

The ASEAN Intergovernmental Commission's Response on Human Rights to the 2021 Myanmar Crisis

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Abstract. This article aims to look at the response and role of the ASEAN Intergovernmental Commission on Human Rights as a human rights organization in ASEAN in the crisis that occurs in Myanmar in 2021. The researcher uses a qualitative research method which is carried out by conducting a literature study in collecting data related to the research. Research results show that AICHR is concerned about all forms of violence and human rights violations that occur in Myanmar. Then AICHR as a human rights organization in ASEAN became an arena for member countries to discuss so that the crisis that occurred in Myanmar was immediately ended. Because the principle of non-intervention held by ASEAN countries makes AICHR unable to take much action. It is hoped that this research can provide knowledge and become a source of reference for other researchers related to the response and role of AICHR in the 2021 Myanmar crisis.

Keywords: ASEAN, Crisis, Myanmar, AICHR

1. Introduction

For the people of Myanmar, the beginning of 2021 is the start of a scary year for them. Besides the ferocity of the Covid-19, there was also a coup carried out by the Myanmar military. The Commander-in-Chief of Myanmar's Defence Services, Min Aung Hlaing, directly led the occupation to overthrow the current government. The current government power comes from the party that became a winner in the second general election held in Myanmar, National League for Democracy (NLD). As a leader of that party, Aung San Suu Kyi won a landslide victory in the second election held in 2020 against her rival party, The Union Solidarity and Development Party (USDP) [1]. However, the opposition backed by the Myanmar military, accused the election of irregularities. The Union Solidarity and Development Party suspect that some irregularities happened in the election won by the National League for Democracy. Besides that, the Military conducted its own investigation and found some evidence to support the alleged fraud committed by the National Democratic League Party led by Suu Kyi. They attempt to report that matter to the Election Commission of Myanmar. Nevertheless, the Election Commission of Myanmar rejected the report [2].

Tensions between the legitimate government of Myanmar from the results of the general election held in 2020 and the Myanmar military continued with the detention of several state figures by the Myanmar military, such as the Myanmar president, Win Myint, Myanmar advisor and Myanmar foreign minister, Aung San Suu Kyi, as well as several other state figures from the NLD[3]. This situation certainly provides various responses from both regional and international parties. According to the

Election Commission of Myanmar, the landslide victory of the National League for Democracy in the 2020 election is a transparent and fair practice in implementing the second general election. The coup carried out by the Myanmar Military received a response from the United Nations that the Myanmar Military must comply with and acknowledge the result of the election that the domestic and international community has widely accepted. Furthermore, the United States and the European Union also state that the Myanmar military must admit the election result in 2020 [4].

ASEAN and the countries that are members of it have not provided a significant response at the beginning of the coup. The deputy prime minister of Thailand, Prawit Wongsuwan, stated that the ongoing coup was an internal matter. This is also in line with the statement made by the Cambodian leader, Hun Sen, who stated that the current problem in Myanmar is the internal conflict in their country. On the other hand, the Philippines responded to the situation in Myanmar that the current situation was not a coup situation as reported but rather an effort to protect democracy in the country. However, in just a few days, the Philippines changed its statement to be concerned about the situation in Myanmar. This was followed by Malaysia, Indonesia, and Singapore, stating that the situation in Myanmar is a concern for these countries. Meanwhile, countries such as Vietnam, Laos, and Brunei Darussalam have not yet responded to what is happening in Myanmar [5].

Although many entities have responded to the Myanmar crisis, the situation in Myanmar remains unchanged. Tensions that initially only occurred between the government and the military are now moving towards tensions between the military and the people who reject the Myanmar military's coup. The public rejects the power struggle carried out by the Myanmar military against the previously elected government. The people who are demonstrating are pro-democratic. Thousands of them took to the streets of Yangon to demand the military release the captured and imprisoned elected government. In this demonstration carried out by the people of Myanmar, the Myanmar government, through the Ministry of Transport and Communications of Myanmar, closed the national data network on February 6. On this day, the people of Myanmar demonstrated that they took to the streets in the city of Yangon. The closure of the data network by the Myanmar military made the people of Myanmar unable to use their internet, which was used to get support from outside parties. The closure carried out by the Myanmar government is so that their national stability and political security are maintained in a state of emergency that the military has previously determined [6].

