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THE PRINCIPLE OF NON-INTERFERENCE CURTAILS ASEAN ACTION IN ADDRESSING HUMAN RIGHTS VIOLATION IN MYANMAR

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ABSTRACT

This article described and analyzed the dilemma faced by ASEAN under its non-interference principle in managing the human rights issues in Myanmar. The presence of that principle severely curtails ASEAN's firm action to promote and protect human rights strongly based on the ASEAN's commitment written in the ASEAN Charter and the ASEAN Declaration of Human Rights (ADHR). This article utilizes the qualitative research method supported by secondary data to provide an in-depth and comprehensive analysis. ASEAN's protection of human rights is reflected by its active conduct of regular discussions and engagements on human rights issues in the region, the adoption of the ADHR, and the establishment of the ASEAN Intergovernmental Commission on Human Rights (AICHR). The human rights issues gained more attention in ASEAN in 1997 as the

United States and European Union opposed the ASEAN decision to accept Myanmar as a member on the grounds of the human rights violations record in Myanmar. The membership in ASEAN did not improve the human rights record in Myanmar as ASEAN had hoped for. Myanmar embarked on other human rights violations, among others the Rohingya crisis (2012) and the military coup against the democratic government (2021) that sparked criticism from abroad and within ASEAN. This study concluded that the principle of non-interference has set the limit and curtailed ASEAN's contribution toward optimally addressing human rights violations in Myanmar. ASEAN may need in the future a new and comprehensive mechanism for addressing human rights violations. A stronger constructive engagement policy should be put in place to set a universal standard to protect human rights in the region.

Keywords: ASEAN, Myanmar, non-interference, human rights, democracy.

INTRODUCTION

ASEAN has been viewed as an organization that brings positivism towards the development of the Southeast Asia region amidst the unstable situation in regional or international circumstances (Mahbubani & Sng, 2018). The five founding countries, namely Indonesia, Singapore, Malaysia, Thailand, and the Philippines established ASEAN on 8 August 1967 in Bangkok. ASEAN's goal has been to accelerate economic growth and prosperity, promote regional peace and stability through active collaboration, as well as enhance facilities for regional development (Association of Southeast Asian Nations [ASEAN], 2020). In managing regional affairs, ASEAN upholds the principle of non-interference that has fundamentally become the basis of every action and decision taken by the member states to protect the stability and harmonization of ASEAN as a regional organization. The main purpose of the principle is to control the involvement of one member state in another's domestic affairs and to be respectfully aware of the individual member state's boundaries and sovereignty.

As the economy flourished and political stability was in place in the member states, ASEAN has been able to maintain social justice and provide human rights protection on the basis of regional cooperation.

The development of ASEAN has been dedicated to protecting human rights and this was reiterated in the Joint Communiqué of the 26th ASEAN Foreign Ministers Meeting (26th AMM) in 1993. It marked a significant journey in the establishment of an appropriate regional mechanism for human rights in ASEAN (Mahbubani & Sng, 2018). Subsequently, ASEAN continued its contribution with the adaption of the ASEAN Charter in 2007 as an affirmative strategy and commitment for all ten ASEAN member states to support the legal basis of human rights protection in the region (Ministry of Foreign Affairs of the Republic of Indonesia, 2009). ASEAN believes firmly that the awareness of this commitment must be embedded in each member state to ensure compliance with human rights protection at every domestic level.

To strengthen this commitment, ASEAN decided to establish the ASEAN Intergovernmental Commission on Human Rights (AICHR) which was officially inaugurated on 23 October 2009 at the 15th ASEAN Summit in Cha-Am Hua Hin, Thailand (ASEAN Intergovernmental Commission on Human Rights [AICHR], n.d.). This body was formed to pursue regional cooperation on human rights and charged with dealing with every human rights issue, as well as upholding the essence of social justice (AICHR, 2009). The AICHR mechanism allows it to carry out its duty and responsibility by complying with the principle of non-interference (AICHR, 2009).

Before the AICHR, ASEAN established several particular bodies that were responsible for managing the agenda of human rights promotion and protection. The bodies consist of the ASEAN Committee on Women established in 1976, ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers established in 2007 (ASEAN, 2020b). Lastly, the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children was established in 2010 (ASEAN, 2020b).

In 2012, ASEAN adopted the ASEAN Human Rights Declaration (AHRD) as a reflection of its absolute commitment towards human rights protection. It is a declaration that fundamental freedom will include the right to get equality, protection by law, an adequate living standard, peace, and the right to develop (ASEAN, 2012). ASEAN also adheres to the principle and value of democracy to encourage a better life with human dignity, to achieve social justice and the development of a people-oriented ASEAN Community (ASEAN, 2013b).

Unfortunately, ASEAN has experienced the two most concerning issues in the region which has attracted international and regional attention. The Rohingya crisis in 2012 and the Military Coup in 2021 happened in Myanmar and these two crises have evoked negative responses from all over the world. These two issues have had very unfortunate consequences as they have put ASEAN in a dilemma, they clearly contradicted the regional organization's professed commitment and strategy for the protection of human rights in member states. Violations of human rights happen in the form of discrimination, suffering, and torture, there is no guarantee of safety for the people in Myanmar. ASEAN with its fundamental basic principle of non-interference has limited space to interfere in the domestic affairs of its member countries and requires another mechanism to effectively prevent major chaos in the human rights aspect (Ahmad, 2016). Therefore, the research question of present study is how the ASEAN principle of non-interference in the internal affairs of its member states affects its ability to address human rights violations in Myanmar.

