

The Asean Stance on Human Rights Violations in Myanmar after the Kudeta



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ABSTRACT: The political and humanitarian crisis engulfing Myanmar following the February 2021 military coup has drawn global attention. This article presents a discussion on human rights and ASEAN's approach to the crisis. Since the coup, Myanmar has witnessed a popular uprising against the military regime, with thousands of casualties and widespread human rights violations. ASEAN, meanwhile, is faced with the dilemma between the principle of non-intervention and the protection of human rights. However, ASEAN has maintained a dialogic approach in dealing with the crisis, reflecting its long-held "ASEAN Way". As such, this article highlights how ASEAN deals with humanitarian challenges and how this unique approach sets it apart from Western countries that are more inclined to engage directly.

KEYWORDS: Myanmar, military coup, ASEAN Diplomacy, Human Rights

INTRODUCTION

Since the end of 2019 almost all countries in the world are struggling to deal with the disaster of the Covid-19 outbreak, but the Myanmar military carried out a coup to seize power from the legitimate government held by the NLD (National League for Democracy, the political party led by Aung San Suu Kyi). The NLD won the General Election in 2020 and formed a government under the leadership of President Win Myint and in this government structure Aung San Suu Kyi held the position of State Counsellor. In the February 1, 2021 coup, President Win Myint, Vice President and NLD leaders were arrested and put under house arrest. The coup was carried out because the military alleged that the NLD had committed fraud in the 2020 elections. After declaring a state of emergency, coup leader General Min Aung Hlaing formed the State Administration Council (SAC) as the executive organ of state administration, and he appointed himself as the Chairman of the SAC to help his people.

Since the coup in February 2021, there has been resistance against the military junta in almost every corner of Myanmar. In response to the popular uprisings, the SAC mobilized its military forces to counter these uprisings. Military forces were deployed in various regions and committed various acts of violence against the people. Most of the victims found were almost all shot in the head. The number of people killed by the violence of the military forces from February to August has been more than 1000, including 75 children killed and a thousand children also detained in the violence. Conditions that are also very concerning are experienced by women and children in various regions in Myanmar. In June 2021 the UN General Assembly passed a resolution calling on other countries not to sell weapons to Myanmar at that time.

On the reaction to the Myanmar crisis, the ten ASEAN members are divided. This is the second time the leader of the military junta has been denied participation in Southeast Asian regional meetings. This stance was taken because Myanmar's military junta leaders ignored the April 2021 consensus, and they also rejected the request of ASEAN special envoy Dato Erywan Yusof to meet with NLD leader Aung San Suu Kyi, who has been detained by the Tatmadaw since the coup erupted in February 2021. In the case of the Tatmadaw's massacre of the Rohingya, there was no significant response of rejection or regret from ASEAN. At the time, ASEAN offered humanitarian assistance and helped repatriate Rohingya refugees from Bangladesh. Governments attending summits in Asia in November 2022 should support tougher sanctions and other measures to address widespread abuses by Myanmar's military, Human Rights Watch said today. Governments should agree on new measures to cut off the Myanmar junta's foreign currency revenues and impose embargos on arms and aviation fuel.

The Association of Southeast Asian Nations (ASEAN) will meet November 10-13 in Cambodia for the ASEAN Summit and side meetings with the United States, the European Union, Japan, and other dialogue partners. The summit will be followed by a G20 leaders meeting in Indonesia and a meeting of the Asia-Pacific Economic Cooperation (APEC) group the following week.

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METHOD

The method of writing this journal, data and information collected based on trusted sources on the internet. The data collection techniques carried out, namely, for the discussion of the study, reference data is needed which is used as a reference, where the data will be developed to be able to find all the material so that a conclusion is obtained. The data review is carried out first by conducting a literature study which is an insightful consideration for the author of the concepts included in the writing.

RESULTS AND DISCUSSION

Human rights, according to John T. Rourke, consist of two kinds of rights, namely proscriptive rights and prescriptive rights. Proscriptive rights are basic human rights brought about by birth, such as gender, ethnicity or skin color. The obligation for anyone to respect these birth rights applies to individuals or groups. For example, a company leader only accepts white employees, meaning that the leader violates proscriptive rights. Prescriptive rights relate to basic human rights that must be fulfilled by the state, i.e. the needs that are necessary for anyone to survive in their community. As to which rights should be prioritized, this is still a matter of debate both in academia and in state practice. An alarming case of human rights violations after the end of the Cold War was the genocide of the Bosnian people by Serb and Montenegrin forces during the Balkan conflict. Gross human rights violations that claimed thousands of lives (including Bosnian and Croatian women and children) forced the elites of the countries to choose between three alternatives, namely: First, full non-intervention so that all the blame was placed on the Bosnian army, Serb army and Croatian militia. Second, full-scale military intervention for which the international community would bear responsibility in the event of severe consequences. Third, take action that falls on both sides of the conflict.