Protests against those who control Myanmar currently continue to this day. Protests were carried out in various forms, ranging from civil disobedience, military boycott campaigns, and many other demonstrations by pro-democracy communities. The Myanmar military did not hesitate to use violence against demonstrating people in response to these demonstrations [7]. People who participate in demonstrations often encounter acts of violence perpetrated by the security forces. The coup against the demonstrators carried out even the shooting. One of the most shocking actions globally was the shooting by the Myanmar security forces against a 19-year-old female demonstrator. According to the doctor who treated her, Kyal Sin or Angel as she was called, died after being shot by security forces in the head. This incident went viral on social media by creating the hashtag "everything will be fine" which was adopted from the clothes worn by girls during demonstrations [8].

The government's acts of violence against the demonstrators did not stop there. The government is increasingly brutal in suppressing the demonstrators. The government used civilian vehicles to hit the protesters, injuring many demonstrators. As of May 18, 2021, the number of victims who died in demonstrations against the military coup was 802, including 73 children. In addition, the military has detained at least 4120 people, 94 of whom have been sentenced by the Myanmar government [9]. Seeing the acts of violence used in suppressing protests, the military action to transfer the power of the legitimate government and other actions are very contrary to what has been promised by the military to the people of Myanmar. Previously, the government promised to hold new, fair elections again so that the democracy that the people of Myanmar had long wanted could work well. However, if we look at the current situation, the military does not show that they will go to the promises previously mentioned.

Then by looking at this situation, the researcher tries to see how the response and role of the AICHR or the ASEAN Intergovernmental Commission on Human Rights are, which is a body or organization

that handles human rights in Southeast Asia, against the actions that the military has carried out to the people who reject the coup that they have carried out. So the purpose of this research is to find out the response and role of AICHR as an intergovernmental organization that handles human rights issues in the crisis in Myanmar in 2021.

2. Literature Review

2.1. International Organization

The international organization is an entity that has a role in the international world. The formation of international organizations usually comes from an agreement that contains the objectives and authorities of the international organization itself. The aim was initially only to maintain the rules that had been mutually agreed upon so that they could be carried out in an orderly manner by state actors involved in international relations.

International organization in Anak Agung and Yanyan's book, which quotes Clive Archer in his book entitled international organization, says international organization consists of two syllables, namely organization and international. The term or the word organization itself can be interpreted as a process [10]. Meanwhile, in the sense organizations, organizations are understood as a representative part of a phase in the process that has been achieved within a particular time. In understanding the word, international can be understood in several meanings. The word international as intergovernmental or interstate, international as transnational relations, and international as transgovernmental [10].

In the international world, international organizations have received recognition from the international community for their success in solving various problems that arise in the international world. Its presence reflects that countries need cooperation in solving various existing problems in the international world. At least Clive Archer mentions three roles of international organizations, namely international organizations as an instrument in achieving specific goals, international organizations as an arena, and international organizations as independent actors far from the influence of outside parties [11].

2.2. Human Rights

According to the United Nations, human rights are rights that have existed in humans since they were born. These rights do not look at gender, educational background, family, nationality, or ethnicity. Every single person that lives in the world gets the right to be able to live properly, the right to be autonomous from slavery and torture, freedom of opinion and expression, the right to get a job, and many more [12]. According to OHCHR or the Office of the High Commissioner for Human Rights, human rights are rights that every individual has because they are human. These universal rights are inherent in the human body, regardless of skin color, national or ethnic origin, gender, religion, language, or status. These rights range from fundamental rights, namely the right to live, to other rights, such as the right to enjoy food, the right to education, employment, health, and freedom of expression.

Through the Universal Declaration of Human Rights, which became the first legal document used by the United Nations in 1948 for world countries in establishing fundamental and crucial human rights to be protected universally, human rights should be obtained by every individual in the world. This law is still the basis or basis for upholding human rights. At least 30 articles contain universal human rights in legal documents regarding human rights. These 30 articles can provide solid principles and building blocks to uphold human rights now and in the future.

In article three, the Universal Declaration of Human Rights adopted by the United Nations states that everyone has the right to life, freedom, and safety as an individual. Then in article five, it is stated that no one may be tortured or cruelly treated, treated or punished inhumanely, or humiliated. Article nine states that no one may be arbitrarily arrested, detained, or exiled. Moreover, many other articles can be seen in the Universal Declaration of Human Rights document.

