



Research Paper

Asean Attitudes toward Implementation of Human Rights Protection Law at the National Level

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ABSTRACT: The ASEAN Charter entered into force in 2007. It is a clear indication that the Association of Southeast Asian Nations (ASEAN) is moving firmly and decisively towards becoming a fully-fledged rules-based regional organisation. Subsequently, numerous regional workshops on the domestication of human rights obligations have been organised, such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC) which were ratified by all 10 ASEAN nations. Much was also deliberated on the national perspectives regarding the incorporation, transformation and application of human rights treaty obligations as well as their national practices in giving effect to human rights obligations. The year 2009 witnessed the establishment of the ASEAN Intergovernmental Commission on Human Rights to promote human rights among ASEAN. By the middle of 2012, the Commission had drafted the ASEAN Human Rights Declaration which was adopted unanimously by all ASEAN Nations in Phnom Penh, November 2012. Although the Declaration details ASEAN's commitment to human rights for its over 600 million population, it has been continually criticised for the lack of transparency and failure to consult ASEAN civil societies during its drafting process. While the agreement is evident on paper, it is far from being realised. This research offers an overview of the various strategies by concerned countries to implement Human Rights Protection Law, and how it can be achieved amicably among the member states. Relevant provisions, roles and actions of state actors, non-state actors, and other responsible agents will be utilised in the discourse. The findings are aimed at assisting various ASEAN member states in the implementation of a unified Human Rights Law.

KEYWORDS- ASEAN, Attitudes, Human Rights, National Level, Transparency, Effective, Methods

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I. INTRODUCTION

The promotion and protection of human rights in ASEAN is an evolving process beginning with the Joint Communiqué of the 26th ASEAN Foreign Ministers Meeting in 1993. It is the first time that ASEAN pledged and commit to recognise, respect and promote human rights and led to the process of establishing an ASEAN mechanism to promote and protect human rights. Among such initiatives was the Hanoi Plan of Action to implement the ASEAN Vision 2020 and reemphasised ASEAN's commitment to exchange information among its members for the protection of human rights. The ASEAN Inter Governmental Commission on Human Rights (AICHR) was established to ensure the implementation of the plan pursuant to Article 14 of the ASEAN Charter.

The ASEAN Charter entered into force in 2007. It affirmed a significant and decisive move towards becoming a fully-fledged rules-based regional organisation. One of the purposes of the ASEAN Charter it is to strengthen democracy, enhance good governance and the rule of law, and to promote and protect human rights and fundamental freedoms of the member states of ASEAN. In November 2012, ASEAN leaders adopted the

ASEAN Human Rights Declaration (AHRD), a product of the long and complicated negotiations led by the ASEAN Intergovernmental Commission on Human Rights.

Despite disagreement from some quarters, several observers believed that the ratification of the ASEAN Charter in 2008 is a milestone in the regional organisation's development. The Charter paves the way for the establishment of regional cooperation, creates a normative framework for the region and specifies major targets in an envisaged process of accelerated regional integration. The Charter further allows the establishment of an institutional architecture which promises to improve greater attention to citizens' rights. In the aftermath of the ratification, ASEAN created regional human rights bodies named the ASEAN Intergovernmental Commission on Human Rights (AICHR), and the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC). Early in 2004, it adopted the Declaration on the Elimination of Violence against Women in the ASEAN Region followed by the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers followed in 2007. While in November 2012, the ASEAN Human Rights Declaration (AHRD) was adopted at the 21st ASEAN Summit in Phnom Penh, Cambodia [1].

The Declaration adds various aspects to the International Human Rights Law such as the recognition of the right to peace and the right to development, and the need to give due regard to rights and responsibilities. ASEAN countries being state parties to legally binding treaties, namely the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC), are bound by the international legal principle of *pacta sunt servanda*. As a result, the ASEAN Intergovernmental Commission on Human Rights (AICHR) organised a regional workshop on the domestication of human rights obligations in 2014. During the workshop, scholars shared ideas and national experiences on the implementation of human rights treaty obligations among ASEAN member states. Most importantly, CEDAW and CRC were ratified by all 10 ASEAN countries. Much was also deliberated on the national perspectives on incorporation, transformation and application of human rights treaty obligations as well as their national practices in giving effect to human rights obligations. In the sharing of experiences during the workshop, sub-region organisations aim to achieve an acceptable standard of common adherence to norms of good conduct concerning the rights of women and children. The workshop also sought to enhance regional legal cooperation in the realisation of human rights under the ASEAN Charter, the AHRD and other international and regional human rights instruments to which ASEAN member states are party [2].

