

**The Three Pillars of the ASEAN COMMUNITY:
Commitment to the Human Rights Process**

**Chiam Heng Keng
Human Rights Commission of Malaysia
(SUHAKAM)**

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SESSION TWO: The Three Pillars of the ASEAN Community: Commitment to the Human Rights Process

1. INTRODUCTION

The adoption of both the “Declaration of ASEAN Concord II (Bali Concord II)” and the “Cebu Declaration on the Acceleration of the Establishment of an ASEAN Community by 2015” by ASEAN Heads of States indicate that the member states acknowledge that an integrated, stable, knowledgeable and caring community will help ASEAN nations to strengthen their economic competitiveness and attractiveness to investors, in particular during economic downturn.

The three pillars of the ASEAN Community, namely the ASEAN Political-Security Community (APSC), the ASEAN Economic Community (AEC) and the ASEAN Socio-Cultural Community (ASCC), are the most crucial areas deemed necessary for the progress and evolution of ASEAN and its peoples. The Blueprints of these three communities have been carefully formulated to detail specific strategic objectives and actions which intend to achieve progress and positive development in the respective areas.

Human rights seem to underpin all the three pillars of the ASEAN Community although they may not be explicitly stated in the objectives, strategies or actions of the Blueprints. As human rights encompass the principles of non-discrimination, equity, justice and human dignity, it is therefore logical that human rights are directly or indirectly are pertinent to the ASEAN Community. For instance, today’s economic advancement depends heavily on human resources and unless people have equal access to education, training and capacity building, the country may be deprived of a large pool of creative thinkers and entrepreneurs. Therefore, although human rights have much fewer mentions in the ASEAN Economic Community than the other two pillars, nevertheless, human rights are at the heart of the ASEAN Economic Community. This is indicated by the adoption of “region of equitable economic development” as one of the four objectives of the ASEAN Economic Community.

The importance of human rights in the building of the ASEAN Community is underscored at the 14th ASEAN Summit held on February 28 to March 1, 2009. This Summit, under the theme, “ASEAN Charter for ASEAN peoples” emphasized the importance of enhancing people’s participation and people-oriented ASEAN so that every sector of the society can benefit from the process of ASEAN integration and community building.

2. ARTICULATED HUMAN RIGHTS IN THE BLUEPRINTS

Several aspects of human rights are stated in the Blueprints of the three pillars, particularly in the ASEAN Political-Security Community and the ASEAN Socio-cultural Community. I shall briefly discuss the human rights in these three pillars.

2.1 ASEAN Political-Security Community (APSC) Blueprint

The APSC envisages to draw ASEAN towards a rules-based Community of shared values and norms; a cohesive, peaceful, stable and resilient region with shared responsibility for comprehensive security including a dynamic and outward-looking region in an increasingly integrated and interdependent world. The full implementation of this Blueprint is expected to bring about prosperity in the region and protects the interests and wellbeing of ASEAN people. As the APSC Blueprint seeks to mainly achieve an enhancement in political stability, democracy and good governance through creating a just, democratic and harmonious environment, human rights are expectedly apparent in this Blueprint. Respect for the promotion and protection of human rights and fundamental freedoms is identified in this Blueprint as one of the main elements in enhancing political development.

As the rule of law embodies human rights, aspects of human rights are more directly addressed under the first key characteristic which is “A Rules-based Community of shared values and norms”. Under this key characteristic, the APSC Blueprint lists a number of specific actions, which are to be undertaken by ASEAN member states to promote and protect human rights. These actions, among others, are to establish an ASEAN human rights body; to cooperate closely with efforts of the sectoral bodies in the development of an ASEAN instrument on the protection and promotion of the rights of migrant workers; to strengthen interaction between

the network of existing human rights mechanisms as well as other civil society organisations; to cooperate closely with sectoral bodies in the establishment of an ASEAN commission on the promotion and protection of the rights of women and children; and to promote education and public awareness on human rights.

The second key characteristic of the APSC, which is “A Cohesive, Peaceful and Resilient Region with Shared Responsibility for Comprehensive Security”, also involves important human rights issues. The human rights aspects addressed include trafficking in persons and counter-terrorism. Under combating trans-national crimes and other trans-boundary challenges, the APSC Blueprint suggests actions such as strengthening criminal justice responses to trafficking in persons and enhancing cooperation to combat people-smuggling. In undertaking these tasks, member states are guided to be mindful of the need to protect victims of trafficking in accordance to the ASEAN Declaration against Trafficking in Persons Particularly Women and Children. Counter-terrorism entails intensifying efforts by early ratification and full implementation of the ASEAN Convention on Counter-Terrorism.

