • UDHR, Art. 18 • VDPA, Arts. 1(19), 2(22) 	state religion		<ul style="list-style-type: none"> • Euro. Conv., Art. 9
Right to Health (Care)	<ul style="list-style-type: none"> • ASEAN Joint Decl. Attain. Millennium Develop. Goals, Preamble • Decl. Commit. Child., No. 14 • UDHR, Art. 25 • VDPA, Arts. 1(31), 2(41) (women) 	<ul style="list-style-type: none"> • 4 ASEAN state constitutions provide for a right to health or healthcare 	<ul style="list-style-type: none"> • All ASEAN states ratified CRC (Art. 24 - right to health for children) • 6 ASEAN states ratified ICESCR (Art. 12 - right to health for all) 	<ul style="list-style-type: none"> • Africa: Afri. Char., Art. 16, 18(1); Afri. Char. Rights Child., Art. 14; Maputo Pr., Art. 14 • America: Amer. Decl., Art. 7, 11; San Salv. Pr., Art. 10 • Arab Char., art. 39 • Euro. Social Char., art. 11
Right to Clean Environment	<ul style="list-style-type: none"> • ASEAN Joint Decl. Attain. Millennium Develop. Goals, No. 2 • ASEAN Char., Preamble, Art. 1(3, 4, 9) (references to sustainable development, nuclear-free zone, and a harmonious environment) • VDPA, Art. 1(11) 	<ul style="list-style-type: none"> • 5 ASEAN state constitutions require government to protect environment 	<ul style="list-style-type: none"> • Numerous conventions related to environmental protection have been ratified by ASEAN states, including the Convention on Biological Diversity, the Convention on the International Trade in Endangered Species of Wild Flora and Fauna, Framework Convention on Climate Change 	<ul style="list-style-type: none"> • Africa: Afri. Char., Art. 24; Maputo Pr. Arts. 16, 18, 19 • America: San Salv. Pr., Art. 11 • Arab Char., Arts. 38, 39(2)
Right to Education	<ul style="list-style-type: none"> • ASEAN Char., Art. 1(10) (calling for 	<ul style="list-style-type: none"> • 7 ASEAN state const. provide for a 	<ul style="list-style-type: none"> • All ASEAN states ratified CRC (Art. 28 - right to education for children) 	<ul style="list-style-type: none"> • Africa: Afri. Char., Arts. 17, 25; Maputo Pr. Art. 12

Generally Agreed Upon Rights	Ref. to Right in International Declarations & ASEAN Instruments	Reference to Right in ASEAN State Constitutions	Reference to Right in International Conventions Ratified by ASEAN States	Reference to Right in Regional Conventions
	<p>“education ... for the empowerment of the people”</p> <ul style="list-style-type: none"> • ASEAN Decl. Commit. Child., No. 12 • UDHR, Art. 26 • VDPA, Art. 2(41, 79) 	right to education	<ul style="list-style-type: none"> • All ASEAN states ratified CEDAW (Art. 14 - right to education for females) • 6 ASEAN states ratified ICESCR (Arts. 13-14 - right to education) • 3 ASEAN states ratified the Conv. ag. Discrimination in Education 	<ul style="list-style-type: none"> • America: Amer. Decl., Arts 12, 31; Amer. Conv., Arts. 12, 26, 42; San Salv. Pr., Art. 13 • Arab Char., Art. 41 • Europe: Euro. Conv., Pr. 1, Art. 2; Euro. Social Char. arts. 7, 17
Right to Privacy	<ul style="list-style-type: none"> • UDHR, Art. 12 	<ul style="list-style-type: none"> • 6 ASEAN state const. address right to privacy (usually in context of search and seizure) 	<ul style="list-style-type: none"> • All ASEAN states ratified CRC (Art. 16 - right to privacy for children) • 6 ASEAN states ratified ICCPR (Art. 17 - right to privacy for all) 	<ul style="list-style-type: none"> • America: Amer. Conv., Art. 11(2); Amer. Decl., Art. 5, 9, 10 • Arab Char., Art. 16(8), 21 • Euro. Conv. Art. 8
Right to Family and to Marry, Prohibition on Forced Marriages	<ul style="list-style-type: none"> • UDHR, Art. 16 	<ul style="list-style-type: none"> • 5 ASEAN state constitutions address the right to family and marriage 	<ul style="list-style-type: none"> • All ASEAN states ratified CEDAW (Art. 16 - equal rights for women re marriage and family planning, prohibits child marriage) • 5 ASEAN states ratified Supp. Conv. Abolition Slavery (Arts. 1-2 prohibit sale of brides, discourage forced marriage) 	<ul style="list-style-type: none"> • African: Afri. Char., Art. 18; Maputo Pr. Arts. 6, 7, 14(1), 20(c) • Amer. Decl., Art. 6 • Amer. Conv., Art. 17 • Euro. Conv., Art. 12 • Arab Char., Art. 33
Protection/Promotion of Certain Groups				
Protection of Women, Mothers and (illegitimate) Children	<ul style="list-style-type: none"> • ACWC Terms, No. 2(2) • Decl. Elim. Violence ag. Women in ASEAN Region • ASEAN Decl. Commit. 	<ul style="list-style-type: none"> • 4 ASEAN state constitutions provide specific protection for children 	<ul style="list-style-type: none"> • All ASEAN states ratified CEDAW (provides broad protections for women) • All ASEAN states ratified CRC (provides broad protections for children) 	<ul style="list-style-type: none"> • Africa: Maputo Pr. (women); Afri. Char. on the Rights and Welfare of the Child • America: Amer. Decl., Art. 7; Amer. Conv., Art. 17; San Salv. Pr. Art. 15, 16; Inter-Amer. Conv. on Prevention,

Generally Agreed Upon Rights	Ref. to Right in International Declarations & ASEAN Instruments	Reference to Right in ASEAN State Constitutions	Reference to Right in International Conventions Ratified by ASEAN States	Reference to Right in Regional Conventions
	Child. <ul style="list-style-type: none"> • Ha Noi Decl. • UDHR Art. 25 • VDPA, Arts. 1(18), 2(36, 38, 41, 43) (women); 1(21), 2(45-53) (children) 			Punish. & Erad. of Violence ag. Women <ul style="list-style-type: none"> • Arab Char., Art. 33 • Europe: Euro. Conv., Pr. 7, Art. 5; Euro. Social Char., art. 17 (children), 20 (women)
Protection of Aged and Disabled	<ul style="list-style-type: none"> • UDHR Art. 25 • VDPA Arts. 1(22), 2(63-64) (disabled) 	<ul style="list-style-type: none"> • 3 ASEAN state constitutions provide specific protection for the aged and/or disabled 	<ul style="list-style-type: none"> • 6 ASEAN states ratified Conv. on Rights of Persons with Disabilities 	<ul style="list-style-type: none"> • Africa: Afri. Char., Art. 18(4); Maputo Pr. Art. 22, 23 • America: Amer. Conv., referring to age in respect to other rights in Arts. 4, 17, 23; Amer. Decl., Art. 16; San Salv. Pr. Art. 17, 18; Inter-Amer. Conv. on Elim. of All Forms of Discrim. ag. Persons With Disabilities • Arab Char., Art. 40 (disabled) • Euro. Social Char., art. 15 (disabled), 23 (aged)
Protection of Minorities, Migrants, and Indigenous	<ul style="list-style-type: none"> • ASEAN Migrant Worker Decl. • ASEAN Decl. Commit. Child., No. 3 • ASEAN Decl. Cultural 	<ul style="list-style-type: none"> • 3 ASEAN state consti. protect the cultural rights of indigenous/ minorities 	<ul style="list-style-type: none"> • 6 ASEAN states ratified ICCPR (Art. 27 - protection of minorities) • 6 ASEAN states ratified the Conv. Elim. Racial Discrimination 	<ul style="list-style-type: none"> • Arab Char., Arts. 25, 34(5) • Europe: Euro. Social Char., art. 23; Euro. Framework Conv. for Minorities

Generally Agreed Upon Rights	Ref. to Right in International Declarations & ASEAN Instruments	Reference to Right in ASEAN State Constitutions	Reference to Right in International Conventions Ratified by ASEAN States	Reference to Right in Regional Conventions
	Heritage, No. 9 • VDPA, Arts. 1(19, 20), 2(31) • Decl. on Rights of Persons Belonging to National or Ethnic, Relig. & Linguistic Minorities • UN Decl. on the Rights of Indigenous Peoples			

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16. Convention Against Discrimination in Education, ratified 22 May 1962, available at , http://portal.unesco.org/en/ev.php-URL_ID=12949&URL_DO=DO_TOPIC&URL_SECTION=201.html#STATE_PARTIES
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Africa

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Arab

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Americas

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Europe

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TABLE 2

Dates of Signature or Ratification (or Accession/Succession) by ASEAN Countries to International Agreements

