

THE EU'S STRATEGY TO PROMOTE HUMAN RIGHTS IN SOUTH-EAST ASIA

SEMINAR : HUMAN RIGHTS : AN ISSUE FOR EU/ASEAN RELATIONS ?

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INTRODUCTION : EU AND HR IN EXTERNAL RELATIONS

- EU promoter of Human rights in its external relations
- Legal basis
- **Article 2 TEU : EU values** : « The Union is **founded on the values** of respect for human dignity, freedom, democracy, equality, the rule of law and **respect for human rights**, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail. »
- **Article 3 TEU : objectives of the EU** « 5. In its **relations with the wider world**, the Union shall uphold and **promote its values and interests** and contribute to the protection of its citizens. It shall **contribute** to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the **protection of human rights**, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter. »

INTRODUCTION : EU AND HR IN EXTERNAL RELATIONS

- Legal basis
 - **Article 21 TEU** : « **The Union's action on the international scene** shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: **democracy**, the **rule of law**, the universality and indivisibility of **human rights and fundamental freedoms**, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law »

INTRODUCTION - EU'S ACTION – HR ON THE INTERNATIONAL SCENE

- **EU Action Plan on Human Rights and Democracy – 2020-2024**
 - Ambitions and priorities :
 - protecting and empowering individuals,
 - building resilient, inclusive and democratic societies
 - Promoting a global system for human rights and democracy, etc.
- **Political dialogues** with $\approx$ 60 countries
- **Trade agreements** = human rights clause as “**essential element**”.
Can lead to the imposition of measures (e. g. suspension of cooperation in case of HR violation)
- Regulation 2020/1998 establishing a global human rights **sanction regime**
- Etc.

INTRODUCTION : EU AND SOUTH-EAST ASIA

- **Bilateral and bi-regional** relations
 - ASEAN = Association of Southeast Asian Nations
- Long standing cooperation focused on **trade**
 - Bilateral FTA
 - Vietnam (EVFTA) = in force in 2020
 - Singapore (EUSFTA) = in force in 2019
 - Failure to reach an EU-ASEAN FTA (for now)
 - EU-ASEAN air transport agreement in 2022
- How about **Human rights** ?



- **ASEAN**

- 10 Member States
- Established in 1967
- Population 664 million



THE EU'S STRATEGY TO PROMOTE HUMAN RIGHTS IN SOUTH-EAST ASIA

- I. Growing cooperation
- II. Remaining challenges



I. GROWING COOPERATION



EU-ASEAN COOPERATION

HIGHLIGHTS OF EU-ASEAN RELATIONS



Source : eeas.europa.eu

EARLY EU-ASEAN COOPERATION

- Early 70's = **dialogue**
 - ASEAN established as a bulwark against communism – fosters relationship with EEC
 - Common adversary - political interest of the EEC – influence USA/USSR
 - Access to ASEAN markets
- 1980 = **Cooperation Agreement** between EEC-ASEAN member States
 - Development, commerce, economic and cultural development
 - ASEAN mostly a recipient of EU donations
 - Democracy and human rights played a marginal role

LONG STALLED RELATION BECAUSE OF HR ISSUES

- 1990's = after **end of Cold war**, shift in EC's stands towards ASEAN
 - Required HR and democracy clauses in EC/EU-ASEAN cooperation agreements
 - Policy **of conditionnalités** = aid and trade linked to HR
 - 1995 = EU established a policy of systematically including **HR clauses** in its new trade agreements
 - Unacceptable for ASEAN countries = **interference** / narrative of « **Asian values** » (work, frugality) vs individualism, eurocentrism, universalism
- **Myanmar/Burma** situation
 - EU **sanctions** on Myanmar since 1991 – to promote democracy and HR
 - Accepted in ASEAN in 1997 – no interference in internal affairs
 - Impaired interregional relations
 - EU-ASEAN meetings suspended for +2 years

2000'S : RESUMING EU-ASEAN RELATIONS

- Ministerial meeting resumed in 2000
- EU Strategy « Europe and Asia » - september 2001
 - « work together with Asia to uphold the **universality and indivisibility of human rights** »
- Ease of ASEAN's position on integration process understanding
 - **ASEAN Charter in 2007** = inspired by the EU Treaties
 - Assistance of EU officials to draft the Charter
- EU-ASEAN Nuremberg declaration of 15 March 2007 on an EU-ASEAN Enhanced Partnership
 - Commitment on promoting HR : « Recognizing the need to **strengthen the promotion and the protection of human rights** through practical steps and closer cooperation, including in international fora »

NEW GEOPOLITICAL CONTEXT = A NEW IMPETUS IN EU-ASEAN RELATIONS

- **China's** influence

- Influence in ASEAN
 - RCEP
 - BRI
 - Dependency ?
- De-risking policy of the EU
 - « systemic rival »

