



ASEAN INTERGOVERNMENTAL COMMISSION ON HUMAN RIGHTS (AICHR) AS LIMITED NORM LOCALIZATION IN ROHINGYA HUMAN RIGHTS PROTECTION

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Abstrack

This study analyzes how the ASEAN Intergovernmental Commission on Human Rights (AICHR) functions as an outcome of limited norm localization in the protection of human rights for the Rohingya ethnic group. Employing Acharya's (2004) norm localization theory, the study traces the process of adapting global human rights norms into the ASEAN framework, which faces challenges due to the principles of non-interference and state sovereignty among member countries. The findings reveal that although AICHR was established to promote and protect human rights, it faces structural and functional limitations. its consultative mandate, absence of investigative mechanisms, and the dominance of the ASEAN Way, particularly consensus and non-intervention, render AICHR ineffective in responding to the Rohingya crisis. Analysis through the four stages of localization (contestation, local initiative, adaptation, and amplification) indicates that AICHR functions more as a symbolic commitment to human rights within ASEAN rather than as a genuine protective mechanism. The study concludes that without mandate reform and adjustments to ASEAN principles, AICHR will continue to fall short in addressing systematic human rights violations such as those experienced by the Rohingya. This implies the need for a redefinition of global human rights norms that are more contextually grounded in regional values.

Keywords: AICHR, ASEAN, Human Rights, Norm-Localization, Rohingya.

Introduction

In the study of international relations, the debate between liberalism and constructivism is the center of attention, describing two different approaches to understanding the

dynamics of relations between states. Liberalism, with its focus on international institutions, cooperation, and democratic values, promotes the idea that cooperation and peace can be achieved through the establishment of institutions that encourage dialogue and negotiation. Meanwhile, constructivism emphasizes the important role of identity, norms, and perceptions in shaping the behavior of states with the belief that changes in international relations are triggered by changes in norms and perspectives (Kauppi & Viotti, 2020). International organizations such as the United Nations (*UN*) in the debate space of liberal experts are often seen as important pillars in maintaining world peace by highlighting the UN's role in coordinating humanitarian aid, providing a platform for negotiation, and promoting universal values such as democracy and human rights. However, on the constructivist side, international organizations are seen as more than just practical forums for negotiation. They emphasize the important role of organizations in shaping international norms, changing perceptions of security, and influencing the way states interact. Then, they also highlighted that national identity, perceptions of security threats and diversity of values within international organizations can influence the dynamics of relations between countries (Kauppi & Viotti, 2020).

International organizations are one of the non-state actors in international relations. Some of them are multinational corporations (MNC), non-governmental organizations (NGO), individuals and groups. Organizations are usually defined as a forum for countries to carry out joint tasks, either in the form of coordinative or subordinate cooperation. Among these international organizations that have a major role in the dynamics of international relations in the Southeast Asia Region is ASEAN (Randal, 2021). ASEAN or the Association of Southeast Asia Nation is a regional organization in Southeast Asia that was founded on August 8, 1967 with a joint Declaration

agreement in Bangkok, Thailand, called the Bangkok Declaration where this agreement was represented by the governments of Southeast Asian countries, namely, the Minister of Foreign Affairs of Indonesia (Adam Malik), Deputy Prime Minister concurrently Minister of Defense and Minister of National Development of Malaysia (Tun Abdul Razak), Minister of Foreign Affairs of the Philippines (Narciso Ramos), Minister of Foreign Affairs of Singapore (S. Rajaratnam), and Minister of Foreign Affairs of Thailand (Thanat Khoman). This declaration has 5 objectives. First, to accelerate economic growth, social progress and cultural development in the Southeast Asian Region. Second, to enhance regional peace and stability. Third, to enhance cooperation and mutual assistance for common interests in the fields of economy, social, engineering, science and administration. Fourth, to maintain close cooperation among existing regional and international organizations. Fifth, to enhance cooperation to advance education, training and research in the Southeast Asian Region (Gultom, 2012).