<i>Agreement</i>	<i>Date Adopt.</i>	<i>Effect. Date</i>	<i>Brunei</i>	<i>Camb</i>	<i>Indon</i>	<i>Laos</i>	<i>Mala</i>	<i>Myan</i>	<i>Philip</i>	<i>Singa</i>	<i>Thai</i>	<i>Viet</i>	<i>Total w/o reserv¹</i>	<i>Total sign²</i>
International Covenant on Civil and Political Rights ³	16 Dec. 1966	23 Mar. 1976	⁴	26 May 1992	23 Feb. 2006	25 Sep. 2009			23 Oct. 1986		29 Oct. 1996 ⁵	24 Sep. 1982 ⁶	4	6
International Covenant on Civil and Political Rights, FIRST PROTOCOL ⁷	16 Dec. 1966	23 Mar. 1976		⁸					22 Aug. 1989				1	2
International Covenant on Civil and Political Rights, SECOND PROTOCOL, aiming at the abolition of the death penalty ⁹	15 Dec. 1989	11 July 1991							20 Nov. 2007				1	1
International Covenant on Economic, Social and Cultural Rights ¹⁰	16 Dec. 1966	3 Jan. 1976		26 May 1992	23 Feb. 2006 ¹¹	13 Feb. 2007			7 June 1974		5 Sep. 1999 ¹²	24 Sep. 1982 ¹³	3	6
Discrimination, Protected Persons														
Convention on the Elimination of All Forms of Discrimination Against Women ¹⁴	18 Dec. 1979	3 Sep. 1981	24 May 2006 ¹⁵	15 Oct. 1992	13 Sep. 1984 ¹⁶	14 Aug. 1981	5 Jul 1995 ¹⁷	22 Jul 1997 ¹⁸	5 Aug 1981	5 Oct. 1995 ¹⁹	9 Aug 1985 ²⁰	17 Feb. 1982 ²¹	3	10
Convention on the Elimination of All Forms of Discrimination Against Women, PROTOCOL ²²	6 Oct. 1999	22 Dec. 2000		13 Oct. 2010	²³				12 Nov. 2003		14 June 2000		3	4
Convention on the Rights of the Child ²⁴	25 Nov. 1989	2 Sep. 1990	27 Dec. 1995 ²⁵	15 Oct. 1992	5 Sep. 1990	8 May 1991	17 Feb. 1995 ²⁶	15 July 1991	21 Aug. 1990	5 Oct. 1995 ²⁷	27 Mar. 1992 ²⁸	28 Feb. 1990	6	10
Convention on the Rights of the Child, PROTOCOL on the Involvement of Children in Armed Conflicts ²⁹	25 May 2000	12 Feb. 2002		16 July 2004 ³⁰	³¹	20 Sep. 2006 ³²			26 Aug. 2003 ³³	11 Dec. 2008 ³⁴	26 Feb. 2006 ³⁵	20 Dec. 2001 ³⁶	0	7

Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor³⁷	17 June 1999	19 Nov. 2000	9 June 2008	14 Mar. 2006	28 Mar. 2000	13 June 2005	10 Nov. 2000		28 Nov. 2000	14 June 2001	16 Feb. 2001	19 Dec. 2000	9	9
Convention on the Rights of Persons with Disabilities³⁸	13 Dec. 2006	3 May 2008	³⁹	⁴⁰	30 Nov. 2011	25 Sep. 2009	19 July 2010 ⁴¹	7 Dec. 2011	15 Apr. 2008		29 July 2008 ⁴²	⁴³	3	9
Convention on the Rights of Persons with Disabilities, PROTOCOL⁴⁴	13 Dec. 2006	3 May 2008		⁴⁵									0	1
Convention on the Elimination of all Forms of Racial Discrimination⁴⁶	7 Mar. 1966	4 Jan. 1969		28 Nov. 1983	25 June 1999 ⁴⁷	22 Feb. 1974			15 Sep. 1967		28 Jan. 2003 ⁴⁸	9 June 1982 ⁴⁹	3	6
Convention Against Discrimination in Education⁵⁰	14 Dec. 1960	22 May 1962	25 Jan. 1985		10 Jan. 1967				16 Nov. 1964				3	3
Torture, Trafficking, Slavery, Disappearance														
Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment⁵¹	10 Dec. 1984	26 June 1987		15 Oct. 1992	28 Oct. 1998 ⁵²	⁵³			18 June 1986		2 Oct. 2007 ⁵⁴		2	5
Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, PROTOCOL⁵⁵	18 Dec. 2002	22 June 2006		30 Mar. 2007					17 April 2012				2	2
Convention Against Transnational Organized Crime⁵⁶	15 Nov. 2000	29 Sep. 2003	25 Mar. 2008	12 Dec. 2005	20 Apr. 2009 ⁵⁷	26 Sep. 2003 ⁵⁸	24 Sep. 2004 ⁵⁹	30 Mar. 2004 ⁶⁰	28 May 2002	28 Aug. 2007 ⁶¹	⁶²	⁶³	3	10
Convention Against Transnational Organized Crime, PROTOCOL Against the Smuggling of Migrants by Land, Sea and Air⁶⁴	15 Nov. 2000	28 Jan. 2004		12 Dec. 2005	28 Dec. 2009 ⁶⁵	26 Sep. 2003 ⁶⁶		30 Mar. 2004 ⁶⁷	28 May 2002		⁶⁸		2	6
Convention Ag. Transnational Organized Crime, PROTOCOL to	15 Nov. 2000	25 Dec. 2003		2 July 2007	28 Sep.	26 Sep.	26 Feb.	30 Mar.	28 May		⁷⁴		2	7

Prevent, Suppress and Punish Trafficking in Persons⁶⁹					2009 ⁷⁰	2003 ⁷¹	2009 ⁷²	2004 ⁷³	2002					
Convention for the Protection of All Persons from Enforced Disappearance⁷⁵	20 Dec. 2006	23 Dec. 2010			76	77					78		0	3
Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others⁷⁹	21 Mar. 1950	25 July 1951		80	81	14 Apr. 1978 ⁸²			19 Sep. 1952	26 Oct. 1966			2	6
Supplementary Convention on the Abolition of Slavery, Slave Trade and Institutions⁸⁴	7 Sep. 1956	30 Apr. 1957		12 June 1957		9 Sep. 1957	18 Nov. 1957		17 Nov. 1964	28 Mar. 1972			5	5
Labor														
Abolition of Forced Labor Convention⁸⁵	25 June 1957	17 Jan 1959		23 Aug 1999	7 Jun 1999				17 Nov 1960		87	2 Dec. 1969	4	4
Convention Concerning Forced or Compulsory Labor⁸⁸	28 June 1930	1 May 1932		24 Feb. 1969	12 Jun. 1950	23 Jan. 1964	11 Nov. 1957	4 Mar. 1955	15 Jul. 2005	25 Oct. 1965	26 Feb. 1969	5 Mar. 2007	9	9
Discrimination (Employment and Occupation) Convention⁸⁹	25 June 1958	15 June 1960		23 Aug. 1999	7 June 1999	13 June 2008			17 Nov. 1960			7 Oct. 1997	5	5
Employment Policy Convention⁹⁰	9 July 1964	15 July 1966		28 Sep. 1971					13 Jan. 1976		26 Feb. 1969		3	3
Equal Remuneration Convention⁹¹	29 June 1951	23 May 1953		23 Aug. 1999	11 Aug. 1958	13 June 2008	9 Sep. 1997		29 Dec. 1953	30 May 2002	8 Feb. 1999	7 Oct. 1997	8	8
Freedom of Association and Protection of the Right to Organize Convention⁹²	9 July 1948	4 July 1950		23 Aug. 1999	9 June 1998			4 Mar. 1955	29 Dec. 1953				4	4
Right to Organize and Collective Bargaining Convention⁹³	1 July 1949	18 July 1951		23 Aug. 1999	15 July 1957		5 June 1961		29 Dec. 1953	25 Oct. 1965			5	5

Migrants and Refugees

Convention on the Protection of the Rights of All Migrant Workers and Members of their Families⁹⁴	18 Dec. 1990	1 July 2003								5 July 1995				1	3
Convention Relating to the Status of Refugees⁹⁷	28 July 1951	22 Apr. 1954		15 Oct. 1992						22 July 1981				2	2
Convention Relating to the Status of Refugees, PROTOCOL⁹⁸	31 Jan. 1967	4 Oct. 1967		15 Oct. 1992						22 July 1981				2	2
Convention relating to the Status of Stateless Persons⁹⁹	28 Sep. 1954	6 June 1960								22 Sep. 2011 ¹⁰⁰				0	1

¹ This column refers to the total number of ASEAN countries that ratified, acceded, or succeeded to the instrument without any reservation or declaration that effectively creates a reservation. An example of a declaration considered for the purposes of this document to have the effect of a reservation would be a declaration that a state is not bound by an article *or* that the state will construe the article only in accordance with its own penal code. An example of a declaration that does not affect a state's participation/full agreement is a declaration that a state will construe self-determination in accordance with the 1993 Vienna Declaration.

² This column refers to the total number of ASEAN countries that signed, ratified, acceded, or succeeded to the instrument, regardless of whether there were reservations or declarations, and regardless of whether ratification instruments were submitted.

³ **Source for ratifications:** United Nations Treaty Collection, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en, last visited 11 Oct. 2011.

⁴ **Shading** indicates that country did not sign, ratify, accede or succeed to the instrument.

⁵ **Red letters** indicated a reservation or declaration that affects the country's agreement to the instrument.

