

THE ROLE OF INTERNATIONAL LAW IN TRANSLATING DECLARATIONS OF HUMAN RIGHTS IN THE ASIA-PACIFIC AREA

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Abstract

The article discusses how international law handles cases of violations of human rights in the ASEAN region. The research focuses on the difficulties and barriers that ASEAN encounters while putting international human rights law into practice. Nonetheless, the ASEAN Declaration of Human Rights (AHRD) and the founding of the ASEAN Intergovernmental Commission on Human Rights (AICHR) have significantly contributed to the protection of human rights through the application of international law and the regional framework. The research methodology employed in this study is the study of literature, which entails examining and assessing a range of secondary sources, such as books, papers, scientific journals, and regional and international legal documents. The study, which focuses on ASEAN, examines the global and regional legal environment as well as its difficulties utilizing an analytical and descriptive methodology. The study concludes that international law continues to be crucial in addressing cases of human rights violations in ASEAN, particularly through the AHRD and the AICHR, despite a number of difficulties and barriers, such as national sovereignty, political disagreements, and divergence of national interests. In addition, it emphasizes how crucial it is to balance national interests with adherence to international legal norms in order to enhance regional cooperation and ASEAN's role in advancing and defending human rights within the framework of international law.

Keywords: The Role of International Law in Dealing With Cases of Human Rights Violations in ASEAN.

INTRODUCTION

Human rights (Human rights) are internationally recognized fundamental principles, providing a broad line on how individuals should be treated, protected, and respected. (Garrett, P. M. 2024), (Ilham et al., 2024) Enforcement of human rights is one of the measures of a country's progress in achieving well-being for its citizens. Human rights (Human rights) are fundamental or fundamental human rights inherent in human dignity. (Johnson, W. G. 2024), (Mulyana et al., 2024) These include personal rights, such as the right to express opinions, to embrace a religion, to worship according to one's religion, and to freedom of association or association. (Garrett, P. M. 2024).

Human rights (Human rights) is a concept that gains global recognition and protection because of the understanding that every individual, regardless of race, religion, gender, or other background, has fundamental rights that must be respected and protected by all parties, especially by governments and state institutions (Flores-Macías, G., & Zarkin, J. 2024).

Human rights are crucial because they are the preservation of human dignity, the development of individual potential, social stability and justice, and the prevention of conflict. Human rights enforcement at the global level involves various international

mechanisms and institutions. Human rights at the global level are often seen in the context of international law and the institutions responsible for protecting and enforcing human rights worldwide. (Dancy, G., & Fariss, C. J. 2024). Human rights are described as a collection of rights that are intrinsic to man's reality and existence as the One God and are His gift, to be honored and visited, in national law. (Zonneveld, A. 2024).

Through this global framework, the international community strives to create a more just and human world in which the rights and dignity of everyone are recognized and protected. (Zonneveld, A. 2024),(Sari et al., 2024) However, challenges remain, including differences in the interpretation of human rights standards, barriers to implementation, and gaps between legal commitments and practical reality. Addressing this issue requires collaboration between states, international institutions, and civil society to drive positive change and uphold human rights principles universally.

Human Rights (Human Rights) At the regional level, the Association of Southeast Asian Nations (ASEAN) with diverse social, political and economic backgrounds, strives to promote cooperation and integration among its stakeholders, including in the human rights aspect (Baumgärtel, M., & Ganty, S. 2024).

The human rights emergency and its enforcement at the regional level are essential in providing protection for the fundamental rights of individuals and groups on a broader scale. (Johnson, W. G. 2024),(Nurhasnawati et al., 2024) At the regional level, human rights enforcement helps in filling gaps that may not be effectively covered by national or international mechanisms. As an example of ASEAN's dedication to these ideals, the 2009 establishment of the ASEAN Intergovernmental Commission on Human Rights (AICHR) marked important strides toward the institutionalization and promotion of human rights in the Southeast Asian region. (Dancy, G., & Fariss, C. J. 2024).

The urgency of implementing human rights at the regional level is evident in a variety of situations, such as ethnic conflicts, violations of minority rights, repression of freedom of expression, and gender discrimination, where regional mechanisms can provide a framework for member states to tackle these issues together. Through regional mechanisms such as the AICHR, ASEAN member countries are given an opportunity to unite standards and commitments to human rights, as well as to share best practices in addressing existing challenges, while in a sense of regional solidarity. (Ullmann, A. J., & von Staden, A. 2024).