Judging from the information, this declaration provides hope for all people in the Southeast Asia Region to live in peace and prosperity together. In 2009, in line with the program of the United Nations (UN) which promotes and upholds Human Rights since the 1980s, ASEAN has also established a body under the auspices of ASEAN, namely the ASEAN Intergovernmental Commission on Human Rights (AIHCR) at the 15th ASEAN Summit based on the Cha-am Hua Hin Declaration. The AIHCR was formed through collective efforts from Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam with the foundation of article 14 of the 2007 ASEAN Charter relating to the promotion and protection of human rights and fundamental freedoms. Then, as stated in article 14 of the ASEAN Charter, the AICHR was formed based on the TOR (Term of Reference), in article 3 of the TOR it is stipulated that this commission is

referred to as the "Intergovernmental Consultative Body" (Gamez, K, R, 2017). However, in recent decades, even though a human rights institution has been established in ASEAN, the world has still been shocked by the emergence of human rights violations in Myanmar against the Rohingya ethnic group.

The Rohingya ethnic group is a predominantly Muslim ethnic group that has long inhabited the Buddhist majority in Myanmar. There are currently 1.1 million Rohingya in Southeast Asian countries. They have a different dialect from other dialects used throughout Myanmar. They are not considered one of the 135 official ethnic groups in the country and have been denied citizenship in Myanmar since 1982 (Aljazeera, 2018). The role of the AICHR so far in cases of human rights violations against the Rohingya ethnic group has only been limited to a consultative institution, where the approach taken is to hold meetings and forums to gather information related to these violations (Itasari, 2020). As a result, since being exiled from their own country, this ethnic group has become an asylum seeker who has been scattered here and there in the Southeast Asian region and has experienced several human rights violations. As of November 2023, UNHCR noted that Aceh had received 1,608 Rohingya refugees (bbc.com, 2023).

The ASEAN Intergovernmental Commission on Human Rights (AICHR) is an ASEAN body that was founded to promote and protect every human right in the Southeast Asia Region. The hope is that all elements in this Region live with mutual respect for each other so that the fulfillment of the protection of every human right can be fulfilled without conflict, physical and mental violence, or people who feel marginalized. However, when highlighting a series of events experienced by the Rohingya ethnic group in the last few decades, it makes a concept of establishing a human rights body (AICHR) questionable in its existence to protect the human rights of the Rohingya ethnic group which should normatively be able to

provide that protection (das sein), but in reality has not been able to provide protection so that the Rohingya ethnic group is scattered as an ethnic group seeking a home to take refuge in other countries in the Southeast Asia Region (das solen).

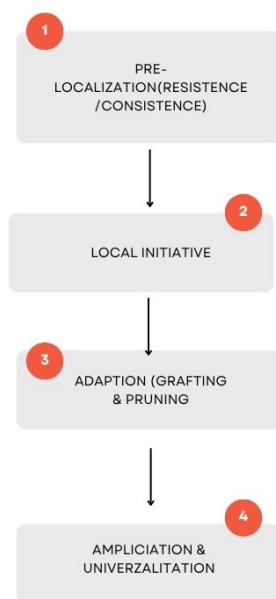
Based on the description of the formulation of the problem above, then from the event that there are still human rights violations against the Rohingya ethnic group, the research question arises, namely "how is the ASEAN Intergovernmental Commission on Human Rights (AICHR) as an output of localization of limited norms in protecting Human Rights (HAM) against the Rohingya ethnic group? To answer this question, the author will highlight the process of localization of human rights norms disseminated by the United Nations entering the regional organization, namely ASEAN with the output of the formation of this AICHR as a human rights protection body under the auspices of ASEAN which is limited to achieving human rights protection for the Rohingya ethnic group. In the process, it becomes evident that there are differences in the interpretation of human rights norms. Each ASEAN member state tends to adjust these principles based on regional values. This leads to a significant limitation within the ASEAN Intergovernmental Commission on Human Rights (AICHR). As a result, AICHR has proven to be ineffective in protecting the human rights of the Rohingya ethnic group.

