

Joint Statement to ASEAN Leaders: ASEAN must not consider the option of voluntary return without addressing the root causes of the displacement and entrenched discrimination of the Rohingya

(Bangkok, 12 November 2018) – In the event of the 33rd ASEAN Summit on 13-15 November 2018, we, the undersigned civil society organisations, express our concern on the initiative of the Association of Southeast Asian Nations (ASEAN), propelled by foreign ministers of Malaysia, Thailand, and Singapore, to visit Myanmar in the upcoming month with the intention to expedite the safe and voluntary return of Rohingya refugees in Cox's Bazar, Bangladesh to Myanmar. While noting the importance of ASEAN to provide a regional approach and to identify more effective measures and practical steps to address the Rohingya crisis in Myanmar, ASEAN must not consider the option of voluntary return without addressing the root causes of the displacement and entrenched discrimination of the Rohingya. Furthermore, ASEAN must ensure and prioritise the development of regional initiatives to push for substantial change of the conditions in Myanmar, which are now not conducive for the Rohingya to return in safety and dignity. Under the current circumstances, we are deeply concerned that the visit of ASEAN delegation will merely be used as a tool to distract and subvert calls for justice and accountability to address mass atrocities in the country. Therefore, we call on ASEAN during its 33rd Summit to encourage Myanmar to work towards resolving the root causes of displacement that not only lead to the struggle of the Rohingya but also affect the stability and peace in the region, and to hold those who have committed grave crimes against the Rohingya accountable.

We would like to draw the attention of ASEAN once again to the grave human rights violations experienced by the Rohingya, who have been forced out of Myanmar to seek refuge in neighbouring countries such as Bangladesh, Thailand, Malaysia, and Indonesia as a result of decades of systematic oppression and discrimination by the Myanmar military. This fact is reinforced by the findings of the Independent International Fact-Finding Mission on Myanmar (IIFMM) through its report, which documented inhumane treatments against the Rohingya community, among other indiscriminate attacks, extrajudicial killings, arbitrary deprivation of liberty, enforced disappearance, destruction of property and looting, torture, rape, and other forms of gender-based violence. These findings lead to the conclusion that the persecution and actions taken against the Rohingya can be classified as a possible genocide, crime against humanity, and war crimes in accordance with international law.¹

We note the lack of willingness of the Government of Myanmar to hold the perpetrators accountable, which has been demonstrated through: continuously denying access to the country to IIFMM and United Nations Special Rapporteur (UNSR) on the situation of human rights in Myanmar; dismissing the findings of the IIFMM and the UNSR; and the persistent and deliberate efforts to hinder, undermine, and obstruct comprehensive and impartial investigations by both mechanisms into the allegations. Notably, the Government of Myanmar has publicly rejected the findings of the IIFMM report, which called for an investigation into several military generals for mass atrocity crimes and the UN Human Rights Council to adopt a resolution to create an international justice mechanism to expedite criminal prosecutions, and supported the ruling of the International Criminal Court (ICC) that can exercise jurisdiction over the atrocities taking place in Rakhine State.

We also note that in order to address the situation in Cox's Bazar, where more than 700,000 Rohingya have been seeking refuge since August 2017,² the Government of Myanmar and the Government of Bangladesh have signed the 'Arrangement on Return of Displaced Persons from

¹ [Report of the independent international fact-finding mission on Myanmar, A/HRC/39/64.](#)

² [Fact-Finding Report on Rohingya Refugees in Bangladesh, FORUM-ASIA](#)

Rakhine State' in hopes of facilitating a voluntary return to Myanmar. The agreement, however, is premature and lacks transparency and participation of the Rohingya and civil society. Furthermore, it has been widely documented by the media and civil society that the steps taken by the Government of Myanmar are far from promoting the safety, dignity, and sustainable voluntary return for Rohingya on the ground.³ By shutting down the Internally Displaced Persons (IDP) camps in Rakhine State and turning it into permanently segregated villages or by bulldozing Rohingya's homes to build new homes for non-Rohingya to settle, the Government of Myanmar will only reinforce further discrimination and segregation that have led to the decades-long persecution of the Rohingya in Myanmar.⁴ In addition, before any safe and dignified voluntary return can take place, the Rohingya people must be guaranteed restoration and/or reparation for their land and property. Reflecting on this reality and the unwillingness of the Government of Myanmar to uphold its international obligations, the voluntary return of the Rohingya to Myanmar is premature, unsafe, and carries substantial risks of perpetuating the cycle of displacement and violence.

We would like to reiterate that there will be neither safe nor sustainable voluntary return of Rohingya refugees unless the root causes are addressed and justice for victims are provided. These include concrete steps towards the promotion and protection of the Rohingya community that guarantee their freedom of movement and full citizenship and hold the perpetrators accountable.

We urgently request ASEAN to:

- Acknowledge and address the situation in Rakhine State as a human rights and humanitarian crisis resulting from the long-sustained systematic oppression, segregation, and discrimination against the Rohingya by the Myanmar military and government (in alignment with the UN reports, IIFFMM, and the ICC ruling) and to encourage Myanmar to do the same;
- Ensure full and meaningful participation of the Rohingya refugees and civil society organisations in the discussion related to voluntary return of the Rohingya during the upcoming ASEAN Summit in a timely manner;
- Encourage the Government of Myanmar, prior to any plans for voluntary return of the Rohingya, to recognise their rights to self-identify, full citizenship, basic services, and free movement, among other related rights;
- Encourage the Government of Myanmar to make genuine efforts to address the root causes and find solutions, through amending and repealing any existing laws, policies, and practices that are discriminatory against the Rohingya and other religious and ethnic minority communities, including the 2008 Constitution, 1982 Citizenship Law, and the four Race and Religion Protection Laws;
- Support the decision of the UN Human Rights Council to establish an ongoing independent mechanism to collect, consolidate, preserve, and analyse evidence of the most serious international crimes and violations of international law committed in Myanmar since 2011 as recommended by the IIFFMM and ensure that it is sufficiently financed through the UN General Assembly;
- Ensure accountability for the perpetrators of grave crimes under international law in Myanmar, including by supporting the establishment of an international justice mechanism, and fully cooperating with the preliminary investigation undertaken by the ICC.

Recalling the purpose of the establishment of ASEAN to maintain and enhance peace and security, as well as to promote and protect human rights and fundamental freedoms in the region (pursuant to the ASEAN Charter Articles 1(1) and 1(7)), we urge ASEAN to weigh in towards international efforts in finding a sustainable solution to the Rohingya crisis and urge the Government of Myanmar to resolve the root causes of human rights violations. We sincerely hope that ASEAN can move in

³ [No one wants the terrorists back: signs of Rohingya erased in Rakhine State, The Guardian](#)

⁴ [URGENT ACTION NEEDED TO END ONGOING ATROCITY CRIMES, Progressive Voice](#)

accordance with its purpose and beyond its non-interference principle to take leadership in putting a halt on the long-standing crisis in Myanmar by working towards holding the perpetrators to account.

This joint statement is endorsed by:

1. ALTSEAN-Burma
2. ASEAN Services Employees Trade Union Council (ASETUC)
3. ASEAN SOGIE Caucus
4. Asian Forum for Human Rights and Development (FORUM-ASIA)
5. Asylum Access Malaysia
6. People's Empowerment Foundation (PEF)
7. Persatuan Kesedaran Komuniti Selangor (EMPOWER)
8. Progressive Voice
9. Suara Rakyat Malaysia (SUARAM)
10. The Commission for Disappeared and Victims of Violence (KontraS)
11. The Islamic Renaissance Front
12. Think Centre - Singapore