Declaration: "The Government of Thailand declares that: ... 2. With respect to article 6, paragraph 5 of the Covenant [prohibiting death sentence for pregnant women and minors under 18], the Thai Penal Code enjoins, or in some cases allows much latitude for, the Court to take into account the offender's youth as a mitigating factor in handing down sentences. though in theory, sentence of death may be imposed for crimes committed by persons below eighteen years, but not below seventeen years of age, the Court always exercises its discretion under Section 75 to reduce the said scale of punishment, and in practice the death penalty has not been imposed upon any persons below eighteen years of age. Consequently, Thailand considers that in real terms it has already complied with the principles enshrined herein. 3. With respect to article 9, paragraph 3 [anyone detained is

entitled to court proceedings] of the Covenant, Section 87, paragraph 3 of the Criminal Procedure Code of Thailand provides that the arrested person shall not be kept in custody for more than forty-eight hours from the time of his arrival at the office of the administrative or police official, but the time for bringing the arrested person to the Court shall not be included in the said period of forty-eight hours. In case it is necessary for the purpose of conducting the inquiry, or there arises any other necessity, the period of forty-eight hours may be extended as long as such necessity persists, but in no case shall it be longer than seven days. ...”

⁶ **Declaration:** “... the provisions of article 48, paragraph 1, of the International Covenant on Civil and Political Rights [generally requiring UN membership for signature] [...] under which a number of States are deprived of the opportunity to become parties to the Covenants, are of a discriminatory nature. The Government of the Socialist Republic of Viet Nam considers that the Covenants, in accordance with the principle of sovereign equality of States, should be open for participation by all States without any discrimination or limitation.”

⁷ This Protocol created a system for filing complaints of violations. **Source for ratifications:** United Nations Treaty Collection, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&lang=en, last visited 11 Oct. 2011.

⁸ Cambodia signed 27 Sep. 2004 but has not ratified.

⁹ **Source for ratifications:** United Nations Treaty Collection, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-12&chapter=4&lang=en, last visited 11 Oct. 2011.

¹⁰ **Source for ratifications:** United Nations Treaty Collection, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&lang=en, last visited 11 Oct. 2011.

¹¹ **Declaration:** "With reference to Article 1 of the International Covenant on Economic, Social and Cultural Rights [“All peoples have the right of self-determination”], the Government of [the] Republic of Indonesia declares that, consistent with ... the Vienna Declaration and Program of Action of 1993, the words "the right of self-determination" appearing in this article do not apply to a section of people within a sovereign independent state and can not be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent states."

¹² **Declaration:** "The Government of the Kingdom of Thailand declares that the term "self-determination" as appears in Article 1 Paragraph 1 of the Covenant shall be interpreted as being compatible with that expressed in the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights on 25 June 1993."

¹³ **Declaration:** “... article 26, paragraph 1 [generally requiring UN membership for signature], of the International Covenant on Economic, Social and Cultural Rights, under which a number of States are deprived of the opportunity to become parties to the Covenants, are of a discriminatory nature. The Government of the Socialist Republic of Viet Nam considers that the Covenants, in accordance with the principle of sovereign equality of States, should be open for participation by all States without any discrimination or limitation.”

¹⁴ **Source for ratifications:** United Nations Treaty Collection, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en#EndDec, last visited 9 Oct. 2011.

¹⁵ **Reservation:** "The Government of Brunei Darussalam expresses its reservations regarding those provisions of the said Convention that may be contrary to the Constitution of Brunei Darussalam and to the beliefs and principles of Islam, the official religion of Brunei Darussalam and, without prejudice to the generality of the said reservations, expresses its reservations regarding paragraph 2 of Article 9 [requiring Parties to grant women equal rights with men with respect to the nationality of their children].and paragraph 1 of Article 29 of the Convention [providing for arbitration of disputes followed by referral to International Court]."

¹⁶ **Reservation:** "The Government of the Republic of Indonesia does not consider itself bound by the provisions of article 29, paragraph 1 of this Convention and takes the position that any dispute relating to the interpretation or application of the Convention may only be submitted to arbitration or to the International Court of Justice with the agreement of all the parties to the dispute."

¹⁷ **Reservation:** "With respect to article 5 (a) [requiring Parties to take measures to eliminate sex discrimination] of the Convention, the Government of Malaysia declares that the provision is subject to the Syariah law on the division of inherited property.

With respect to article 7 (b) [allowing women to hold public office] of the Convention, the Government of Malaysia declares that the application of said article 7 (b) shall not affect appointment to certain public offices like the Mufti Syariah Court Judges, and the Imam which is in accordance with the provisions of the Islamic Shariah law.

With respect to article 9, paragraph 2 of the Convention, the Government of Malaysia declares that its reservation will be reviewed if the Government amends the relevant law.

With respect to article 16.1 (a) [granting men and women the same rights to marry] and paragraph 2 [requiring implementation of minimum marriage age; stating that child marriage shall have no effect], the Government of Malaysia declares that under the Syariah law and the laws of Malaysia the age limit for marriage for women is sixteen and men is eighteen."

¹⁸ **Reservation:** Article 29 "[The Government of Myanmar] does not consider itself bound by the provision set forth in the said article."

¹⁹ **Reservations:** "(1) In the context of Singapore's multiracial and multi-religious society and the need to respect the freedom of minorities to practice their religious and personal laws, the Republic of Singapore reserves the right not to apply the provisions of articles 2, paragraphs (a) to (f), and article 16, paragraphs 1(a), 1(c), 1(h), and article 16, paragraph 2, where compliance with these provisions would be contrary to their religious or personal laws.

(2)[withdrawn]

(3) Singapore interprets article 11, paragraph 1 in the light of the provisions of article 4, paragraph 2 as not precluding prohibitions, restrictions or conditions on the employment of women in certain areas, or on work done by them where this is considered necessary or desirable to protect the health and safety of women or the human foetus, including such prohibitions, restrictions or conditions imposed in consequence of other international obligations of Singapore and considers that legislation in respect of article 11 is unnecessary for the minority of women who do not fall within the ambit of Singapore's employment legislation.

(4) The Republic of Singapore declares, in pursuance of article 29, paragraph 2 of the Convention that it will not be bound by the provisions of article 29, paragraph 1."

²⁰ **Declaration:** "The Royal Thai Government wishes to express its understanding that the purposes of the Convention are to eliminate discrimination against women and to accord to every person, men and women alike, equality before the law, and are in accordance with the principles prescribed by the Constitution of the Kingdom of Thailand."

Reservation: "The Royal Thai Government does not consider itself bound by the provisions of [...] article 16 and article 29, paragraph 1, of the Convention."

²¹ **Reservation:** "In implementing this Convention, the Socialist Republic of Viet Nam will not be bound by the provisions of paragraph 1 article 29."

²² The Protocol provides for a communications procedure for women to submit claims of violations of rights to the Committee on the Elimination of All Forms of Discrimination Against Women. It also creates an inquiry procedure enabling the Committee to initiate inquiries into situations of grave or systematic violations of women's rights.

Source for ratifications: United Nations Treaty Collection, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8-b&chapter=4&lang=en, last visited 11 Oct. 2011.

²³ Indonesia signed 28 Feb. 2000, but did not ratify.

²⁴ **Source for ratifications:** United Nations Treaty Collection, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en, last visited 9 Oct. 2011.

²⁵ **Reservation:** "[The Government of Brunei Darussalam] expresses its reservations on the provisions of the said Convention which may be contrary to the Constitution of Brunei Darussalam and to the beliefs and principles of Islam, the State, religion, and without prejudice to the generality of the said reservations, in particular expresses its reservation on articles 14, 20 and 21 of the Convention."

²⁶ **Reservation:** "The Government of Malaysia accepts the provisions of the Convention on the Rights of the Child but expresses reservations with respect to articles 2, 7, 14, 28 paragraph 1 (a) and 37, of the Convention and declares that the said provisions shall be applicable only if they are in conformity with the Constitution, national laws and national policies of the Government of Malaysia."

Declaration: "With respect to article 28 paragraph 1 (a) of the Convention, the Government of Malaysia wishes to declare that with the amendment to the Education Act 1996 in the year 2002, primary education in Malaysia is made compulsory. In addition, the Government of Malaysia provides monetary aids and other forms of assistance to those who are eligible."

²⁷ **Declarations:** "(1) The Republic of Singapore considers that a child's rights as defined in the Convention, in particular the rights defined in article 12 to 17, shall in accordance with articles 3 and 5 be exercised with respect for the authority of parents, schools and other persons who are entrusted with the care of the child and in the best interests of the child and in accordance with the customs, values and religions of Singapore's multi-racial and multi-religious society regarding the place of the child within and outside the family.

(2) The Republic of Singapore considers that articles 19 and 37 of the Convention do not prohibit –

(a) the application of any prevailing measures prescribed by law for maintaining law and order in the Republic of Singapore;

(b) measures and restrictions which are prescribed by law and which are necessary in the interests of national security, public safety, public order,

the protection of public health or the protection of the rights and freedoms of others; or (c) the judicious application of corporal punishment in the best interest of the child.”

Reservations: “... (3) ... The accession to the Convention by the Republic of Singapore does not imply the acceptance of obligations going beyond the limits prescribed by the Constitution of the Republic of Singapore nor the acceptance of any obligation to introduce any right beyond those prescribed under the Constitution.

(4) Singapore is geographically one of the smallest independent countries in the world and one of the most densely populated. The Republic of Singapore accordingly reserves the right to apply such legislation and conditions concerning the entry into, stay in and departure from the Republic of Singapore of those who do not or who no longer have the right under the laws of the Republic of Singapore, to enter and remain in the Republic of Singapore, and to the acquisition and possession of citizenship, as it may deem necessary from time to time and in accordance with the laws of the Republic of Singapore.