Analytical Framework

In understanding how global norms are spread to the Region, it is necessary to know the concept of norm localization from Acharya. This concept has contributed to the Khazanah dynamics of international relations science which emphasizes its concept under the development of constructivism theory. Acharya (2014) defines localization as the active construction (through discourse, framing, grafting, and cultural selection) of foreign ideas carried out by local actors which results in the

development of significant conformity with local beliefs and practices. Then, in terms of localization, some experts equate it with adaptation. However, according to Archarya, adaptation is a general term that can cover all types of behavior and outcomes while localization has more specific features. In localization, the initiative to seek change is usually in the hands of local agents. Localization does not eliminate the cognitive priorities of norm takers but leads to reciprocal inflection with external norms. In the socialist constructivist perspective, norm diffusion is seen as the result of adaptive behavior where local practices are made consistent with external ideas or vice versa (Finnemore & Sikkink, 1998). Localization describes a process whereby external ideas are simultaneously adapted to meet local practices. Therefore, in localization, the existing normative order and external norms are in a mutually constitutive relationship but the resulting behavior is not the same. Localization is progressive, not regressive or static. Localization reshapes existing beliefs and practices as well as foreign ideas in their local context. To understand the process of norm localization, below is a picture or illustration:

Figure 1. The Trajectory of Localization and Condition for Progress



Source: Processed by the Author from (Acharya, 2004)

From the picture above, it can be seen that on the first trajectory there is pre-localization where the situation is that local actors may reject new external norms because of doubts about the usefulness and application of these norms and the fear that these norms can weaken existing beliefs and practices. This contestation can lead to localization if some local actors begin to view foreign norms as potentially contributing to the legitimacy and effectiveness of existing institutions without significantly weakening these norms (Acharya, 2004). The condition is that some aspects of the existing normative order are still strong and legitimate, although other aspects may have been discredited from within or considered inadequate to face new, unexpected challenges. Then, on the second trajectory, namely local initiatives (entrepreneurship and framing), where local actors borrow and frame foreign norms in a way that can shape their

values for the local community. The condition is that there must be local actors who are willing and credible. Next, the next trajectory is adaptation (grafting and pruning), where external norms can be reconstructed to fit local beliefs and practices, even as local beliefs and practices can be adapted to external norms. To find this point, local actors can redefine external norms by connecting them to certain existing local norms and practices and pruning external norms, selecting elements that fit the existing normative structure and rejecting elements that do not. The condition is that there must be room for a combination between external norms and some aspects of the existing normative hierarchy. The next trajectory is amplification and universalization where new instruments and practices are developed from a syncretic normative framework in which local influences are still very visible. The condition is that modifying must provide space for some elements of the existing normative hierarchy to receive wider external recognition through their association with foreign norms. (Acharya, 2014).

Method

This study uses a qualitative approach with a deductive method to analyze how the Intergovernmental Commission on Human Rights (AICHR), as an output of localization of limited norms in protecting Human Rights (HAM) against the Rohingya ethnic group. This type of research was chosen to explore the reasons behind the phenomenon through the theoretical perspective of international relations, especially Acharya's (2014) theory of norm localization. Qualitative data were collected from secondary sources, including official ASEAN documents, academic journals, media reports, and international organization websites, as well as archival-based research covering primary and secondary documents related to AICHR and the Rohingya crisis. Data processing techniques follow the stages proposed by Neuman (2014), starting with the selection

of relevant theories and concepts, data collection, to analysis using a predetermined theoretical framework. This approach allows researchers to understand the socio-historical context of the issue being studied while identifying the relationship between global human rights norms, ASEAN principles, and the limitations of AICHR in carrying out its mandate.