II. NATURE OF HUMAN RIGHTS IN ASIA

Prior to the adoption of the ASEAN Charter in 2007, there was no intergovernmental system for the protection of human rights in Asia even despite various calls for such a system. In contrast, Europe, the Americas and Africa, have some form of intergovernmental system in this field. As such, it becomes imperative for Asia to advocate the regional need for a human rights system parallel to other regions of the world. Several complexities should be borne in mind when reflecting on human rights issue in Asia. One of the fundamental concerns in governmental circles in Asia is how to prevent developed countries from linking human rights implementation with the grant of aid or trade and related privileges, namely, social clauses or human rights conditionality which are now proposed by some regions in their discourse with Asia. It has to be further noted that Asia is heterogeneous for a unitary human rights system. This leads to the question as to whether one should explore projects at other levels, such as the sub-regional and the national, which may organically grow and ultimately provide the confidence and the rationale for a regional system.

One of the major delays in implementing the human rights law is that some Asian states governments claim that there are various Asian values which provide the background for a more Asian perception of human rights that includes the need for a strong government, deference to authority, respect for the community, and emphasis on economic development first, while political development is a secondary consideration. The stand is one which rejects or limits human rights in so far as they pertain to ensuring that individuals have duties rather than rights in the community. ASEAN states believe that while human rights are universal in principle, it must not override regional and national particularities. This viewpoint was propounded by the 1993 Bangkok Governmental Declaration on Human Rights, representing the governments of the Asia-Pacific region, which preceded the World Conference on Human Rights, was held in the same year in Vienna.

Most of these governments are reluctant to advance a regional system which provides room for the comprehensive promotion and protection of the complete gamut of international standards on human rights in the civil, political, economic, social and cultural spheres. They are particularly reticent about freedom of expression and freedom of association, multi-party system and elections, limits on national security, self-determination as linked with minorities and indigenous communities, and the role of human rights nongovernmental organisations. Their fear of regional human rights is based on a fear of transparency, accountability and responsibility in the face of the universality and indivisibility of human rights [2].

ASEAN governments often claim that they favour a non-confrontational approach which is considered part of the culture of the region (known as ASEAN Way in Southeast Asia). They tend to view much of the

international protection of human rights as confrontational, or a scenario which they would prefer to avoid. This is linked with the fact that many view human rights violations as merely the internal affairs of a state and that it is not an area where the international community should exercise its protective mandate on behalf of the victims if this would lead to sanctions. Such a view is inconsistent with the international advocacy of human rights which posit that human rights violations are of international concern and cannot be classified as the internal affairs of a state. One has to further bear in mind the principle of non-interference, which in many instances is more active among Asian nations compared to other continents. All the above have contributed to explaining why the process towards a regional system in Asia has been slow [2].

III. HISTORY OF HUMAN RIGHTS IN SOUTHEAST ASIA

Since its inception in 1967, ASEAN has been at the forefront of economic growth. She broadened its emphasis from economics, trade and commerce to regional security issues. In this pursuit, the ASEAN Regional Forum was established to provide a dialogue forum between the members of ASEAN and outside powers. Although some of the work of ASEAN touches upon human rights issues, it is normally indirect. ASEAN's existing programs concerning women's development, anti-drugs trade, and environmental cooperation are more or less related to human rights issues even though they are classified as developmental programs rather than human rights programs per se. Moreover, there is great hesitation in governmental circles to address the political aspects of human rights. In accordance with the ASEAN Way principle, the most vocal proponents among its members are against human rights conditionality or what was considered social clauses. However, ASEAN has consistently shown commitment to alleviate poverty through the provision of basic needs strategy. It adopted an approach that focuses on producing personal consumption items on community services and productive and remunerative employment all as an integral part of a country's development efforts. There has also been a concern for increasing the participation of women and children in the political, economic, social, and cultural development of their countries. These concerns overlap with socio-economic rights [3].

