

The Dynamics of Human Rights Diplomacy in Asean

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Abstract

This article discusses developments and challenges in human rights diplomacy in ASEAN, with an emphasis on policy changes since ASEAN was established in 1967. It analyzes how the principles of non-intervention and sovereignty of member states affect the implementation of human rights, as well as the important role of the ASEAN Intergovernmental Commission on Human Rights (AICHR) established in 2009. Despite progress such as the ASEAN Human Rights Declaration in 2012, ASEAN still faces major challenges in the consistent implementation of human rights. Case studies in Myanmar, Thailand, and the Philippines show ASEAN's limitations in responding to human rights violations. This article also reviews the contribution of non-state actors such as NGOs and media in human rights diplomacy, and recommends strategies to strengthen human rights mechanisms in the region. The conclusion of this study is that despite the obstacles, there is potential to improve human rights protection through policy reforms and increased civil society participation.

Keywords: human rights diplomacy, ASEAN, AICHR, non-intervention

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INTRODUCTION

Human rights in Southeast Asia have become an increasingly important issue along with the political, social, and economic development of ASEAN (Association of Southeast Asian Nations) countries (Ciorciari, 2012). ASEAN, which was established in 1967 with the main objective of promoting economic, political, and security cooperation among its member states, has undergone changes in its role regarding human rights.

In the beginning, ASEAN focused more on political stability and economic development, with the principle of non-intervention as one of the main cornerstones. As a result, human rights issues received less attention at the regional level (Stensland & Ng, 2012). However, with global and regional changes, as well as pressure from civil society and the international community, ASEAN began to recognize the importance of human rights to maintain stability and sustainable development in the region (Acharya, 2013).

In 2009, ASEAN established the ASEAN Intergovernmental Commission on Human Rights (AICHR) as a concrete step to promote and protect human rights in the region. AICHR aims to raise awareness of human rights, provide policy recommendations, and promote cooperation among member states on human rights issues. Although the establishment of AICHR is an advancement,

its success and effectiveness are often questioned due to its limited mandate and powers which are more consultative than binding (Wahyuningrum, 2014).

In 2012, ASEAN adopted the ASEAN Human Rights Declaration (AHRD), which reflects the shared commitment of member states to promote and protect human rights. However, the declaration has also been criticized for not fully complying with international standards, especially in clauses that allow for restrictions on human rights based on national and cultural grounds (Zahau, 2012).

Despite progress in ASEAN's human rights framework, major challenges remain. Member states have varying levels of commitment to and implementation of human rights. Some countries still face serious issues such as freedom of expression, minority rights, and resolution of past human rights violations. For example, the issue of Rohingya refugees in Myanmar, the restriction of press freedom in some countries, and the violation of indigenous peoples' rights are some concrete examples of the challenges (Lynn, 2020).

To address these challenges, ASEAN needs to strengthen its human rights mechanisms by giving AICHR a stronger mandate, increasing transparency and accountability, and encouraging the active participation of civil society in the decision-making process. Increased dialog and cooperation among member states, as well as support from the international community, are also crucial to achieve real progress in the protection and promotion of human rights in the region (Wahyuningrum, 2014).

Indonesia plays a role in upholding human rights in ASEAN, namely as the initiator of the formation of a human rights protection commission, to adjust to the need for human rights protection Indonesia was named as the host of the first summit (Summit) in 2013 and the second in 2018, peace and justice human rights cover most of the civil and political, in it can be expanded into parts that must be of concern to every state towards its citizens, in terms of civil and political rights all of these rights are stated in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and have been ratified by the Indonesian government.

In 1948 the UN Assembly passed the Universal Declaration of Human Rights with the aim of protecting all its members in human rights, this declaration contains 30 articles that are narrowed down by the UN but can be expanded according to the circumstances and conditions of each country's policy in protecting human rights. The Universal Declaration of Human Rights was published on December 10 and has now been designated as a day of human rights commemoration throughout the world. The Universal Declaration of Human Rights that has been accepted and announced and applied throughout the world contains 30 articles.

