

REGIONAL HUMAN RIGHTS AND INTERNATIONAL HUMAN RIGHTS

Outline of today:

The controversy on Asian human rights (or, confrontation between the West and the East (or the North and the South?) about the application of international human rights) had reached a peak at the World Conference on Human Rights in Vienna in 1993. Especially, leaders of Singapore, Malaysia and Indonesia which are considered as typical developmental authoritarian regimes, as well as China expressed harsh criticisms against the "Western human rights." Even though these opinions lacked sufficient scientific theory, given the apparent difference of existence of law and rights between Asia and the West, it might significant to reexamine the controversy. On the other hand, the political change in Asian region aftermath also influenced to human rights situation in the region. In 2007, ASEAN states adapted the "ASEAN Charter" that also referred to the establishment of a "ASEAN human rights body" (para.14). Then, the member states adopted the "Terms of Reference of ASEAN Intergovernmental Commission on Human Rights" in 2009.

In order to discuss the human rights controversy expressed on international instruments, we will compare the three relevant instruments, those are (a) Vienna declaration and action plan, (b) final declaration of the Bangkok preparatory regional meeting for the Vienna conference (Bangkok Declaration) that can be said the "official statement on Asian human rights, and (c) the terms of reference of the ASEAN intergovernmental commission on human rights.

Questions for today:

- What arguments about international human rights are there between western countries and SE Asian countries? And how these difference of opinion are compromised on international human rights instruments?
- How does political change in Asia between 1990s-2000s affect the change of Asian human rights controversy? Or not affected?

1. International human rights in Indonesia

(1) ASEAN countries and international human rights treaties

By third wave of democratization to the Southeast Asia after the end of the Cold war, and the dramatic political change triggered by the Asian financial crisis, the situation of human rights protection of the Southeast Asian countries greatly changed. By the end 1993, only Cambodia, the Phillipines and Vietnam were signatories of the International Covenant on civil and political rights. However, Thai in 1996, Laos in 2000, and Indonesia in 2006 and newly independent Timor Leste in 2003 joined to the Covenant (Laos does not ratify it yet). Whereas, Malaysia and Singapore, and the Myanmar under the military dictatorsip is not join either of human rights treaties. (see Table)

(2) Change of ASEAN's attitude toward international human rights

Marks (1998: 460) -- "the expansion of the international community of states and the decline of European hegemony (both economically and ideologically)

Maznah (2002: 246)

1990-93: The beginning of Difference. In the post-Cold War era, "Asian values" were first asserted to promote Asian capitalism and the efficacy of the developmental state. In terms of major markers, there existed an official position to distance the ASEAN stance from that found in the Universal Declaration

of Human Rights through the 1993 Bangkok Governmental Declaration on Human Rights.

1993-97: A period of great contestation and reassessment. At this time, an active debate was waged between the relativist and the universalist schools of human rights. There was an assertion of Asian and Islamic paradigms as credible counterweights to Western and liberal systems.

1997-2001: The outbreak of the 1997 Asian financial crisis exposed the vulnerability of the "Asian values" school, providing a boost for the proponents of human rights universalism, witnessed by the outbreak of democratization movements in Indonesia and Thailand. In Malaysia, the formation of its national human rights commission was largely prodded by this public sentiment.

2001: The beginning of Doubts. A discourse on "safety and security" following the 11 September 2001 fallout overtook that of "freedom and rights", causing many ASEAN governments to retreat from the hitherto "thawing" receptivity to a human rights commitment.

>> and then?

2. International Human Rights Instruments

(1) Vienna declaration and action plan:

All human rights are (a) universal, (b) indivisible and interdependent and interrelated. The international community must (c) treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the (d) significance of national and regional particularities and (e) various historical, cultural and religious backgrounds must be borne in mind, it is the (f) duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.

points:

universality--> (a)

particularity--> (d) (e)

"human rights" -- paraphrasing "civilization"? (Donnelly 1998)?

Maznah (2002: 246) "In some ASEAN countries, citizenship rights are not of equal worth. Inequality in terms of gender, ethnicity, and religion is still an uncontested legal provision, making human rights advocacy impossible without prior societal restructuring at its most basic but politically taxing level, so as to elicit a minimal premise for human rights acceptance."

interdependency -->(b)

What is the context of "interdependency" ? --> priority rank of human rights

Way of protection and promotion. Responsibility of state and international society --> (f)

Criticism against the "double standard" --> (c)

(2) Bangkok Declaration

What are the Asian governments attitude for issues above mentioned?

(3) Term of reference of ASEAN Intergovernmental Commission on Human Rights

--> significant change of the principle of non-interference.

What changed from the Bangkok Declaration and What remained?

- about the universality of human rights.

- about the responsibility of sovereign state.