2.2 ASEAN Economic Community (AEC) Blueprint

Despite lacking specific reference to human rights issues within the text of the ASEAN Economic Community (AEC) Blueprint, there are nevertheless indirect human rights implications. As mentioned earlier, among the four key characteristics identified in the AEC Blueprint is “a region of equitable economic development”. Recognizing the importance of equitable economic development for all peoples, the actions under Initiative for ASEAN Integration (IAI) include human resource development, information and communication technologies, capacity building, poverty reduction and improvement in quality of life. In addition, in enhancing the food, agriculture and forestry trade, the health of the peoples is not forgotten, and in fostering a culture of competitiveness, consumer protection is strengthened through establishing the ASEAN Coordinating Committee on Consumer Protection and establishing a network of consumer protection agencies to facilitate information sharing and exchange.

2.3 ASEAN Socio-Cultural Community (ASCC) Blueprint

The ASCC is adopted to realize a people-oriented, socially responsible ASEAN community with the view of achieving solidarity, unity and a common identity as well as building a sharing and caring society. The characteristics envisaged in the ASCC Blueprint are human development; social welfare and protection; social justice and rights; ensuring environmental sustainability; building the ASEAN identity; and narrowing the development gap. All these issues, except for building the ASEAN identity, pertain directly to human rights.

As human rights issues in the ASCC Blueprint are numerous, only those important human rights issues pertaining to the enhancement of the wellbeing, livelihood and welfare of the peoples of ASEAN are highlighted.

A major human right element in the ASCC Blueprint is the enhancement of “the well-being and livelihood of the peoples of ASEAN by providing them with equitable access to human development opportunities by promoting and investing in education and lifelong learning, human resource training and capacity building ... “(p. 2 ASEAN Socio-cultural Community Blueprint). This equitable access to human development is in accordance to the Declaration of the Right to Development adopted by the UN General Assembly on 4 December 1986 while the right to education is enunciated in several human rights declarations and instruments including the Universal Declaration of Human Rights (Article 26), the International Convention on Economic, Social and Cultural Rights (Article 13), the Convention on the Rights of the Child (Article 28) and the Convention on the Elimination of All Forms of Discrimination Against Women (Article 10). Three strategic objectives have been identified to achieve this characteristic of the ASCC Blueprint, namely advancing and prioritizing education, investing in human resource development and promotion of decent work.

As regard to social welfare and protection, the ASCC Blueprint envisions to address fully socio-economic disparities and poverty by alleviating poverty and eradicating extreme poverty and hunger. This Blueprint also calls for access to primary healthcare of the vulnerable groups/people at risk.

This Blueprint specifically emphasizes the promotion and protection of the rights and welfare of disadvantaged, vulnerable and marginalised groups such as women, children, the elderly, persons with disabilities and migrant workers. The implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers is set forth as a strategic objective of the ASCC Blueprint to achieve this particular goal.

Promoting corporate social responsibility to ensure sustainable socio-economic development in ASEAN member states and fostering sustainability of water resources to ensure equitable accessibility and sufficiency of acceptable quality of water are aspects of human rights incorporated in the Blueprint.

3. Beyond the Blueprints

ASEAN Member states are cognizant that in building a people-oriented, sharing and caring, and rules-based ASEAN community through the ASEAN Political-Security Community, the ASEAN Economic Community and the ASEAN Socio-cultural Community, the pertinence of human rights cannot be ignored. However, the test is in the realization of the strategic objectives through the actions articulated in the Blueprints by member states. The extent to which the human rights-related objectives are achievable is difficult to predict because for objectives such as “equitable access” requires change in mindset and commitment of member states.

The realization of the envisaged objectives through the promotion of pertinent human rights may be easy to achieve but through protection of human rights is a different kettle of fish because it involves certain protection mechanisms such as investigation, monitoring, punishment and even sanction by member states. Since ASEAN practises the principles of non-interference and decision by consensus, protection of human rights may be difficult and even impossible to effect.

The ASEAN Political-Security Community, which seeks to collectively promote democracy, good governance and respect for the promotion and protection of human rights, may be impeded by the strictly practised principle of non-interference into the domestic affairs of member states.