3. Method

In this research, the researcher uses the descriptive qualitative research method. The qualitative research method is a tool, technique, and strategy used by a researcher to help them collect, interpret, and analyze data they have. In qualitative research, the researcher is an essential part because in producing an interpretation of data, the subjective role of the researcher is needed. Then in collecting data related to this research, this research uses a literature study. The research data came from books, journals, articles, trusted online news, and other documents that support this research. This research will discuss AICHR or the ASEAN Intergovernmental Commission on Human Rights, the condition of Myanmar during the coup that has taken place until now, human rights violations committed by the military or the current ruling party, and the response and role of AICHR as an intergovernmental organization that deals with human rights issues in this Myanmar crisis.

4. Results and Discussion

4.1. History of ASEAN Intergovernmental Commission On Human Rights

ASEAN Intergovernmental Commission on Human Rights or AICHR is an international intergovernmental organization officially established in 2009 [13]. Before its inauguration, there was a long history of establishing the organization, especially in dealing with human rights. A joint meeting with foreign ministers of the 26 ASEAN countries opened the way to establish regional human rights mechanisms, especially in ASEAN countries. In this joint meeting, ASEAN declared itself toward developing a regional human rights regime. Then, in 2007 through the ASEAN Charter, ASEAN countries agreed on the need to establish a human rights body. This is found in article 14 of the ASEAN Charter states that following the objectives and principles of the ASEAN Charter relating to the improvement and protection of human rights and fundamental freedoms, ASEAN will establish an ASEAN human rights body [14]. So this is a good step for ASEAN to create safe and peaceful conditions in this regional region.

To follow up on the ASEAN Charter, ASEAN countries began to establish a high-level panel on ASEAN human rights bodies in 2008. ASEAN began to develop the term of reference (ToR) for the ASEAN intergovernmental commission on human rights. The existence of this ToR will be a guideline for this organization to carry out its duties as a commission that handles human rights issues in ASEAN countries and regions. In the following year, adoptions related to AICHR ToR consisted of fourteen mandates and the function of AICHR as an ASEAN intergovernmental commission on human rights. Then during the 15th ASEAN Summit, Cha-Am Hua Hin, the leader of ASEAN countries inaugurated AICHR as an intergovernmental commission on human rights in ASEAN. In this case, ASEAN cooperation in human rights will continue to develop so that later AICHR can become the institution responsible for the promotion and protection of human rights in the Southeast Asia region.

In 2012, adopting the ASEAN Declaration of Human Rights and the Phnom Penh Statement on the Adoption of the AHRD became the framework for regional cooperation on human rights. This is a commitment for every ASEAN country to protect the ASEAN people's human rights and fundamental freedoms. Through the existence of the AICHR, it becomes a joint agreement with ASEAN countries in complying with democracy, the rule of law, and the principles of good governance [15].

In the agreed AICHR ToR, establishing AICHR as an intergovernmental commission on human rights has several objectives. One of the reasons for AICHR establishment is to maintain and promote human rights and fundamental freedom of the ASEAN people. Also, there are mandates and functions of the AICHR itself. There are at least fourteen mandates and functions of AICHR [16].

1. AICHR can develop strategies to promote and protect the human rights and fundamental freedoms of the ASEAN people.
2. To establish a framework for human rights through various conventions and instruments, AICHR is expected to be able to develop the ASEAN Human Rights Declaration.

3. Through education, research, and information dissemination, AICHR as a regional organization that focuses on human rights can increase public awareness of human rights.
4. For the effective implementation of the obligations of world human rights treaties carried out by member countries, especially ASEAN, the AICHR's role in promoting it is needed.
5. Encouraging member states to ratify and accede to the world's human rights foundations.
6. Promote the comprehensive practice of ASEAN's instruments in particular on human rights.
7. Upon request, AICHR can provide advisory services and technical assistance on human rights to sectoral bodies in ASEAN.
8. To engage directly in various talks and discussions with ASEAN bodies and entities, especially on human rights and ASEAN.
9. Where necessary, AICHR may consult with national, regional, and international institutions and entities dealing with promoting and protecting human rights.
10. Get news from member countries about human rights issues in their countries.
11. To develop a common approach and position of ASEAN countries on human rights issues.
12. Prepare thematic studies for ASEAN related to human rights.
13. At the ASEAN foreign ministers' meeting, AICHR may submit an annual report on necessary activities.
14. Carry out other tasks outside the existing mandate and functions if assigned by the ASEAN Foreign Ministers meeting.

