Human Security and Human Rights : (Still) contested concepts in ASEAN

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Abstract

If human rights is recognized and legalized by the ASEAN Charter, the term human security was not included. Not only been was it not included in the ASEAN Charter but it has also depoliticized. ASEAN is still reluctant to face the challenge of balancing state and human security.

Not only is ASEAN still facing challenges in balancing state security and human security, any arguments for strong conceptual links between human security and human rights, which has been recognized and mainstreamed by the UN agencies as well as some Western countries, is still problematic. The paper attempts to clarify the different concepts of human security and examine how the concepts have been perceived by ASEAN and

ASEAN member states. It will also try to explain how human security concepts have been put into practice by AMS.

Based mainly on desk research, the paper will first discuss the concepts of human security. It will further look into how ASEAN perceives human rights as well as their "missing links" with human security. The paper will argue that such a missing link is based on ASEANization of human security and misperception of human rights and it makes it difficult for human security to be applied for the benefit of ASEAN people.

Key words: human security, human rights, ASEAN, ASEANization, misperception.

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Introduction

Amidst the criticisms from within and beyond the region, the ASEAN Leaders, on November 18, 2012, signed and adopted the ASEAN Human Rights Declaration, the very first broad based human rights document in the region. Three years earlier, in October 2009 under the Thai chairpersonship, the Cha-am - Hua Hin

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[1] The paper was presented at the ASEAN-Korea Academic Conference on Non-traditional Human Security and Securitization in East Asia: Regional Dynamics and National Differences. Organized by Korean Association of Southeast Asian Studies (KASEAS), ASEAN University Network (AUN), and Universiti Sains Malaysia, 27 - 30 January 2013, Park Royal hotel, Batu Ferringhi, Penang, Malaysia.

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Declaration on the Roadmap for the ASEAN Community (2009 - 2015) was adopted by the 10 ASEAN leaders. The leaders agreed, that "the ASEAN Political-security blueprint, the ASEAN economic community blueprint, the ASEAN socio-cultural blueprint and the IAI work plan 2 (Initiative for ASEAN Integration) (2009 - 2015) shall constitute the roadmap for an ASEAN community (2009 - 2015), and each ASEAN member state shall ensure its timely implementation".[3] The ASEAN leaders in that same Declaration also pledged "their resolve and commitment to promote ASEAN peoples to participate in and benefit fully from the process of ASEAN integration and community building".[4] The adoption of the three blueprints, according to ASEAN, will be instrumental in building the ASEAN community by 2015. This together with the ratification of the ASEAN Charter by all ten member states in December 2008, the establishment of the ASEAN Intergovern-mental Commission on Human Rights in October 2009, the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children in early 2010 as well as the recent adoption of the ASEAN Human Rights Declaration raised the expectations of ASEAN people. They expect that their security and their rights shall be better promoted and protected.

If ASEAN seems to progress towards institutionalizing human rights in the region by giving this value due recognition

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[3] Association of Southeast Asian nations, Roadmap for an ASEAN Community 2009 - 2015, ASEAN Secretariat, Jakarta, 2009, p. 2.

[4] The Cha-am Hua Hin Declaration on the Roadmap for the ASEAN Community (2009 - 2015)

in the ASEAN Charter, the Blueprints as well as in the ASEAN Human Rights Declaration, the notion of human security was missing in those important ASEAN documents. Instead, the discourses of "comprehensive security and non traditional security" were detailed in the Political and Security Blueprint. Moreover, the other aspects of human security were included in two other Blueprints as well as some specific ASEAN official documents, but not human security per se. Not only was human security not included but it has been also depoliticized. ASEAN is still reluctant to face the challenge of balancing state and human security.

The paper attempts to clarify the different concepts of human security and examine how the concepts have been perceived by ASEAN and ASEAN member states. It will also try to explain how human security concepts have been put into practice by AMS. Based mainly on desk research, the paper will first discuss the concepts of human security. It will further look into how ASEAN perceives human rights as well as their "missing links" with human security. The paper will argue that such a missing link is based on ASEANization of human security and misperception of human rights and it makes it difficult for human security to be applied for the benefit of ASEAN people.

Capturing the dynamics of the concepts of human security

Although there is no consensus on the concept and definition of human security, at least it is recognized that the discourse and concept of human security was first introduced by the UNDP in its Human Development Report issued in 1994. In 1999, the Human

Security Network composed of 14 countries from all regions was created. In 2003, the Commission on Human Security published a report entitled "Human Security Now: Protecting and Empowering People" calling for global initiatives and efforts to promote human security. Since the publication of such reports, many more studies, researches, meetings and conferences have been organized around the world. While there is no poverty of literature and policy advocacy papers, the concept of human security is still challenging for many and for Southeast Asian leaders in particular.

The concept of human security has emerged to re-balance debates on security away from an exclusive and excessive focus on the military security of the state and its institutions towards the people whom the state is supposed to and has duty to serve. Since the end of the cold war, calls for reconceptualizing the notion of security are increasingly emphasizing the fact that the focus on military security is too limited. As the Commission on Human Security's report points out, "menaces to people's security include threats and conditions that have not been always classified as threats to state security"[5] National security and human security is not the same thing.