Result and Discussion

Pre-Localization (Resistance and Consistence)

In the first trajectory when global norms or ASEAN external norms are processed, there is a dialectic between local actors, where there is a possibility of rejection of these external norms because they are considered to be able to eliminate existing practices or values. However, in the dialectic, a contestation arises between actors who begin to see these external norms within ASEAN. Before discussing this, it is important to know that these human rights are values that are very basic to human existence so that they must be applied universally. Then, the parameters of human rights performance throughout the world are the human rights standards adopted by the United Nations which are the basis for a series of international standards such as moral codes, values and principles embodied in the draft human rights law (Sundrijo, D, A, 2020). According to the negotiations in Singapore, Ambassador Tommy Koh stated that no issue took up more time for negotiators except for controversial issues that divided the ASEAN family except for the issue of Human Rights. The issue of whether to establish the AICHR became a “constantly contentious issue” in negotiations on the form and function of the transformed community and caused “major disagreements”. However, ASEAN eventually agreed to establish the AICHR as stated in Article 14 of the ASEAN Charter launched in November 2007 (Munro, 2010).

Therefore, seeing the contestation conveyed by the Singapore representative, it is said that this has become a

response to the global norm to be included in the existing local norms.

Local Initiative

Following the contestation of actors over the adoption and localization of global norms, the second trajectory involves local initiatives to either frame or appropriate these global norms in order to construct and embed localized values within that framework. This process is evident in the aftermath of the establishment of the AICHR, where ASEAN member state representatives convened to negotiate the operational framework of the institution, formally referred to as the Terms of Reference (ToR). The formulation of the ToR represented a critical juncture in ASEAN's engagement with global human rights norms, as it marked the transition from abstract normative commitments to institutional design and potential implementation. However, a historical examination reveals that most ASEAN countries lacked direct experience in institutionalizing human rights mechanisms at the national level. According to Professor Li-ann Thio, Indonesia stood out as the only member state that had previously established a dedicated human rights institution—Komisi Nasional Hak Asasi Manusia (Komnas HAM)—under the authoritarian rule of President Suharto. This context underscores the novelty and sensitivity of integrating human rights into regional architecture, and it raises fundamental questions about the actual capabilities and political will of AICHR to respond meaningfully to human rights violations, particularly in terms of receiving complaints and conducting investigations. Early interpretation of the ToR suggests that AICHR was not intended to function merely as a complaint-handling mechanism (Drummond, 2010).

Nonetheless, internal deliberations among the High-Level Panel (HLP) tasked with negotiating the ToR reveal divergent

perspectives regarding the scope of AICHR's mandate. Two HLP negotiators in particular advocated for a more expansive, or "liberal", interpretation of AICHR's powers, arguing that the institution's abstractly defined mandate left considerable room for creative institutional development. Vitit Muntarbhorn, the HLP representative from Thailand, posited that the absence of explicit prohibitions within the ToR should not be interpreted as restricting institutional action. His position implies that AICHR possesses the discretion to interpret its mandate broadly and proactively, potentially including functions such as investigating individual human rights complaints, issuing reports, and facilitating mediation, even though these activities are not specifically enumerated in the ToR. Complementing this view, Indonesian HLP member Rafendi Djamin went further by explicitly articulating a vision of AICHR that exceeds its formal limitations. According to Djamin, the institution should serve as a platform for constructive engagement between the human rights commission and civil society actors. This engagement could include creating opportunities for victims of human rights violations to communicate their experiences directly to AICHR. In doing so, such a dialogical mechanism would place indirect pressure on governments, especially as they come to realize that victims are able to bypass state-controlled channels and seek redress through a regional human rights institution (Munro, 2011).

Taken together, these perspectives reflect distinct local initiatives to adapt and reinterpret the global human rights norm of institutional accountability. Thailand's emphasis on a liberal reading of institutional mandates illustrates a pragmatic approach aimed at expanding the functional space of AICHR without contravening the formal text of the ToR. In contrast, Indonesia's position reflects a normative commitment to democratizing human rights discourse through structured dialogue with civil society, a move that implicitly challenges the

traditional ASEAN emphasis on non-interference and consensus, often framed as “ASEAN Values”.