Asean and The Principle Of Sovereignty, The tradition of countries in East and Southeast Asia is known to be sovereignty-based. Criticism from neighboring countries is regarded as interference in domestic affairs and violates the principle of non-intervention. When ASEAN was established in 1967, the founding countries were five fully sovereign states. ASEAN was not established as an organization that pursued the goal of protecting human rights. When the establishment of ASEAN was declared in Bangkok, there was no thought of including human rights issues in the objectives of this organization, because the main purpose of ASEAN was formally established as an organization that accommodates economic, social and cultural cooperation. Although formally for economic, social and cultural purposes, the atmosphere of ideological conflict at that time strongly influenced the declaration. The five countries also agreed that ASEAN members reject the existence of foreign bases, and even if there are foreign bases, they will not be used directly or indirectly that will interfere with the development process in member countries. As a result of these unofficial talks, on November 27, 1971, the ASEAN foreign ministers declared that the Southeast Asian region was a Zone of Peace, Freedom and Neutrality (ZOPFAN). The ZOPFAN agreement was implemented in two levels, namely:

- The first level, that Southeast Asian countries must uphold the principle of mutual respect for each other's sovereignty and territorial integrity and not participate in activities that could pose a threat to the security of other countries, either directly or indirectly.
- At the second level, major powers such as the United States, the Soviet Union and China must agree that the Southeast Asian region is a neutral area and for this they must create monitoring instruments to ensure the neutrality of Southeast Asia in the battle between the major powers.

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Treaty Of Amity And Cooperation (TAC): ASEAN WAY, At the first ASEAN Summit in Bali 1976, a non-intervention agreement among member states known as the Treaty of Amity and Cooperation or TAC was agreed upon. Previously, ASEAN had declared its intention to cooperate with two declarations, the Bangkok Declaration as the founding of ASEAN and the Manila Declaration as the agreement for ZOPFAN. In Bali, the principle of respect for the sovereignty of member states was finally set out in the form of a binding agreement, and can be seen as a code of conduct within ASEAN. According to Prasetyono, the TAC includes values, including mutual respect for independence, sovereignty, territorial integrity and national identity; the right of each country to be free from interference from external forces, to resolve differences and disputes peacefully, not to use threats or force and to develop regional cooperation among Southeast Asian countries. The agreement in the TAC contains an affirmation of the principle of non-intervention which is contained in the articles of the treaty. Article 2 and Article 11 explicitly mention the principle of free from external interference. The affirmation of the principle of non-intervention and prioritizing dialogue and conflict management became known as the ASEAN Way, which is a principle or values held by ASEAN to resolve issues in the Southeast Asian region through peaceful means and dialogue. In the early days of the agreement, there were disagreements in its implementation.

ASEAN and Human Rights Issues ASEAN, As its membership grew from five to ten Southeast Asian member states, ASEAN became known as an institution that promotes values and normative procedures for peaceful conflict resolution or the ASEAN Way. On the other hand, globalization and the 21st century internet era have also engulfed Southeast Asian societies, including human rights and democratization issues. Indonesia was one of the countries that had to pay dearly for enduring the bloody riots in 1998 that brought President Suharto to power due to human rights movements and demands for democratization. As proponents of the principle of non-interference, the institutional human rights awareness of ASEAN's elite leaders is arguably overdue. According to Wictor Beyer's 2011 thesis, there is a disconnect between human rights values and the principles of the ASEAN Way. This is due to several factors, namely: first, the Southeast Asian region is a very heterogeneous region, not only the social system and culture, but also the type of political system. There are authoritarian (Indonesia during the New Order, Thailand under the military regime), semi-authoritarian (Malaysia, Philippines and Singapore), religious ideology (Brunei Darussalam) and socialist (Vietnam, Laos, Cambodia and Myanmar) political systems. Second, human rights have always been perceived as a threat to sovereignty and thus considered a domestic issue. Third, human rights, democracy and economic growth are closely linked and play an important role in the development process of Southeast Asian countries. State leaders consider that economic growth must take precedence, and people must be willing to sacrifice for national security and economic growth.

Although late, in response to international developments ASEAN member states finally agreed to declare ASEAN Human Rights at the 2009 Bangkok meeting and also agreed to establish a human rights body at the meeting. This was a major step for ASEAN in responding to internal and external developments after the Cold War. Soon after, ASEAN also established a more specific human rights body for women and children (ACWC / ASEAN Commission on the Promotion and Protection of the Rights of Women and Children). Although ASEAN is considered to have taken some steps forward on human rights issues, both human rights bodies are still considered to have many weaknesses. The Rohingya Muslim massacre and Myanmar's military coup are test cases for ASEAN as to whether the organization still maintains the principle of non-intervention or begins to shift to the demands of R2P. ASEAN's position has always been considered in a dilemma situation regarding human rights issues. As stated above, in response to Myanmar's human rights violations, ASEAN countries are divided into two camps, namely those that support the military junta government (Thailand, Cambodia, Laos, Vietnam), and those that condemn the junta government and human rights violations (Indonesia, Singapore, Malaysia and the Philippines). The stances of Cambodia, Laos, Vietnam and Thailand show reluctance about a tougher ASEAN response to Myanmar. The absence of the Thai PM at the August 2021 meeting was a sign that Thailand did not want to support or be involved in formulating a consensus that would corner the junta government in Myanmar. A similar stance was shown by Vietnam which was explicitly stated by Dang Dinh Quy, Vietnam's Ambassador to the UN who serves as Chair of the UN Security Council. Quy stated that Vietnam opposes international sanctions against Myanmar. Vietnam favors dialogue that includes Myanmar and does not isolate it.