ASEAN is committed to upholding the value of giving freedom to each citizen to maintain the sustainability of their life, prevent any discriminative action, and prevent any violence. Therefore, the objective of the present study is to analyze ASEAN's contribution in fulfilling its commitment and upholding the principle of addressing human rights issues within the context of the limitations that exist under the non-interference principle. This study will show how the mechanism proposed by ASEAN as its response to the two crises were impacted by the non-interference principle. This non-interference principle appears to limit ASEAN's ability in maximally supporting human rights protection in the Southeast Asia region. In addition, the present study will provide a comprehensive analysis in order to facilitate our understanding of to what extent is ASEAN's contribution towards the two human rights violations in Myanmar, namely, the sub-national conflict which resulted in the Rohingya crisis in 2012, and the military coup in 2021 which undermined democracy and started the political crisis in the country up this today.

The Non-Interference Principle in ASEAN: A Review

The principle of non-interference is a fundamental principle of ASEAN that has existed since the organization's establishment in 1967 (Suzuki, 2019). The principle of non-interference was further

embedded in the Treaty of Amity and Cooperation (TAC) of ASEAN in 1976 and later in the official document of the ASEAN Charter in 2007 (Uum, 2018). This principle essentially obligates ASEAN member states to respect the sovereignty of other states, each member state must not interfere in the domestic affairs of another member state. It provides the basis for ASEAN to manage a peaceful environment amidst the diverse systems of each member state (Ahmadi, 2012). However, this principle limits the capacity of ASEAN to actively deal with the human rights violations that have occurred in Myanmar. This principle of non-interference has characterized the limitations ASEAN faces to optimally contribute to solving the issues (Uum, 2018).

Through this principle, ASEAN has been curtailed in its ability to fulfill its responsibility and stated commitment to protect human rights in the region (Uum, 2018). It is perceived that due to the lack of space in managing the limitation on intervention, both in the form of criticisms and suggestions from member states, it has led to the ignoring of concerns about optimizing the promotion of human rights (Ahmad, 2016). As ASEAN has achieved a good level of economic progress and political stability, this principle of non-interference has sparked debates among the ASEAN community as this principle is considered as not being in line with ASEAN's commitment to human rights to provide maximum protection and promotion of human rights equality for every person (Molthof, 2012). The value of the non-interference principle leads ASEAN to limit its action with regard to the human rights issues that has happened in its member states. Therefore, when considering a solution under the non-interference principle will require a lot of time to decide on a proper strategy so as to not violate the underlying philosophy of the non-interference principle.

The non-interference principle is binding on all ASEAN member states, therefore, they have a limited space to assist Myanmar directly. This is because the action of any individual ASEAN states to interfere in the human rights issues in Myanmar will create overall tension for the organization as a whole. Therefore, any form of 'intervention' from the ASEAN member states are mostly limited in the form of assistance and recommendations to protect human rights, as well as measures to prevent the worsening situation in Myanmar. The limited form of intervention affects the ASEAN's way of promoting and protecting human rights in the region. Most of the deals addressed by ASEAN

member states focus on resulting written decisions with a minimum assertive approach for discontinuing the human rights violations in Myanmar. In an effort to refine the non-interference principle, ASEAN has adopted the concept of constructive engagement, and at the same time has set aside the idea of humanitarian intervention. Through constructive engagement, ASEAN intends to enhance the democratization process in Myanmar by strengthening consultations, dialogues, and consensus to as to apply whatever pressure possible to encourage a change constructively and manage the uneasy stability in the region (Masilamani, 2021; Nabilla Syahaya Putri Aryani, 2019).

METHODOLOGY

This study utilizes qualitative research methods to provide an in-depth analysis of the issue with comprehensive elaboration on the human rights cases in Myanmar and ASEAN's action against human rights violations under the non-interference principle (Lakshman et al., 2000). The analysis is supported by secondary data which comprised official statements issued by ASEAN, academic thesis, papers, journal articles, books, reviews, reports, newspapers, and web pages. The analysis is carried out to determine the nature of ASEAN's contribution to the Rohingya crisis and Military Coup 2021 under the non-interference principle, between the period 2012-2023. This period was selected because it was during this span of time that the two crises occurred in Myanmar and would provide a window into ASEAN's strategy to solve the humanitarian situation in the country.

This study begins with an overview of the non-interference principle, so as to provide an understanding of the various perspectives on the issue from several sources such as the ASEAN charters, Treaty of Amity of Cooperation (TAC) 1976, official statements, and journal articles. To understand the situation on the ground in Myanmar, the next section of this article will describe the situation and conditions regarding the Rohingya crisis and Military Coup 2021. This is followed by discussing the urgency of the issue, as well as the responses from various parties to delimit the impact of the crises to the other ASEAN member states. The analysis of ASEAN's efforts in addressing the human rights violations in Myanmar under the non-interference principle was carried out by examining several reports such as the AICHR, ASEAN Summit, ASEAN Foreign Ministers Meeting, journal articles, and other related sources.