This divergence reveals the complexities of norm localization within ASEAN. While both Thailand and Indonesia sought to stretch the formal boundaries of AICHR’s mandate, their motivations and underlying assumptions differed. Thailand’s approach was grounded in legal interpretation and institutional pragmatism, whereas Indonesia’s stance reflected a more transformative agenda aimed at deepening civic participation in regional human rights governance. These local initiatives suggest that the localization of global norms in Southeast Asia is neither linear nor uniform, but rather the result of dynamic interactions among national actors, institutional constraints, and regional normative frameworks.

Adaptation (Grafting and Pruning)

In this trajectory, the external/global norms can be reconstructed with the meaning of existing local norms/practices. At the beginning of the drafting process, the chairman of the HLP (High-Level Panel), Bilahari Kausikan, indicated that the purpose of the panel was to achieve results that were realistic, balanced, credible and in the best collective interest of ASEAN. Regional expert Noel Morada called these goals “bureaucratic language” meaning what could be achieved considering the variety of political systems in ASEAN, the absence of human rights commissions in most ASEAN countries and the existence of internal armed conflicts in several member states. Early media reports confirmed the expected divisions between ASEAN countries on what kind of institution should be built.

On the other hand, member states with human rights commissions - Indonesia, Malaysia, the Philippines, and Thailand, wanted the body to have monitoring and law enforcement capacities while Singapore, Cambodia, Laos, Myanmar, and Vietnam preferred the body to only have

advisory functions and focus on promotion rather than protection of human rights. Subsequently, at the AMM meeting in July 2019, the ToR was adopted after a two-hour extended meeting, with Indonesian Foreign Minister Hasan Wirayudha eventually withdrawing the more comprehensive protection proposal. Indonesia appeared to be the only representative dissatisfied with it, while the other nine members accepted the three proposals; allowing the AICHR to meet and discuss with other credible human rights institutions, observing the situation and making recommendations to member states and conducting periodic reviews of members (Drummond, 2010).

The negotiation process leading to the establishment of AICHR reflects how global human rights norms were selectively adapted through both grafting and pruning to fit the political realities and normative frameworks of ASEAN. As noted by regional expert Noel Morada, this language signalled the constraint posed by ASEAN's diverse political system, the absence of national human rights institutions in many member states, and the presence of internal armed conflict. Early media reports anticipated disagreements over the mandate and strength of the new body. Countries like Indonesia, Malaysia, the Philippines, and Thailand—already equipped with national human rights commissions—pushed for an institution with monitoring and enforcement powers. In contrast, states such as Singapore, Cambodia, Laos, Myanmar, and Vietnam preferred a purely advisory body focused on promotion rather than protection. These tensions culminated in the adoption of the AICHR Terms of Reference (ToR) during the July 2019 ASEAN Ministerial Meeting, where Indonesia's proposal for stronger protective mechanisms was withdrawn. While Indonesia remained dissatisfied, the other nine members endorsed a more limited mandate focused on dialogue, observation, and recommendations.

This process reveals how ASEAN selectively internalized global human rights norms by tailoring them to regional principles, particularly non-intervention and consensus, thus producing an institution that reflects ASEAN's collective identity and political sensitivities. The result is not a full localization of global human rights standards but a strategic accommodation shaped by regional constraints and preferences.

Amplification and Universalisation

This trajectory means that there are new instruments or practices being developed. This means that local actors still have a visible influence. Although there is tension among HLP members regarding the protection mandate, one positive aspect of the formation of this Institution is its inclusiveness. HLP recognizes the importance of involving all relevant stakeholders, holding consultations with civil society organizations, senior ASEAN officials from the Economic, Political-Security and Socio-Cultural Community.

HLP held three consultations with key human rights stakeholders and civil society organizations; including the Working Group on ASEAN Human Rights Mechanism (WGARHM), The Network of Four National Human Rights Institutions (ASEAN NHRI Forum), Solidarity for Asian People's Advocacy Task Force on ASEAN and Human Rights (SAPA TF-AHR) and The Women's Caucus on ASEAN Human Rights Body (WCAHRB) (Drmuond, 2010).