This issue has been widely raised by so many including the academia, civil society organizations and national human rights institutions, especially during the drafting of the Terms of Reference for the ASEAN Intergovernmental Commission on Human Rights. This principle of non-interference is subtly indicated by qualifiers in the Blueprints such as “with due regard to the rights and responsibilities of the Member States of ASEAN”¹

The conflict prevention and confidence building measures instituted in the ASEAN Political-Security Community through practices such as preventive diplomacy and renunciation of aggression and of the threat or use of force can be applauded as they ensure peace and harmony within the region. Despite disputes that are raised from time to time, the non-confrontational approach by ASEAN member states safeguards the people from war and battle. Many human rights abuses and violations can be avoided with the prevention of war. Nonetheless, it cannot be denied that disputes and conflicts within member states have resulted in numerous human rights violations and abuses.

From an economic perspective, the ASEAN Community, which envisages a single market economy, will bring dramatic changes to the ASEAN society. Generally, a single market will induce a more competitive environment and thus reducing prices of goods and services. As businesses flourish, due mainly to the removal of trade barriers, employment opportunities will increase. These factors can play a crucial role in enabling the population to enjoy a higher standard of living and mitigate poverty-related problems.

Free flow of labour causes an influx of workers from neighbouring member states and can easily become an avenue for serious violations of human rights if proper policies regarding foreign workers are not carefully formulated and implemented. This influx can result in inadequate primary healthcare and education facilities, improper living conditions, racial and

¹ As stated in #12, “ASEAN’S cooperation in political development aims to strengthen democracy, enhance good governance and the rule of law and to promote and protect human rights and fundamental freedoms, with due regard to the rights and responsibilities of the member states of ASEAN, so as to ultimately create a Rules-based Community of shared values and norms.

religious conflicts/discrimination, unemployment and underpayment of wages, thus leading to human rights violations or abuses.

ASEAN governments must also take into consideration the level of economic competitiveness of each ASEAN member state as they move towards an ASEAN Economic Community. It is ultimately imperative that member states somehow ensure this balance to prevent economic domination by certain member states. If this element is ignored, the businesses of certain member states, which previously enjoyed national market protection and subsidy from their governments, may fail to be profitable or even survive. Local businesses and enterprises will therefore dwindle giving way to more efficient entrepreneurs from other advanced or enterprising member states. This may lead to a higher rate of unemployment among citizens.

Likewise the non-discrimination in the recruitment or employment process of staff to ensure that both local and foreign workers are offered equal opportunities in seeking employment can foster unemployment among citizens if their skills and work ethics are inferior to those of the foreigners. While competitiveness and open market is good for business, some leeway for affirmative measures may be needed to give a leg-up to the local people.

Despite having their own blueprints, the three pillars are closely intertwined and mutually reinforcing as they are aimed at building an ASEAN community to cope with increasing political and economic competition in a globalised world. Human rights violations or denial of the rights of the peoples enunciated in any one of the Blueprints will undoubtedly affect in varying degrees the achievement of the objectives of the other Blueprints. For instance, failure to establish a rules-based Community of shared values and norms due to the undemocratic government in one or two member states will definitely affect the successful attainment of equitable economic development among the peoples and social justice and rights, especially those of the vulnerable and marginalized groups. In addition, as human rights underpin ASEAN Community, any of the violations will affect APSC, AEC and ASCC, though not necessarily to the same extent. More importantly is the establishment of the ASEAN Intergovernmental Commission on Human Rights (AICHR) to promote and protect human rights and fundamental

freedom in ASEAN. But, since the AICHR is only a consultative organization on the promotion of human rights and has no mandate to monitor and protect human rights in the region, human rights are vulnerable to violations.

4. Conclusion

While member states perceive the necessity to have an integrated regional body, many of them also see the development of a strong regional body as a threat to their own political power and their position in the region. For the regional integration to be successful, the benefits of ASEAN to the grouping's people have to be emphasized. People must feel the benefits of ASEAN in their daily lives. ASEAN must strive to be a "community of action" and able to act decisively and in a timely manner to address both internal and external threats, violations of human rights and fundamental freedoms, and meet the challenges of its member states and peoples. The ASEAN Community should become a "community of people" where all peoples of the region have equitable access to human development opportunities, justice and participation in the governance of the country.