RESULTS

The purpose of the non-interference principle is to respect ASEAN member states' sovereignty in managing their own domestic affairs so as to provide opportunities to strengthen their domestic procedure and mechanisms to improve national stability and capability when facing certain issues. However, in the case of the Rohingya crisis and Military Coup 2021, Myanmar itself not able to optimally control the chaos and unstable domestic affairs. This called for an urgent response from the other ASEAN member states. However, the application of the non-interference principle has curtailed the ability of ASEAN to get involved and provide assistance to help the suffering people in Myanmar. ASEAN's response towards the human rights violations in Myanmar, as triggered by the Rohingya crisis and Military Coup 2021, has not been optimal under the non-interference principle. Most of the ASEAN responses and contributions were in the form of discussions and recommendations without even a minimum decisive practical action to protect human rights in Myanmar.

The results of present study show that ASEAN was curtailed in its promotion and protection of human rights via the established legal rules and regulations included in the ASEAN Charter and the ASEAN Human Rights Declaration. Therefore, ASEAN needs to intensify its efforts in ensuring the protection of human rights issues in the region by implementing a more relevant and effective mechanism without disrupting the ASEAN principle of non-interference in the domestic affairs of member states. For example, by introducing the mechanism of constructive engagement. So far in overcoming the chaos, ASEAN is trying to establish a forum for member states to give recommendations to encourage Myanmar to resolve its domestic problems. The following are several findings that comprehensively explain the human rights violations in Myanmar including ASEAN responses to handling the issue under the non-interference principle.

Human Rights Violations in Myanmar: Rohingya Crisis (2012)

The Rohingya case is one of the most concerning issues of discrimination against the Muslim minority population in the Northern part of Myanmar's Rakhine state (Nguyen, 2018). The Rohingya people were facing extreme persecution and threats which made the Rohingya people having to endure sufferings with no

guarantee of safety (Sohel, 2017). In addition, they also have limited access and services to meet life's needs such as health care, nutrition, and security for their survival (Mahmood et al., 2017). That reflects the tragic situation of the Rohingya people living in a very difficult environment where they are considered a stateless community in Myanmar (UNHCR, 2021).

The Rohingya crisis escalated in 2012 when the majority of the ethnic Rohingyas in Rakhine State were subjected to violence, they were prohibited from going to certain places, thus depriving them of the right to freedom guaranteed by the principle of universal human rights (Hasan & Yudarsan, 2017). In June 2012, another incidence of violence broke out between the Rohingya people and other Rakhine State citizens. This was a beating incident on a bus with Muslim passengers (Mahmood et al., 2017). The case of the humanitarian crisis facing the Rohingyas can be seen as a form of genocide. This is because the majority of the population in Myanmar appears to reject the right of the ethnic Rohingyas to be part of the nation's diverse racial composition and therefore, to remain in the country.

Acts of violence and discrimination faced by the Rohingya people included sexual violence, torture, unfair employment opportunities, and denial of citizenship (Rahmanto, 2017). This oppressive treatment of the Rohingya people caused great suffering and posed a great risk to their lives to want to remain and stay in Myanmar. The treatment of the Rohingya people has tarnished the values of the protection of human rights that has always been upheld by ASEAN. The violence committed against Rohingya has proven that the commitment to a document-shaped rule and written decision is still not enough to guarantee the fulfillment of equal human rights for everyone in the region.

Consequently, many of the Rohingya people decided to migrate to the neighboring countries to get protection and guarantees of survival, to at least fulfill their basic human rights. Until 2017, there were around 140,000 Rohingya Muslims who fled from Myanmar to Internally Displaced Person (IDP) camps (Mahmood et al., 2017). Cumulatively, more than 700,000 fled to neighboring countries such as Bangladesh, Indonesia, Malaysia, India, and Thailand (Khatu, 2019).

Several responses emerged from the rest of the ASEAN member states

and international countries, as they were concerned about the issue of violation of human rights in Myanmar. The commitment to human rights protection in the ASEAN Charter encouraged other ASEAN member states to contribute to solving the violations in Myanmar. For example, Malaysia continuously provides support for Rohingya people by receiving and protecting Rohingya refugees (Shukri, 2021). Along with Malaysia, Indonesia also condemns the human rights violations in Myanmar (Shukri, 2021). Furthermore, the United Nations' top human rights official defined the chaos that has happened in the Rohingya case as a textbook example of ethnic cleansing' that aims to create a homogeneous ethnic dominance in certain areas by using force and violence (Anti-Defamation League [ADL], 2018).

Seeing the situation of the Rohingya people, the UN Security Council in 2017 called for immediate action to end violence and discrimination in Rakhine State by upholding law and order to protect civilians (ADL, 2018). In addition, several prominent organizations such as the UNCHR and Human Rights Watch assisted in matters such as health assistance and nutrition to guarantee the needs of the Rohingya people (ADL, 2018).