Each of them proposed a statement regarding the composition of the Human Rights Institution. Many of these proposals were the result of regional discussions, workshops and national consultations organized by civil society groups themselves during that period. The sentiment they brought was that the body should be able to investigate, monitor, advise and report on human rights violations committed by Member States, as well as have the capacity for capacity building, education,

awareness raising and promotion of human rights (Gamez, 2017).

Based on the preceding analysis, it becomes clear that AICHR is the product of a constrained localization of global norms. This is evident both in its institutional framework and operational practices, as demonstrated by empirical data indicating at least four key findings. First, AICHR has held various dialogues, consultations, and awareness-raising events related to human rights. However, it has not conducted any investigation or direct intervention regarding the Rohingya crisis. According to Nattapat (2020), AICHR's Terms of Reference do not grant it the power to investigate or intervene in individual cases, especially those involving specific countries. ASEAN's foundational principle of non-interference in domestic affairs further restricts AICHR's ability to act (Limsiritong & History, 2022).

Second, between 2010 and 2018, AICHR organized over 120 activities and spent more than six million USD to promote human rights education and dialogue in the region. But, despite the investment, AICHR failed to address major violations, such as the ethnic cleansing of Rohingya in Myanmar. These activities were largely symbolic and not targeted toward prevention, accountability, or protection mechanisms. Civil society groups criticized AICHR for lacking transparency and for avoiding pressing issues like the Rohingya crisis (Kumala, 2019).

Third, AICHR allowed for informal discussions on the situation in Rakhine State and endorsed joint statements promoting peace and dialogue. In 2017-2018, representatives from Indonesia and Malaysia made public calls for action. why? because these efforts lacked substance and did not result in any binding resolutions or enforcement mechanisms. Notably, joint statements failed to explicitly mention "Rohingya", showing ASEAN's cautious approach and AICHR's reluctance to

confront member states directly, especially Myanmar (Piromya, 2019).

Lastly, AICHR included the Rohingya issue in human rights discussions and attempted to engage with Myanmar through diplomatic channels and dialogue. However, that has failed. AICHR's consensus-based decision-making model means that any strong position must be agreed upon by all member states, including Myanmar, which is directly implicated in the abuses, and has blocked meaningful action. The lack of an independent investigation authority further paralyzes AICHR (Saputra, 2019).

Conclusion

From the various processes above, it shows that the Global/External Norms of ASEAN are manifested in the formation of an Institution under the auspices of ASEAN. During this formation process, ASEAN chose to interpret Human Rights as a Responsibility to protect through the localization of global human rights norms with adjustments to the uniqueness in ASEAN from Western standards (Mahardika, 2020). However, this paper finds that what is actually mandated is merely the outcome of norm localization, which functions in a limited capacity, primarily to promote and protect human rights in the region.

However, the contents of the ToR which want to promote and protect Human Rights Violations in ASEAN, are still different from what has been firmly held by ASEAN countries, namely the principle of non-intervention. Then, throughout the process of drafting the ToR, there has been no detailed discussion of the existence of the principle of non-intervention and sovereignty. Article 2.3 of the ToR stipulates that the protection of Human Rights within the scope of the state is the main responsibility of ASEAN member countries. However, it turns out that there is no further discussion if the state fails to

protect its people, then there will still be difficulties in resolving it (Gamez, 2017).

Human rights violations experienced by the Rohingya ethnic group until today are the existing reality that AICHR as a Human Rights Protection Institution in ASEAN has stagnated so that human rights violations continue to occur against the Rohingya ethnic group. Research conducted by Gamez explains that AICHR does not prioritize human rights violations against the Rohingya ethnic group even since its establishment in 2009. AICHR focuses more on discussions, seminars, and workshops regarding human trafficking and even in 2014, the workshop conducted by AICHR in Myanmar focused on environmental issues.

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