(5) The employment legislation of the Republic of Singapore prohibits the employment of children below 12 years old and gives special protection to working children between the ages of 12 years and below the age of 16 years. The Republic of Singapore reserves the right to apply article 32 subject to such employment legislation.

(6) With respect to article 28.1(a), the Republic of Singapore-

(a) does not consider itself bound by the requirement to make primary education compulsory because such a measure is unnecessary in our social context where in practice virtually all children attend primary school; and (b) reserves the right to provide primary education free only to children who are citizens of Singapore.”

²⁸ **Reservation:** “The application of articles 22 of the Convention on the Rights of the Child shall be subject to the national laws, regulations and prevailing practices in Thailand.”

²⁹ **Source for ratifications:** United Nations Treaty Collection, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-b&chapter=4&lang=en, last visited 11 Oct. 2011.

³⁰ **Declaration:** “According to Article 42 of the Law on the General Status of Royal Cambodian Armed Forces stipulated that the Cambodian citizen of either sex who has attained the age of 18 years should be permitted or recruited into the armed forces.”[The Protocol calls for a minimum age of 18, so this is not inconsistent.]

³¹ Indonesia signed 24 Sep. 2001, but has not ratified.

³² **Declaration:** “In accordance with the Law of the Lao People's Democratic Republic, the minimum age at which it will permit voluntary recruitment into its national armed forces is 18 (eighteen). ...”

³³ **Declaration:** “...The minimum age for voluntary recruitment into the Armed Forces of the Philippines is 18 years, except for training purposes whose duration shall have the students/cadets/trainees attain the majority age at the completion date; 2. There is no compulsory, forced or coerced recruitment into the Armed Forces of the Philippines ...”[The Protocol allows voluntary recruitment under the age of 18, so this is not inconsistent.”

³⁴ **Declaration:** “1. The minimum age at which persons may be voluntarily recruited or enlisted into the Singapore Armed Forces is 16 years and 6 months; and

2. The Republic of Singapore maintains the following safeguards in respect of voluntary recruitment or enlistment of persons below the age of 18 years into the Singapore Armed Forces ...” [This appears to be not inconsistent.]

³⁵ **Declaration:** ““1. ...Thai men reaching the age of 18 have a duty to register on the inactive military personnel list. ... Women are exempt from compulsory military service both in times of peace and in times of war, but are subjected to other duties assigned by law.... 4. High school and university students regardless of gender may voluntarily apply to receive military training from the Army Reserve Command ...”[This appears to be not inconsistent.]

³⁶ **Declaration:** “...Under the law of the Socialist Republic of Vietnam, only male citizens at the age of 18 and over shall be recruited in the military service. Those who are under the age of 18 shall not be directly involved in military battles unless there is an urgent need for safeguarding national independence, sovereignty, unity and territorial integrity.

Male citizens up to the age of 17 who wish to make a long-term service in the army may be admitted to military schools. Voluntary recruitment to military schools shall be ensured by measures ...” [This appears to be not inconsistent, depending on how “urgent need” is interpreted.]

³⁷ **Source for ratifications:** International Labour Organization, International Labour Standards Department, <http://www.ilo.org/ilolex/cgi-lex/ratifce.pl?C182>, last visited 10 Oct. 2011. According to this source, there were no conditional ratifications.

³⁸ **Source for ratifications:** United Nations Treaty Collection, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-15&chapter=4&lang=en, last visited 9 Oct. 2011.

³⁹ Brunei signed 18 Dec. 2007 but has not ratified.

⁴⁰ Cambodia signed 1 Oct. 2007 but has not ratified.

⁴¹ **Declaration:** “... Malaysia declares that its application and interpretation of the Federal Constitution of Malaysia pertaining to the principles of non-discrimination and equality of opportunity shall not be treated as contravening articles 3 (b), 3 (e) [Article 3 just states general principles of non-discrimination and equal opportunity] and 5 (2) [requiring parties to prohibit discrimination] of the said Convention.”

Reservation: “The Government of Malaysia ratifies the said Convention subject to the reservation that it does not consider itself bound by articles 15 [prohibiting torture, cruel, inhuman or degrading treatment or punishment] and 18 [providing for nationality and allowing interstate travel] of the said Convention.”

⁴² **Declaration:** ““The Kingdom of Thailand hereby declares that the application of Article 18 of the Convention shall be subject to the national laws, regulations and practices in Thailand.”

⁴³ Vietnam signed 22 Oct. 2007 but has not ratified.

⁴⁴ The Protocol established a committee to receive complaints of violations. **Source for ratifications:** United Nations Treaty Collection, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-15-a&chapter=4&lang=en, last visited 11 Oct. 2011.

⁴⁵ Cambodia signed 1 Oct. 2007 but has not ratified.

⁴⁶ **Source for ratifications:** United Nations Treaty Collection, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-2&chapter=4&lang=en, last visited 9 Oct. 2011.

⁴⁷ **Reservation:** "The Government of the Republic of Indonesia does not consider itself bound by the provision of Article 22 [referring disputes to International Court of Justice—no arbitration here] and takes the position that disputes relating to the interpretation and application of the [Convention] which cannot be settled through the channel provided for in the said article, may be referred to the International Court of Justice only with the consent of all the parties to the dispute."

⁴⁸ **Declaration:** "The Kingdom of Thailand does not interpret and apply the provisions of this Convention as imposing upon the Kingdom of Thailand any obligation beyond the confines of the Constitution and the laws of the Kingdom of Thailand. ..."

Reservations "1. The Kingdom of Thailand interprets Article 4 of the Convention [requiring states to prohibit the dissemination of ideas and propaganda based on racial superiority or hatred and the promotion/incitement of racial discrimination by public authorities]... only where it is considered that the need arises to enact such legislation. 2. The Kingdom of Thailand does not consider itself bound by the provisions of Article 22 of the Convention."

⁴⁹ **Declaration:** "(1) The Government of the Socialist Republic of Viet Nam declares that the provisions of article 17 (1) and of article 18 (1) of the Convention whereby a number of States are deprived of the opportunity of becoming Parties to the said Convention are of a discriminatory nature and it considers that, in accordance with the principle of the sovereign equality of States, the Convention should be open to participation by all States without discrimination or restriction of any kind."

Reservation: "(2) The Government of the Socialist Republic of Viet Nam does not consider itself bound by the provisions of article 22 of the Convention and holds that, for any dispute with regard to the interpretation or application of the Convention to be brought before the International Court of Justice, the consent of all parties to the dispute is necessary."

⁵⁰ **Source for ratifications:** UNESCO Legal Instruments, http://portal.unesco.org/en/ev.php-URL_ID=12949&URL_DO=DO_TOPIC&URL_SECTION=201.html#STATE_PARTIES, last visited 10 Oct. 2011. Only Iraq registered a reservation.

⁵¹ **Source for ratifications:** United Nations Treaty Collection, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9&chapter=4&lang=en#EndDec, last visited 10 Oct. 2011.

⁵² **Declaration:** "The Government of the Republic of Indonesia declares that the provisions of paragraphs 1, 2, and 3 of article 20 [providing for investigation for complaints of torture on Party's territory] of the Convention will have to be implemented in strict compliance with the principles of the sovereignty and territorial integrity of States.

Reservation: "The Government of the Republic of Indonesia does not consider itself bound by the provision of article 30, paragraph 1 [providing for arbitration of disputes followed by referral to International Court], and takes the position that disputes relating to the interpretation and application of the Convention which cannot be settled through the channel provided for in paragraph 1 of the said article, may be referred to the International Court of Justice only with the consent of all parties to the disputes."

⁵³ Laos signed 21 Sep. 2010 but has not yet ratified.

⁵⁴ **Declaration:** “ 1. ... The term "torture" under Article 1 of the Convention shall accordingly be interpreted in conformity with the current Thai Penal Code. The Kingdom of Thailand shall revise its domestic law to be more consistent with Article 1 of the Convention at the earliest opportunity. ...”

Reservation: "The Kingdom of Thailand does not consider itself bound by Article 30, paragraph 1, of the Convention."

⁵⁵ The Protocol establishes an international inspection system for places of detention. **Source for ratifications:** United Nations Treaty Collection, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9-b&chapter=4&lang=en, last visited 11 Oct. 2011.

⁵⁶ **Source for ratifications:** United Nations Treaty Collection, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12&chapter=18&lang=en, last visited 9 Oct. 2011.

⁵⁷ **Reservation:** “ ... the Government of the Republic of Indonesia conveys her reservation not to be bound by the provision of Article 35 (2) and takes the position that dispute[s] relating to the interpretation and application of the Convention which have not been settled through the channel provided for in Paragraph (1) of the said Article, may be referred to the International Court of Justice only with the [consent] of all Parties to the dispute.”

⁵⁸ **Reservation:** "... the Lao People's Democratic Republic does not consider itself bound by paragraph 2, Article 35 of the present Convention. The Lao People's Democratic Republic declares that to refer a dispute relating to interpretation and application of the present Convention to arbitration or the International Court of Justice, the agreement of all parties concerned in the dispute is necessary."

⁵⁹ **Declaration:** “... the Government of Malaysia declares that it does not consider itself bound by Article 35, paragraph 2 of the Convention ...”