- **Middle powers** in the USA/China rivalry

- « Asean Centrality »
- EU = access to ASEAN markets

=> New impetus in EU/ASEAN relations

NEW IMPETUS IN EU-ASEAN COOPERATION IN THE FIELD OF HUMAN RIGHTS

- 2020 = **Strategic Partnership**
 - « today we elevated the ASEAN-EU Dialogue Partnership to a Strategic Partnership »
 - « We also reaffirmed the importance of maintaining and promoting **peace**, security, stability, safety, and freedom of navigation in and overflight above the South China Sea »
- 2022 = **Commemorative Summit Joint Statement** :
 - « ASEAN and the EU are strategic partners with a shared interest in a **peaceful, stable and prosperous region**, where international law and the rules-based international order are respected and upheld, and where **peace, security and stability are maintained**, including through, among others, the promotion and protection of **human rights** such as **gender equality and fundamental freedoms** »



FOSTERED BY A RECENT ASEAN COMMITMENT TOWARDS FUNDAMENTAL RIGHTS

- ASEAN **Human rights declaration** – 2012 ASEAN Summit – Phnom Penh
 - Civil and political rights
 - Economic, Social and Cultural rights
 - Right to development
 - Right to peace
- ASEAN Intergovernmental Commission on Human Rights (**AICHR**) in 2009
 - « to promote and protect human rights and fundamental freedoms of the peoples of ASEAN »
 - One representative nominated from each ASEAN Member State

HR CLAUSES IN EU FTA

- **EU-Vietnam** FTA in force since 2020 :

Chapter XIII « Trade and sustainable development »

- Article 13.1 : « The objective of this Chapter is to promote sustainable development, notably by fostering the **contribution of trade and investment related aspects of labour** and environmental **issues** »
- Article 13.4 : « 2. Each Party reaffirms its commitments, in accordance with its obligations under the **ILO** and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted by the International Labour Conference at its 86th Session in 1998, **to respect, promote and effectively implement** the principles concerning the **fundamental rights at work**, namely:
 - (a) the **freedom of association** and the effective recognition of the **right to collective bargaining**;
 - (b) the elimination of all forms of **forced or compulsory labour**;
 - (c) the effective abolition of **child labour**; and
 - (d) the elimination of **discrimination** in respect of employment and occupation.
- Similar provisions in **EU-Singapore** FTA in force since 2019

EU FUNDING – DEVELOPMENT AID

- Example « **Safe and Fair : Realising women migrant worker's rights and opportunities in the ASEAN** »

- Jan 2018 – Dec. 22

- € 25 million by the EU

- Information campaign to raise awareness on violence, trafficking on women migrant workers

- 700 people trained on gender-based violence

- Support to elaboration of policy-recommendation, etc.

SAFE & FAIR:

Realizing women migrant workers' rights and opportunities in the ASEAN region



EU FUNDING – DEVELOPMENT AID

• E-Readi

- Enhanced Regional EU-ASEAN Dialogue Instrument
- Programme that facilitates EU-ASEAN dialogue fora
- Supports ASEAN integration – reducing poverty
- 2017-2025 : €20 million by the EU
- Several sectors :
 - Connectivity
 - Environment
 - HR
 - research...

HUMANS RIGHTS & GENDER EQUALITY	
Policy Dialogue on Human Rights	  
Safe & Fair Labour Migration Campaign	 
Harmonising Migration Measures in ASEAN	 
ASEAN Employment Outlook	 
Women's Political Participation & Leadership	 

Source : eeas.europa.eu

EU FUNDING – DEVELOPMENT AID

- Supporting to **AICHR** – Asean Inter-governmental Commission on HR
- € 600 000 – 2024-2025
- To contribute to **fostering a culture of respect, protection, and promotion of human rights** in ASEAN countries
 - Strengthen capacity and expertise of AICHR in promoting and protecting HR
 - Strengthen the networking of AICHR with the EU and civil society



AICHR

ASEAN Intergovernmental
Commission on Human Rights

II. REMAINING CHALLENGES



ASEAN HUMAN RIGHTS DECLARATION : WEAKNESSES (1/2)

- ASEAN Human Rights Declaration :
 - « ASEAN Member States share a common interest in and commitment to the promotion and protection of human rights and fundamental freedoms which shall be achieved through, inter alia, **cooperation with one another** as well as with relevant national, regional and international institutions/organisations, in accordance with the ASEAN Charter »
 - « Nothing in this Declaration may be interpreted as implying for any State, group or person any right to perform **any act aimed at undermining the purposes and principles of ASEAN** »
 - Primacy of other ASEAN principles : ASEAN Charter : art. 2 : principle of respect for « the **independence, sovereignty**, equality, territorial integrity and national identity of all ASEAN Member States” and “**non-interference** » in internal affairs
 - « the realisation of human rights must be considered in the regional and national context bearing in mind different **political, economic, legal, social, cultural, historical and religious backgrounds** » = prominence of national particularities over human rights standards

ASEAN HUMAN RIGHTS DECLARATION : WEAKNESSES (2/2)

- Criticisms from UN experts when declaration launched
 - Concern on affirmation : « The **enjoyment of human rights and fundamental freedoms must be balanced** with the performance of corresponding **duties** as every person has responsibilities to all other individuals ». Not in line with International Human Rights Law
 - Expert : « Insufficient input from civil society and other stakeholders »
- Also criticized by NGOs (Amnesty international, etc).
 - Sub-standard level of rights = diluted version of HR than UN
- Lack of provisions on freedom of association, or minorities rights, for example