The International Court of Justice (ICJ) has ruled that Myanmar must take steps to respond to the serious allegations of genocide and to provide human rights protection to the Rohingya people (UN News, 2020). As a response to the Rohingya case, the ICJ implemented a measure aimed at enabling Myanmar to prevent all forms of violence against the Rohingyas, namely the "provisional measure" (UN News, 2020). Myanmar in this case must also submit a report within four months, with additional reports every six months until a final decision is issued on the case in Myanmar.

Regarding the human rights crisis against the Rohingyas, it was at the 31st ASEAN Summit in 2017 that the chairman firmly issued a statement on Myanmar which provided some recommendations to the final report of the Advisory Commission on Rakhine State and also welcomed the establishment of the Myanmar Ministerial Committee to help take decisive steps to resolve the situation in Myanmar. Several points delivered in the report consist of the following:

- In socio-economic development, the Commission recommends that the government guarantees

adequate compensation for appropriated land and invests in infrastructure such as electricity, internet access, roads, and drinking water. Providing vocational training for women with the basis of labor market assessment to help the development of small businesses. Also, strengthens the efforts in addressing climate issues (Advisory Commission on Rakhine State, 2017).

- In terms of citizenship, the Commission recommends accelerating verification of citizenship for citizens, accompanied by the fulfillment of human rights after verification. The government is advised to review the applicable law to be able to understand the relationship between citizenship and ethnicity by avoiding discriminatory ways (Advisory Commission on Rakhine State, 2017).
- In regard to the freedom of movement, the Commission recommends providing freedom for all people who are not limited to religion, ethnicity, and citizenship (Advisory Commission on Rakhine State, 2017).

Based on the recommendations from the Advisory Commission on Rakhine State, Amnesty International released a statement in 2019 to give an update and response concerning the situation in Myanmar. It was stated that Myanmar did not fully adopt the recommendations to stabilize the condition in the state because there is still no freedom and guarantee of safety of life for the Rohingya people. This has raised urgent concerns for Amnesty International (2019).

Furthermore, the human rights issues in Myanmar have not fully resolved because discrimination and violence against its citizens are still occurring extensively throughout the country. Under the non-interference principle, ASEAN has tried to solve this dilemma by on the one hand respecting the national sovereignty of the country concerned, but it has on the other hand mostly through discussions or meetings with all ASEAN member states to deliberate and decide on a strategy to solve the humanitarian crisis in Myanmar. In addition, AICHR also assists the Rohingya people in the form of humanitarian aid through the private sector to meet their needs (Changrui & Lee, 2023).

Recent updates on the Rohingya crisis, show that there has been no change in the situation. Rohingyas still struggle to get a better life, there has been no significant solution to end the discrimination and violence towards them. They have decided to survive under the identity of ‘refugees and asylum seekers’, to move from their homeland to live in another state. By mid 2020, almost one million Rohingya people were registered with the UNHCR as they were forced to move to other Asia Pacific states to find a safe place to get protection and survive (Ratwatte, 2020).

Table 1

Number of Rohingya Refugees in the Asia Pacific Region from January 2020 - June 2021

Country	Rohingya Refugees
Bangladesh	860000
Malaysia	101000
India	18000
Indonesia	550
Nepal	350
Thailand	100

The Myanmar military coup on 1st February 2021 was one of the critical developments that has caught the attention of the international community in that year (Dunst, 2021). The Myanmar Military Coup was aimed at taking over the leadership of the country and transferring state power to the Myanmar military force (Tatmadaw) (Dunst, 2021). The coup was justified with the claim that there was fraud in the results of the general elections in Myanmar in November 2020 and therefore, the election results considered illegitimate (Dunst, 2021; Passeri, 2021).

This military action was carried out to take control over the government by detaining several stakeholders at the time, such as state counselor Aung San Suu Kyi, President Win Myint, ministers, activists, politicians, and other senior leaders of the National League

for Democracy (NLD) (Dunst, 2021). This incident posed a serious challenge to the democratization process of Myanmar and for ASEAN it had put the focus on the organization's ability to solve the problem of the military coup and protect every citizen who might be tortured and subjected to needless suffering as a result of the widespread violence perpetrated by the army (Yahya & Rahmawati, 2021).

Due to the forced and thus illegal change of the previous democratic government system, Myanmar cannot continue to ensure peace and security for its people, thus triggering intense conflicts between the wider society and the military government. To express their dissatisfaction and rejection of this military coup, the citizens of Myanmar took to the streets and carried out massive protests to support the return of the elected democratic government to lead the country again (Maizland, 2022).

Seeing this uncontrolled situation, military forces decided to use more violence against the massive number of protesters by destroying entire villages that supported the opposition side, with more than 800 of its citizens killed, which had included children. Journalists, medical workers, and NLD politicians were arrested and put in prison (Maizland, 2022). The military controls the country by committing acts of violence, dismantling the democratic infrastructure in Myanmar and this could impact the stability of the ASEAN region if not addressed immediately (Saxena, 2021).

In the six months after the coup, the suppression of protestors resulted in 936 deaths, 6,946 arrests, and more than 200,000 becoming internally displaced (Passeri, 2021). The President of the General Assembly of the United Nations (UN) for 2020-2021, Volkan Bozkir had called on Myanmar to immediately release all elected leaders and give freedom back to the people. The people of Myanmar must be able to regain their freedom, allowed to voice opinions and to get appropriate legal protection (Mahaseth & Tulsyan, 2022). The OHCHR also condemned the increased violence and called for an end to all the violence that appears to be out of control (UN News, 2021b).