The Universal Declaration of Human Rights makes it easy for us to know that every human being has equal rights in the eyes of the world, regardless of origin and race of certain groups, this is in accordance with Indonesia which adheres to Pancasila in the 3rd principle of social justice for all Indonesian people. In reality, in the field and community life, human rights violations often occur both on a small scale of domestic life and on a large scale nationally and internationally, this is the importance of countries forming rules in order to control actions that are considered to damage and disrupt the continuity of peaceful life in the country's

territory. Along with the issuance of human rights rules, ASEAN also formed committees to deal with each problem, ranging from humanitarian disasters, racial ethnic and intentional crimes, political and social are the most important factors in early handling if human rights violations are found somewhere. Indonesia promotes peace through democratic freedom of speech and respects all aspects of world law and truth without taking sides in any block in the event of a human rights conflict in ASEAN.

RESEARCH METHOD

This research uses a descriptive qualitative research model approach to empirically analyze the dynamics of human rights diplomacy in ASEAN. The qualitative approach applied is a literature study, where data sources are obtained from books and journals relevant to this research. The main focus of this study is to analyze the diplomacy efforts made by the Indonesian government in mediating the humanitarian conflict in Myanmar. The data obtained is analyzed inductively, by collecting and evaluating various relevant articles. The final step of this research is to draw conclusions based on the findings obtained during the analysis process.

RESULTS AND DISCUSSION

Establishment of Human Rights Institutions in ASEAN

According to the ASEAN leadership structure, the AICHR is an important component. This is because the AICHR acts as an advisory body. The AICHR relies on logic and consensus in its decision-making process. This approach is strongly opposed by many groups because it is difficult and takes a long time to reach agreement across the ten Member States. This is because Member States have not taken action to address human rights issues in the region (McLellan, 2018: 58). Therefore, the decision-making process at AICHR also needs to be reformed. The behavior of AICHR is also related to the behavioral paradigm developed by Richard C. Snyder, which focuses on actor behavior, how actors behave and how they solve problems in international relations, which plays an important role in actor behavior (Snyder, 1954: 199). The establishment of the ASEAN Human Rights Center is a requirement of the ratified ASEAN Convention. Article 14 of this document states that ASEAN is obliged to establish a human rights commission to promote human rights in the Southeast Asian region.

Therefore, the establishment of AICHR is part of the launch of the ASEAN Charter. As a human rights institution in the Southeast Asian region, AICHR is needed to address the current security crisis. One of them explains how it will be resolved so that it can be achieved by all ASEAN countries (McLellan, 2018: 58). One of the changes brought about by the ASEAN Convention is the establishment of ASEAN legitimacy and its structure, the AICHR. The legal status of the AICHR is a legal agreement recognized by international law. One of them is the drafting of contracts, lawsuits and legal transactions (Triyana, 2011: 431). However, AICHR's jurisdiction is limited to the committee, as specialized human rights courts have been established in ASEAN (ad hoc) to rule as regional human rights bodies in Africa and Europe (Triyana, 2011: 455). Many see the establishment of the Human Rights Commission as a positive step for ASEAN. This is because human rights issues have received less attention in the Southeast Asian

region than in other regions. This reason may indicate the importance of states embedding human rights as a cornerstone when it comes to politics. Each ASEAN member state has a vision to address human rights issues at the local level.

According to Davies, ASEAN countries are divided into three groups according to human rights documents. First, Indonesia and the Philippines are considered “developed countries” because they embrace democracy and are committed to upholding human rights law. Second, Singapore, Malaysia and Thailand are countries that, while law-abiding, are considered to be in violation of international human rights law, particularly in the areas of human rights and political rights. Third, Cambodia, Laos, Myanmar, Vietnam and Brunei are considered to have made progress in the field of human rights (Davies, 2014: 107). This is possible because ASEAN member states focus on the principle of equal participation in decision-making processes and avoid confrontation with the public or interference in the internal affairs of other member states. International Human Rights Conventions impose binding obligations on governments to act in certain ways or refrain from certain actions in order to promote and protect human rights. Ratification of international treaties and agreements is an important step for a state.

This may reflect the moral and ethical principles of the international community regarding respect for human rights. Myanmar joined the UN after its independence in 1948 and became the 58th UN member on April 19, 1948 (UN, 2015). Under previous governments, the human rights situation in Myanmar was characterized by severe violence, including arbitrary detention, ethnic conflicts, environmental degradation, military operations, and others. A transition to democracy has taken place in Myanmar since the National League for Democracy (NLD) came to power in March 2016 (Roewer, 2016). Despite the transition of power to a civilian government, Myanmar remains a signatory to the International Convention on Human Rights. Myanmar has ratified the Convention on the Rights of the Child (CRC).

