



## Building Human Rights Uniformity in Southeast Asia: Comparative Approach to Indonesian Law

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### Abstract

This research examines the complex human rights landscape in Southeast Asia, utilizing a comparative perspective focused on Indonesian law. Employing normative qualitative methods, we meticulously investigate the nuances of human rights legislation and its practical implementation in Indonesia relative to other countries in the region. Despite notable advancements in Indonesia's human rights efforts, our analysis reveals a significant lack of uniformity in the application of human rights principles when compared to neighboring nations. We attribute these disparities to a variety of causal factors, including differences in legal frameworks, levels of economic development, and socio-cultural contexts. Our findings emphasize the necessity of fostering greater coherence and consistency in human rights enforcement across Southeast Asia. We recommend a concerted effort towards harmonizing laws and policies, underpinned by unwavering political commitment from all member states. By adopting a more integrated approach to human rights governance, we propose that Southeast Asia can progress towards a more equitable and just future. Our study offers indispensable insights for policymakers and stakeholders, highlighting pathways for enhancing human rights practices in the region. It underscores the crucial importance of cultivating regional cooperation and promoting inclusive, sustainable human rights initiatives for the overall well-being of Southeast Asian societies.

**Keywords:** Comparative Law, Human Rights, Indonesian Law, Legal Harmonization, Southeast Asia

**Received:** 20 March 2024 **Revised:** 17 May 2024 **Accepted:** 22 June 2024

### I. Introduction

Human rights serve as a fundamental cornerstone in the construction of a just and democratic society.<sup>1</sup> In the Southeast Asian region, human rights issues have garnered attention at both the national and regional levels. This is evidenced by the various initiatives and regional cooperation frameworks developed, such as the Southeast Asian Human Rights Declaration adopted in 2012.<sup>2</sup> This declaration exemplifies the shared commitment of Southeast Asian member states to respect, protect, and promote human rights within the

<sup>1</sup> N. Ishak and R.R.M. Manitra, 'Constitutional Religious Tolerance in Realizing the Protection of Human Rights in Indonesia', *Journal of Human Rights, Culture and Legal System*, 2.1 (2022), pp. 31–44, doi:10.53955/jhcls.v2i1.24.

<sup>2</sup> B. Harsanto and others, 'Export Performance in Four ASEAN Countries: The Role of International Quality Certification, Information and Communication Technology Capability, and Innovation', *Business Strategy and Development*, 6.4 (2023), pp. 785–94, doi:10.1002/bsd2.277.

region. Despite progress, human rights developments in the Southeast Asian region are often scrutinized on a global scale.<sup>3</sup> Several international organizations, such as Human Rights Watch and Amnesty International, have reported on challenges in the implementation of human rights in some member states. Issues of freedom of speech, minority rights, and social justice tend to be the primary focus.<sup>4</sup> This demonstrates that while significant strides have been made, there remain many aspects that require improvement.

Indonesia, similar to other Southeast Asian countries, has incorporated human rights as an essential component of its post-New Order political and legal reforms.<sup>5</sup> The government of Indonesia has taken significant steps to strengthen human rights institutions and has adopted various regulations to safeguard the basic rights of its citizens. However, like other countries in the region, Indonesia still faces difficulties in ensuring the full and consistent implementation of human rights.<sup>6</sup>

Since 1998, the government of Indonesia has taken significant steps to bolster its institutions and legal frameworks in support of human rights. This has included the ratification of several international human rights instruments and the enactment of laws aimed at safeguarding the rights of vulnerable groups.<sup>7</sup> As a result, Indonesia has made notable progress in upholding and defending human rights in Southeast Asia.<sup>8</sup> By examining the diverse approaches to human rights in Indonesia compared to other Southeast Asian countries, it is possible to better understand the dynamics of human rights in the region.

This legal reform represents a significant shift in the governance of human rights in Indonesia, which previously had a more restrictive approach. While many studies of human rights have focused on legislative and institutional improvements, there is often a disconnect between these reforms and their implementation in practical terms.<sup>9</sup> Consequently, issues such as discrimination, violence against minority groups, and violations of freedom of expression continue to be pressing concerns that require attention.<sup>10</sup> Other studies emphasize that Indonesia must continue to enhance its legal system and policies in order to achieve uniform human rights standards across Southeast Asia.<sup>11</sup> Additionally, there is a need to improve

<sup>3</sup> R.A. Pernia, 'Human Rights in a Time of Populism: Philippines under Rodrigo Duterte', *Asia-Pacific Social Science Review*, 19.3 (2019), pp. 56–71.

