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H.E. Dato Lim Jock Hoi
Secretary-General
Association of Southeast Asian Nations (ASEAN)
70A Jalan Sisingamangaraja
Jakarta 12110
Indonesia

10 September 2021

RE: Civil society requests for the 42nd ASEAN Senior Officials Meeting on Drug Matters (ASOD) and 7th ASEAN Ministerial Meeting on Drug Matters (AMMD)

Dear Secretary-General

We write on behalf of the International Drug Policy Consortium (IDPC), a global network of over 190 civil society organisations that advocate for drug policies grounded in principles of health, human rights, human security, harm reduction and development, with the support of 24 national, regional and international organisations that endorse this letter.

Ahead of the 42nd ASEAN Senior Officials Meeting on Drug Matters (ASOD) which will be held on 14 September 2021, and the 7th ASEAN Ministerial Meeting on Drug Matters (AMMD) on 13 – 14 October 2021, we wish to highlight some issues of concern for your attention from a civil society perspective.

As ASEAN representatives discuss progress in the implementation of the *ASEAN Work Plan on Securing Communities Against Illicit Drugs 2016 – 2025* during ASOD, we ask for consideration to be given to the harmful impacts of existing drug laws and policies, especially upon women, children and communities already living in situations of vulnerability, for example due to poverty, exacerbated exposure to health-related risks, and deprivation of liberty. The negative impacts of drug policies have most recently been highlighted in a study by the UN Working Group on Arbitrary Detention on drug laws and the absolute prohibition of arbitrary detention under international law (A/HRC/47/40, 18 May 2021), presented to the UN Human Rights Council at its 47th Session. The negative impacts specific to Southeast Asia include over-use of detention (e.g. prolonged police custody and pre-trial detention), incarceration, and criminalisation—which inhibit the effective functioning of criminal justice systems and correctional services; torture and ill-treatment of people arrested or detained; imposition of inhuman and degrading punishment prohibited under international law, such as corporal punishment and the death penalty; inadequate or non-existent health care for persons in detention; and compulsory drug treatment by the State and private actors.

In 2016, countries around the world adopted the *Outcome Document of the 2016 United Nations General Assembly Special Session on the World Drug Problem* (UNGASS Outcome Document) which includes commitments that address several of the negative impacts of drug policies referred to above. Countries including ASEAN Member States agreed to promote proportionate sentencing policies that take account of mitigating and aggravating factors (para 4.I), encourage the implementation of alternative measures to conviction or punishment in appropriate cases such as

minor offences (para 4.j), and to implement effective criminal justice responses that ensure legal guarantees and due process safeguards, including practical measures to uphold the prohibition of arbitrary arrest and detention and of torture and other cruel, inhuman or degrading treatment or punishment and to eliminate impunity, as well as to ensure timely access to legal aid and the right to a fair trial (para 4.o). At the 64th session of the UN Commission on Narcotic Drugs in 2021, member states adopted by consensus Resolution 64/3, whose operative paragraph 4 recalls the universal commitment to promote and implement the provisions in para 4.o of the UNGASS Outcome Document.

Earlier this year, the *United Nations System Common Position on Incarceration* (UN System Chief Executives Board for Coordination (CEB), April 2021) made similar recommendations, including to “reform efforts aimed at ensuring proportionate and individualized sentencing policies and alternatives to conviction or punishment in appropriate cases, including for minor drug-related offences” and for “the decriminalization of acts that are protected by international human rights law.” In 2018, the UN CEB also released the *United Nations system common position supporting the implementation of the international drug control policy through effective inter-agency collaboration* (UN CEB, 2018), where UN agencies including the UN Office on Drugs and Crime committed to, amongst other priorities, “promote increased investment in measures aimed at minimizing the adverse public health consequences of drug abuse, sometimes referred to as harm reduction,” and “alternatives to conviction and punishment in appropriate cases, including the decriminalization of drug possession for personal use, and to promote the principle of proportionality, to address prison overcrowding and overincarceration by people accused of drug crimes”.

These authoritative documents further recommend measures to support and enable the participation of civil society and affected communities, such as people who use drugs, in drug policy processes. As a result, in addition to requesting your attention to addressing the concerns outlined above, we ask that ASOD and AMMD support and enable the participation of civil society organisations and affected community groups in its processes.

We wish you a successful ASOD meeting, hope to see a report of discussions afterwards and look forward to a positive response to our requests.

Kind regards



Ann Fordham
Executive Director
International Drug Policy Consortium

Endorsed by the following civil society organisations:

1. Advancing Knowledge in Democracy & Law initiative, Malaysia
2. AKSI Keadilan Indonesia



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3. Amaya Lay (ALAY) Mindanao (Philippines)
4. Asia Catalyst (Regional)
5. BABSEACLE (Regional)
6. Bahay Tuluyan Foundation, Inc (Philippines)
7. Centre of Excellence on Research in AIDS (CERiA), University of Malaya (Malaysia)
8. Child Alert Mindanao (Philippines)
9. Children's Legal Rights and Development Center (CLRDC) (Philippines)
10. Drug Policy Advocacy Group, Myanmar
11. Harm Reduction International (Global)
12. Health Opportunity Network (Thailand)
13. Indonesian Harm Reduction Network
14. LBH Masyarakat (Indonesia)
15. MARUAH (Singapore)
16. Network Against Killings in the Philippines (NAKPHIL)
17. NoBox Philippines
18. PELUANG – People's Action Group for Change (Malaysia)
19. Persatuan PENGASIH Malaysia
20. Rumah Cemara (Indonesia)
21. Safe Open Space (Philippines)
22. Save the Children Philippines
23. Tambayan Center for Children's Rights, Inc (Philippines)
24. Union of Peoples' Lawyers of Mindanao (Philippines)