In Southeast Asia, there are various conflicts and situations leading to human rights violations, including the military coup in Myanmar. (King, A. S. 2022),(Nurhasnawati et al., 2024) Ilham, Waoma, S., Judijanto, L., Izmuddin, I., Al-Amin, Zuwardi, & Wati, F. S. (2024). A BIBLIOMETRIC ANALYSIS OF HALAL PRODUCTION IN RELATION TO HALAL AUTHENTICATION (DATABASE SCOPUS 2013-2023); [UMA ANÁLISE BIBLIOMÉTRICA DA PRODUÇÃO DE HALAL EM RELAÇÃO À AUTENTICAÇÃO DE HALAL (BASE DE DADOS SCOPUS 2013-2023)]; [UN ANÁLISIS BIBLIOMÉTRICO D. *Revista de Gestao Social e Ambiental*, 18(6). <https://doi.org/10.24857/RGSA.V18N6-030>

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ASEAN itself has faced criticism for being considered half-in-a-half in the face of internal conflicts of member states related to human rights violations. ASEAN involvement in human rights issues is on the rise in some member states, but responses and concrete actions are still considered insufficient. (Stiftung, B. 2024; Yamahata, C., & Takeda, M. 2023).

The scenario in Myanmar, which includes the Rohingya crisis, is among the most well-known examples. The Rohingya group faces systematic discrimination, brutality, and harsh persecution; the crisis is a reflection of these grave human rights violations in the region. Although the international community has put pressure on ASEAN to take a more proactive role in ending this crisis, the region's human rights problems continue to provide significant obstacles. (Stiftung, B. 2024).

President Joko Widodo of Indonesia has expressed remorse and admitted serious human rights violations in 12 previous incidents, demonstrating the government's efforts to identify and potentially address situations of human rights abuses. To improve human rights enforcement in the area, ASEAN member nations' engagement and collaboration in addressing violations of human rights are still crucial. (Kuhuparuw et al., 2023).

Thus, in the midst of this effort, cases of human rights violations have occurred in several ASEAN member states, raising questions about the effectiveness of the legislation and regional institutions in addressing this issue. These cases include, but are not limited to, oppression of minority groups, restrictions on freedom of expression, and inhuman punishment practices.

The 1948 Universal Declaration of Human Rights (UDHR) marked the beginning of the development of the worldwide legal framework for the protection of human rights (Human Rights) in response to the horrors of World War II. (Assembly, U. G. 1948). Since then, a series of treaties, conventions, and other international instruments have been agreed to supplement and strengthen this protection on a range of specific issues, such as the Convention on the Elimination of All Forms of Racial Discrimination (1965), (Jackson, M. 2022), the Conventions against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (1984), and the Children's Rights Convention (1989), among others. (Chung et al., 2019).

Because of the political, economic, and social divide among ASEAN countries, each country has applied the international legal framework for the protection of human rights to varying degrees. ASEAN has attempted to create a regional human rights strategy with the establishment of the ASEAN Intergovernmental Commission on Human

Rights (AICHR) in 2009 and the ratification of the ASEAN Declaration on Human Rights in 2012. (Rachminawati, 2013; A. R. F. Pattinha, 2017). Even while this is a big step, both programs have come under fire for not applying strict penalties and for applying a slack interpretation of universal human rights norms. Despite the ratification of various international human rights conventions by several ASEAN member nations, the utilization and execution of ASEAN instruments are still restricted. This is mostly because of the fundamental tenets of ASEAN, which place a strong emphasis on reaching decisions by consensus and refraining from interfering in the domestic affairs of member states. While this could help inining regional stability and harmony, at the same time it could also limit ASEAN's ability to tackle human rights violations effectively in its territory. (Keling et al., 2011).

In addition, some ASEAN member states still face significant challenges in implementing international human rights standards due to issues such as the weakness of democratic institutions, corruption, restrictions on freedom of opinion and assembly, as well as the existence of discriminatory practices and violence against certain groups. (Yukawa, T. 2018). Therefore, although the international legal framework provides a strong foundation for human rights protection, its implementation in ASEAN still requires significant improvement and further cooperation among member states. Thus, universal international legal frameworks, such as UN conventions and treaties, provide the basis for human rights protection globally. However, its implementation in the ASEAN territory poses a special challenge, given the different political systems, levels of development, and approaches to human rights among member countries. (Sukma, R. 2014). From that background, the study focuses on two major issues: First, whether and how does international law play a role in dealing with cases of human rights violations in ASEAN countries? Secondly, what obstacles are encountered in efforts to enforce international law for human rights violations in the region?

It is anticipated that the study's findings will shed light on how well the current international judicial systems handle complaints of human rights abuses in the ASEAN. The report is also helpful in providing guidance to human rights organizations, legislators, and other ASEAN stakeholders on how to create human rights enforcement plans that are more successful.