The UN Secretary-General, António Guterres had asked the international community to be united in sending a signal to the military to stop the political oppression and respect the people's human rights (UN News, 2021b). Christine Schraner Burgener, the UN Special

Envoy to Myanmar, 2018 - 2021 described the alarming situation in Myanmar. She urged the Council to garner more support and ensure unity in overcoming all forms of violence and suffering experienced by civil society in Myanmar due to the military atrocities (UN News, 2021a). One of these measures was through the UN General Assembly, which subsequently adopted a New York resolution to provide support to the UN Special Envoy and condemn the cruel violence that continues to be perpetrated by the army in Myanmar (UN News, 2021a).

As recounted by Noeleen Heyzer, the UN Special Envoy to Myanmar since 2021, the impact of the military coup for the last two years has been devastating, with continuous violence against humans that violates the sacred universal respect for human rights (UN News, 2023). The coup and the resultant humanitarian crisis has created in Myanmar an uncertain and unstable situation with regard to its political and socioeconomic sinews (UN News, 2023). The humanitarian crisis that occurred in the Myanmar Military Coup in 2021 had made the position of Myanmar's civil society very precarious. Even before the military coup occurred, the practice of discrimination against the Rohingya people had already caused great suffering to the minority ethnic group. The repressive military leadership in Myanmar has made it all the more urgent for the ASEAN member states to come together and be united in taking decisive actions and plans to overcome the chaos that has occurred in Myanmar.

ASEAN Response to Human Rights Violations in Myanmar under the Non-interference Principle

ASEAN Response Towards the Rohingya Crisis

Based on the principle of non-interference and the analysis above, it is clear that there has been no clear mechanism that has been successfully implemented by ASEAN in overcoming the Rohingya crisis. There is no doubt that ASEAN will take a long time for it to finalize an acceptable solution due to the various considerations that must be part of the proposed mechanism. For example, during the peak of the Rohingya crisis in 2012, ASEAN could not optimally overcome these problems because the case would have considerable repercussions on other ASEAN member states and might create an unstable situation in the region (Institute for Policy and Analysis of

Conflict [IPAC], 2018). Indonesia had however, taken the initiative to raise the Rohingya issue at the Organization of Islamic Cooperation (OIC) Summit and subsequently established the OIC Contact Group on the Rohingya Muslim Minority (IPAC, 2018).

In addition, ASEAN foreign ministers had collectively made a statement on 17 August 2012 to reaffirm their support for democratization in Myanmar, their intent to help resolve the crisis situation and encourage the Myanmar government to increase the steps taken in overcoming the issue of violence and discrimination against minorities (ASEAN, 2013a). In addition, ASEAN has prioritized discussion of the crisis in the 21st ASEAN Summit meeting and renewed calls for action and reaffirming the statement of the previous ASEAN foreign ministers' meeting. ASEAN will continue to support the need to work closely with the government in Myanmar. However, there has been no clear continuous effort towards the decision related to the development of solutions that had been stated in 2012.

In light of the previous point raised, the ASEAN Summit can be seen as one of the important responses by ASEAN in managing the Rohingya crisis in Myanmar. In 2017, ASEAN emphasized the important role of The ASEAN Coordinating Center for Humanitarian Assistance on Disaster Management (AHA Centre) in Rakhine State. It also continues to support the humanitarian assistance programs by the Government of Myanmar, in collaboration with the Red Cross Movement (ASEAN, 2017).

The UNHCR has pointed out that the UN Refugee Agency was very grateful for, and would continue to support, the crucial humanitarian assistance provided by Indonesia and Malaysia. For example, their role in rescuing three ships filled with Rohingya people who were trying to flee from Myanmar to seek safety in May 2018 (UNCHR, 2018). The restoration of the situation in Rakhine State had been further boosted with the implementation of the Preliminary Needs Assessment (PNA) initiative led by the Secretary-General of ASEAN (ASEAN, 2020a).

There was also the operationalization of the ASEAN Secretariat Ad-Hoc Support Team to find an effective solution that can address the root problem of the Rohingya people (ASEAN, 2020a). ASEAN has also reiterated that its 2021 ASEAN Summit has provided

concrete proposals to provide humanitarian assistance and support for sustainable development to Rakhine State, and the organization's continued actions to suppress all forms of cruel humiliation towards the Rohingya people (ASEAN, 2021a).

ASEAN Response Towards the Myanmar Military Coup 2021

The repressive military leadership in Myanmar has invited ASEAN member countries to work together to take actions to overcome the chaos that has occurred in Myanmar. In 2021, the ASEAN Summit discussed this issue by stating that the ASEAN leaders agreed on a Five-Point Consensus to solve the crisis in Myanmar along with its pledge to continue providing humanitarian assistance.