In her article "Revisioning Human Security in Southeast Asia", Mely Caballero-Anthony inquires into three schools of thought of human security. "The first refers to studies that seek to widen the scope of security beyond military security, to include

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[5] Commission on Human Security, Human Security Now, New York, 2003, p. 4.

among others, political, economics, and ecological concerns".[6] The main thrust of this school, she further explained, is to challenge the dominant neo-realist thought that highlights the anarchic international system in which states compete for survival to assure their security.[7] The second school argues against the widening of the security concept and for maintaining the status quo which is to bringing security back within realist and neo-realist school.[8] "The third school belongs to those analysts who not only widen the scope of security concerns beyond the state and military threats, but also seek in the process to achieve the goal of human emancipation".[9] At least, the concepts encapsulated in the first and third schools are well articulated in the reports issued by the UN agencies and a large number of studies that follow while the argument advanced by the second school of thought is well guarded by a number of states in Asia, including Southeast Asia.

The 1994 UNDP Human Development Report starts by stating that, "The world can never be at peace unless people have security in their daily lives. Future conflicts may often be within the nations rather than between them - with their origins buried deep in growing socio-economic deprivation and disparities. The search

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[6] Mely Caballero-Anthony, Revisioning Human Security in Southeast Asia, in Asian Perspective, Vol 28, No.3, 2004, (155 - 189), p. 156.

[7] Ibid.

[8] Ibid.

[9] Ibid, p. 157. The author explains that human emancipation in this context is defined as "freeing the people (as individuals and groups) from the physical and human constraints which stop them from carrying out what they would freely choose to do".

for security in such a milieu lies in development, not in arms".[10]
The report asserts the new dimensions of security to cover not only
narrowly interpreted concepts of "security of territory from external
aggression, or as protection of national interests in foreign policies
or as a global security from the threat of a nuclear holocaust as
it has been related more to the nation-state than the people".[11]
UNDP defines human security as "a child who did not die, a disease
that did not spread, a job that was not cut, an ethnic tension that
did not explode in violence, a dissident who was not silenced.
Human security is not a concern with weapons – it is a concern with
human life and dignity."[12] The broad definition is reflected in two
concepts of freedom namely freedom from fear and freedom from
want which constitute the two components of human security.
UNDP lists the threats to human security in seven main
categories which include economic security, food security, health
security, environmental security, personal security, community
security, and political security.[13] The report calls for the changing
of concept of security in two ways from an exclusive stress on
territorial security to a much greater stress on people's security and
from security through armaments to security through sustainable
human development.[14]

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[10] United Nations Development Programme (UNDP), Human Development Report
1994, Oxford University Press, 1994, p. 1.

[11] Ibid, p. 22.

[12] Ibid.

[13] Ibid, pp. 24 - 25.

[14] Ibid, p. 25.

It is worth noting here that the concept of human security as advanced by the UNDP does not exclude national security or security of state. It links human security and human development that enlarges people's capabilities to shape their own lives. It reaffirms the notion of sustainable development through the concept of food and environmental security. The UNDP, however, makes a distinction between human security and human development in the sense that while human development is the process of widening the people's choices; human security means that people can exercise their choices safely and freely and that they are more or less assured that the opportunities they have today will not be totally lost tomorrow.[15] It links human security with both political and civil human rights as well as economic and social rights. It is seen from the four characteristics of human security as explained by the UNDP namely it is universal, it is interdependent, it is easier to ensure through early prevention, and it is people-centred. The link between human security and human rights shall be examined in the later part of the paper.

The United Nations pursues its commitment to mainstreaming the human security concept in the world. After a Human Rights Security Network initiated by Canada and Norway, the Commission on Human Security was set up in 2000 under the co-chairpersonship of Sadako Okata and Amartya Sen. The Commission was mainly sponsored by the Government of Japan. In the report published in 2003 entitled Human Security Now it further emphasizes the notions of freedom from fear and from want and articulates the notion of

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[15] Ibid, p. 23.

protection and people's empowerment as well as freedom of people to live in dignity. It also stresses the importance of the links between good governance, human rights, and rule of law as reflected in the statement made by the then UN Secretary General that "human security in its broadest sense embraces far more than the absence of violent conflicts. It encompasses human rights, good governance, access to education and health care and ensuring that each individual has opportunities and choices to fulfill his or her own potential…… Freedom from want and freedom from fear and freedom of future generations to inherit a healthy environment – these are the inter-related building blocks of human, and therefore, national security."[16] The report further emphasizes that human security focuses on "people" in four aspects namely

1. its concern is individual and community rather than state;

2. as pointed out earlier menaces to people's security include threats and conditions that have not been always classified as threats to state security;

3. the range of actors expands beyond the state alone;

4. achieving human security includes not just protecting people but also empowering people to fend for themselves.[17]

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[16] Commission on Human Security, Op cit, p. 4.

[17] Ibid.

It is interesting to state that not only was the Commission financially supported by Japan but the concept as introduced in the report has been advocated by the Japanese Government. The report influenced Japan's ODA policies. The Trust Fund for Human Security: For the "Human Centered" 21st Century was established in 1999. Until 2009, the government of Japan has contributed approximately 39 billion JPY (approximately 346.58 million USD) to support hundreds of development projects in more than 100 countries around the world.[18] Japan's position on human security focuses on four priority issues, namely poverty reduction, sustainable growth, addressing global issues and peace building with the main objective to reduce the vulnerabilities faced by people, communities, and countries.[19] The government of Japan has been making human security part of its foreign policies with very strong development and human development aspects in its practice. Most if not all states in Asia seem to be comfortable with the Japan's approach to human security. Many initiatives made in the region have been supported by the Japanese government including the ASEAN-Japan Project on Mainstreaming Human Security which was launched in Japan in March 2009.