Human rights issues are currently very prevalent in Indonesia and in the world globally, covering various aspects such as politics and culture. Some concrete examples of human rights issues are sexual violence, physical violence, and mental violence.

One significant example is sexual violence in early childhood. In Indonesia, many children are victims of sexual violence, often by their own parents or siblings. Even minors are often targeted. In addition, sexual violence against women is also a serious problem. Young girls are often victimized, restricting their movement for fear of the violence. Tragic consequences, such as death or severe trauma, are often experienced by the victims.

Physical and sexual violence against Indonesian workers abroad is also a worrying issue. Many women workers experience violence in the countries where they work, even though they intend to work to support their families. Human rights violations are also common in conflict situations, including murder, torture and forced displacement.

In addition to direct violence, violations of economic, social and cultural rights also need attention. Many people do not have adequate access to education, health, decent housing, and fair employment. Workers' rights, including the right to organize and safe working conditions, are often not protected.

To address these human rights violations, a comprehensive response is needed. Advocacy and public awareness are important first steps. Public awareness campaigns need to be intensified to increase understanding and concern for human rights, as well as human rights education in schools and communities. In addition, legal and policy reforms are needed to strengthen human rights protection. Fair and transparent law enforcement is essential in addressing human rights violations.

Protection and assistance for victims of human rights violations should also be a priority. The provision of support services such as legal, psychological and medical assistance is urgently needed. Special protection for human rights defenders and journalists working in risky environments must also be considered.

International collaboration with organizations such as the UN, Amnesty International, and Human Rights Watch is important to strengthen these efforts. The implementation of international conventions and treaties relating to human rights must be carried out consistently.

The public is expected to actively report cases of human rights violations to authorized institutions, law enforcement authorities, or to parents and close family. Supervision in the surrounding environment is also important to prevent human rights violations. With these steps, it is expected that human rights violations can be minimized and human rights can be better protected.

Challenges of Human Rights Diplomacy in ASEAN

The principle of non-intervention is one of the basic principles adopted by ASEAN, which emphasizes that member states should not interfere in the internal affairs of other member states. Although this principle aims to safeguard the sovereignty of each country, in practice it often hampers ASEAN's efforts to address human rights violations. The unwillingness to interfere in other countries' internal affairs means that human rights violations often do not receive an adequate response from ASEAN. This was the case with the Rohingya crisis in Myanmar, where ASEAN was criticized for its lack of action in addressing the Rohingya crisis, where the Myanmar military was accused of committing human rights violations against the Rohingya ethnic minority (Pane & Desiandri, 2023).

ASEAN is made up of countries with very diverse political systems and cultural norms. These differences make harmonization of human rights policies difficult. For example, countries with authoritarian political systems tend to have different approaches to human rights compared to more democratic countries. Different cultural norms also influence perceptions of human rights, making it difficult to apply uniform human rights standards across the region. Differences in the application of law ASEAN countries have different laws and regulations related to human rights, which can lead to impunity for human rights violators, such as the death penalty in Indonesia is still in place for certain crimes, such as premeditated murder and drug trafficking. In Malaysia, the death penalty has been abolished for most crimes. (ASEAN, 2012).

ASEAN's ability to deal decisively and effectively with human rights issues is hampered by the limited institutional capacity of ASEAN's human rights mechanisms, including the ASEAN Intergovernmental Commission on Human Rights (AICHR), which often lacks the resources and authority to effectively

address human rights violations. AICHR is more consultative in nature and does not have a strong mandate to investigate or enforce human rights violations. AICHR does not have a mandate to independently investigate human rights violations or to impose sanctions on member states that violate human rights. AICHR can only act on requests from member states or on the basis of complaints from individuals or organizations. This leaves AICHR powerless to address human rights violations that occur in member states that do not wish to cooperate.(ASEAN, 2013).

As ASEAN member states prioritize favorable diplomatic or economic relations over improving human rights conditions in the region, pressure from external actors may direct ASEAN's attention to short-term political goals rather than long-term human rights goals. EU influence and pressure has pushed ASEAN to improve its human rights mechanisms. The EU and ASEAN signed a Partnership and Cooperation Agreement (PCA) that contains commitments to promote human rights. However, some ASEAN countries are reluctant to fulfill these commitments due to fears of external intervention. This pressure from the EU may cause tensions between ASEAN and the EU, and may hinder cooperation on human rights (Pearson, 2024).