RESEARCH METHOD

The literature review is the research methodology used in this study. Boddy (2016); Campbell (2014). Research methods for literature studies encompass a range of tasks associated with gathering information from libraries, perusing and documenting information, and organizing research materials. In academic and scientific research, literature study methods—also referred to as literature research or literature reviews—are strategies used to collect, evaluate, and present pertinent data on certain subjects from secondary text sources. Lancaster (2007); Christensen et al., 2011).

RESULT AND DISCUSSION

International Law Theory

Law is a system of rules formed by social institutions to regulate behavior, and enforced through social sanctions and legal sanctions. Law has been interpreted as both "the science of justice" and "the art of applying justice". The forms of law vary

between countries, societies, and throughout history, but their purposes are generally similar: to guarantee certain restrictions on individual or institutional behavior, to ensure justice, to maintain peace and social order, to protect individual rights and freedoms, and to provide solutions to conflicts that arise. (Kelsen, H. 2017).

The source of law is the origin from which the rule of law originates, which includes: legislative (laws made by legislative bodies), jurisprudence (judgments of courts), doctrine (opinions of legal experts), and custom (practices recognized and accepted in society). (Luhmann, N. 2013).

Law plays an important role in society, as a means of defining social order, protecting individual rights and freedoms, and resolving conflicts. The understanding and application of law continues to evolve with social, economic, and political changes in society.

International law is the legal part that governs the activities of entities of international scale. Initially, international law was merely understood as behavior and relations between states. However, in development, the pattern of international relations became more and more complex, including the structure and behaviour of international organizations. International law was distinguished as public international law, which regulates the relationship between subjects of international law such as States and international organisations, and private international law that regulates cross-border relations between individuals or corporations in civil law aspects (Baslar, K. 2024). (Sharma, S. P. 2024). The sources of international law include international treaties, international customs, general principles of law recognized by educated states, as well as judgments and teachings of legal experts as additional sources. (Babikian, J. 2024).

Meanwhile, human rights are fundamental rights inherent in every individual regardless of race, religion, gender, or nationality. This right cannot be withdrawn and cannot be violated by anyone. Human rights help in protecting the freedoms, dignity, and other fundamental rights of every individual (Garrett, P. M. 2024).

Human rights exist in a variety of forms, including civil and political rights such as the right to life, freedom from inhuman treatment, freedoms of opinion, and rights to justice. (Johnson, W. G. 2024).

Both domestic and international law regularly protect and advance human rights, and international human rights law grants States the power to intervene in times of grave human rights breaches if certain conditions are fulfilled. The 1948 Universal Declaration of Human Rights contains provisions pertaining to human rights. It contains thirty articles that discuss people's rights and freedoms. (Flores-Macías, G., & Zarkin, J. 2024).

The core ideas of international law that are pertinent to the resolution of human rights breaches include a variety of legal precepts and standards meant to safeguard people's fundamental liberties and rights and guarantee that those rights are adequately handled when they are violated. International law offers a framework for addressing human rights violations that consists of recognized legal tools, methods, and procedures (Arvidsson, M. 2024). 2024 saw Arvidsson, M. This idea is supported by a number of international agreements, such as the Rome Statute of the International Criminal Court (ICC), which has jurisdiction over the most serious crimes, including genocide, war crimes, and crimes against humanity. et al., Freier (2024).

The principle of non-discrimination is one pertinent concept that is stated in several international accords, including the Universal Declaration of Human Rights (UNHRC). A fundamental aspect of this concept is guaranteeing that everyone's rights are upheld and protected—free from discrimination on the basis of race, gender, color, language, religion, political viewpoint, national or social background, or any other category. [Babakian, J. (2024).

Another fundamental idea in combating abuses of human rights is protecting those who are the victims of such breaches. It involves making an effort to give victims guarantees against recurrence, restitution, compensation, and rehabilitation. (Van Doorn & Associates, 2024). The United Nations Basic Principles on Justice for Victims of Crime and Abuse of Power, which offer a framework for the acknowledgment and defense of victims' rights, lend support to this viewpoint (Freier et al., 2024).

The UN Human Rights Council's special procedures and other UN bodies enable the international monitoring system to keep an eye out for and respond to violations of human rights. Subedi, S. P. (2024).

Because international law encompasses a wide range of concepts, norms, and institutions intended to safeguard human rights and guarantee the application of justice, it offers a broad and complete framework for handling and resolving incidents of abuses of human rights.