With the Military coup in Myanmar that occurred in early 2021, the protection of human rights was violated, causing sufferings and insecurity for the citizens of Myanmar. This coup had an impact on political stability in the ASEAN region and raised concerns about the resultant political and socio-economic chaos in the country. Indonesia, as the new Chair of ASEAN, was trying to respond and minimize the tensions that exist in Myanmar at the ASEAN leaders meeting in Jakarta on 24 April 2021. Indonesia and other ASEAN Leaders decided on a Five-Point consensus in response to the human rights violation in Myanmar. The five points of concern (ASEAN, 2021b) are as follows:

- First, there shall be an immediate cessation of violence in Myanmar and all parties shall exercise utmost restraint.
- Second, constructive dialogue among all parties concerned shall commence to seek a peaceful solution in the interests of the people.
- Third, a special envoy of the ASEAN Chair shall facilitate mediation of the dialogue process, with the assistance of the Secretary-General of ASEAN.
- Fourth, ASEAN shall provide humanitarian assistance through the AHA Centre.
- Fifth, the special envoy and delegation shall visit Myanmar to meet with all parties concerned.

Since the release of that Five-Point consensus, ASEAN leaders had been trying to enforce the agreed proposals to resolve the human

rights violations in Myanmar. Consecutive ASEAN leaders in 2022 and 2023 had reviewed and agreed on some decisions to improve progress on the implementation of the Five-Point consensus (ASEAN, 2022, 2023a). It was found that the implementation of the Five-Point consensus was still lacking in progress, especially in terms of cooperation from the Myanmar side (ASEAN, 2022, 2023a). Therefore, ASEAN has continued to urge all parties to de-escalate violence and protect human rights in Myanmar.

Furthermore, the former Foreign Minister of Malaysia, Saifuddin Abdullah had expressed the view that considering the increasingly complicated and bad conditions in Myanmar, which have had an impact on the ASEAN region, ASEAN cannot afford to continue defending its use of the principle of non-interference as the only shield in this issue (Latiff & Petty, 2021). The former foreign minister has pointed out that the principle has curtailed the effectiveness of ASEAN as it has lost the ability to make effective and quick decisions and to provide suggestions for more constructive policies (Latiff & Petty, 2021).

Analysis of ASEAN's Mechanism in Addressing Human Rights Violations under the Non-interference Principle

The principle of non-interference has created a dilemma for ASEAN. When agile actions and effective roles are needed in overcoming domestic issues that has occurred in Myanmar vis-a-vis the Rohingya case and the Myanmar Military Coup, resulting in chaos which has continued to this day (Hasan & Yudarsan, 2017). As explained at the beginning that ASEAN's response and methods in overcoming the two major problems in Myanmar so far is still limited to a form of discussion and document-shaped rule which could not optimally stop the terrible violations in Myanmar.

In the ASEAN decision-making system, the principle of non-interference dominates efforts to tackle emerging challenges, as each proposed decision requires greater effort to ensure an effective solution, always mindful of its obligations to the non-interference stance of member states. This means that the decision-making process will take a long time, might even make the crisis worse because many considerations have to be put forward to ensure the decision adheres to the principle of non-interference.

The principle of non-interference has however, undergone several revisions and adjustments to prevailing conditions and situations in ASEAN to help overcome human rights issues such as discrimination, violence, displacement, and economic deprivation of ethnic groups and minorities (Nagy, 2016). ASEAN as a regional organization can only create policies, proposals, recommendations, and consensus.

The strategy adopted so far has been on the basis of consensus and discussions, to issue calls with recommendations to the Myanmar government. However, there is a lack of cooperation from Myanmar and ASEAN continues to suffer from its helplessness to settle the human rights violations in Myanmar. ASEAN cannot give an open warning to Myanmar, so giving orders and recommendations through the ASEAN Summit is the most ideal solution to help overcome problems in Myanmar without violating the principle of non-interference.

As a result of the doctrine of the principle of non-interference, each ASEAN member state has to refrain from openly criticizing the domestic affairs of other member states in order to maintain harmonious relations between them (Widiastuti, 2022). However, in the context of the Rohingya crisis and the Myanmar Military Coup 2021, criticism was seen as needed to encourage Myanmar to fully and optimally resolve the conflicts. To stop violations, criticism can be one of the assertive approaches to warn Myanmar that has violated the basic commitments as part of ASEAN member states which is to guarantee basic human rights for its citizens.

Although ASEAN has many instruments in its repertoire to protect human rights that can guarantee ASEAN's optimal contribution to overcoming discrimination and atrocities of human rights in Myanmar. However, under the non-interference principle, it is clear that it will be difficult for ASEAN to carry out direct operations against Myanmar and resolve the violations of human rights (Langlois, 2021).

As it is analyzed that the non-interference principle limits ASEAN movements in posing strategic action to assertively discontinue the violence and suffering in Myanmar such as carrying out human rights promotion and protection directly to Myanmar. Several ASEAN actions have shown ASEAN's commitment and seriousness in overcoming these problems, but these recommendations have not

been implemented strictly such as the Five-Point Consensus (Khatu, 2019). After the issuance of the Five-Point consensus, there is still no significant progress towards overcoming the domestic issues in Myanmar.

For example, even an official human rights body like the AICHR faces difficulties in making direct contributions to assist Myanmar. In the two cases of human rights violations in Myanmar, the AICHR has tried to work with the Myanmar government representative and together find the appropriate mechanism in dealing with certain human rights agendas or issues (AICHR, n.d.).