When compared with the UNDP's Human Development Report of 1994, the Human Security Now report seems to be more challenging in its articulation of the linkage between human security

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[18] Global Issues Cooperation Division, Ministry of Foreign Affairs of Japan, The Trust Fund for Human Security : For the "Human Centered" 21st Century, August 2009, p. 5.

[19] Ibid, p. 6.

and human rights. Although the report uses the term "supplementary," if we further analyze the report, we could say that human rights becomes a pre-condition of human security as not only "respecting human rights is the core of protecting human security"[20] but inclusion of human rights into human security agendas seems to be inevitable. Moreover, the recognition of both categories of rights as well as international human norms affirms the crucial roles of human rights in ensuring human security. The report attempts to comfort the governments by stating that human security is not to replace state security as it is mutually reinforcing. Human security helps identify the rights at stake in a particular situation. And human rights help answer the question: How should human security be promoted?[21] Another important aspect of bringing human rights closer to human security is the notion of state duties/ obligations which strengthen the claims for human rights and human security.

The introduction of the new notion of human security departs from the classical concept of security which is primarily linked to the issues of sovereignty, borders and territories. The concept shifts the focus from state centered to people centered. The shift suggests that state is not longer the sole reference of the security concept. Moreover, it brings new actors into the arena where state is no longer exclusive. Security is considered as a public good that all humanity is entitled to, therefore, human security is universal, transnational

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[20] Ibid, p. 10.

[21] Ibid.

and interdependent. Although the complementarity between state security and human security is recognized, tension is possible. For Paul M. Evans, "human security raises a challenge to traditional conceptions of national security by changing the referent point and introducing issues and means that extend beyond traditional security strategies. Philosophically, it raises fundamental issues related to conscience, obligations beyond borders, development, and domestic legitimacy. Politically, it raises questions about sovereignty, intervention, the role of regional and global institutions, and relationships between state and citizen. Insecure states almost certainly produce insecure citizens. But more to the point-secure states do not necessarily mean secure citizens."[22]

The most controversial effort to strengthen and protect human security has been the one introduced by the International Commission on Intervention and State Sovereignty (ICISS) established by the Canadian Government in September 2000 and co-chaired by Gareth Evans (Australia) and Mohamed Sanoun (Algeria). The perception of human security of ICISS is reflected in a report published in December 2001. The report entitled "The Responsibility to Protect" was based on research and consultations organized in different corners of the globe. It was initiated in response to a statement made by the then UN Secretary General Kofi Annan before the UN General Assembly in 1999 stating that "…if humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond

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[22] Paul M. Evans, Human Security and East Asia: In the Beginning, in Journal of East Asian Studies 4 (2004), (263 - 284), p. 265.

to a Rwanda, to a Srebrenica - to gross and systematic violations of human rights that affect every precept of our common humanity?"[23] Another statement made by Annan sent the same massage, "The world cannot stand aside when gross and systematic violations of human rights are taking place with grave humanitarian consequences."[24] He argued that the aim of the United Nations is to protect individual human beings, not to protect those who abuse them. Although Kofi Annan did not mention human security, because of made the fact that he made human rights an overarching concept of human security, the report has been perceived as a response to human security challenges, one of which is the question of state sovereignty and humanitarian intervention. Questioning the absoluteness of state sovereignty and proposing the new concept of responsibility to protect (R2P) provoked many strong reactions and rejections from a large number of states.

The main thrust of the report of ICISS is to shift the paradigm from humanitarian intervention to responsibility to protect and to re-interpreting the concept of state sovereignty in a situation in which human rights and human security is seriously at stake. It's about protecting people from mass atrocities. Although the report reconfirms the "people-centered" or people first approache which is not different from Japan's conception of human security, it aims to challenge the traditional conception of

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[23] ICISS, The Responsibility to Protect, Canada, 2001, p. VII.

[24] Quoted by M. C. Abad, Jr., The Challenge of Balancing State Security with Human Security, Paper presented at the 9th Harvard Project for Asian and International Affairs Conference, Beijing, 27 - 30 August 2000, para. 4.

state sovereignty. The report does not dismiss the principle of state sovereignty in international relations, emphasizing, however, that sovereignty is responsibility. Responsibility has dual notions, one is external, which is to respect the sovereignty of other states, and another is internal, which is respecting the dignity and basic rights of all people within a state. The responsibility to protect implies both solidarity and liability. The concept of R2P embraces three specific responsibilities, responsibility to prevent, responsibility to react, and responsibility to rebuild.[25] Both responsibilities to prevent and to react, as specified in the report, do not rule out the use of force nor international involvement. "… the conflict prevention is not merely a national or local affair. The failure of prevention can have wide international consequences and costs. Moreover, for prevention to succeed, strong support from international community is often needed, and in many cases may be indispensable….In some cases international support for prevention efforts may take the form of inducements; in others, it may involve a willingness to apply tough an perhaps even punitive measures."[26] The report goes further to stress that "by showing a commitment to helping local efforts to address both root causes of problems and their more immediate triggers, broader international efforts gain added credibility-domestically, regionally, and globally. This credibility is especially important when international action must go beyond prevention to reaction, and especially when that reaction necessarily involves **coercive**

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[25] ICISS, p. XII.