Despite regional economic development, democracy has blossomed yet the region is also rife with human rights violations. A good example in recent years is the case of Myanmar; ASEAN has been reluctant to put pressure on the country's junta to abide by international human rights standards and to transfer power to those who were democratically elected. The casting of a blind eye to human rights violations in Burma and ASEAN's so-called policy of Constructive Engagement have been well documented by the United Nations. The policy is based on the hope that gradual dialogue and economic ties will render the junta more malleable "step-by-step". It is also a policy which opts for the primacy of economic and commercial ties with Burma while marginalising the human rights concerns which have been voiced internationally. Having overcome the decade long blockage because of the EU's sanction policy vis-à-vis Burma/Myanmar to protest its human rights violations and given the positive economic development in the region, the relationship got more traction as the EU engaged more forcefully and visibly in the Asia-Pacific region, well before the US launched its pivot to Asia in 2011 [3].

Similarly, at the time ASEAN was pre-occupied with enlisting Laos, Cambodia and Burma as members. The attitude towards Burma exemplifies a trait tendency among governmental circles to classify human rights violations as internal matters. This contradicts the international position which classifies them as matters of international concern. It also exemplifies a measure of political expediency or pragmatism based upon self-interest. For instance, Indonesia for many years illegally occupied East Timor in breach of United Nations resolutions, while it is politically expedient for that country to classify the East Timor issue as an internal matter. This obviously flies in the face of international law and human rights and conflicts with the international jurisdiction that legitimately seeks to protect the rights of the Timorese people [4].

IV. ASEAN HUMAN RIGHTS VIOLATION AT NATIONAL LEVEL

In the post-Cold War era and during the 1997-1998 Asian Financial Crisis, ASEAN re-established itself and proved its political relevance as well as its functioning based on the intergovernmental of the ASEAN Way. This was marked by the 2007 ASEAN Charter, and assumed a central role in the Asia-Pacific region as a driver for regional integration in developing a regional architecture such as ASEAN Regional Forum (ARF), ASEAN Plus 3, the East Asia Summit, etc. These were the means to reinvigorate the association which had lost some of its steam because of the lack of a formal structure. The long-standing relationship of over 35 years between the EU and ASEAN has been beneficial for both. For ASEAN, the EU has been a source of inspiration for its integration process, and for the EU, ASEAN was the means to engage in the region [5]. To understand the implication of human rights in ASEAN, one needs to investigate the nature of human rights violation in some member states. ASEAN comprises ten states. Myanmar has been widely dealt with by several authors. As such, this research focuses on Malaysia, Indonesia, Thailand and Singapore. These four countries practise a democratic system of governance [6].

Malaysia: The situation of human rights in Malaysia is controversial as there have been numerous allegations of human rights abuses in the country. Human rights groups and foreign governments are critical of the Malaysian government for certain provisions that need to be repealed or amended. The Internal Security Act and the Emergency Ordinance 1969 allow for detention without trial or charge and have been concerns for human rights organisations like SUARAM [7].

Several Malaysian laws are used to restrict basic human rights. The government has described recent sweeping changes in these laws as human rights reforms. The country's Ministry of Foreign Affairs has defended its strict controls on human rights with the explanation that the nation takes a holistic approach to human rights in that it views all rights as indivisible and interdependent. He argued that the rights of every citizen are protected by legal provisions in the Federal Constitution. These rights are not absolute and are subject to, among others, public order, morality and security of the country. Hence, while claiming to uphold the universal principles of human rights, the contended that Malaysia finds it important to take into account the history of the country as well as the religious, social and cultural diversities of its communities. This is claimed to preserved, protected and respect for social harmony. The practices of human rights in Malaysia are reflections of a wider Asian value system where the welfare and collective well-being of the community are more significant compared to individual rights [8].

The country is especially well-known for arresting persons without warrants and detaining them indefinitely without trial, and for placing strict limitations on freedom of speech, press, assembly, and association in the name of social order. Among the other problems cited in a US State Department report in 2011 are the abuse and even death of persons held by police; punishment by caning; trafficking in persons; systematic official prejudice in favour of ethnic Malays; forced labour by migrant workers, and child labour on plantations [8]. Historically, there are several strong and sweeping legislations that have long been used by Malaysia to restrict the human rights of individuals and preserve social order. In 2008, Amnesty International summed up the state of human rights in Malaysia by noting that the government had tightened control of dissent and curtailed the right to freedom of expression and religion, arresting bloggers under the Sedition Act, using the Printing Presses and Publications Act (PPPA) to control the content of newspapers, and arbitrarily arresting several individuals under the Internal Security Act (ISA).