⁶⁰ **Reservation:** "The Government of the Union of Myanmar wishes to express reservations on Article 16 relating to extradition [providing for extradition to Party State for crime covered under Convention] and does not consider itself bound by the same.

The Government further wishes to make a reservation on Article 35 [providing for arbitration followed by referral to International Court] and does not consider itself bound by obligations to refer disputes relating to the interpretation or application of this Convention to the International Court of Justice."

⁶¹ **Reservation:** “...the Government of the Republic of Singapore does not consider itself bound by Article 35, paragraph 2 of the said Convention."

⁶² Thailand signed 13 Dec. 2000 but did not ratify.

⁶³ Like Thailand, Vietnam signed 13 Dec. 2000 but did not ratify.

⁶⁴ **Source for ratifications:** United Nations Treaty Collection, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-b&chapter=18&lang=en, last visited 11 Oct. 2011.

⁶⁵ **Declaration:** "..., the Government of the Republic of Indonesia conveys her declaration on the provision of Article 6 paragraph (2) subparagraph c [requiring states to criminalize the organization or direction of other persons to commit an offence], Article 9 paragraph (1) subparagraph a [requiring states to ensure the safety and humane treatment of persons on board a vessel suspected of smuggling migrants], and Article 9 paragraph (2) [providing for compensation when vessel is found not to be smuggling] of the Protocol [which] will have to be implemented in strict compliance with the principles of the sovereignty and territorial integrity of a state;"

Reservation: "..., the Government of the Republic of Indonesia conveys her reservation not to be bound by the provision of Article 20 (2) [providing for resolution of disputes by arbitration, then referral to Court of Justice] and takes the position that disputes relating to the interpretation and application on the Protocol which have not been settled through the channel provided for in Paragraph (1) of the said Article, may be referred to the International Court of Justice only with the concern of all Parties to the dispute;"

⁶⁶ **Reservation:** "... the Lao People's Democratic Republic does not consider itself bound by paragraph 2, Article 20 of the present Protocol. The Lao People's Democratic Republic declares that to refer a dispute relating to interpretation and application of the present Protocol to arbitration or the International Court of Justice, the agreement of all parties concerned in the dispute is necessary."

⁶⁷ **Reservation:** "The Government of the Union of Myanmar wishes to express reservation on Article 20 and does not consider itself bound by obligations to refer disputes relating to the interpretation or application of this Protocol to the International Court of Justice."

⁶⁸ Thailand signed 18 Dec. 2001, but has not ratified.

⁶⁹ **Source for ratifications:** United Nations Treaty Collection, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&lang=en, last visited 11 Oct. 2011.

⁷⁰ **Declaration:** "..., the Government of the Republic of Indonesia declares that the provisions of Article 5 paragraph (2) Sub-paragraph c [requiring states to criminalize the organization or direction of other persons to commit an offence], of the Protocol will have to be implemented in strict compliance with the principle of the sovereignty and territorial integrity of a state;"

Reservation: "..., the Government of the Republic of Indonesia conveys her reservation not to be bound by the provision of Article 15 (2) and takes the position that dispute[s] relating to the interpretation and application on the Protocol which have not been settled through the channel provided for in Paragraph (1) of the said Article, may be referred to the International Court of Justice only with the concern of all Parties to the dispute;"

⁷¹ **Reservation:** "...the Lao People's Democratic Republic does not consider itself bound by paragraph 2, Article 15 of the present Protocol. The Lao People's Democratic Republic declares that to refer a dispute relating to interpretation and application of the present Protocol to arbitration or [the] International Court of Justice, the agreement of all parties concerned in the dispute is necessary."

⁷² **Reservation:** "... Pursuant to Article 15, paragraph 3 of the Protocol, the Government of Malaysia declares that it does not consider itself bound by Article 15, paragraph 2 of the Protocol ..."

⁷³ **Reservation:** "The Government of the Union of Myanmar wishes to express reservation on Article 15 [providing for resolution of disputes by arbitration, then referral to the International Court of Justice] and does not consider itself bound by obligations to refer disputes relating to the interpretation or application of this Protocol to the International Court of Justice."

⁷⁴ Thailand signed 18 Dec. 2001, but has not ratified.

⁷⁵ **Source for ratifications:** United Nations Treaty Collection, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-16&chapter=4&lang=en, last visited 9 Oct. 2011.

⁷⁶ Indonesia signed 27 Sep. 2010 but has not ratified.

⁷⁷ Laos signed 28 Sep. 2008 but has not ratified.

⁷⁸ Thailand signed on 9 Jan. 2012 but has not ratified.

⁷⁹ **Source for ratifications:** United Nations Treaty Collection, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=VII-11-a&chapter=7&lang=en#EndDec, last visited 9 Oct. 2011.

⁸⁰ Cambodia signed 27 Sep. 2004 but has not ratified.

⁸¹ Indonesia signed 25 Sep. 2003 but has not ratified.

⁸² **Reservation:** “The Lao People's Democratic Republic does not consider itself bound by the provisions of article 22 which state that disputes between the Parties to the Convention relating to its interpretation or application shall, at the request of any one of the Parties to the dispute, be referred to the International Court of Justice. The Lao People's Democratic Republic declares that, with respect to the competence of the International Court concerning disputes relating to the interpretation and application of the Convention, for any dispute to be referred to the International Court of Justice the agreement of all the parties to the dispute is necessary.”

⁸³ Burma signed 14 Mar. 1956 but has not ratified.

⁸⁴ **Source for ratifications:** United Nations Treaty Collection, http://treaties.un.org/pages/ViewDetailsIII.aspx?&src=TREATY&mtdsg_no=XVIII~4&chapter=18&Temp=mtdsg3&lang=en, last visited 11 Oct. 2011.

⁸⁵ **Source for ratifications:** International Labour Organization, International Labour Standards Department, <http://www.ilo.org/ilolex/cgi-lex/ratifce.pl?C105>, last visited 10 Oct. 2011. According to this source, there were no conditional ratifications.

⁸⁶ Malaysia ratified on 13 Oct. 1958, and denounced on 10 Jan. 1990.

⁸⁷ Singapore ratified 25 Oct. 1965 but then denounced on 19 Apr. 1979. It is not included in the tally of countries that ratified the instrument.

⁸⁸ **Source for ratifications:** International Labour Organization, International Labour Standards Department, <http://www.ilo.org/ilolex/cgi-lex/ratifce.pl?C029>, last visited 10 Oct. 2011. According to this source, there were no conditional ratifications.

⁸⁹ **Source for ratifications:** International Labour Organization, International Labour Standards Department, <http://www.ilo.org/ilolex/cgi-lex/ratifce.pl?C111>, last visited 10 Oct. 2011. According to this source, there were no conditional ratifications.

⁹⁰ **Source for ratifications:** International Labour Organization, International Labour Standards Department, <http://www.ilo.org/ilolex/cgi-lex/ratifce.pl?C122>, last visited 11 Oct. 2011. According to this source, there were no conditional ratifications.

⁹¹ **Source for ratifications:** International Labour Organization, International Labour Standards Department, <http://www.ilo.org/ilolex/cgi-lex/ratifce.pl?C100>, last visited 11 Oct. 2011. According to this source, there were no conditional ratifications.

⁹² **Source for ratifications:** International Labour Organization, International Labour Standards Department, <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C087>, last visited 11 Oct. 2011. According to this source, there were no conditional ratifications.

⁹³ **Source for ratifications:** International Labour Organization, International Labour Standards Department, <http://www.ilo.org/ilolex/cgi-lex/ratifce.pl?C098>, last visited 11 Oct. 2011. According to this source, there were no conditional ratifications.

⁹⁴ **Source for ratifications:** United Nations Treaty Collection, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&lang=en, last visited 9 Oct. 2011.

⁹⁵ Cambodia signed 27 Sep. 2004 but has not ratified.

⁹⁶ Indonesia signed 22 Sep. 2004 but has not ratified.

⁹⁷ **Source for ratifications:** United Nations Treaty Collection, http://treaties.un.org/Pages/ViewDetailsII.aspx?&src=TREATY&mtdsg_no=V~2&chapter=5&Temp=mtdsg2&lang=en, last visited 9 Oct. 2011.

⁹⁸ The Protocol contains measures to help implement the original Convention.

Source for ratifications: United Nations Treaty Collection, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=V-5&chapter=5&lang=en, last visited 11 Oct. 2011.

⁹⁹ A similarly titled convention, Convention on the Reduction of Statelessness, adopted 30 Aug. 1961 and effected 13 Dec. 1975, has not been ratified by any ASEAN states.

¹⁰⁰ **Declaration:** "(a) As regards Article 17, paragraph 1, granting stateless persons the right to engage in wage-earning employment, [the Government of the Philippines] finds that this provision conflicts with the Philippine Immigration Act of 1940 ... (b) As regards Article 31, paragraph 1, to the effect that 'the Contracting States shall not expel a stateless person lawfully in their territory, save on grounds of national security or public order', this provision would unduly restrict the power of the Philippine Government to deport undesirable aliens under Section 37 of the same Immigration Act which states the various grounds upon which aliens may be deported. ... Upon signing the Convention [the Philippine Government], therefore hereby [registers] its non-conformity to the provisions of Article 17, paragraph 1, and Article 31, paragraph 1, thereof, for the reasons stated in (a) and (b) above."