[26] Ibid, p. 19.

measures, and ultimately the use of armed force".[27] The use of force was repeatedly stated in the report. The Responsibility to Protect implies above all else a responsibility to react to situations of compelling need for human protection. When preventive measures fail to resolve or contain the situation, then interventionary measures by other members of the broader community of states may be required. These coercive measures may include political, economic or judicial measures, and in extreme cases - but only extreme cases - they may also include military action."[28] The report provides the criteria for intervention by the use of force which is based on just cause, right intention, last resort, proportional means, and reasonable prospects for success.[29]

The most contested concept of R2P is international intervention especially through military means. Some advocate for the use of such a measure while others reject it. David Chandeler argues that "it is not conceptually possible to consider R2P in terms of prevention, but the focus should shift from prevention to international consensus on coercive action."[30] Gareth Evans, the former co-chair of the ICISS, amidst criticism, reacts to what he calls "conceptual confusion" by stating that R2P does not exist

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[27] Ibid, emphasis added.

[28] Ibid, p. 29.

[29] Ibid, see details pp. 32 - 37.

[30] David Chandeler, Unravelling the paradox of responsibility to protect, in Irish Studies in International Affairs, 20 (2009), p. 33 quoted in Oili Alm and Tapio Juntunen (eds.), Human Security: Perspectives and Practical Examples, The Civil Soceity Conflict Prevention Network, p. 36.

"only in the minds of western imperialist" which interprets R2P only in terms of humanitarian intervention and the use of military power. For him, this understanding is not right since the use of military power is an ultimate option, a last resort to mass atrocities.[31] In spite of intensive criticisms and rejection, the principle of R2P was endorsed by the UN World Summit in September 2005. The World Summit outcome presented R2P under the rubric of human rights as well as human security. The UN Security Council first mentioned and endorsed the principle of R2P in Resolution 1674 (2006) and with resolution 1706 (2006), and later relates the concept to some specific conflicts in Darfur and Libya in particular. It is important to note that in September 2012, the General Assembly adopted by consensus resolution 66/290 entitled "Follow-up to paragraph 143 on human security of the 2005 World Summit Outcome" in which Member States agreed on a common understanding of human security. This seminal achievement marks the first time that the Assembly has agreed on a common understanding of human security after seven years of discussion. The consensus agreement paves the way to formally apply human security within the work of the United Nations.

It is because of the different interpretations and different approaches of human security as well as its political aspect which is based on freedom from fear as well as its links to human rights and international intervention, that the concept of human security is still not taking roots in some regions, especially in Southeast Asia.

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[31] Oili Alm and Tapio Juntunen (eds.), Ibid, p. 37.

Human Rights in ASEAN: A Misperception.

Human security and human rights do not mean the same thing nor are they overlapping concepts. They are separate ideas and have separate functions. However, an argument for strong conceptual links between human security and human rights can be made. In fact, different reports studied earlier clearly show not only the conceptual links but also the practical necessity to link them. Moreover, if we look at the historical grounds of both human rights and human security, we see that the core idea was found in the Four Freedoms proclaimed by Franklin D. Roosevelt in his State of the Union Address on 6 January 1941. Roosevelt's vision of a world founded upon four essential freedoms–freedom of speech, freedom of religion, freedom from want and freedom from fear – was to become one of the cornerstones of the new United Nations and became the basis of development of international human rights standards with UDHR as the founding document of human rights followed by many other international human rights treaties.

What is interesting in this case is whether or not ASEAN and ASEAN member states want to make this conceptual link, how actually ASEAN perceives the two concepts and if there are any misperceptions. This section will address the human rights perception of ASEAN before looking into how human security has been reflected and practiced in ASEAN and what are the conceptual tensions in both human rights and human security concepts in ASEAN.

Studying ASEAN perceptions of human rights[32] is to understand how ASEAN leaders view human rights. According to Tommy Koh "[there was no] issue that took up more of our time, [no issue] as controversial and which divided the ASEAN family so deeply as human rights."[33] It was recognizing thus far that "much of ASEAN's credibility and attraction to the outside world was built on the economic success of many of its members. . . . ASEAN's other strong points were the stability in the region and a good measure of cohesion among its members."[34] These comments are still relevant today and most understand that such success and cohesion are based on at least two pillars, which include the written norms of non-interference and the principle of consensus. These founding principles were stated in the 1976 Treaty of Amity and Cooperation in South East Asia and are clearly repeated in the ASEAN Charter.

Three of the principles stipulated in article 2, paragraph 2, emphasize: respect for the independence, sovereignty, equality, territorial integrity and national identity of all ASEAN member

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[32] This part of the essay is based on the author's paper entitled "The Human Rights Body : A Test for Democracy Building of ASEAN**"** submitted and published by IDEA, 2009.

[33] Prof. Tommy Koh is Ambassador-at-Large and Director of the Institute of Policy Studies, Ministry of Foreign Affairs, Singapore. He gave a talk at the Seventh Workshop on an ASEAN Human Rights Mechanism, 12 - 13 June 2008 in Singapore. Bracket added.

[34] Simon SC Tay and Jesus Estanislao, The Relevance of ASEAN : Crisis and Change in Simon SC Tay, Jesus Estanislao and Hadi Soesastro, eds, **A New ASEAN in a New Millennium***,* CSIS, Jakarta, 2000, p. 14

states; non-interference in their national affairs; and respect for the right of every member state to lead its national existence free from external interference, subversion and coercion. ASEAN has long emphasized that the promotion and protection of human rights by the international community must recognize national sovereignty, national borders and non-interference in another state's affairs. ASEAN views human rights as an internal affair. Nevertheless, events since the early 1990s, especially since the advent of ASEAN 10, have provided difficulties for ASEAN in dealing with new challenges. ASEAN is still divided on the issue of human rights. It is hard to imagine how these differences could be bridged by those countries, Singapore in particular, which promote **'Asian values'**. This observation is confirmed by Tommy Koh's advocacy of a "human rights definition in an ASEAN context."[35]