The Internal Security Act was passed in 1960. It is widely viewed as draconian because it permits long-term detention without trial. It has been used over the decades systematically against individuals who have been viewed as threats to Malaysia's government or the social order [9]. The Sedition Act dates to 1948 when Malaysia was still under British rule. The Act restricted speech or writing considered seditious. Several individuals have been arrested and held under the Sedition Act, the effect of which has been to restrict freedom of expression in Malaysia. The Printing Presses and Publications Act was passed in 1984 during the colonial era. It specifies publish anything requires a government licence that must be renewed every year by the Home Minister. Human rights groups view such an Act as a weapon to silence government critics and to ban various publications for a variety of reasons. As with the Sedition Act, the practical effect of the Printing Presses and Publications Act has been to restrict freedom of speech in Malaysia severely. The Police Act of 1967 allows the Malaysian police to detain persons without warrants, and has been used to restrict the freedom of assembly. Under the Police Act, until recently, police permits were required for gatherings of over four people, other than strikes.

In recent years, there were major developments for changing a number of these laws that were officially described as human rights reforms. Although it has been widely criticised for not going far enough and for further restricting human rights through new laws [18]. For instance, on 15 September 2011, Prime Minister Datuk Seri Najib Tun Razak announced that the ISA would be repealed and be replaced by a new law that incorporates far more judicial oversight and limits the powers of the police to detain a suspect for preventive reasons. The government also committed itself to the repeal of some of its other best known legal instruments for restricting human rights, including the Sedition Act and Emergency Declarations and Banishment Act, Section 27 of the Police Act, the Printing Presses and Publications Act and the Official Secrets Act. As a result, in April 2012, the Malaysian parliament passed the replacement for the ISA called the Security Offences (Special Measures) 2012 Act (SOSMA). Another progress made by Malaysia is the Peaceful Assembly Act (PAA) that was made to replace Section 27 of the Police Act, which required police permits for large gatherings. Under the new act, such permits are not necessary. Instead, organisers must give the police ten days' notice of any planned gathering, after which the police will reply, outlining any restrictions they wish to place on the gathering. The new act forbids street protest, prohibits persons under 15 from taking part in gatherings, prohibits persons under 21 from organising them, and bars them from taking place near public facilities such as schools, mosques, airports, railway stations, and other designated places [17]. The new NSC has been criticised for bringing back some provisions of the repealed ISA. Other Acts like the prevention of Terrorism Act (POTA) has also been criticised by human rights groups who argued that it is similar to ISA because containing indefinite detention, lack of fair trials and respect of human rights.

Indonesia: The Indonesian government has been criticised on various subjects of human rights. However, the country has a national human rights institution called the National Commission on Human Rights (Komnas HAM) which was established in 1993. It enjoys a degree of independence from government and holds UN accreditation. It was noted that over the past 13 years, Indonesia had made great strides in becoming a stable, democratic country with a strong civil society and independent media. However, there remain grave human rights concerns. While senior officials pay lip service to protect human rights, they seem unwilling to take the steps necessary to ensure compliance by the security forces with international human rights and punishment for those responsible for abuses. In 2011 religious violence surged, particularly against Christians and the Ahmadiyah (a Muslim sect). Furthermore, violence continued to rack in Papua and West Papua, and the government commissioned few effective police investigations to hold perpetrators to account [16].

Although the government strengthened the national police commission, its police force suffers from poor accountability. It faced persistent allegations of human rights violations, including torture and other ill-treatment and use of unnecessary and excessive force against people. Provincial authorities in Aceh increasingly used caning as a judicial punishment which has been criticised by human rights watch. Peaceful political activities continued to be criminalised in Papua and Maluku. Religious minorities were also alleged to have been subjected to discrimination, such as intimidation and physical attacks. Furthermore, barriers to sexual and reproductive rights continued to affect women and girls [15].

However, significant steps have been taken by the Indonesian government to reform its police. For instance, in May 2010, Papuan political prisoners were released. The government pursued structural reforms, strengthened its effectiveness in preventing and detecting crime, maintaining public order and promoting the rule of law. Certain internal regulations have been introduced by the police to ensure that international human rights standards are upheld during policing operations. Despite these positive moves, credible reports of human rights violations committed by the police continue to emerge, with police routinely using unnecessary and excessive force and firearms to quell peaceful protests. Police have been implicated in beatings, shootings and killings of people during mass demonstrations, land disputes or even routine arrests. Although the authorities have made some attempts to bring alleged perpetrators to justice using internal disciplinary mechanisms, criminal investigations into human rights violations by the police are persisting, leaving many victims no access to justice and reparations. A contributing factor is the lack of an independent, effective, and impartial complaints mechanism which handles public complaints about police misconduct especially the offences involving human rights violations. While existing bodies such as the National Human Rights Commission (Komnas HAM) or the National Police Commission (Kopolnas) are able to receive and investigate complaints from the public, they are not empowered to refer these cases directly to the Public Prosecutor's Office or the police internal disciplinary body. As such, the transparency and fairness of such investigation are in question [15]. July 2012). Although the current administration under President Jokowi Widodo supports the effort of human rights, it has yet to be translated into tangible meaningful policies to address the country's outcry on human violations.