ASEAN INTERGOVERNMENTAL COMMISSION ON HUMAN RIGHTS : WEAKNESSES

- Operates by **consensus**
- In accordance with ASEAN fundamental principles :
 - Sovereignty, territorial integrity
 - **non-interference** in domestic affairs
- Not comparable to the CJEU or ECHR

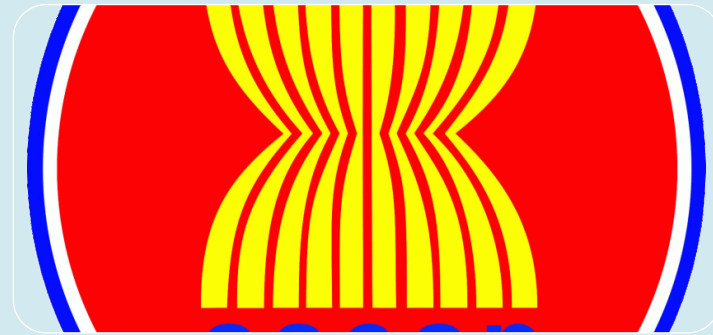


AICHR

ASEAN Intergovernmental
Commission on Human Rights

ASEAN & EU : DIFFERENT STRUCTURES

EU's « **normative power** » ≠ « **ASEAN way** »



Supranationality
Primacy/Direct effect
Binding rule
Binding & invocable
Charter of FR
CJEU

Sovereignty
Non-interference
Cooperation /
dialogue
Declaration on HR
No court

HR VIOLATIONS IN ASEAN MEMBER STATES – A FEW EXAMPLES

- Little positive impact of ASEAN HR declaration
 - **Vietnam**
 - Excessive use of force by the police
 - Torture in prisons and death penalty (number of execution State secret)
 - Detention of peaceful activists – Communist State
 - **Thailand**
 - Prohibition of « lèse-majesté » in Criminal Code – Monarchy – Imprisonment
 - Constitutional Court, 31 Jan. 24 = Contrary to the Constitution to propose to repeal it
 - **Philippines :**
 - « illiberal populism » with Rodrigo Duterte between 2016-22
 - Controversial measures against drug trafficking : order to shoot to kill
 - 2022 EP resolution condemning the thousands of extrajudicial executions
 - **Myanmar**
 - Military junta – repression of political opposition – from detention to death penalty
 - Armed conflicts lead to forced displacement of civilians
 - Forced displacement/persecutions of Rohingyas

Etc.

EU'S UNILATERAL ACTIONS AGAINST HR VIOLATION

- **Sanctions against Myanmar**

- Sanction since 1991
- Then dialogue once democracy re-established in 2015
 - Legislative elections – Aung San Suu Kyi – State counsellor / foreign Minister
 - Persecution of Rohingya people since 2017 – 800 000 fled to Bangladesh
 - Feb. 2021 : coup – military seized power -detained Aung San Suu Kyi
 - « human rights abyss » according to UN report
 - At least 2414 civilians killed April 23 – June 24
 - 3 million people displaced
- Asean's powerlessness

- **8 packages of sanctions since military coup**

- Travel ban on individuals (103 individuals)
- Asset freeze for individuals and entities
- Arms embargo
- Export ban on equipment usable for repression or to monitor intercept internet/phone communication
- Etc.
- => also sanctions against **Cambodia** in 2020



Aung San Suu Kyi



Asean flag burnt by protester – Reuters

INTERNAL LEGISLATION OF THE EU

- Directive on **corporate sustainability due diligence** (Directive 2024/1760) in force since 25 July 2024
 - Imposes EU importers to carry out environmental and human rights due diligence throughout their supply chain
 - First target : China and forced labour of Uyghur population in Xinjiang
 - Potential effect on textile industry in Vietnam, Malaysia, Cambodia and wooden/rubber produced in Indonesia
- **Forced labour regulation** – approved by EP in April 2024
 - Prohibition of imports, exports and sales of products made with forced labour
 - Will it affect ASEAN countries ?
- **EU Deforestation regulation** – in force in Dec. 24
 - Palm oil conflict Indonesia/Malaysia
 - Environment/social rights = affect economic rights of palm oil sector workers ?

CONCLUSION :

HR AND DEMOCRACY IN THE EU : A BLOW TO THE EU'S CREDIBILITY ?

- **Erosion of democracy and HR** protection
 - Rule of law crisis
 - Poland, Hungary
 - Rise of far right
 - Italy
 - France
 - Germany = Thüringen
- **Credibility** of the EU as a HR protector
- Ability to speak for all its Member States questioned

A stylized map of Europe and Southeast Asia is shown in a light blue color. The map is overlaid with several wavy, horizontal lines in a light yellow or gold color. The text "Thank you for your attention !" is centered over the map in a bold, black, sans-serif font.

**Thank you for your
attention !**