The inclusion of human rights clauses in the Charter does not help ASEAN to develop a human rights discourse or to change its perception of human rights. Koh reminds us of the perceptions of ASEAN governments, which are reflected in official documents such as AMM Joint Communiqués. First, ASEAN governments perceive that human rights are not universal. While ASEAN leaders accept the concept of the universality of human rights they argue that there are differences between international human rights standards and practices in the region. For ASEAN, human rights are shaped by each society's specific history, traditions, cultures

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[35] Ibid.

and religions. All these elements form the basis for social values.[36] This idea is reflected in the joint communiqué of the 25th AMM in 1992: "basic human rights, while universal in character, are governed by the distinct culture and history of, and socio-economic conditions in each country, and that their expression and application in the national context are within the competence and responsibility of each country."[37] This discourse was repeated by Singapore's foreign minister at the 1993 World Conference on Human Rights in Vienna when he emphasized that "universal recognition of the idea of human rights can be harmful if universalism is used to deny or mask the reality of diversity."[38] The same was reiterated by Prime Minister Hun Sen in 2006 when he said that "there is no such universality and international standard. Each country has its own standard."[39]

Second, one category of rights is prioritized over another. Some ASEAN governments are not comfortable with the concept of the indivisibility of human rights. Many prefer advocating for economic, social and cultural rights rather than political and civil rights. ASEAN claims that political rights and civil liberties

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[36] Carolina G.Hernandez, quoted in Sunsanee Sutthisunsanee, **Response of ASEAN to Human Rights Violations in Southeast Asia : Case Studies of Cambodia and East Timor**, MA Thesis in Human Rights, Mahidol University, 2006, p. 22.

[37] Joint Communiqué of the 25th ASEAN Ministerial Meeting, 21 - 22 July 1992, Manila, paragraph 18.

[38] Amartya Sen, **Human Rights and Asian Values**, 16th Morgenthau Memorial Lecture on Ethics & Foreign Policy, 1997, p. 9.

[39] Statement by Prime Minister Hun Sen during the meeting with the Working Group, 26 September 2006, Siem Reap, Cambodia.

could be a hindrance to economic development and social or public order. There has always been a trade-off in which economic, social and cultural rights have been given priority over political and civil rights. Leaders of ASEAN seem to agree with Jieng Zemin, the then Chinese leader, who said that "rights of the survival of China's population are more important than political rights."[40] They are reluctant to admit that violations of one set of rights will impact others. Examples demonstrate that violations of economic, social and cultural rights are often the result of the political system. In ASEAN the typical sequence of development is first economic take-off and then political freedoms.

Third, in most ASEAN countries there has been more concern with order and discipline, and more concern with duties than with rights. A citizen has responsibilities towards his or her society. Many ASEAN governments believe that individual rights must give way to the demands of national security and economic growth. They believe that duties or responsibilities to the state and to other citizens come before the need to respect individual human rights.[41] In this regard, the former Prime Minister of Singapore, Lee Kuan Yew, said in 1993 that "the society has always been more important than the individual. I think that is what saved Asia from greater misery."[42]

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[40] Joanne R.Bauer and Daniel A.Bell, eds, **The East Asian Challenge for Human Rights**, Cambridge University Press, 1999, p. 75.

[41] Vitit Muntarbhorn cited in Sunsanee Sutthisunsanee, op.cit, p. 23.

[42] Michael R.J.Vatikiotis, **Political Change in Southeast Asia: Trimming the Banyan Tree**, London, Routledge, 1996, p. 96.

Fourth, as is noted above, since its inception the working principles within ASEAN have been based on non-intervention and freedom from external interference in any form or manifestation in order to preserve their national identities. These principles have been confirmed and reconfirmed throughout the history of ASEAN. Article 2 of the Treaty of Amity and Cooperation in South East Asia provides guiding principles for ASEAN members in their relations with one another that they all adhere to: (a) mutual respect for the independence, sovereignty, equality, territorial integrity and national identities of all nations; (b) the right of every state to lead its national existence free from external interference, subversion and coercion; and (c) non-interference in the internal affairs of one another.

The former Thai Minister of Foreign Affairs, Surin Pitsuwan, who ended his term as the ASEAN Secretary General in December 2012, and Anwar Ibrahim, the former deputy Prime Minister of Malaysia, have proposed the concepts of constructive engagement and flexible engagement, respectively. Surin said in 1998 that "it is time that ASEAN's cherished principle of non-intervention is modified to allow it to play a constructive role in preventing or resolving domestic issues with regional implications . . . when a matter of domestic concern poses a threat to regional stability, a dose of peer pressure or friendly advice at the right time can be helpful."[43] Other ASEAN member states have rejected these ideas. In his paper presented in 1999 to the Asia-Pacific Roundtable, Termsak Chalermpalanupap points out that the "ASEAN way will continue to adapt to the changing situation, but its key principles, specifically of non-intervention,

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[43] Quoted in Sutthisunsanee, 2006, p. 26.

will not change." For him, "there is no valid reason to change something that has worked successfully for over three decades in ASEAN."[44]

There has been little observable change in stance in the period since 1999. Prime Minister Hun Sen affirmed this not only in the debate on universality and particularity but also on the non-interference principle by saying that "Many Asian countries advocate state sovereignty and non-interference in internal affairs. No state can dictate and make judgments on others about human rights. Foreign policies should not be linked to human rights."[45] All these principles are enshrined in the ASEAN Charter. A reconciliation between the principle of human rights and that of non-interference is not foreseeable in the near future. When Myanmar was hit by Cyclone Nargis in May 2008, ASEAN was torn between the principle of human rights and the principle of non-interference.