Thailand: The 2007 Constitution, drafted by a body appointed by the then military junta, states in Article 4: "The human dignity, rights, liberty and equality of the people shall be protected". While Articles 26 to 69 set out an extensive range of specific rights in such areas as criminal justice, education, non-discrimination, religion and freedom of expression. The 2007 enactment reinstated much of the extensive catalogue of rights explicitly recognised in the People's Constitution of 1997. That Constitution outlined the right to free education, the rights of traditional communities, and the right to peacefully protest coups and other extra-constitutional means of acquiring power, the rights of children, the elderly, handicapped people's rights, and equality of the genders. Freedom of information, the right to freedom of speech, freedom of the press, peaceful assembly, association, religion, and movement within the country and abroad, and the right to public health and education and consumer rights are also recognised. A total of 40 rights, compared to only nine rights in the Constitution of 1932, was recognised in the 1997 Constitution. However, the 1997 Constitution was abrogated in September 2006 following a military coup. The military regime imposed an interim constitution which affected until the 2007 constitution was approved a year later by referendum [19].

Human trafficking is a major issue in Thailand. This includes misleading and kidnapping men from Cambodia by traffickers and selling them into illegal fishing boats that trawl the Gulf of Thailand and the South China Sea. These men are forced to work as sea slaves for years. Numerous international news organisations including The Guardian, Associated Press (AP), and The New York Times have covered the topic extensively. The AP, in particular, has won prominent awards for their coverage. Children trafficking are another major issue in Thailand forcing kidnapped children as young as four to become sex slaves in major cities like Bangkok and Phuket. Such activities are especially rife in rural areas of Thailand [21].

With a new constitution passed into law by the King in April 2017, certain rights such as equal access to media for the opponent and other aspects of freedom of expressions are under strict control by the government. The army still held unlimited administrative legislative and judicial power without accountability.

Such power includes human rights violation, censorship and restriction on freedom of expression; arbitrary detention and military courts, violence and abuses in southern border provinces, etc. The hope of any early human rights change is expected to be widely realised only when the military junta relinquishes power to civilian government.

Singapore: The government in Singapore has broad powers to limit citizens' rights and to inhibit political opposition. In 2015, Singapore was ranked 153rd out of 175 nations by Reporters without Borders in the Worldwide Press Freedom Index. Freedom in the World scored Singapore 4 out of 7 for political freedom, and 4 out of 7 for civil liberties (where 1 is the freest), with an overall ranking of "partly free" for the year 2015 [20].

The Singaporean government put limits to political and civil rights such as freedom of expression, peaceful assembly, and association. The government is using overly broad legal provisions on security, public order, morality, and racial and religious harmony. Unlike Malaysia, the Singaporean Newspaper and Printing Presses Act require local newspapers to renew their registration every year and empower the government to limit circulation of foreign newspapers. The Ministry of Home Affairs Internal Security Department enforces the ISA as a counter to potential espionage, international terrorism, threats to racial and religious harmony, and subversion. The ISA permits indefinite detention without formal charges or recourse to trial and has been used to imprison political opponents. The government maintains restrictions on freedom of assembly through provisions of the 2009 Public Order Act, which requires a police permit for any cause-related assembly in a public place or to which members of the general public are invited. Associations of more than ten individuals are required to register with the government, and the Registrar of Societies has broad authority to deny registration if the registrar determines that the group could be prejudicial to public peace, welfare or good order [16].