The AICHR has the authority to make any decision through the processes of consultation and consensus, though it must be in line with the ASEAN Charter. In other words, although the AICHR has been tasked to provide and guarantee protection for human rights, it must still be guided by the principle of non-interference (AICHR, 2009).

Therefore, every agenda and work plan of the AICHR in Myanmar will certainly be curtailed by the principle of non-interference. This means that each decision will have to consider the boundaries of not crossing the sovereignty boundaries of ASEAN member states when it comes to fulfilling and protecting human rights. In this regard, to achieve harmony for human rights, the AICHR will carry out coordination and consultation to cooperate with other ASEAN human rights bodies to promote coherence in protecting human rights in the region (AICHR, 2009).

Several democratic countries in ASEAN have submitted proposals to make ASEAN more intrusive, and flexible, only in certain cases, but other countries have not agreed to this (Suzuki, 2019). One of the proposals for ASEAN to become more intrusive came from Indonesia. It has tried to provide space for ASEAN to help with domestic problems so as to maximize ASEAN's role in protecting human rights in 2003. However, this proposal was unfortunately not approved by the other member states (Suzuki, 2019). Therefore, ASEAN is expected to rethink its decades-long policy of non-interference amid the worsening humanitarian crisis in Myanmar (Latiff & Petty, 2021).

Even though the essence of the non-interference principle does not appear to be in line with ASEAN's commitment to protect human rights

because the principle curtails ASEAN's role to promote awareness of human rights in the region. That does not mean this study encourages to ignore the non-interference principle as a fundamental principle in ASEAN which has led ASEAN to create commitments for human rights equality based on the ASEAN Charter. The existence of various ASEAN commitments to protect human rights, it is hoped can be an excuse to provide maximum protection and settlement in addressing human rights in a more assertive action to stop any form of violations.

Therefore, ASEAN needs a strategic attempt to maximize more assertive approaches in dealing with human rights issues such as constructive engagement. In Myanmar cases, constructive engagement can be utilized to support democratization in Myanmar because ASEAN believes the nature of a democratic country will support the realization of optimal protection and promotion of human rights (Febriyanti, 2022). The Indonesian Government has also implemented a core approach on constructive engagement as the collaboration of political, social, and economic aspects to support the democratization process in Myanmar (Nabilla Syahaya Putri Aryani, 2019). This approach believes that the development of the economy and social conditions in a state will guarantee a stable political transition for democratization. Indonesian government underlies this approach with the essence of solidarity and partnership to persuade active human rights protection in Myanmar (Nabilla Syahaya Putri Aryani, 2019).

Indonesia's ASEAN Chairmanship in 2023: Strategies in Addressing Human Rights Violations in Myanmar

It was at the ASEAN Summit in Cambodia on 13 November 2022, when it was announced that Indonesia would assume the ASEAN Chairmanship in 2023. With the theme "ASEAN Matters: Epicentrum of Growth", there were several targets or discussion points that were focused on by Indonesia and other ASEAN countries at the ASEAN Summit 2023 (Jayanty Nada Shofa, 2022).

In becoming the Chairman of the ASEAN Summit in 2023, Indonesia discussed ASEAN's priority issues to improve prosperity and peace, to maintain the stability of cooperation in the ASEAN region, one of which is regarding the issue of Myanmar's Human Rights crisis (Jayanty Nada Shofa, 2022). This issue has become prominent again since the military coup in 2021. It is an issue of great concern for

Indonesia, and as the Chair of ASEAN it has worked tirelessly to find a satisfactory resolution to the crises and at the same time increase human rights protection in ASEAN.

The ASEAN Summit can become a powerful strategy for ASEAN to discuss agendas or actions that can be carried out through a comprehensive engagement with all ASEAN member states to create a solution that can be fair for all parties. This is reflected in the statement by President Jokowi “*ASEAN must be a recognized region and uphold humanity values and democracy*” and “*All difficulties must be tackled in the ASEAN way, which is consistent with the spirit of cooperation and fully implements the ASEAN Charter*” (Ministry of Foreign Affairs of the Republic of Indonesia, 2022).

As chair of ASEAN 2023, Indonesia has seized upon the opportunity to provide initiatives for the promotion and protection of human rights that are more progressive and assertive in creating stable conditions which will help stop violence and violations of human rights. The principle of non-interference will not hinder and curtail the aspirations of Indonesia and the other ASEAN member states in creating a stronger and more prosperous ASEAN region.

Therefore, at the 42nd ASEAN Summit from 10-11 May 2023 in Labuan Bajo and the 43rd ASEAN Summit on 5 September 2023 in Jakarta, whereby both Summits were under Indonesian Chairmanship, the Five-Point Consensus was achieved as the main reference in maintaining a conducive environment to provide stable humanitarian assistance. Also, ASEAN will continuously support Myanmar’s efforts to promote harmony among various communities and sustainable development in Rakhine State. In addition, it controls and monitors the repatriation process between Myanmar and Bangladesh to ensure that the people being transferred are safe and secure (ASEAN, 2023b, 2023d).