Resistance to the universal concept of human rights, a trade-off between two categories of rights as well as rights and duties, and the strict principle of non-interference in internal affairs have prevented ASEAN from setting out any clear human rights policies or including any human rights elements on their cooperation agenda. Until recently, ASEAN was more at ease with using other terms for human rights in official texts. ASEAN vision 2020 confirms

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[44] Mr. Termsak from Thailand has been special assistant to the ASEAN Secretary General and works full time at the ASEAN secretariat. Quoted in Sutthisunsanee, p. 24.

[45] Statement by Prime Minister Hun Sen (note 37).

this observation.[46] However, this document, in essence, includes all categories of human rights, be they political, civil, economic, social or cultural, as well as the right to development.

The inclusion of the ASEAN Human Rights Body in article 14 of the ASEAN Charter is the fruit of more than a decade of engagement between civil society and ASEAN. It is, however, an act of compromise in the sense that it was put as a **"body"** without any specific name. The ASEAN Human Rights Body provided for in article 14 of the ASEAN Charter has no specific time frame for its establishment. Nevertheless, with the efforts of a few AMS, the ASEAN Intergovernmental Commission was finally established in 2009. Unfortunately, the Commission is not equipped with monitoring and/or investigative powers. It can not reconcile the principle of non-interference in internal affairs with that of the protection of rights. It will not work with an accusatory approach, meaning no naming and shaming; rather, it upholds ASEAN traditional principles emphasizing taking into consideration the different histories and circumstances of member states. In a statement, Raymond Lim, Singapore's Second Minister for Foreign Affairs, proposed at least two broad criteria for establishing an ASEAN Human Rights Body, two of which emphasized that it "must recognize the political history and policy of established ASEAN tradition; can only be achieved with an evolutionary approach."[47] The TORs of the AICHR reflects all those criteria.

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[46] ASEAN Vision 2020 adopted in Kuala Lumpur in 1997.

[47] Raymond Lim, Singapore's Second Minister for Foreign Affairs, Statement delivered during the opening of the 7th Workshop on the ASEAN Human Rights Mechanism, 12 - 13 June, 2008, Singapore.

The ASEAN Human Rights Declaration, which was adopted in November 2012, is just another reflection and confirmation of the ASEAN perception of human rights. It took AICHR quite some time to agree on the section covering civil and political rights. The section on economic, social and cultural rights, although easier, also contains some limitations. The notion of national sovereignty was pronounced throughout the text in the form of reference to national laws, inclusion of limitation clauses emphasis on the responsibilities of individuals vis-à-vis society and state and the direct reference and repetition of the principle of non-interference in internal affairs. Although ASEAN shows some political commitments and we could take the adoption of the AHRD as another step towards the development of human rights regimes in ASEAN, one has to be realistic that any steps towards effective human rights mechanisms and stronger human rights standards shall be slow.

ASEANization of Human Security

"[The region] still spends too much on military and national security, and not enough on human security," Vitit Muntarbhorn[48]

What was said by Vitit remains true in a sense but may not be that all accurate. Looking at the broad concept of human security, some ASEAN countries are trying to balance the spending of all aspects, with some success, to certain extent. It is, however, true that the AMS still can not balance national security with human

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[48] Quoted by Pravit Rojanaphruk , Human Rights in Asean Seen as a Paper Tiger, The Nation, October 15, 2010.

security and that the notion of human security is still viewed with suspicion by the AMS.

The examination of the Roadmap for an ASEAN Community 2009-2015, the Political and Security Blueprint in particular, reveals that although some aspects of the concept of human security are recognized, the discourse of human security is not welcome by ASEAN. The Blueprint identified "A cohesive, peaceful and resilient region with shared responsibility for comprehensive security." The Blueprint explains that "In building a cohesive, peaceful and resilient political security community, ASEAN subscribes to the principle of comprehensive security, which goes beyond the requirements of traditional security but also takes into account non-traditional aspects vital to regional and national resilience, such as economic, socio-cultural, and environmental dimensions of development. ASEAN is also committed to conflict prevention/confidence building measures, preventive diplomacy, and post conflict peace building."[49] The non-traditional security issues as specified by the Raodmap include, in particular, combating transnational crimes and other transboundary challenges i.e. human trafficking and smuggling, sea piracy, drug free ASEAN, small arms and light weapons, criminal justice system, countering terrorisms, disaster management, and other urgent issues which may affect ASEAN. It is noticeable that most elements proposed in the concept of human security advanced by the UNDP are covered by the roadmap except political security, clear principles of governance, democracy nor rule of law.