On the Criminal Justice System, Singapore continues to use the Internal Security Act (ISA) and Criminal Law (Temporary Provisions) to arrest and administratively detain persons for virtually unlimited periods without charge or judicial review. Government authorities publicly maintain that such laws are necessary to protect Singapore from international terrorist threats. Migrant workers rioted in December 2013 in the Little India area, torching stores, houses, and vehicles after a migrant was hit and killed by a bus. Twenty-five Indians were charged, 52 were deported, and others were fined or jailed. Foreign migrant workers are subject to labour abuse and exploitation through debts owed to recruitment agents, non-payment of wages, restrictions on movement, confiscation of passports, and sometimes physical and sexual abuse. One of the major obstacles is that foreign domestic workers are excluded from the Employment Act and many key labour protections, such as limits on daily work hours. Labour laws also discriminate against foreign workers by barring them from organising and registering a union or serving as union leaders without explicit government permission. Although the 2011 parliamentary election has made significant change that led the opposition to make gains, and people have also heard their voice through social media and rallies in designated areas, according to Amnesty International, Singapore has signed only a portion of the international agreements relating to human rights, while several agreements are yet to be signed. The international agreements related to human rights signed are the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Convention on the Rights of the Child (CRC), and Optional Protocol to the CRC on the involvement of children in armed conflict in 2008, while of 2010 Singapore has not signed the following; International Covenant on Civil and Political Rights (ICCPR), Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty, International Covenant on Economic, Social and Cultural Rights (ICESCR), International Convention on the Elimination of All Forms of Racial Discrimination, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Convention relating to the Status of Refugees (1951), Convention Relating to the Status of Refugees (1967), Convention relating to the Status of Stateless Persons (1954), Convention on the Reduction of Statelessness (1961), Rome Statute of the International Criminal Court [10].

V. ASEAN HUMAN RIGHTS DECLARATION AND THE UN CONCERNS

The ASEAN Intergovernmental Commission on Human Rights (AICHR) was inaugurated in October 2009 as a consultative body of the Association of Southeast Asian Nations (ASEAN). The commission exists to promote and protect human rights, and regional cooperation on human rights among the member states. Articles 1.7, 2.2.i and 14 of the ASEAN Charter and other key ASEAN documents spelt Human rights. The Commission operates through consultation and consensus and meeting at least twice per year, while its staff engaged in conducting thematic studies and preparing capacity building activities [11].

A body of representatives directs the AICHR; one per member state, each nominated by and answerable to their government and serving a three-year term, renewable once. The Commission has 14 mandates that focus on the promotion and protection of human rights, capacity building, advice and technical assistance, information gathering and engagement with national, regional and international bodies. One of its

mandates was to develop an ASEAN Human Rights Declaration. The ASEAN leaders, in a statement on the AHRD's adoption, stated that they were committed "to ensure that the implementation of the AHRD be in accordance with our commitment to the Charter of the United Nations, the Universal Declaration of Human Rights, the Vienna Declaration and Program of Action, and other international human rights instruments to which ASEAN member states are parties..." When it was adopted in November 2012, it came under criticism from human rights groups due to the fact that the declaration included wording that suggested that access to human rights was contingent on the performance of corresponding duties as every person has responsibilities to all other individuals, the community and the society where one lives [12].

Therefore, the Commission was described as toothless by the Wall Street Journal. NGOs in the region also presented cases of alleged violations of it at its inaugural meeting in Jakarta. The United Nations, human rights chief, welcomed the renewed commitment by leaders of ASEAN to universal human rights norms. She also expressed concern and argued that the regional body uses language that is not consistent with international standards. Furthermore, the High Commissioner drew attention to elements of the AHRD that fall below international standards and called for ASEAN leaders to review their efforts on the Declaration, expressing concern over the lack of inclusive and meaningful consultation with civil society in the region during its preparation. The group of international experts stressed ASEAN's need to reaffirm in their Declaration the duty of states to promote and protect all human rights and fundamental freedoms regardless of their particular political, economic and cultural systems. The group highlighted that 171 states adopted this principle by consensus of the 1993 Vienna Declaration and that ASEAN states had made a "significant contribution" to that effort in the Austrian capital. As a result, the High Commissioner maintained that the international human rights mechanisms would continue to hold ASEAN member states to their international obligations and encourage ASEAN to strengthen its regional human rights framework [12].