The protection and progress of human rights on a global basis depend on international organizations. One of their most important duties is the establishment of an international legal framework that protects and upholds human rights. Among the numerous conventions and declarations that international organizations like the United Nations (UN) have launched and transformed into international standards of human rights are the Universal Declaration of Human Rights (UDHR) and the two major human rights covenants, the International Covenant on Civil and Political Rights (ICCPR) and the International Pact on Economic, Social, and Cultural Rights. (Beynaghi et al., 2016; STATION, D., & ANNUAL, I. M. G. 2024).

In addition, other agencies such as the UN Human Rights Commission and the Human Rights Council are responsible for monitoring and evaluating the implementation of human rights in various countries. These institutions also provide a forum to complain of human rights violations and make recommendations on specific cases to UN member states. (STATION, D., & ANNUAL, I. M. G. 2024).

International institutions also play a role in disseminating national and international insights on human rights to both the general public and governments around the world. They are engaged in education, research, and advocacy of the importance of respect and protection of human rights.

Human rights in ASEAN

ASEAN, as a regional bloc, has an important role to play in building and strengthening the protection of human rights (Human Rights) in the Southeast Asian region. To strengthen its commitment to protecting and advancing human rights, ASEAN has issued various human rights instruments. (Dermawan, W., & Gustaviani, L. 2024).

The ASEAN Declaration, which was adopted in 1967, is the first document in the region's history to express the member states' commitment to advancing and defending human rights. Other declarations and charters have followed. (T. G. Weiss, 2010).

The primary human rights agency in ASEAN, the ASEAN Intergovernmental Commission on Human Rights (AICHR), was founded in 2009 as a regional platform for protecting human rights. (E. C. Luck, 2003).

The ASEAN member states' adherence to national sovereignty values and the stark variations in their political and governance structures provide significant obstacles for the AICHR. The creation and execution of human rights procedures within ASEAN are impacted by this circumstance. (S. Meisler, 2011).

Significant human rights violations have occurred in some of the ASEAN member states. A few of them deal with topics like power abuse, mistreatment of ethnic minorities, and freedom of speech abuses. The ASEAN's tenets of sovereignty and non-intervention frequently place restrictions on the regional response to these situations. Nonetheless, these incidents have garnered attention from throughout the world and sparked conversations over ASEAN's responsibility to uphold human rights. Katsumata (2009) and Davies (2014).

Such international cases, for example; 1) Myanmar and the Rohingya crisis: One of the biggest cases is the ethnic Rohingyas problem in Myanmar. As of 2017, military operations in Rakhine, Myanmar, have resulted in thousands of deaths among Rohingya and more than 700,000 Rohingyas fleeing to Bangladesh. ASEAN has faced international pressure to act. At several meetings, ASEAN has expressed its concerns and encouraged dialogue solutions and humanitarian assistance to overcome the crisis, but the regional response is often considered less firm. (Ahsan Ullah, A. K. M. 2016). 2) The Philippines and the War on Drugs: Starting in 2016, President Rodrigo Duterte's fierce campaign against drugs in the Philippines has caused thousands of deaths. Although the campaign has harvested international criticism for human rights violations, ASEAN's response to the issue tends to be cautious, prioritizing the principle of non-intervention. (Luxfiaty, D. J. R. 2023). 3) Cambodia with a Democracy Crisis: Cambodia faces international criticism for harsh actions against political opposition, activists, and the media since the 2018 general election that strengthened the grip of Prime Minister Hun Sen. Although this issue reflects tensions in Cambodia's democratic governance, ASEAN's reaction remains limited because it adheres to the principle of non-intervention. (Heder, S. 2012). 4) Thailand and the Political Crisis: Thailand is experiencing waves of protests and harsh actions against demonstrators calling for democratic reform and monarchy change. ASEAN's response to this issue is relatively limited, given the basic principles of the organization in respecting the internal affairs of member states. (Nugraha, A. 2018).

The picture of ASEAN's response to human rights abuses in the area is frequently one of prudence and striking a balance between external pressure and ideals like sovereignty, non-intervention, and consensus. Stronger commitments and frameworks are frequently required to bring about major changes in the protection of human rights in the ASEAN region, even if there are a number of regional efforts and procedures aimed at addressing human rights issues, such as the founding of the AICHR.

Barriers to Human Rights Enforcement in ASEAN

Obstacles burden human rights enforcement in ASEAN countries, including political, economic, and social barriers. Here are some of them:

First, the Political Barrier includes; (a) The Principle of Sovereignty and Non-Intervention: This principle often constitutes an obstacle in dealing with human rights issues at the regional level. ASEAN member states are generally reluctant to interfere in the internal affairs of other countries, including cases of large-scale human rights violations; b) Differences in political systems: ASEAN countries have different political systems and traditions, including authoritarian states and liberal democracies. It often affects how they view and deal with human rights issues. (Kurniaty et al., 2024).