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[49] Association of Southeast Asian nations, Roadmap for an ASEAN Community 2009 - 2015

The ASEAN Blueprints reflect ASEAN's perception of human security and how security has been perceived. Alfred Gerstl, in his article entitled "The Depoliticization and ASEANization of Human Security in Southeast Asia: ASEAN's Counter-Terrorism and Climate Change Policies" noted that although ASEAN, since the end of cold war has come to adopt a more people-oriented understanding of security, spreading awareness of non-traditional transnational security threats since the mid-1990s – and especially since the Asian Financial Crisis (AFC) of 1997/98 – has, however, led the Southeast Asian regimes to acknowledge as a *political* necessity the need to furnish human security to their citizens, atop of socioeconomic development. Examples are the blueprints for the East Asian Community (Bali Concord II), in particular the Political-Security Community (APSC), and the ASEAN Charter. Nevertheless, he argues that the stronger focus on human security in the official Southeast Asian security discourse does not reflect a fundamental conceptual or political shift, but is rather a logical evolution of the neorealist, state-centric interpretation of politics in Southeast Asia. He claims that the governmental securitisers still regard comprehensive and human security primarily through an established frame of reference "neorealist state-centrism and regime legitimacy", enshrined in the ASEAN Way with its emphasis on sovereignty, noninterference, and consensual decision-making in the context of political stability and, not least, regime legitimation.[50] He further shows that even

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[50] See detail in Alfred Gerstl in his article entitled The Depoliticization and "ASEANization" of Human Security in Southeast Asia: ASEAN's Counter-Terrorism and Climate Change Policies, Working paper, prepared for Standing Group on International Relations, 7th Pan European International Relations Conference, Stockholm, 9 - 11 September, 2010, p. 32.

though the evolving notion of more people-oriented security in Southeast Asia is broad and comprehensive, it is nevertheless fragmented. The regimes and ASEAN emphasize the non-political dimensions of human security, e.g. socioeconomic and human development. Overall, they seem to frame security under the principles of the ASEAN Way, i.e. in the context of national and regime security He defines this specific framing of security as "ASEANization". The comprehensive security is a state-centric, top down rather than an individual security, bottom up approach.[51] Alfred Gerstl came up with some observations which reflect the way ASEAN has been working until now.

He observes that;

1. "The states that founded ASEAN in 1967 aimed to insulate themselves from interference, whether from their neighbours or "from great power maneuverings" thus protected, the members hoped to facilitate their own self-strengthening through socioeconomic development and nation-building."[52] This is what ASEAN has been aiming for since its inception.

2. "The Asian Financial Crisis in 1997, the Severe Acute Respiratory Syndrome (SARS) epidemic in 2003, the tsunami in 2004 and cyclone Nargis in 2008 laid bare the inadequacy of ASEAN's "reactionary regionalism" as a means of responding to emergencies. Yet these calamities can also be said to have crucially furthered the priority on human security in Southeast Asia. The popularization of human security as a regional goal has

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[51] Ibid.

[52] Ibid.

already "changed the way the ASEAN states, both individually and collectively, perceive and respond to security challenges".[53] However, notwithstanding this shift in attention, human security as a regional policy goal is still substantially challenged by traditional state-centred notions of security." Human security discourse is still overshadowed by the comprehensive security with some missing political components. This is reflected in the next observation.

3. "Combining "freedom from fear" with "freedom from want", human security touches on safety, on politics, and potentially on democracy as well. The implementation of such a broad concept could adverse affect the security of the region's non-democratic regimes. Empowered people become more aware of their need for human rights, political participation and open political discourse. (sic) The more Southeast Asian governments realize this danger, the harder they may try to mitigate such impacts by reconstrucing human security in less overtly political terms."[54]

The observations made by Alfred Gerstl are shared by most if not all experts on Southeast Asia such as Amitav Archarya, Mely Caballero-Anthony, Stephen Campbell, Lee Jones, etc in the sense that ASEAN, until now, has not changed its tune. Instead, it still insists on state sovereignty and non interference in internal affairs; although advocating for people-oriented approaches but hesitating to engage with civil society, suspicious of the exercise of freedoms and political rights by the people, etc. The recognition and legalization of human rights still does not translate into better protection of the human rights of ASEAN people. It is clear that ASEAN is not

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[53] Ibid.

[54] Ibid.

comfortable with linking human security and human rights, therefore, attempting even to avoid to employ the discourse.

Conclusions

In principle, one can comfortably say that there is no confusion and contestation of the links between human rights and human security at the international level, but the controversies are more pronounced at the regional level. Since the 1990s, the security discourses were offered an alternative or seen from a much broader view but, in Asia, Southeast Asia in particular, such thinking seems uncommon. The concept of comprehensive security has been around since the 1980 but the way security has been conceptualized in ASEAN seems rather different from what we see at the international level. Two essential points need to be underscored, namely the importance placed on the regime stability and the emphasis given to economic development as major means or instruments to bring about domestic stability. Consequently the discourses on security regard state as the only reference. So far, the security approach of ASEAN focuses more on norms building, building trust and confidence. ASEAN's security approaches are remarkably low key as they emphasize the habits of dialogue, observance of regional norms, and building of informal institutions to support process oriented approaches.[55] This is what we see from policy documents like the ASEAN Roadmap.

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[55] Mely C. Anthony, Regionalisation of Peace in Asia: Experiences and Prospects of ASEAN, ARF and UN Partnership, Working Paper Series No. 42, January 2003, http://www.rsis.edu.sg/wp-content/uploads/rsis-pubs/WP42.pdf, accessed 10 January 2013.

Ideally and as confirmed by different studies, state, i.e. national and regime security, and human security are complementary. Yet, "there remain conceptual and political tensions which make it difficult to implement the holistic notion of human security. Due to state-centrism and output legitimacy, the very concept of human security represents a political challenge in Southeast Asia." [56] Human security "is a security, political and democratic concept alike, with a strong individual connotation. The implementation of a notion of human security that encompasses human rights and democracy can therefore have adverse effects on the regime security of the region's non-democratic states. Empowered people become aware of their need for human rights, political participation and an open political discourse."[57] The Southeast Asian governments, however, realize that both implementing the holistic concept of human security and not addressing human security can have negative repercussions on their regime stability.

