
HUMAN RIGHTS IN ASEAN: A POLITICAL PERSPECTIVE OF ISSUES AND CHALLENGES

Dr. Hina Hassan Khaki

Department of Political Science, Jamia Millia Islamia

Abstract: After about fifty years in existence ASEAN continues to show vitality and dynamism which stands testimony to its success and relevance, but fifty year long journey of ASEAN has not been smooth sailing. ASEAN like other regional organisations has had its share of problems and challenges. One of the biggest problems which ASEAN has been facing is the Human Rights violations in the region. This happens when some citizens of most, if not all, of ASEAN member-states are experiencing some form of oppression by their own governments. Rising authoritarianism has crippled various freedoms that should be universally enjoyed.

In Southeast Asian region nations have experiences of human rights abuses especially Myanmar, Philippines, Malaysia, Laos and Thailand which includes extrajudicial and arbitrary killings, rape, torture, slave labor, enforced disappearances, custodial killings, preventive detention, police intimidation, land grabbing for mega projects, etc.

The paper discusses and analyses human rights abuse which the ASEAN member states have been facing. It discusses the measures taken by ASEAN as an organisation to tackle the Human Rights crisis in the regions like establishment of ASEAN Charter in 2007, the formation of the ASEAN Intergovernmental Commission on Human Rights, and the signing of the ASEAN Human Rights Declaration.

Keywords: Human Rights violations, extrajudicial and arbitrary killings, enforced disappearances, custodial killings and ASEAN Charter

Introduction: Human beings by virtue of their being human possess some basic and inalienable rights which are commonly known as human rights. Human rights are not dependent on such characteristics as race, sex, nationality, language, ethnicity or religion, nor do they depend on a person's presence within the territory of a particular political entity.¹ These rights include, right to life and liberty, right to freedom of expression, right to education, right to work, right to shelter, etc. Because of their immense importance human rights are also referred to as fundamental rights, basic rights, natural rights or birth rights.²

One of the achievements of contemporary international law has been recognition of human dignity and honour. International human rights law provides for the protection and promotion of human rights against the state actions because these rights are essential for the all-round development of the personality of the individuals in the society.³

Background: Association of South-East Asian Nations (ASEAN) was formed on 8th of August 1967, by signing of the ASEAN Declaration also known as Bangkok Declaration. The declaration aimed at promoting regional cooperation on matters of common interest in the economic, social, cultural, technical, scientific, and administrative spheres in order to strengthen the foundation for peace, progress and prosperity in the region.⁴ Today ASEAN serves as one of the best examples of regional integration in the developing world. It has made significant achievements in political, economic, security, and socio-cultural spheres in its fifty years of existence, but ASEAN like other regional organisations has had its share of problems and challenges. One of the biggest problems which ASEAN has been facing is the Human Rights violations in the region. This happens when some citizens of most, if not all, of ASEAN member-states are experiencing some form of oppression by their own governments. Rising authoritarianism has crippled various freedoms that should be universally enjoyed.

Human Rights Violations in Southeast Asia: In Southeast Asian region nations are experiencing human rights abuses especially in Philippines, Malaysia, Laos, Thailand and most importantly in Myanmar.

As per Human Rights Watch there have been reports of extrajudicial killings, torture, enforced disappearances, human trafficking etc. in the *Philippines*. Recently the human rights issue was highlighted in the Philippines by failure of government to deal with the killings and disappearances of Lumads.⁵ Likewise in *Malaysia* the state of affairs so far as human rights are concerned is no better. There are restrictions on freedom of religion, freedom of speech and expression, freedom of assembly, freedom of press and media etc. There are custodial killings, preventive detention, police intimidation, land grabbing for 'mega projects', sedition charges against political activists lawyers and opposition leaders. Of grave concern has been the case of politically motivated prosecution of opposition leader Anwar Ibrahim.⁶ According to the World Report 2016 of Human Rights Watch the situation become worse in 2015 as the government has intensified the repression of opposition leaders, political activists and the media

In *Laos*, right to health, right to free education, right to justice is not available to all. Freedom of expression does not exist and there is no political freedom in the country. A civil society leader namely Sombath Somphone got disappeared and there is still no clue about what happened to him when he was taken by police in a truck at a checkpoint in Vientiane in 2012. The repression campaigns against the religious and ethnic minorities like Lao Hmongs continue in Laos.⁷

In *Thailand* also there seems to be no end to human rights crises under the authoritarian military rule. The media is censored, protests are barred, critical political speech is restricted and dissenters are prosecuted and jailed. The ruling national Council for Peace and Order (NCPO) has committed human rights violations with impunity since May 2014 coup.⁸ In *Indonesia* as well government has failed to protect the rights of religious minorities and women and girls.