<sup>4</sup> S. Hamanaka and S. Jusoh, 'Domestic Legal Traditions and International Cooperation: Insights from Domestic and International Qualification Systems', *International Political Science Review*, 44.3 (2023), pp. 434–52, doi:10.1177/01925121211028472.

<sup>5</sup> Ishak and Manitra.

<sup>6</sup> S. Hardjomuljadi, 'Use of Dispute Avoidance and Adjudication Boards', *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction*, 12.4 (2020), doi:10.1061/(ASCE)LA.1943-4170.0000431.

<sup>7</sup> Z.J. Fernando, U. Rozah, and N. Rochaeti, 'The Freedom of Expression in Indonesia', *Cogent Social Sciences*, 8.1 (2022), doi:10.1080/23311886.2022.2103944; M.M. Al'Afghani, J. Kohlitz, and J. Willetts, 'Not Built to Last: Improving Legal and Institutional Arrangements for Community-Based Water and Sanitation Service Delivery in Indonesia', *Water Alternatives*, 12.1 (2019), pp. 285–303.

<sup>8</sup> F. Ahmad, M.U. Draz, and S.-C. Yang, 'Causality Nexus of Exports, FDI and Economic Growth of the ASEAN5 Economies: Evidence from Panel Data Analysis', *Journal of International Trade and Economic Development*, 27.6 (2018), pp. 685–700, doi:10.1080/09638199.2018.1426035; Fernando, Rozah, and Rochaeti; K. Warman, S. Isra, and H. Tegnán, 'Enhancing Legal Pluralism: The Role of Adat and Islamic Laws within the Indonesian Legal System', *Journal of Legal, Ethical and Regulatory Issues*, 21.3 (2018) <<https://www.scopus.com/inward/record.uri?eid=2-s2.0-85055211047&partnerID=40&md5=b7773ccd0434385fd5571cec7a2e0f47>>.

<sup>9</sup> T. Adiyanto, 'Dealing with Unexpected Circumstances: Judicial Modification of Contract under Indonesian and Dutch Law', *Hasanuddin Law Review*, 5.1 (2019), pp. 102–19, doi:10.20956/halrev.v5i1.1508; A. Aurasu and A. Abdul Rahman, 'Forfeiture of Criminal Proceeds under Anti-Money Laundering Laws: A Comparative Analysis between Malaysia and United Kingdom (UK)', *Journal of Money Laundering Control*, 21.1 (2018), pp. 104–11, doi:10.1108/JMLC-04-2017-0016; Harsanto and others.

<sup>10</sup> M.R.A. Palar, D.E. Sukarsa, and A.M. Ramli, 'Indonesian System of Geographical Indications to Protect Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions', *Journal of Intellectual Property Rights*, 23.4–5 (2018), pp. 174–93.

<sup>11</sup> A. Acharya, 'Democratisation and the Prospects for Participatory Regionalism in Southeast Asia', *Third World Quarterly*, 24.2 (2003), pp. 375–90, doi:10.1080/0143659032000074646.

law enforcement agencies, increase public awareness of human rights, and establish more effective mechanisms for reporting and resolving human rights violations.<sup>12</sup>

Few studies have conducted an in-depth examination of the disparity in human rights in Southeast Asia through a comparative analysis of Indonesian law. Upon comparison with other Southeast Asian countries, it is evident that Indonesia has made progress, but still has room for improvement, particularly in the areas of law enforcement and application of human rights.<sup>13</sup> With continued international support, Indonesia could serve as a model for human rights promotion and protection in the region, which would contribute to greater stability and prosperity.<sup>14</sup> This paper seeks to address the existing research gap by providing a comprehensive analysis of human rights law in Indonesia as a model for the Southeast Asian region in addressing human rights non-uniformity.

The objective of this paper is to supplement the limitations of previous studies by carefully investigating the regulation and application of human rights in both national and regional legal contexts. In other words, this paper presents three main points. Firstly, there is a lack of uniformity in the implementation of human rights norms. This aspect explores the disparity and non-uniformity in the implementation of human rights in Indonesia compared to other Southeast Asian countries. Secondly, it identifies the factors that contribute to this non-uniformity. Lastly, it underscores the need for harmonization of laws and policies as a means of harmonizing human rights policies and laws in the Southeast Asian region.