Thus, ASEAN's approach is different from countries that claim to be guardians of human rights. ASEAN continues to prioritize dialogue and seek peaceful solutions. This attitude is considered a code of conduct, as a form of implementation of the ASEAN Way. This concept distinguishes ASEAN from the interventionist approach adopted by Western countries. ASEAN is not in a dilemma between sovereignty and humanity, because ASEAN has its own style in addressing problems in the region. The stance that ASEAN has taken on the issue of human rights violations in Myanmar is not a dilemma, but a consistency. Consistent to continue to seek peaceful means by negotiation rather than conducting frontal hostilities with parties that are considered enemies.

The fact that ASEAN held an extraordinary meeting to discuss the Myanmar issue and issued a statement are significant in that they mean ASEAN has taken at least some kind of action with regard to the prolonged violence in Myanmar. This violence, which followed a coup d'état by the nation's military on February 1 and which has taken the form of a harsh crackdown on citizens protesting the coup, has resulted in numerous deaths. The fact that ASEAN leaders met face-to-face during the pandemic was also something of a demonstration of effective leadership by Indonesia, which originally proposed the meeting. Unfortunately, though,

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when it comes to actually improving a situation that has involved the rolling back of democracy and increasingly severe human rights violations, there are two reasons to question whether the meeting and the decisions it took will prove effective.

The first concern is the lack of agreement among member states over to what extent ASEAN should intervene. While all member states expressed support for the meeting when it was proposed, ultimately Thailand and the Philippines did not attend, citing COVID-19 concerns, and Laos was also a no-show. Of course, if the leaders of these countries had truly been interested, the meeting could have been held in a hybrid online/in-person format. The second concern is that this meeting may ultimately end up endorsing the legitimacy of military rule by the coup plotters. Min Aung Hlaing, the commander in chief of Myanmar's military and the leading instigator of the coup, was at the meeting as Myanmar's representative. For the general, the visit to Jakarta was his first "overseas trip" since taking power. What's more, the Five-Point Consensus contained in the Chairman's Statement made no calls for the release of Aung San Suu Kyi and other pro-democracy figures being held prisoner by the Myanmar military. Sending a special envoy from ASEAN to Myanmar while this situation persists may actual signaling tacit approval for the Tatmadaw's power grab.

Behind all this are the true intentions of ASEAN member states, including those that took part in the meeting. Addressing the principle of non-interference in domestic affairs advocated in the ASEAN Charter, Malaysian Prime Minister Muhyiddin Yassin noted that "that does not mean that we should ignore a serious situation that jeopardizes the peace, security and stability of ASEAN," as defended the prospect of ASEAN stepping in to the Myanmar situation. But an important point here is the wording of "the peace, security and stability of ASEAN," as it appears not to directly include achieving democracy or the protection of human rights. In other words, to the majority of ASEAN countries the most important thing might be "peace" in the sense of maintaining order in Southeast Asia; advancing people's participation in politics and improving or redressing situations in which nations violate the human rights of their citizens might be not part of that.

This reveals the true intentions behind ASEAN's response, namely, that while people using illegal means to seize power and employing coercive methods to forcefully maintain the stability of domestic order are problematic, it is better than a situation where there are ongoing demonstrations by those who oppose an authoritarian regime, leading to a minority-led domestic separatist movement and civil war with the central government that could even spill over into neighboring countries. These "true intentions" may of course work to the benefit of the regime that seized control of the country.

CONCLUSION

On its 54th anniversary, the ASEAN organization faces a severe test with the issue of human rights violations in Myanmar. ASEAN has been firmly positioned as Southeast Asia's version of the mini-UN (little-UN) which is often considered weak but still needed. Human rights are a crucial (and ambiguous) issue for ASEAN member states who have always had the principle of mutual respect and refusal to intervene. In the post-cold war era, the international phenomena that spread across the globe were democratization and human rights, which were considered to represent the liberal way. The development of 21st century communication technology allows events in various parts of the world to spread and be responded to by the entire international community, including the military coup in Myanmar and the repressive response of the junta government in Myanmar.

The repressive actions of the Tatmadaw (Myanmar military) have claimed at least a thousand lives of pro-democracy demonstrators. On the issue of human rights, ASEAN has never taken a hard and firm stance and prefers to continue to dialogue to find peaceful solutions. History has shown that dialogue for peaceful solutions has been the spearhead of ASEAN diplomacy amidst pressure to be tough on human rights violators. This is the code of conduct agreed upon by ASEAN member states in the 1976 TAC agreement. So in addressing human rights violations in Myanmar, ASEAN has developed its own code, which is different from the approach of Western countries. Thus, ASEAN countries are not in a dilemma position, which must choose to respect sovereignty or take action in the framework of the responsibility to protect. ASEAN does not need to choose, because the organization already has the principle of non-interference, which has endured for decades and has become a hallmark of ASEAN.

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