ASEAN human rights mechanisms sometimes lack transparency and accountability. For example, the decision-making processes of AICHR and other human rights mechanisms are often not open to the public, making it difficult to measure their effectiveness and accountability. This lack of transparency can reduce public trust and discourage wider participation in human rights initiatives. Lack of accountability AICHR lacks a clear mechanism to ensure accountability of member states for their human rights obligations (Pane & Desiandri, 2023).

Limited Public Participation Public engagement and awareness on human rights issues in ASEAN is limited. Many citizens in the region have little understanding of their rights or how to fight for them. This limited public participation inhibits broad support for human rights initiatives and makes public pressure on governments to reform less effective. Low awareness Many people in ASEAN countries do not know about their rights or about the human rights mechanisms available to them (Sitinjak, 2022).

Case Studies of Human Rights Violations in Myanmar and Indonesian Diplomacy

Case studies of human rights violations in ASEAN countries and Indonesian diplomacy Rohingya conflict:The humanitarian crisis against the Rohingya ethnic group in Myanmar has attracted international attention, including Indonesia. Indonesia, an important Southeast Asian country, is taking proactive steps to resolve these conflicts. Complexity and Approach: Conflict resolution efforts are complex and involve many stakeholders. The idea that Indonesians view the Rohingya issue as a religious issue (Mahmood et al., 2017) needs to be further clarified as the Rohingya issue is not seen as a religious issue alone. Indonesia prioritizes humanitarian aid over diplomacy. ASEAN's non-intervention principle is an obstacle, but Indonesia is still trying to help through diplomacy (Rosyid, 2019).

Myanmar, particularly the Rohingya, has long suffered severe human rights violations by its military and government. Violence, discrimination, and deprivation of their human rights have been ongoing for decades. In 2017, the

Rohingya crisis worsened with a brutal military operation that led to a mass exodus of refugees to Bangladesh.

Indonesia has consistently condemned the violence and human rights violations in Myanmar through official statements and speeches in international forums. In addition, Indonesia has provided humanitarian assistance to Rohingya refugees in Bangladesh, both directly and through international organizations. Other diplomatic efforts include encouraging dialogue between the Myanmar government and Rohingya groups to reach a peaceful solution, supporting international investigations into human rights violations in Myanmar by the UN Human Rights Council, and initiating the ASEAN Regional Humanitarian Initiative (ARHI) to facilitate the delivery of humanitarian aid to Rakhine State, Myanmar.

In government diplomacy, Indonesia calls on Myanmar to resolve ethnic conflicts without discrimination and encourages ASEAN to play its role in supporting Myanmar. Indonesia also provided repatriation support by setting up camps for Rohingya refugees and meeting the needs of refugees through technical and psychological support. At the 2017 ASEAN Summit, Indonesia expressed its commitment to assist Myanmar through cooperation and rehabilitation programs.

The role of civil society is also very important, where donors and non-governmental organizations act as peacemakers and resolve conflicts through diplomacy. The distribution of humanitarian aid was led by the Myanmar Government with the participation of the ICRC, while Indonesia established AKIM which focused on health, education, and economic and technical assistance.

Public awareness also played a major role in this effort. International media helped expose human rights violations in Myanmar, and social media campaigns such as #SaveRohingya raised global awareness of the crisis. Demonstrations and media coverage helped facilitate dialog and uncover facts on the ground.

The Rohingya conflict has deep roots and involves political, economic, social and religious complexities. Understanding these complexities is important to devise appropriate solutions. Indonesia faced various problems in its diplomacy, such as ASEAN's principle of non-intervention, Myanmar's resistance to foreign intervention, and internal problems in Myanmar. Despite the difficulties, Indonesia played an important role in resolving the Rohingya conflict through diplomacy. This role should be appreciated and supported by the international community.

CONCLUSION

On its 54th anniversary, ASEAN is faced with major challenges related to human rights violations in Myanmar, where the military's repressive measures have resulted in many casualties among pro-democracy protesters. Although ASEAN is known for its principle of non-intervention and mutual respect for sovereignty, it is expected to be more active in addressing human rights issues, especially with the establishment of AICHR and the adoption of the ASEAN Human Rights Declaration. To make progress, ASEAN needs to strengthen AICHR's mandate, improve transparency and accountability, and engage civil society in human rights protection efforts. More open dialogue among member states and international cooperation are also important to create a collective

approach to promoting and protecting human rights in the region, although this challenge requires serious commitment from all parties.

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