Further this research advances the argument that Indonesia has made significant strides in embracing and enforcing human rights norms. This is corroborated by the mounting number of regulations and policies that are designed to safeguard human rights.<sup>15</sup> Nevertheless, there is a noticeable inconsistency in the application of human rights norms in Indonesia when compared to other Southeast Asian countries. This inconsistency is exemplified by the disparities in the application of laws and policies, as well as the reactions to specific human rights cases.<sup>16</sup> Several factors contribute to the disparities in the implementation of human rights, including the divergent legal systems between Indonesia and other Southeast Asian countries, which affect the interpretation and application of human rights norms.<sup>17</sup> Moreover, the level of economic development and socio-cultural context play crucial roles in shaping the implementation of human rights in the region.

## II. Literature Review

### 1. Human Rights in Indonesia

The human rights situation in Indonesia and other Southeast Asian countries varies significantly, particularly with respect to freedom of expression and civil rights. Indonesia, as the region's largest democracy, has made substantial progress in enhancing its human rights legal framework, including post-reform constitutional changes and legal reforms.<sup>18</sup> However, its implementation practices still trail behind

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<sup>12</sup> S.R. Meyer and others, 'Gender Differences in Violence and Other Human Rights Abuses Among Migrant Workers on the Thailand–Myanmar Border', *Violence Against Women*, 25.8 (2019), pp. 945–67, doi:10.1177/1077801218805587; N.D. Mukti Fajar, 'Competition Law in ASEAN: The Future of Competition Authority in ASEAN Economic Community', *Humanities and Social Sciences Reviews*, 7.3 (2019), pp. 247–54, doi:10.18510/hssr.2019.7338; Warman, Isra, and Tegnán.

<sup>13</sup> Harsanto and others.

<sup>14</sup> Mukti Fajar.

<sup>15</sup> U.Y. Prisdani, 'Shareholder Activism in Indonesia: Revisiting Shareholder Rights Implementation and Future Challenges', *International Journal of Law and Management*, 64.2 (2022), pp. 225–38, doi:10.1108/IJLMA-07-2021-0169.

<sup>16</sup> Meyer and others.

<sup>17</sup> M. Liverani, K. Song, and J.W. Rudge, 'Mapping Emerging Trends and South–South Cooperation in Regional Knowledge Networks: A Bibliometric Analysis of Avian Influenza Research in Southeast Asia', *Journal of International Development*, 35.7 (2023), pp. 1667–83, doi:10.1002/jid.3746.

<sup>18</sup> E.I. Israhadi, 'A Study of Commercial Arbitration and the Autonomy of the Indonesian Arbitration Law', *Journal of Legal, Ethical and Regulatory Issues*, 21.1 (2018)

neighboring countries like Malaysia and Singapore, which employ different methods for enforcing human rights law.<sup>19</sup> Factors such as political and social history contribute to these disparities in implementation.

## 2. Human Rights in Southeast Asia

In the Southeast Asian context, the disparity in approach to human rights is particularly evident in the realms of freedom of expression and civil rights.<sup>20</sup> Although Indonesia has strengthened its post-reform democracy to create room for freedom of expression, challenges still persist, especially regarding sensitive matters like religious and ethnic pluralism.<sup>21</sup> In contrast, countries with more authoritarian systems of government, such as Vietnam and Laos, typically impose stricter limitations on freedom of expression. This illustrates that although there are similarities in human rights legal frameworks at the regional level, their application is strongly influenced by the political and social context in each country.