In *Myanmar* human rights violations committed by the armed forces, primarily against ethnic minorities, the Rohingyas and the Arakans, have included extrajudicial and arbitrary killings, rape, torture, arbitrary arrests for political reasons, forced labor, forced conscription into the military, denial of freedom of movement, and tight restrictions on press, religion, speech, and assembly.⁹ Rohingya muslims who have been rendered stateless are worst sufferers.

The situation of Rohingya muslims became much alarming after attacks on security posts in the border area of northern Rakhine state of Myanmar on October 9, 2009 killing nine police officers. Since then the troops have created havoc in the regions where Rohingya muslims live. There are reports that thousands of people have been killed, hundreds of women have been raped and a number of villages have been burnt. Even humanitarian aid has been obstructed to them. This raised the trepidations of Human Rights bodies all through the world. Even UN Secretary General, Ban Ki Moon expressed his concern over the troubled situation in Rakhine state when more than 500 supporters wrote to him to make personal efforts in the matter.

On August 30, 2016 while addressing the news conference at Naypyidaw after meeting Malaysian State Counselor Aung San Sui Ki, the UN Chief expressed his happiness about the appointment of nine member advisory commission headed by Kofi Annan to look into human rights issues in Rakhine state.¹⁰ But the human rights abuse still continued in the Rakhine state. As per the latest reports more than 600,000 Rohingya muslims subjected to systematic attacks have been forced to borders.¹¹

ASEAN's Role: There are widespread human rights abuses rampant in the region violating rights of minorities, political activists, children, women, migrants, laborers, press etc. The issue of human rights however has not been matter of much concern for ASEAN initially, the reason being commitment to principles of non-interference and sovereignty espoused by ASEAN.¹² It was only after the world Conference on Human Rights held in Vienna in 1993, ASEAN still a six member grouping, affirmed to

follow the guidelines laid down in Vienna Conference and decided to consider the establishment of an appropriate regional mechanism on human rights.¹³ This commitment was later reiterated in the Hanoi Plan of Action of 1997 and also in the Vientiane Action Program of 2004.

Subsequently ASEAN Charter was signed by leaders of all member states in November 2007 at 13th ASEAN Summit which came into force on December 15 2008. Article 14 of the ASEAN charter explicitly endorsed the commitment of the members to establish the regional human rights body.¹⁴ Accordingly in 2009 the ASEAN Inter-governmental commission on Human Rights (AICHR) was established for protection and promotion of human rights in the region. The AICHR formulated the ASEAN Human Rights Declaration (AHRD) which was unanimously adopted by the all ASEAN members in the summit in 2012 at Phnom Penh and is considered to be a milestone.¹⁵

Conclusion: ASEAN Inter-governmental Commission on Human Rights has been heavily criticized for having no power and being a paper tiger for almost 8 years since its formation. It mainly works on the principles of consultation and consensus among the member-countries who also enjoy veto powers which has had a paralyzing effect on its actions thereby making it difficult for the commission to release reports about a member country's alleged violations. In September 2017, the ASEAN Chairman's Statement released on the humanitarian situation in Myanmar's Rakhine State failed to even mention the Rohingyas. The Rohingya crisis is among the worst human rights catastrophes in Asia in years and demands concerted global action. Moreover effective implementation of ASEAN Human Rights Declaration also remains a crucial challenge for ASEAN. Thus everything that ASEAN has done in the field of human rights is all "very cheap lip service." This is evident in the lack of "meaningful and substantive" human rights policy or actions in its 50-years long history.

To conclude it can be said that ASEAN can only truly serve as an example if it comes out of its lethargic state, empowers its regional human rights body, and gives as much importance to human dignity as it has been doing to its economic growth.

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