Although ASEAN made both collective and individual pledges to commit to human rights, each of them admitted that human right violations contributed to violations such as inequality, poverty, discrimination, etc. They all pledged to improve their various states. For instance, Indonesia attached great importance to the six strategic priorities established by the Office of the High Commissioner for Human Rights fighting poverty, inequality, discrimination, violence and impunity, as well as strengthening human rights machinery. It argued that such human rights were interrelated to development and democracy, and sustainable progress could not be made in any country where any of those factors were ignored or given priority over the others. Indonesia draws the attention of Human Rights Commission to her earlier records such as the promotion and protection of human rights under the Second National Action Plan consisting of six pillars, the strengthening of the implementing agencies at national and regional levels, the preparation for ratification of international human rights instruments, the harmonisation of national legal institutions and legislation with international human rights instruments, the dissemination of human rights education, the implementation of human rights standards and norms, as well as monitoring, evaluating and reporting. Indonesia promised that the third phase of the National Plan would add a new pillar to better provide communication services to the people and strengthen the 456 local committees established for purposes of implementation. Indonesia has also participated in the inauguration of the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children, as well as the fifteenth workshop on regional cooperation for the promotion and protection of human rights in the Asia-Pacific region. Indonesia believes that those steps were in the right direction and stressed her commitment to strengthening the ASEAN Intergovernmental Commission on Human Rights. The nation invited the international community to support the Commission to ensure its success [13].

Zahid Rastam, the former Ambassador to the Philippines, warned that each state had an inalienable right to choose its political, economic, social and cultural systems without interference and that those basic principles underpinned international human rights and should not be taken lightly. He believed that the debate on human rights was a healthy process towards realising the highest standards of those rights, but it was up to states to create the conditions for enjoying civil and political rights and ensuring the promotion and protection of economic, social and cultural rights, especially for developing nations. Further, Malaysia was creating an environment for exercising human rights and fundamental freedoms in a multiracial and multi-ethnic society where the principle of tolerance plays a crucial role [13].

On the death penalty, he said the Committee's past debates showed there was no consensus on that issue. He justified that his country imposed the death penalty only for the most serious crimes, but was reviewing all offences carrying that sentence and reconsidering the preferred charges. No such sentences had been carried out between the start of 2009 and April 2010. Malaysia voted against the resolution regarding a moratorium on the use of the death penalty, as it was unbalanced. On the Universal Periodic Review, while it could be strengthened, it was a good alternative to country-specific reports and offered the chance for dialogue among countries with differing views. Concerned about Islamophobia, the real issue was not between Muslims and non-Muslims, but between moderates and extremists of all religions, which was why Malaysia had called for the building of a global movement of moderates of all faiths committed to marginalising extremists who had

held the world hostage with their bigotry. Balance in the notions of defamation of religion, as well as on the freedom of religion, opinion and expression in conceptual, legal and practical terms was needed. Malaysia was reviewing its legal framework to ensure compatibility with each international human rights instrument and considering accession to the International Covenant on Civil and Political Rights, among others. It would prioritise increased support for the National Human Rights Commission [13].

A spokesman for Singapore, Timothy Chin said that the discussions had demonstrated the evolution of human rights towards greater prevalence, sophistication and precision since the adoption of the Universal Declaration of Human Rights. However, the consensus of the international community remained fragile, modest and vulnerable to revisionist debates about the existence of a common set of core values. In the end, concern for human rights was often balanced against other national interests. Similarly, human rights advocacy was driven, not only by altruism but by political and economic interests. He believed that progress would depend on how well societies could understand and respect each other's historical and cultural differences, and on the issue of development, noting, there is no point in talking to each other since this is the surest way to ensure that no one is interested in listening. In particular, he believed that no country or group of countries had the right to impose their position on the rest of the world.

Singapore remained committed to protecting the rights of individuals. To achieve success, rights cannot be unlimited, and freedoms cannot be unbridled because an open society of excess and abandon would not be socially desirable or politically and economically stable. Singapore was able to strike a balance between the exercise of rights and the shouldering of responsibilities and placed equal importance on the protection of societal rights not only individual rights. That balance point was the result of Singapore's unique circumstances and development, and recognition that the government was ultimately accountable to Singaporeans and did not seek to impose its views on others. Singapore would continue to identify common objectives as it strived to promote humane standards of behaviour.

Mr. Jakkrit Srivali Ambassador and Deputy Permanent Representative of Thailand to the United Nations said that human rights were among the top priorities of the Royal Thai government, such as promotion and protection of those rights in all relevant forums. Also, high on its national agenda was the right to development and human security, noting that the country had made great strides, most notably in the areas of gender equality, empowerment of women and maternal health. Further, Thailand's human rights protections extended beyond Thai citizens. Its Employment of Aliens Act ensured that all registered migrant workers received the same welfare and labour protection entitlements as Thai workers. He contended that the Thai government had provided migrants with medical treatment and services in public hospitals, and all children, regardless of nationality, could attend school. The country had also stepped up its efforts to fight human trafficking and worked to support and encourage safe and legal means of migration [14].