When viewed from the mandates and functions that have been mentioned, the main task of AICHR as a body dealing with human rights issues in the Southeast Asia region is to promote, protect and advance human rights or human rights in the ASEAN community. In addition, AICHR is also an agency that can collaborate with other parties at the country, regional and international levels.

4.2. Myanmar and Human Right Nowadays

Myanmar or Burma is a country in Southeast Asia that deserves attention. Myanmar is a place for many religious people, especially Buddhists and Muslims. However, the diversity in Myanmar has not guaranteed a harmonious and peaceful life in the regions of this country. Ethnic Rohingya living in the Rakhine state have to conflict with ethnic Rakhine who make up almost the entire population in this state. As an ethnic minority, it is not uncommon for the Rohingya to get a variety of less appropriate actions than the majority ethnic, namely the Rakhine ethnic. So it is not uncommon for conflicts in the Rakhine region to be referred to as ethnic conflicts between Rakhine and Rohingya.

In Myanmar, violations of human rights are not a new problem. The Rohingya ethnicity is one example of a case that can be used to show how human rights in Myanmar are not given much attention. Discrimination, killing, expulsion, burning of Rohingya ethnic residences, and even the absence of recognition of the Rohingya ethnicity in Myanmar are actions that do not reflect the declaration of human rights that has become an agreement with world countries, including Myanmar. The role of the Myanmar government in the incident that befell the Rohingya is huge. In addition to killing, expelling, and burning their homes, Myanmar also revoked their citizenship status. With the revocation of this citizenship status, the Rohingya have become individuals who have no place to take refuge as one of the functions of the state [17]. As a result, many Rohingya have fled to various countries, especially Bangladesh, Malaysia, Indonesia, and other countries. And not infrequently, they are not accepted in the country that is their destination.

Although Burma or Myanmar gained independence from Britain in 1948, this country is still economically, politically, and socio-culturally unstable. This can be seen in the events over the last few decades—one of the cases that have become very popular globally is the case of the Rohingya. Efforts to remove this ethnic group from the Arakan province of Rakhine state continue today. Myanmar has taken various ways to get the Rohingya out of the Rakhine state no longer measuring the actions taken. The climax was in 2016 when there was a massacre of the Rohingyas which resulted in 150 Rohingya deaths and three villages being burned [18].

Then, economically, this country can be categorized as a lagging country compared to other Southeast Asian countries. When viewed from the World Bank data, Myanmar's GDP per capita in 2019 was 1,407.8. Moreover, Myanmar belongs to countries whose income belongs to the lower middle class in Southeast Asia. According to the World Bank, a Coup by the Myanmar military will affect the country's economy. The World Bank warned that Myanmar's economy could decline by 10% [19]. The World Bank predicted that the Myanmar economy in 2020 would grow by 6.6%. Furthermore, this will continue to increase in the following years if Myanmar can control the conditions in their country. However, the World Bank's prediction was wrong; Myanmar could not control its domestic conditions. As a result, the World Bank's prediction of the Myanmar economy, which will grow by 6.7%, has changed to a decrease of 10% due to the coup carried out by the Myanmar military [20].

As previously mentioned, Myanmar is currently not doing well. Myanmar is in a period of a coup that is still being carried out by the Myanmar military or known as Tatmadaw. Tatmadaw has a commander-in-chief named Min Aung Hlaing in Myanmar's armed military. He is the person behind the current Myanmar Coup. He was appointed interim head of state after carrying out a coup on February 1, 2021. Myanmar is back under military leadership. Because in the past few years, Myanmar has been a country undergoing a transition to democracy. Many civilians disagreed with the actions taken by the highest leadership of the Myanmar military.

This condition is exacerbated by the detention of several elements of the state, such as the leader of the state or the president of Myanmar, who has legal power over the election results in 2020, Win Myint, a state advisor and symbol of democracy in Myanmar, Aung San Suu Kyi, and several other state figures—coming from the National League for Democracy (NLD). People began to take to the streets around the city of Yangon to stage demonstrations. Conditions that persist until now have made many lives die. According to the Assistance Association for Political Prisoners (AAPP) report, as of June 12, 2021 total of 4848 civilians were arrested and charged by the military. A total of 1936 civilians were charged with warrants and attended arrests, and 172 civilians were convicted. Even as many as 830 civilians died or were killed by the Myanmar junta [21]. Among those who died included 73 innocent children. According to a report by the Association for Assistance to Political Prisoners of Myanmar, those who died were usually killed using a gun, and not infrequently, the shots fired by the military at them hit the head, neck, liver, and other vital areas.