TABLE 3

Comparisons of ASEAN Countries' Constitutional Rights with UDHR and Other Rights

<i>Right</i>	<i>Source</i>	<i>Brunei</i>	<i>Cambodia</i>	<i>Indonesia</i>	<i>Laos</i>	<i>Malaysia</i>	<i>Myanmar</i>	<i>Philippines</i>	<i>Singapore</i>	<i>Thailand</i>	<i>Vietnam</i>
Reference to Other Treaties/ General			Art. 31 ¹					Art. 2(11) ²		Art. 4 ³	
Equality & Non-Discrimination	<i>UDHR</i> <i>arts. 1, 2, & 7</i>		Arts. 31 & 45 ⁴	Arts. 27(1), 28D(1), & 28I(2)	Arts. 8, ⁵ 35, ⁶ & 37 ⁷	Arts. 8, 12, ⁸ & 136 ⁹	Arts. 21, 347-52, 368	Arts. 2(14), ¹⁰ 3(1), & 14(18) ¹¹	Arts. 12 ¹² & 16 ¹³	Arts. 30-31	Arts. 5, ¹⁴ 52, 63 ¹⁵
Right to Life	<i>UDHR</i> <i>art. 3</i>		Arts. 32 ¹⁶ & 38	Arts. 28A & 28I(1) ¹⁷		Art. 5(1) ¹⁸	Art. 353 ¹⁹	Art. 3(1, 19(1)) ²⁰	Art. 9(1) ²¹	Art. 32	Art. 71 ²²
Right to Liberty	<i>UDHR</i> <i>art. 3</i>		Art. 32			Art. 5	Arts. 21 & 353 ²³	Art. 3(1)	Art. 9 ²⁴	Art. 32 ²⁵	
Right to Security of Person	<i>UDHR</i> <i>art. 3</i>		Art. 32	Art. 28G(1)	Art. 42			Art. 3(2) ²⁶		Art. 32 ²⁷	Art. 71 ²⁸
Prohibition of Slavery & Forced Labor	<i>UDHR</i> <i>art. 4</i>		Art. 46 ²⁹	Art. 28I(1) ³⁰		Art. 6	Arts. 358 & 359	Art. 3(18)(2) ³¹	Art. 10	Arts. 32 & 38 ³²	
Freedom from Torture & Cruel Treatment	<i>UDHR</i> <i>art. 5</i>		Art. 38	art. 28G(2), 28I(1) ³³				Art. 3(19)		Art. 32	
Right to Recog. as Person before Law	<i>UDHR</i> <i>art. 6</i>			art. 28I(1) ³⁴				Art. 2 (11)			
Right to Effective Court Remedy for Rights Violations	<i>UDHR</i> <i>art. 8</i>		Arts. 38-39 ³⁵				Arts. 377, ³⁶ 378, ³⁷ 381 ³⁸	Arts. 3(11) ³⁹ & 14		Art. 28	Art. 74
Right to Petition Gov't			Art. 39		Art. 41		Art. 377	Art. 3(4)		Arts. 59-60	

Freedom from Arbitrary Arrest, Detention, & Exile	<i>UDHR art. 9</i>		Arts. 33 ⁴⁰ & 38 ⁴¹		Art. 42 ⁴²	Arts. 5, ⁴³ 9(1) ⁴⁴ & 151 ⁴⁵	Arts. 21 & 376	Art. 3(2, 12-14)	Arts. 9 ⁴⁶ & 13 ⁴⁷	Arts. 32 ⁴⁸ & 34 ⁴⁹	Arts. 71 ⁵⁰ & 72
Fair Public Hearing by Indep. Ct. for Crim. Charges	<i>UDHR art. 10</i>		Art. 38, ⁵¹ Art 128 ⁵²	Art. 28A ⁵³		⁵⁴	Arts. 19, 374, ⁵⁵ & 375 ⁵⁶	Art. 3(12-17, 21) ⁵⁷	Arts. 9 ⁵⁸ & 11(2) ⁵⁹	Art. 40, 197 ⁶⁰	Arts. 71-72, 129-130 ⁶¹
Right to Presump. of Innocence	<i>UDHR art. 11(1)</i>		Art. 38					Art. 3(14)		Art. 39	
Right to Defense	<i>UDHR art. 11(1)</i>		Art. 38					Art. 3(12, 14)		Art. 40	Art. 132
Prohibition on Ex-Post Facto Laws	<i>UDHR art. 11(2)</i>			Art. 28I(1) ⁶²		Art. 7(1)	Art. 373	Art. 3(22)	Art. 11(1)	Art. 39	
Right to Privacy	<i>UDHR art. 12</i>		Art. 40 ⁶³		Art. 42 ⁶⁴		Art. 357	Art. 3(2-3)		Arts. 33, ⁶⁵ 35, & 36 ⁶⁶	Art. 73
Freedom from Attacks on Honor or Reputation	<i>UDHR art. 12</i>		Art. 41	Art. 28G(1)	Art. 42					Art. 35	Art. 71
Freedom of Movement within Country	<i>UDHR art. 13(1)</i>		Art. 40	Art. 28E(1)	Art. 40	Art. 9(2) ⁶⁷	Art. 355	Art. 3(6) ⁶⁸	Art. 13	Art. 34	Art. 68
Freedom to Leave Home Country & Return	<i>UDHR art. 13 (2)</i>		Art. 40	Art. 28E(1)							Art. 68
Right to Asylum	<i>UDHR art. 14</i>			Art. 28G(2)	Art. 51 ⁶⁹		Art. 380 ⁷⁰				Art. 82 ⁷¹
Right to	<i>UDHR</i>		⁷²	Art.		⁷³	⁷⁴	⁷⁵	⁷⁶		⁷⁷

Nationality	<i>art. 15</i>			28D(4)							
Right to Marriage & Family	<i>UDHR art. 16</i>		Art. 45 ⁷⁸	Art. 28B ⁷⁹				Art. 15		Art. 35 ⁸⁰	Art. 64
Right to Property	<i>UDHR art. 17</i>		Art. 44 ⁸¹	Art. 28H(4)	Art. 15, ⁸² 16, & 17	Art. 13 ⁸³	Arts. 356, 372	Art. 3 (1, 9) ⁸⁴		Arts. 41 & 42 ⁸⁵	Arts. 23, ⁸⁶ 25, ⁸⁷ & 58
Freedom of Religion, Thought, & Conscience	<i>UDHR art. 18</i>	Art. 3 ⁸⁸	Art. 43 ⁸⁹	Arts. 28E (1), 28E(2), 28I(1), ⁹⁰ & 29 ⁹¹	Arts. 9 & 43	Art. 11 ⁹² 12(2)-(4) ⁹³	Art. 354(d) ⁹⁴	Art. 3(5)	Arts. 15 & 16	Art. 37	Art. 70
Freedom of Expression	<i>UDHR art. 19</i>		Art. 41	Arts. 28 ⁹⁵ & 28E(3)	Art. 44	Art. 10 ⁹⁶	Art. 354(a) ⁹⁷	Art. 3(4)	Art. 14 ⁹⁸	Arts. 36 & 45	Art. 69
Right to Information & Media	<i>UDHR art. 19</i>	⁹⁹	Art. 41 ¹⁰⁰	Art. 28F				Art. 3(7)		Arts. 45-48, 56-57, & 61	Art. 69
Freedom of Assembly & Association	<i>UDHR art. 20</i>		Art. 41	Art. 28 ¹⁰¹ art 28E(3)	Art. 44 ¹⁰²	Art. 10 ¹⁰³	Art. 354(b) ¹⁰⁴	Art. 3(4, 8)	Art. 14 ¹⁰⁵	Art. 63-65	Art. 69
Right to Participate Freely in Political Life & Receive Gov't Services	<i>UDHR art. 21</i>		Arts. 34 ¹⁰⁶ & 35 ¹⁰⁷	Arts. 28D(3) & 30(1) ¹⁰⁸	Art. 4 & 36	Arts. 119-120 ¹⁰⁹	Arts. 369 ¹¹⁰ & 406 ¹¹¹	Arts. 2(26), 5		Arts. 58, 72, & 163-65	Arts. 53, 54 ¹¹²
Right to Social Security	<i>UDHR art. 22</i>		Arts. 36, ¹¹³ 75, ¹¹⁴ 72, ¹¹⁵ & 74 ¹¹⁶	Arts. 28H & 34	Art. 39 ¹¹⁷		Art. 26(b) ¹¹⁸	Art. 2(15) ¹¹⁹		Arts. 51-54 ¹²⁰	Arts. 61 ¹²¹ & 67 ¹²²
Right to Work	<i>UDHR art. 23(1)</i>		Arts. 36 & 46 ¹²³	Arts. 27(2), 28D(2), 28E(1)	Art. 39		Art. 370 ¹²⁴	Arts. 2(18), 13(3) ¹²⁵		Arts. 43 & 44	Art. 55
Right to Just Compensation	<i>UDHR art. 23(3)</i>		Art. 36	Art. 28D(2)				Art. 13(3)			Art. 63 ¹²⁶