Thailand remained active in various regional and international forums, including the newly established Association of Southeast Asian Nations (ASEAN) and International Intergovernmental Commission on Human Rights. Thailand hoped to act as an intermediary between opposing views by promoting greater cooperation and consensus on human rights issues. "We hope to make the [Human Rights Council] an instrument for building common ground among different groups and regions," he said, adding that Thailand would address human rights challenges in a progressive manner. The Thai Prime Minister said when Thailand was seeking a Human Rights Council seat: "Obstacles will remain...but if people are ready to reach out to one another as fellow human beings that will be the beginning of our success in ensuring the effective enjoyment of human rights, freedom and liberty [14].

In his speech, Carlos Sorreta, a former deputy chief mission of the Philippine to the United Nations that his country prioritised the promotion and protection of human rights in its national agenda. At the sixty-first anniversary of the Universal Declaration of Human Rights last year, the Philippines had launched its National Human Rights Action Plan 2009-2014, which served as a blueprint for the implementation of the eight international human rights treaties to which it was a party. Cognizant with the congruence of domestic and international human rights, the Philippines was working to ensure that its domestic laws were in harmony with its commitments. Several acts have been put into effect on issues such as migrant employment, trafficking of migrants, and discrimination against them. He believed that the full and effective implementation of human rights instruments could only be achieved when efforts on the domestic front are complemented by bilateral, regional and international cooperation. The global financial and economic crisis had increased migrants' vulnerability to exploitation, such as by trafficking. The Philippines has agreed with the Special Rapporteur on Trafficking in Persons, Especially Women and Children that strengthened cooperation among governments in key areas was vital in tackling that issue. To that end, the Philippines encouraged states to implement the Global Plan of Action to Combat Trafficking in Persons and to consider ratifying other relevant instruments, such as the Palermo Protocol and the International Convention for the Protection of the Rights of Migrant Persons and Members of their Families. Finally, the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion had listed his country as having the highest number of journalists killed in 2009.

VI. CONCLUSION

Despite ASEAN understands of human rights, the pursuit of regional security and cooperative measures for promoting trade and economic development have been paramount ASEAN objectives. In insisting on a strict line between human rights policy and trade issues, ASEAN has marginalised human rights and has consistently opposed the use by foreign states or international organisations on economic or other forms of pressure to induce a change in human rights practices. As a result, Myanmar's atrocities toward human rights violation are hardly considered among ASEAN. ASEAN member states display an antipathy towards critical scrutiny of their human rights records. ASEAN's general response has been that this constitutes foreign intervention in domestic matters, which undermines state sovereignty and violates the sacred principle of non-intervention in internal affairs. Within the context of ASEAN, an emphasis on harmony, compromise and consensus in ordering interstate relations helps to preserve a fraternal silence concerning the human rights violations of member states. As a result, the ASEAN policy towards human rights has been one of reticence and non-engagement. In other words, ASEAN's distinction between economic and political policy has led to cooperation, while the political aspects have been lacking.

The fact that ASEAN has shown clear willingness to engage in human rights discourse on their terms, the 1993 World Conference on Human Rights placed the spotlight on human rights as a matter of international concern. The representatives of the five countries in scope have pledged to see the full implementation of human rights declaration. As a result, it established the ASEAN Intergovernmental Commission on Human Rights to promote human rights among the Association of Southeast Asian Nations (ASEAN) in 2009. A subsequent 2012 ASEAN Human Rights Declaration and its implementation process proved such willingness. With this development, one can argue that although ASEAN states did not disavow the universal character of the idea of human rights nor the noble cause of promoting human dignity it espoused, they did, however, insist that the application and mode of implementing human rights fall within the realm of national competence, subject to particular economic, social, and cultural realities. As a result, to make this recent declaration effective, member states need to work out all restrictions on their domestic provision in line with the declared laws. Failure to reach such uniformity will continue to pose several questions such as, whether such reluctance can allow ASEAN cooperation to move to the level of integration in the future, such as a single currency, or single international identification e.g. ASEAN passport. The effect of ASEAN reactions to human rights declaration will dictate their future collaboration towards the rest of the world. Even though the region has every right to determine those aspects of human rights violation that need to be deliberated, the Universal Declaration of Human Rights cannot be ignored. However, nothing much will change until ASEAN sees a deep connection between human rights and other aspects as a holistic solution to the regional challenges.

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