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Southeast Asia: ASEAN governments' must address impunity to ensure justice and accountability for past human rights violations

As civil society groups and other activists met this week at the ASEAN People's Forum (APF) in Timor-Leste, Amnesty International urges governments across Southeast Asia to address the culture of impunity for crimes.

Under international law, ASEAN states have a legal obligation to ensure justice, accountability and reparations for victims and their families who have suffered human rights violations. Throughout Southeast Asia, there are chronic failures to carry out or enact effective measures to ensure justice and accountability for past and present human rights violations and abuses.

Disappointingly, In **Timor-Leste**, little progress has been made in addressing crimes against humanity, other crimes under international law, and serious human rights violations committed by Indonesian security force and their auxiliaries from 1975 to 1999. Many suspected perpetrators remain at large in Indonesia. Further, there has been no progress by the authorities in implementing recommendations addressing impunity from the Commission for Reception, Truth and Reconciliation (CAVR) and the bilateral Indonesia-Timor-Leste Commission of Truth and Friendship (CTF).

Recent initiatives, in 2016, under the Prime Minister to establish a Working Group (PMWG) to consult with stakeholders on the establishment of a CAVR follow-on institution has offered some hope to victims and their families. However such efforts should not be a substitute for the responsibility to investigate, prosecute and punish those responsible for grave human rights violations and crimes under international law.

In **Indonesia**, serious human rights violations including unlawful killings, enforced disappearance, torture and other ill-treatment, rape and other crimes of sexual violence, which occurred under President Suharto's rule and during the reform period (from 1998) have yet to be investigated or addressed. This includes the mass violations in 1965-66, the 1998 May riots, and the conflicts in Aceh, Papua and Timor-Leste (then known as East Timor).

Instead of following through on promises to ensure criminal investigations and prosecutions for serious past human rights violations, President Joko Widodo has merely announced the establishment of a non-judicial mechanism to resolve all past human rights violations. But without powers to prosecute, there are serious concerns that this will prioritize reconciliation over truth and justice, and let the worst perpetrators walk free.

Impunity is a longstanding problem in **Cambodia**. Perpetrators rarely face accountability. The country's courts suffer a lack of judicial independence, leading to – among other problems – the mishandling of complaints. Because of these - serious flaws, those responsible for committing human rights violations – which are serious crimes under the Penal Code – are not brought to justice, reinforcing a cycle of further violations and impunity.

The fatal 2004 shooting of prominent union leader Chea Vichea in Phnom Penh is illustrative of these problems. The investigation into Chea Vichea's death was flawed and led to the wrongful imprisonment of two people. They were eventually acquitted in September 2013.

According to the Committee to Protect Journalists (CPJ), at least 12 journalists have been killed in Cambodia since 1994. The alleged perpetrators have not been brought to justice in any of these cases. Amnesty International is calling for a prompt, independent, impartial and thorough investigation into the recent killing of the prominent commentator Kem Ley, who was shot dead in Phnom Penh on 10 July 2016.

In **Myanmar**, a culture of impunity for human rights violations committed by security forces endures. Most perpetrators of past and present human rights violations – including crimes under international law – continue to evade justice. These violations include unlawful killings, torture and other ill-treatment, crimes of sexual violence, forced labour, the use of landmines, and the recruitment of child soldiers.

The 2008 Constitution includes provisions that codify immunity for violations committed under Myanmar's military governments. This further entrenches a culture of impunity as the military is yielded control over its own judicial affairs. Recent attempts to investigate army officials for the death of a journalist, for example, resulted in a military court acquitting them – despite the fact that a police inquest and a civil court inquest were already underway.

The lack of an institutional and legislative framework consistent with international law and fair trial standards contributes to the failure to address impunity for past and ongoing human rights violations in Myanmar. Although it is important that steps are taken to ensure those responsible for serious human rights violations are held to account, military tribunals are not the solution. The authorities in Myanmar must take immediate action to ensure that human rights violators can be effectively tried before independent, civilian courts – anything less would only serve to perpetuate the cycle of impunity.

The longstanding absence of progress in securing justice for serious human rights violations has undermined progress in establishing the rule of law across Southeast Asia. In some countries those suspected of crimes under international law remain in powerful positions where they could repeat such violations. To strengthen public confidence in the criminal justice system and achieve genuine and sustainable human rights improvements it is time ASEAN countries in particular the Asian Inter-Governmental Commission for Human Rights (AICHR) take serious steps towards culling the culture of impunity plaguing the region.

Note: A workshop led by Amnesty International and Asia Justice and Rights (AJAR) on "Addressing Impunity in Southeast Asia", was held with human rights defenders from Cambodia, Myanmar, Indonesia & Timor-Leste on 4 August 2016 at the ASEAN People's Forum 2016 in Dili, Timor-Leste.