## 3. Comparative Indonesia and Southeast Asia

This comparison highlights the significance of cultural and historical context in shaping human rights policies in the region. In the Philippines, a history of democratic struggle has led to the development of a more inclusive human rights legal framework, particularly in the protection of the rights of marginalized groups. Brunei Darussalam and Myanmar, on the other hand, have distinct political and cultural backgrounds that result in different approaches to human rights regulation and implementation.<sup>22</sup>

A comparative study of human rights law between Indonesia and other Southeast Asian countries mainly focuses on the influence of the legal system, level of economic development, and socio-cultural context on the implementation of human rights.<sup>23</sup> Previous research has revealed significant disparities in the implementation of human rights norms among countries in the region.<sup>24</sup> These differences play a crucial role in determining how human rights are respected and implemented in each country.<sup>25</sup>

The Southeast Asian region consists of countries with diverse legal systems, namely civil law, common law, and a combination of both.<sup>26</sup> Indonesia has a legal system rooted in civil law, but influenced by elements of common law.<sup>27</sup> These differences affect the way human rights are interpreted and applied.<sup>28</sup> On the other hand, countries like Malaysia and Singapore are more common law oriented, have different approaches to human rights. Thus, this difference in legal systems is an important factor in this comparative analysis.

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<<https://www.scopus.com/inward/record.uri?eid=2-s2.0-85045739314&partnerID=40&md5=515632097466362cddf9e4c5416af43d>>; Mukti Fajar; Pernia.

<sup>19</sup> K. Swangjang, 'Comparative Review of EIA in the Association of Southeast Asian Nations', *Environmental Impact Assessment Review*, 72 (2018), pp. 33–42, doi:10.1016/j.eiar.2018.04.011.

<sup>20</sup> M. Caballero-Anthony, 'Understanding ASEAN's Centrality: Bases and Prospects in an Evolving Regional Architecture', *Pacific Review*, 27.4 (2014), pp. 563–84, doi:10.1080/09512748.2014.924227.

<sup>21</sup> Ishak and Manitra.

<sup>22</sup> L.J.M. Jansen, P.P. Kalas, and M. Bicchieri, 'Improving Governance of Tenure in Policy and Practice: The Case of Myanmar', *Land Use Policy*, 100 (2021), doi:10.1016/j.landusepol.2020.104906; M.M. Reza, T. Subramaniam, and M.R. Islam, 'Economic and Social Well-Being of Asian Labour Migrants: A Literature Review', *Social Indicators Research*, 141.3 (2019), pp. 1245–64, doi:10.1007/s11205-018-1876-5.

<sup>23</sup> N. Duadji and N. Tresiana, 'Analysis of Child Marriage and Related Policies in Indonesia: Sustainable Development Issue', *Problemy Ekorozwoju*, 17.1 (2022), pp. 101–13, doi:10.35784/pe.2022.1.10; M. Muslih, 'Financial Technology: Digital Legal Challenges and Indonesia's Economic Prospects After Covid-19 Outbreak', *Legality: Jurnal Ilmiah Hukum*, 30.2 (2022), pp. 255–66, doi:10.22219/ljih.v30i2.22784.

<sup>24</sup> Syahlan Syahlan, 'Effective and Efficient Synchronization in Harmonization of Regulations Indonesia', *Journal of Human Rights, Culture and Legal System*, 1.1 (2021), pp. 54–71, doi:10.53955/jhcls.v1i1.7.

<sup>25</sup> N.P. Rai Yulianti and D.G. Sudika Mangku, 'Legal Protection for Women Victims of Trafficking in Indonesia in an International Human Rights Perspective', *International Journal of Criminology and Sociology*, 9 (2020), pp. 1397–1404, doi:10.6000/1929-4409.2020.09.160.

<sup>26</sup> Harsanto and others.

<sup>27</sup> Warman, Isra, and Tegnan; L.T.A.L. Wardhani, M.D.H. Noho, and A. Natalis, 'The Adoption of Various Legal Systems in Indonesia: An Effort to Initiate the Prismatic Mixed Legal Systems', *Cogent Social Sciences*, 8.1 (2022), doi:10.1080/23311886.2022.2104710.

<sup>28</sup> Syahlan.

In addition to the legal system, the level of economic development also plays an important role in the implementation of human rights.<sup>29</sup> Countries with more developed economies, such as Singapore and Brunei Darussalam, tend to have more resources to support human rights implementation.<sup>30</sup> In contrast, countries with emerging economies such as Indonesia and the Philippines, face greater challenges in this regard.<sup>31</sup> This relates to the allocation of resources for education, health, and social infrastructure, which are important aspects in the fulfillment of human rights.

The sociocultural context significantly impacts the implementation of human rights in the Southeast Asian region, a fact that cannot be overlooked.<sup>32</sup> Each nation in this region possesses its own distinct cultural and historical foundation, which in turn shapes the population's perspective on human rights. In countries with a history of authoritarianism, the transition to a broader application of human rights has often proven challenging.<sup>33</sup> Conversely, nations with stronger democratic traditions typically boast more robust legal and social frameworks to support human rights.