Second, Economic Barriers include; (a) Unequal Economies: Differences in the rate of economic development between ASEAN member countries can affect the enforcement of human rights. Poorer countries may not have sufficient resources to implement and enforce higher human rights standards; (b) Globalization and Economic Liberalization: This process may provide opportunities for human rights violations, especially in the context of labour rights and other economic, social, and cultural rights (Kurniaty et al., 2024). Third, Social Barriers include; a) Difference in Cultural Values and Norms: Cultural variations within the ASEAN region can hamper the enforceability of universal human rights norms. (Wahyuningrum, Y. 2021).

There is a need for enhanced regional and national cooperation, as well as increased funding and education on human rights, to overcome these barriers and promote respect for and protection of human rights in ASEAN countries.

Role of International Law in ASEAN

The role of International Law in ASEAN covers some important aspects of international relations and development of the Southeast Asian region. ASEAN, as a regional bloc, has adopted various declarations, conventions, and legal cooperation to strengthen defences against compliance with international law norms in the region. By based its relations on the rules of commonly agreed international law, ASEAN strives to maintain stability, peace and common development in the region. (Candra, R. C. 2024).

The ASEAN Charter, as one of the important legal documents, states the commitment of member states to the principles of international law and regional cooperation. The Anatomy of the ASEAN Charter covers various sections that affirm the foundations of the establishment, objectives, and mechanisms of cooperation between member states, including in terms of improving legal standards and dispute resolution. The Charter significantly contributes to the observance of the principles of international law within the framework of ASEAN regional cooperation. (Amer et al., 2024).

Through these initiatives, including participation in international agreements and the adoption of global legal standards, ASEAN plays a key role in establishing international trade law in the region, showing how regional economic integration and commitment to international law can go hand in hand to create an environment conducive to trade and investment.

International law plays an important role in addressing human rights violations in the ASEAN region. International cooperation efforts, which include the implementation of global human rights conventions and the enforcement of rules of international law, can help in resolving cases of human rights abuses. Regional organizations such as

ASEAN have taken steps such as endorsing ASEAN's Declaration of Human Rights (AHRD), which creates a framework for human rights cooperation in the region and adds value to international human rights standards and standards. Sustainable agriculture, forest fire management, as well as land governance issues also contribute to the habitat that is part of HAM (Lakatos, I. 2022),(Susanto, 2024) So far, these legal instruments are declarative and not legally binding, which means that the implementation of this declaration depends heavily on the political will of member states. Moreover, ASEAN does not have a strong enforcement mechanism, which may limit its effectiveness in addressing human rights violations. However, with ASEAN's growing role and increasing pressure from the international community, there is a chance that international law and its principles can continue to play a role in promoting and protecting humanities in the ASEAN region. (Yen et al., 2024).

Challenges to the Application of International Law

Several challenges and obstacles to the application of international law: 1) State sovereignty: International law is based on the principle of state sovereignty, which recognizes the right of every state to rule itself and make its own decisions without external interference. It can be an obstacle in situations where international intervention is necessary to protect human rights or to defy crimes against humanity. 2) Political differences: Differences in political systems between countries can also be a challenge in the application of international law. For example, international cooperation between states is crucial in law enforcement but the main challenge is the differences in legal systems in each country. 3) Interests: Each country has its own national interests which may not be in line with the purposes of international law. For example in ASEAN, these countries must harmonize and then agree the interests of ten ASEAN countries in one (Boyle, A. E., & Freestone, D. (Eds.). 2001; Butkevych, O. 2003).

CONCLUSION

International law plays a crucial role in dealing with human rights violations in the ASEAN region. Despite various challenges and obstacles, including national sovereignty, political differences between member states, and the divergence of national interests, the international legal framework offers some important mechanisms to protect human rights and ensure the enforcement of international standards.

The ASEAN Human Rights Declaration (AHRD) and the establishment of the ASEAN Intergovernmental Commission on Human Rights (AICHR) demonstrate the region's initiative to adopt the values and standards of international law. Although this regional legal and organizational structure is not perfect, mainly because of its declarative nature and lack of strong enforcement mechanisms, these measures remain significant as a foundation that provides opportunities for improved human rights protection in the future.

The continuity and effectiveness of international law in dealing with human rights violations in ASEAN depends on the joint commitment of member countries to overcome their differences and to prioritize human rights principles over political and national interests. The alignment between national interests and commitment to international legal standards will strengthen regional cooperation and ASEAN's contribution to the international legal system to protect and advance human rights.

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