The existence of acts of violence carried out by the military will increase the potential for the people of Myanmar to flee to world countries. At least based on a report by the UN Myanmar office, approximately one hundred thousand civilians were forced to flee because of the military's brutal actions against civilians, especially in Kayah State, Myanmar [22]. Some of them fled to the forest and nearby countries, one of which was India. Of course, this condition has violated human rights, which have become a joint agreement by the world's countries.

Not only that, but the Myanmar military also detained 71 local Myanmar journalists. During these detentions, the military in power accused them of fabricating and spreading fake news [23]. The Myanmar military government has also blocked internet and mobile data access for weeks since the demonstrations. The military did this to silence demands from civilians who asked for the release of state advisors and other legitimate state leaders. Whereas in a situation like this, the demonstrators need the internet to publish how cruel the military actions carried out by the Myanmar military are against the demonstrators. Of course, these actions have violated several articles in the declaration of human rights, such as freedom of opinion, freedom of expression, the right to life, and other fundamental rights.

4.3. AICHR as Human Rights Organization in ASEAN

The ASEAN Intergovernmental Commission on Human Rights (AICHR), in response to the human rights situation in Myanmar during the escalating coup period, the AICHR convened its 33rd meeting, organized by conference. At this conference, one of the topics discussed by AICHR was the development of human rights in ASEAN. The AICHR expressed concern over the escalation of violence and the deteriorating situation in Myanmar. At this meeting, AICHR also asked all parties involved in this situation to maintain stability and return to normalcy in Myanmar. So collectively, the ASEAN

region can become a safe, peaceful, and serene region in the future [24]. Then, AICHR, a regional international organization for human rights, also expressed its readiness to help Myanmar, especially in human rights.

Furthermore, representatives of AICHR Indonesia asked to comply with existing democratic norms. Representatives of AICHR Indonesia asked the Myanmar military authorities to find a peaceful solution so that the crisis in Myanmar would not be prolonged. Conditions that occurred, such as human rights violations in Myanmar, made AICHR representatives from Indonesia ask all relevant parties to prioritize the interests of Myanmar's civil society from a sense of security [25]. In addition, AICHR representatives from Indonesia, Malaysia, and Singapore also urged Myanmar to comply with all the principles in the ASEAN Charter, which has become a common consensus, and the Declaration of Human Rights, which is the basis for the formation of human rights in the Southeast Asia region [26]. However, AICHR and ASEAN countries could not take further action because of the non-intervention principle adopted by ASEAN countries. This non-intervention principle relates to prohibiting a country from intervening in internal problems faced by other countries.

5. Conclusion

Since the coup carried out by the military and the opposition who lost in the second democratic election in Myanmar, the situation and condition of Myanmar have worsened. Myanmar has received various warnings and criticisms from several regional and international organizations. Then, the Myanmar military also detained essential people such as the president of Myanmar who was elected in the 2020 general election, a state advisor, the leader of the Myanmar NLD party, and several other essential state figures. So this creates a displeasure feeling among the people of Myanmar, which culminates in the demonstrations. The Myanmar military government is not just silent. They are trying to provide resistance to the people who take to the streets. Violence was also carried out in order to silence the demonstrators. Furthermore, the military also opened fire on the demonstrators who took to the streets. This demonstration resulted in the death of many people. In addition, the military government also detained and arrested several journalists on charges of spreading fake news or hoaxes. Then, to limit outgoing information, the Myanmar government also limits the use of internet data and blocks networks so that it is difficult for civil society to communicate. Moreover, this action is contrary to the Universal Declaration of Human Rights articles, which have become a collective agreement. AICHR, as an intergovernmental organization for human rights in ASEAN, is concerned about the various escalations of violence and human rights violations. AICHR acts as an arena for ASEAN countries to conduct discussions regarding human rights violations and the crisis in Myanmar. Through the discussions, AICHR also urged Myanmar to comply with all the principles contained in the ASEAN Declaration and those contained in the Universal Declaration of Human Rights and the ASEAN Declaration of Human Rights. In the phenomenon of the Myanmar crisis, AICHR and ASEAN countries cannot move further because the phenomenon that occurs is an internal problem in Myanmar. Of course, AICHR and ASEAN countries must adhere to the fundamental principles that have been mutually agreed upon. Furthermore, We hope that the current conditions and situation in Myanmar can recover soon.

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