Right to Form Trade Unions	<i>UDHR art. 23(4)</i>		Art. 36 & 37 ¹²⁷					Arts. 3(8) & 13(3)		Art. 64	
Right to Rest & Leisure	<i>UDHR art. 24</i>				Art. 39 ¹²⁸						
Right to Adeq. Standard of Living	<i>UDHR art. 25(1)</i>			Art. 27 ¹²⁹				Art. 13(3) & 15(3)(3)			
Special Protection for Women & Children	<i>UDHR art. 25(2)</i>		Arts. 46, ¹³⁰ 47, ¹³¹ 48, ¹³² & 73 ¹³³	Art. 28B(2) ¹³⁴				Arts. 13(14) ¹³⁵ & 15(3)(3) ¹³⁶			Arts. 40, 63, & 65
Right to Education	<i>UDHR art. 26</i>		Art. 47, ¹³⁷ 48, & 65-68 ¹³⁸	Art. 28C(1), 28E(1), ¹³⁹ & 31	Art. 38		Art. 366	Art. 14(1-5)		Arts. 49-50	Art. 59
Right to Particip. in Cultural Life & Sci.	<i>UDHR art. 27(1)</i>		Art. 35	Arts. 28C(1), 28I(3), & 32	Art. 8 ¹⁴⁰ & 45 ¹⁴¹		Arts. 354(d), 365, 366(c)	Art. 14(17) ¹⁴²		Art. 66	Arts. 5 ¹⁴³ & 60
Right to Intellectual Property	<i>UDHR art. 27(2)</i>						Art. 372 ¹⁴⁴	Art. 14(13)			Art. 60
Right to Clean Environment, Sustainable Development			Art. 59 ¹⁴⁵	Art. 28H			Art. 45 ¹⁴⁶	Art. 2(16) ¹⁴⁷		Art. 85 ¹⁴⁸	Art. 112(5) ¹⁴⁹
Miscellaneous Rights				Arts. 28C(2), ¹⁵⁰ & 28I(4-5) ¹⁵¹				Art. 3(10) ¹⁵² & 3(20) ¹⁵³		Art. 40 ¹⁵⁴	Art. 72 ¹⁵⁵
Limits Defined by Law; Only for Public Order, Morality, or	<i>UDHR art. 29(2)</i>		Art. 31	Art. 28J(2)							

Welfare, or to Protect Rights of Others											
Individual's Duties to the Community	<i>UDHR art. 29(1)</i>		Arts. 49 & 50	Art. 27, 28J	Arts. 47, 48, & 49		Arts. 21(c), 383-390	Arts. 2(12) & 15(4) ¹⁵⁶		Art. 70-74	Arts. 11, 40, 51, 64-65, & 76-81
Exercise of Rights Can't Adversely Affect Others' Rights	<i>UDHR art.29(2) & 30</i>		Arts. 31 & 43 ¹⁵⁷	Art. 28J(2)						Art. 28	

¹ Under Art. 31, Cambodia “recognizes and respects human rights as enshrined in the United Nations Charter, the Universal Declaration of Human rights and all the treaties and conventions related to human rights, women’s rights and children’s rights.”

² Art. 2(11) (Phil.) guarantees human rights.

³ Art. 4 (Thai): “Human dignity, rights, liberty, and equality of the people shall be protected.”

⁴ While art. 31 (Camb.) covers all forms of discrimination, art. 45 is specific to gender.

⁵ Art. 8 (Laos) covers equality across ethnic groups.

⁶ Art. 35 (Laos) covers equality among citizens.

⁷ Art. 38 (Laos) covers gender equality.

⁸ Art. 12 (Mala.) provides for non-discrimination in education.

⁹ Art. 136 (Mala.) prohibits race-based discrimination in federal employment.

¹⁰ Arts. 2(14) (Phil.) provides for gender equality.

¹¹ Arts. 14(18) (Phil.) provides for equal access to cultural opportunities.

¹² Limitation: Art. 12(3) (Sing.) provides exception for personal law and religion.

¹³ Art. 16 (Sing.) provides for non-discrimination in education.

¹⁴ Art. 5 (Viet.) protects equal rights of ethnic minorities.

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- ¹⁵ Art. 63 (Viet.) protects equal rights of ethnic minorities.
- ¹⁶ Art. 32 (Camb.) abolishes death penalty.
- ¹⁷ Art. 28I(1) (Indo.) states that there is no limitation on right to life under any circumstances.
- ¹⁸ Limitation: Art. 5(1) (Mala.) prohibits deprivation of life “save in accordance with law.”
- ¹⁹ Limitation: Art. 353 (Myan.) nothing shall be detrimental to life "except in accordance with existing laws."
- ²⁰ Art. 3(1) (Phil.) prohibits deprivation of life “without due process of law,” Art. 3(19)(1) prohibits death penalty “unless, for compelling reasons involving heinous crimes, the Congress hereafter provides for it. Any death penalty already imposed shall be reduced to reclusion perpetua.”
- ²¹ Limitation: Art. 9(1) (Sing.) No deprivation of life “save in accordance with law.”
- ²² Art. 71 (Viet.) provides a right to have citizens’ life protected by law.
- ²³ Limitation: Art. 353 (Myan.) nothing shall be detrimental to personal freedom "except in accordance with existing laws."
- ²⁴ Limitation: Art. 9 (Sing.): exceptions for enemy aliens, pre-existing laws, drug violations.
- ²⁵ Limitation: Art. 32 (Thai.): death penalty may be provided by law.
- ²⁶ Art. 3(2) (Phil.) details need for search warrant.
- ²⁷ Art. 32 (Thai.) covers searches, arrests, and detentions.
- ²⁸ Art. 71 (Viet.) provides a right to have citizens’ liberty protected by law.
- ²⁹ Art. 46 (Camb.) covers human trafficking and women’s rights.
- ³⁰ Art. 28I(1) (Indo.) states that there is no limitation on prohibition of slavery under any circumstances.
- ³¹ Art. 3(18) (Phil.) prohibits forced labor except as punishment for convicted crime.
- ³² Limitation: Art. 38 (Thai.): forced labor allowed if law enacted to avoid "imminent public calamity" or in time of war, emergency, or martial law.
- ³³ Art. 28I(1) (Indo.) states that there is no limitation on prohibition of torture under any circumstances.
- ³⁴ Art. 28I(1) (Indo.) states that there is no limitation on recognition as a person before the law under any circumstances.
- ³⁵ Limitation: Art. 38 (Camb.) lists rights of accused, but doesn’t clearly refer to a trial. Art. 39 provides right to petition government for claims; “settlement of complaints and the reparations of damages are of the competence of the courts.”
- ³⁶ Art. 377 (Myan): "In order to obtain a right, ... application shall be made to the Supreme Court of the Union.”

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- ³⁷ Art. 378 (Myan.) lists writs court can issue.
- ³⁸ Art. 381 (Myan.) provides for due process of law for redress of grievances, limited in time of foreign invasion, insurrection, or emergency.
- ³⁹ Art. 3(11) (Phil.) guarantees defense.
- ⁴⁰ Art. 33 (Camb.) covers exile.
- ⁴¹ Art. 38 (Camb.) covers arrest, police custody, and detention.
- ⁴² Art. 42 (Laos) prohibits arrest without an order.
- ⁴³ Limitation: art. 5 (Mala.): full rights do not apply to enemy aliens and immigration-related detentions.
- ⁴⁴ Art 9(1) (Mala.) prohibits banishment of citizens.
- ⁴⁵ Art. 51 (Mala.) has restrictions on preventative detention during emergency.
- ⁴⁶ Limitation: Art. 9 (Sing.): exceptions for enemy aliens, pre-existing laws, drug violations.
- ⁴⁷ Art. 13 (Sing.) prohibits banishing and exclusion of citizens.
- ⁴⁸ Art. 32 (Thai.) prohibits arrest and detention without court order or through law.
- ⁴⁹ Art. 34 (Thai.) prohibits deportation of Thai nationals.
- ⁵⁰ Art. 71 (Viet.) provides, "Arrest and detention must be in accordance with the law."
- ⁵¹ Limitation: Art. 38 (Camb.) covers rights at trial, does not guarantee public trial.
- ⁵² Art. 128 (Camb.) provides for an independent and impartial judiciary.
- ⁵³ Limitation: Art. 28A (Indo.) only a right to "defend his/her life and existence."
- ⁵⁴ Malaysia has no clear right to trial, but Art. 7 prohibits double jeopardy.
- ⁵⁵ Art. 374 (Mala.) prohibits double jeopardy.
- ⁵⁶ Art. 375 (Mala.) grants right to defense.
- ⁵⁷ Art. 3(12-17) (Phil.) lists rights of accused, including right to counsel, no self-incrimination, due process rights, prohibition on double jeopardy, and speedy trial.
- ⁵⁸ Art. 9 (Sing.) covers right to lawyer, not a specific right to public trial.
- ⁵⁹ Art. 11(2) (Sing.) prohibits double jeopardy.