But how ASEAN views human security is quite telling. The ASEAN Charter fails to clarify its security concept. Human security and non-traditional security are not even mentioned. So, rather than stressing the human rights and democratic aspects of the human security concept, ASEAN puts emphasis on the provision of socioeconomic and human development, the eradication of poverty, the implementation of long-term reforms in the economic, social and education sectors and on the requirement of a broad,

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[56] Alfred Gerstl, Ibid.

[57] Alfred Gerstl, Ibid.

inclusive but non-political dialogue with all stakeholders. This approach can foster regional cooperation, as it is easier to achieve consensus on a non-political matter.

It is unfortunate that "the human security approach becomes incompatible with regional security when it challenges certain patterns of resource allocation that favour military security and obsession with defending national frontiers. It becomes objectionable when it threatens power structures that entrench the dominance of a few."[58] "Human security is incompatible with regional security when the concerns and priorities of regional civil society are not shared by the political and bureaucratic elites. They are incompatible when regional alliance building of the civil society is threatening the narrow and self-serving interpretation of the principle of non-interference in the internal affairs of states. Incompatibility arises when greed, corruption and the threat or use of force characterize national and regional governance."[59]

The establishment of an ASEAN Intergovernmental Commission on Human Rights as provided for by the ASEAN Charter as well as the adoption of ASEAN Human Rights Declaration is one of the best ways to test democracy building in the region. Democracy requires that those affected by any actions of commission or omission should be allowed to participate, and that those who have committed transgressions should be held accountable to the citizens for their acts. One of the most important functions of

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[58] M. C. Abad, Jr., Op Cit, para. 26.

[59] Ibid.

human rights machinery is to hold human rights violators accountable not only at the national but also at the regional level. The human rights regime must be there to ensure the protection of rights and security of all (ASEAN) people.

Moreover, ASEAN must agree on a road map to become a community of open societies as envisaged in the ASEAN Vision 2020. It should strengthen the existing regional mechanism for the protection and promotion of human rights. In the light of the increasing regional interdependence and interconnections, ASEAN must forge a consensus on the broader meaning and application of the principle of non-interference in the internal affairs of one another. A balanced pursuit of state and human security can create an environment favourable for each other's mutual reinforcement and advancement. No less than fundamental changes in the political structures and mindsets at the national level are required to achieve such regional imperative.[60] A paradigm shift is required if ASEAN is to care for the people.

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[60] M. C. Abad, Jr., Ibid, para. 41 - 42.

Bibliography

Abad, M.C. Jr., *The Challenge of Balancing State Security with Human Security,* Paper presented at the 9th Harvard Project for Asian and International Affairs Conference, Beijing, 27 - 30 August 2000.

Association of Southeast Asian nations, *Roadmap for an ASEAN Community 2009 - 2015,* ASEAN Secretariat, Jakarta, 2009.

Bauer, Joanne R. and Daniel A. Bell, eds, *The East Asian Challenge for Human Rights,* Cambridge University Press, 1999.

Caballero-Anthony, Mely, *Revisioning Human Security in Southeast Asia, in Asian Perspective,* Vol 28, No. 3, 2004, pp.155 - 189.

Chandeler, David, *Unravelling the paradox of responsibility to protect,* in Irish Studies in International Affairs, 20(2009).

The Cha-am Hua Hin Declaration on the Roadmap for the ASEAN Community (2009 - 2015)

Commission on Human Security, *Human Security Now,* New York, 2003.

Fund for Human Security: For the "Human Centered" 21st Century, August 2009.

Gerstl, Alfred, *The Depoliticization and "ASEANization" of Human Security in Southeast Asia: ASEAN's Counter-Terrorism and Climate Change Policies,* Working paper, prepared for Standing Group on International Relations, 7th Pan European International Relations Conference, Stockholm, 9 - 11 September, 2010, 32 p.

Global Issues Cooperation Division, Ministry of Foreign Affairs of
Japan, The Trust

ICISS, *The Responsibility to Protect,* Canada, 2001.

Joint Communiqué of the 25th ASEAN Ministerial Meeting, 21 - 22
July 1992, Manila, paragraph 18.

The nation, January 15, 2013

Oili Alm and Tapio Juntunen (eds.), *Human Security: Perspectives
and Practical Examples,* The Civil Soceity Conflict Preven-
tion Network

Pravit Rojanaphruk, Human Rights in Asean Seen as a Paper
Tiger, *The Nation,* October 15, 2010.

Sen ,Amartya, *Human Rights and Asian Values,* 16th Morgenthau
Memorial Lecture on Ethics & Foreign Policy, 1997, p. 9.

Sriprapha Petcharamesree, *The Human Rights Body: A Test for
Democracy Building of ASEAN,* Paper submitted and
published by IDEA, 2009.

Sunsanee Sutthisunsanee, *Response of ASEAN to Human Rights
Violations in Southeast Asia: Case Studies of Cambodia
and East Timor,* MA Thesis in Human Rights, Mahidol
University, 2006.

Tay, Simon SC, Jesus Estanislao and Hadi Soesastro, eds, *A New
ASEAN in a New Millennium,* CSIS, Jakarta, 2000.

United Nations Development Programme (UNDP), *Human Develop-
ment Report 1994,* Oxford University Press, 1994.

Evans, Paul M., Human Security and East Asia: In the Beginning, in *Journal of East Asian Studies* 4 (2004), pp. 263 - 284.

Vatikiotis, Michael R.J., *Political Change in Southeast Asia: Trimming the Banyan Tree,* London, Routledge, 1996.