However, this does not rule out the possibility of a more flexible approach to better overcome these problems, and to get the maximum progress in order to show that ASEAN remains strong and united. Although ASEAN may attempt to implement this non-interference principle with a more open principle, it is a difficult task because the non-interference principle remains unassailable to all the member states of ASEAN (Molthof, 2012). After 1.5 years the Five-Point

Consensus has not made any significant progress, and violence against humanity still occurs in Myanmar. This stalemate has prompted the ASEAN Foreign Ministers to hold a meeting and take appropriate steps in continuing and finalizing each consensus point agreed upon (Ninik, 2022).

The Foreign Minister of Indonesia, Retno Marsudi has reiterated that ASEAN must take firm actions against Myanmar and pressure Myanmar to conform to the Five-Point Consensus (Ninik, 2022). In line with this firm rebuke, ASEAN may bring this problem to a global platform in order to be able to increase pressure on Myanmar and finally stop the humanitarian crisis.

ASEAN's Commitment to Addressing Regional Challenges Through the ASEAN Community Vision 2045

ASEAN's commitment to addressing every issue in the region to enhance stability, a conducive environment, and prevent future challenges is also supported by the development of the ASEAN Community Vision 2045. The 43rd ASEAN Summit adopted the ASEAN Concord IV as a foundation to reflect ASEAN's commitment towards the ASEAN Community Vision 2045 (ASEAN, 2023c). Through this vision, ASEAN will be embracing more inclusive and people-centered values to address every issue and promote sustainable development in the ASEAN community. Therefore, the existence of the non-interference principle should not limit and curtail ASEAN's commitment to dealing with human rights violations in Myanmar. The ASEAN Community Vision 2045 must encourage ASEAN member states to apply firm mechanisms and regulations to combat any form of human rights violations.

CONCLUSION

The principle of non-interference, which is aimed at respecting the sovereignty of countries of ASEAN member states, has contributed greatly to the development of ASEAN. The non-interference principle is about controlling and limiting the actions of each member state in the domestic affairs of another member state. In the current situation, as ASEAN prospers economically and becomes more responsive to democratic values, the existence of this principle provides challenges

for ASEAN as it seeks to play a significant role in resolving the humanitarian crisis in Myanmar. The non-interference principle led to a dilemma for ASEAN countries, whether the organization can spring into action with agile actions and play a significant role to overcome human rights violations that had occurred in Myanmar during the Rohingya crisis in and the Myanmar military coup in 2021.

The principle of non-interference, as this study has underscored, has seriously limited the role and actions that can be carried out by ASEAN to end the atrocities against human rights in Myanmar. This principle has decidedly limited ASEAN member countries to respond quickly and coercively with determined decisions and actions. The humanitarian problem which has arisen as a result of the two crises is one of the crucial issues that requires fast and thorough handling to stop all forms of human rights violations in the ASEAN region. Some democratic countries also have a more open view of non-interference, namely interference within reasonable limits, but this idea is also of less interest because it has the same inconsistent form. Therefore, this principle sometimes has become a challenge for ASEAN in several respects that should be controlled more optimally and progressively.

ASEAN's commitment to overcoming the problems of human rights violations needs to be implemented through the use of diplomatic pressure called constructive engagement. Such commitment to human rights protection in an ASEAN member state, such as Myanmar may need stronger actions through imposing penalties for violating human rights. ASEAN must remain steadfast in its commitment to human rights protection, and this unwavering commitment must be accompanied by its ability to impose economic sanctions on the miscreant member state to stop it from continuing with its unacceptable actions. ASEAN needs to rethink the non-interference principle amid the worsening humanitarian crisis in Myanmar, a point of view already raised by Malaysia's top diplomat.

The principle of non-interference has been discussed and refined several times to suit the conditions and situations that ASEAN has found itself in. This is evident from the several statements issued through the Joint Communique and ASEAN Summit every year. All of these refinement procedures will not conflict with ASEAN's priority interest to maintain the principle of non-interference as a fundamental pledge to managing the relations between member states, respecting

state sovereignty, and maintaining domestic stability. ASEAN could be moved to the new constructive engagement concept as a way to engage Myanmar on the issue of human rights. ASEAN has so far stood its ground in not accepting the concept of humanitarian intervention by deploying military or armed forces in order to protect human rights in the region. However, to be sure a stronger constructive engagement can be adopted as an alternative.

Indonesia, which held the ASEAN Chairmanship in 2023 had an important role to play by addressing and providing initiatives to form strategies to overcome the prolonged Myanmar crisis. While respecting ASEAN principles, Indonesia had been encouraged and well supported by member states to lead and facilitate discussions that respect the ASEAN Way as stated in the ASEAN Charter and TAC. Indonesia as the Chair of ASEAN in 2023 had contributed several times to initiatives to help stop all forms of human rights violations both in the Rohingya case and the Military Coup in ASEAN. For example, in the ASEAN forum 2023, Indonesia attempted to minimize the various impacts of the grave Myanmar crisis in the region. In furthering the goal of achieving the ASEAN Community Vision 2045, Indonesia and the other member states believe that ASEAN must become a more effective and stronger organization in order to bring about stability and prosperity to the region. However, the present study believes that in all seriousness, ASEAN cannot afford to wait until 2045 to create a more conducive and stable situation in ensuring the protection of human rights in the ASEAN region.

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