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- ⁶⁰ Art. 40 (Thai.) provides for speedy trial with specific rights; Art. 197 provides for independent judges.
- ⁶¹ Arts. 71-72 (Viet.) provides for trial by independent tribunal.
- ⁶² Art. 28I(1) (Indo.) states that there is no limitation on prohibition of ex-post facto laws under any circumstances.
- ⁶³ Art. 40 (Camb.) includes privacy in residence, correspondence and searches of person, home, and property.
- ⁶⁴ Art. 42 (Laos) prohibits search of person or property without an order.
- ⁶⁵ Art. 33 (Thai.) provides for "liberty of the dwelling."
- ⁶⁶ Art. 36 (Thai.) 36 covers privacy in communications.
- ⁶⁷ Limitation: Art. 9(2) (Mala.): Parliament may impose restrictions for states that are "in a special position as compared to the States of Malaysia."
- ⁶⁸ Art. 3(6) (Phil.) refers to right to travel, doesn't clearly specify if intra- or inter-country.
- ⁶⁹ Art. 51 (Laos) provides asylum for foreigners.
- ⁷⁰ Art. 380 (Myan.) states "Every citizen who has relations with foreign countries shall have the right to seek protection of the Union at home or abroad."
- ⁷¹ Art. 82 (Viet.) provides for asylum for foreigners.
- ⁷² Art. 33 (Camb.) says that citizen can't be deprived of nationality.
- ⁷³ Malaysia does not clearly provide for right to nationality--arts. 14-30 provide for citizenship.
- ⁷⁴ Myanmar does not clearly provide for right to nationality--art. 345 provides for citizenship.
- ⁷⁵ Philippines does not clearly provide for right to nationality--art. 4 provides for citizenship.
- ⁷⁶ Singapore does not clearly provide for right to nationality--art. 120-41 provides for citizenship.
- ⁷⁷ Vietnam does not clearly provide for right to nationality--art. 49 provides for citizenship.
- ⁷⁸ Art. 45 (Camb.) includes women's equal right to marriage and family.
- ⁷⁹ Limitation: Art. 28B (Indo.) right to establish a family & procreate "based upon lawful marriage."
- ⁸⁰ Art. 35 (Thai.) generally refers to "family rights."
- ⁸¹ Limitation: Art. 44 (Camb.) Only natural person or legal entity of Khmer nationality shall have the right to land ownership; provides for eminent domain.
- ⁸² Art. 15 (Laos): State will not seize or nationalize foreign investments.

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- ⁸³ Art. 13 (Mala.) prohibits deprivation except in accordance with law and compensation.
- ⁸⁴ Art. 3(1, 9) (Phil.) prohibits deprivation except in accordance with due process and compensation.
- ⁸⁵ Art. 42 (Thai.) provides for broad eminent domain with compensation.
- ⁸⁶ Art. 23 (Viet.) provides for eminent domain with compensation.
- ⁸⁷ Art. 25 (Viet.) protects foreign investment.
- ⁸⁸ Limitation: Art. 4(5) (Brun.): only Muslims can become Prime Minister.
- ⁸⁹ Limitation: Art. 43 (Camb.): cannot impinge on other beliefs or religions, on public order and security; Buddhism is state religion.
- ⁹⁰ Art. 28(1) (Indo.) states that there is no limitation on freedom of religion, thought, and conscience under any circumstances.
- ⁹¹ Limitation: Art. 29 (Indo.): "State shall be based upon the belief in the One and Only God."
- ⁹² Limitation: Art. 11 (Mala.): law may limit the propagation of religious doctrine or belief among people who practice Islam.
- ⁹³ Art. 12 (Mala.) concerns religious education.
- ⁹⁴ Limitations to right to religion in arts. 360-364 (Myan.).
- ⁹⁵ Limitation: Art. 28 (Indo.): freedom of expression "shall be regulated by law."
- ⁹⁶ Limitation: Art. 10 (Mala.) allows Parliament to put restrictions on freedom of expression in interest of national security, public order.
- ⁹⁷ Limitation: Art. 354 (Myan.) allows expression "if not contrary to the laws, enacted for Union security ..."
- ⁹⁸ Limitation: Art. 14 (Sing.) has expectations for laws re security, order.
- ⁹⁹ Art. 41 (Brun.) requires publication of legislative bills, but does not provide right to information and media.
- ¹⁰⁰ Limitation: Art. 41 (Camb.) provides for free press, but not right to information.
- ¹⁰¹ Limitation: Art. 28 (Indo.) freedom of association & assembly "shall be regulated by law."
- ¹⁰² Limitation: Art. 44 (Laos) provides right to set up associations & stage demonstrations "which are not contrary to the laws."
- ¹⁰³ Limitation: Art. 10 (Mala.) allows Parliament to put restrictions on freedom of assembly and association in interest of national security, public order.
- ¹⁰⁴ Limitation: Art. 354 (Myan.) allows assembly "if not contrary to the laws, enacted for Union security ..."
- ¹⁰⁵ Limitation: Art. 14 (Sing.) has expectations for laws re security, order, education, and labor.
- ¹⁰⁶ Art. 34 (Camb.) covers right to vote/run for office.

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- ¹⁰⁷ Art. 35 (Camb.) covers requests from citizens to the State.
- ¹⁰⁸ Art. 30(1) (Indo.) covers right and duty to participate in the defense and security of the state.
- ¹⁰⁹ Arts. 119-120 (Mala.) don't directly state the right to vote but detail voting qualifications.
- ¹¹⁰ Art. 391 (Myan.) lists voter qualifications, Art. 392 lists exclusions.
- ¹¹¹ Art. 406 (Myan.) lists rights of political parties, limitations in art. 407.
- ¹¹² Limitation: Art. 4 (Viet.) establishes Communist Party as leadership of society.
- ¹¹³ Art. 36 (Camb.) provides for social security.
- ¹¹⁴ Art. 75 (Camb.) requires State to establish social security regime.
- ¹¹⁵ Art. 72 (Camb.) provides right to health.
- ¹¹⁶ Art. 74 (Camb.) provides right to support for disabled and veterans.
- ¹¹⁷ Art. 39 (Laos) provides social security for working people.
- ¹¹⁸ Limitation: Art. 26(b) (Myan.) only provides for Civil Services personnel.
- ¹¹⁹ Art. 2(15) (Phil) provides for right to health.
- ¹²⁰ Arts. 51-54 (Thai) provide right to health and support for elderly, children, and disabled.
- ¹²¹ Art. 61 (Viet.) provides right to healthcare.
- ¹²² Art. 67 (Viet.) provides for support for veterans, elderly, disabled, and orphans.
- ¹²³ Art. 46 (Camb.) prohibits firing for pregnancy and provides right to maternity leave.
- ¹²⁴ Art. 370 (Myan.) provides right to conduct business.
- ¹²⁵ Limitation: art. 12(14) (Phil): practice of professions limited to Filipino citizens except as provided by law.
- ¹²⁶ Art. 63 (Viet.) guarantees women equal pay for equal work.
- ¹²⁷ Art. 37 (Camb.) provides right to strike and demonstrate.
- ¹²⁸ Art. 39 (Laos) provides right to rest for working people.
- ¹²⁹ Art. 27 (Indo). Provides right to work and earn humane livelihood.
- ¹³⁰ Art. 46 (Camb.) prohibits prostitution and obscenity that affects the dignity of women.

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- ¹³¹ Art. 47 (Camb.) provides children's rights and duties.
- ¹³² Art. 48 (Camb.) refers to Convention on Children.
- ¹³³ Art. 73 (Camb.) provides for children and mothers.
- ¹³⁴ Art. 28B(2) (Indo.) provides rights for children.
- ¹³⁵ Art. 13(14) (Phil.) protects working women.
- ¹³⁶ Art. 15(3)(3) (Phil.) protects children.
- ¹³⁷ Art. 47 (Camb.) obliges parents to educate children.
- ¹³⁸ Art. 48 (Camb.) is general right to education, arts. 65-68 provide for free primary and secondary education.
- ¹³⁹ Art. 28E(1) (Indo.) refers to right to choose education.
- ¹⁴⁰ Art. 8 (Laos) provides right of ethnic groups to practice culture.
- ¹⁴¹ Limitation: Art. 45 (Laos) allows participation in cultural activities "not contrary to the laws."
- ¹⁴² Art. 14(17) (Phil.) protects rights of indigenous communities to preserve and develop their culture. See also art. 14(14-18) covering arts and culture.
- ¹⁴³ Art. 5 (Viet.) provides cultural rights for ethnic minorities.
- ¹⁴⁴ Art. 372 (Myan.) guarantees right to private invention and patent.
- ¹⁴⁵ Art. 59 (Camb.) requires state to protect environment.
- ¹⁴⁶ Art. 45 (Myan.) requires state to protect environment.
- ¹⁴⁷ Art. 2(16) (Phil.) requires state to protect environment, provides right to balanced and healthful ecology.
- ¹⁴⁸ Art. 85 (Thai.) requires state to promote environmental policies providing for sustainable development.
- ¹⁴⁹ Art. 112(5) (Viet.) requires state to protect environment.
- ¹⁵⁰ Art 28C(2) (Indo.) refers to right to improve oneself.
- ¹⁵¹ Art 28I(4-5) (Indo.) refers to state's responsibility to protect human rights and pass laws doing so.
- ¹⁵² Art. 3(10) (Phil.): contract clause.
- ¹⁵³ Art. 3(20) (Phil.) prohibits imprisonment for debt or nonpayment of poll tax.
- ¹⁵⁴ Art. 40 (Thai) provides right to legal assistance from the state in civil cases.

¹⁵⁵ Art. 72 (Viet.) provides right to compensation for unlawful arrest, detention.

¹⁵⁶ Arts. 2(12) & 15(4) (Phil.) cover duties to care for children and aged.

¹⁵⁷ Art. 43 (Camb.) refers to exercise of religion.