The Southeast Asian region has been the subject of criticism for its uneven application of human rights.<sup>34</sup> This disparity is particularly evident when compared to other countries in the region, such as Indonesia, which employ different legal and policy approaches towards human rights. A report from a prestigious international human rights organization reveals that there are significant differences in the protection and realization of human rights among Southeast Asian nations.<sup>35</sup>

## **.Methodology**

The present study adopts a normative qualitative research approach to investigate human rights law in Indonesia and neighboring Southeast Asian nations. Primary and secondary data are garnered through an extensive review of legal documents pertaining to human rights regulations, as well as scholarly literature. The normative perspective employed herein entails a thorough examination of legal norms and principles, elucidating the convergence and divergence of human rights frameworks across Southeast Asia vis-à-vis Indonesian legislation.

Primary data acquisition involves meticulous scrutiny of official legal instruments such as statutes, governmental directives, and judicial rulings. Secondary data, on the other hand, encompasses scholarly contributions including legal journals, monographs, and pertinent publications. Through rigorous document analysis, emphasis is placed on discerning the content, context, and operationalization of human rights law within national and regional frameworks. Data interpretation adopts an interpretative stance, scrutinizing the application and interpretation of human rights norms across diverse legal contexts within Southeast Asia. Comparative analysis,<sup>36</sup> systematically juxtaposes the legal architecture of Indonesia with that of its regional counterparts, thereby delineating similarities, disparities, and lacunae in the implementation of human rights principles. Furthermore, the analytical framework incorporates consideration of extrinsic factors influencing human rights enforcement, notably the prevailing legal

<sup>29</sup> Ishak and Manitra.

<sup>30</sup> Muslih.

<sup>31</sup> H. Kim, 'Globalization and Regulatory Change: The Interplay of Laws and Technologies in E-Commerce in Southeast Asia', *Computer Law and Security Review*, 35.5 (2019), doi:10.1016/j.clsr.2019.03.009; M. Mahfudz, 'Qur'anic Exegesis and Religious Moderation in South Sulawesi: The Law on Blasphemy to Gods of Non-Muslims in Islamic Law Perspective', *Samarah*, 7.3 (2023), pp. 1447–67, doi:10.22373/sjhk.v7i3.19250.

<sup>32</sup> Ahmad, Draz, and Yang; Ishak and Manitra.

<sup>33</sup> L.A.L.W. Tyesta, R. Saraswati, and F. Arif, 'Implications of Legal Positivism of the Promotion of Children's Rights on National Law', *Journal of Advanced Research in Law and Economics*, 11.2 (2020), pp. 661–66, doi:10.14505/jarle.v11.2(48).36.

<sup>34</sup> S.A. Wulandari and P. Kirana, 'ASEAN States Cooperation in the Control and Prevention of Illicit Drugs Trafficking', *Yuridika*, 38.3 (2023), pp. 665–84, doi:10.20473/ydk.v38i3.44872.

<sup>35</sup> Warman, Isra, and Tegnan; Pernia.

<sup>36</sup> K.B. Batiran and I. Salim, 'A Tale of Two Kewangs: A Comparative Study of Traditional Institutions and Their Effect on Conservation in Maluku', *Forest and Society*, 4.1 (2020), pp. 81–97, doi:10.24259/fs.v4i1.8186.

systems, levels of economic development, and socio-cultural milieu. Adopting a multidisciplinary lens,<sup>37</sup> facilitates a nuanced understanding of how these factors interplay with human rights law and practice, thereby enriching the scholarly discourse.

## **.Result And Discussion**

### **1. Non-uniformity in the Order of Implementation of Human Rights Norms**

In the context of Southeast Asia, Indonesia has shown significant progress in implementing human rights norms.<sup>38</sup> Indonesia is a country with cultural diversity and a complex legal system. Therefore, important steps were taken to strengthen laws that protect human rights.<sup>39</sup> This is based on the various laws and policies related to human rights issued in the last decade, where regulations are increasing in both number and quality. This shows the serious efforts of the Indonesian government in meeting international standards related to human rights.<sup>40</sup>

**Table 1. Human Rights Regulations in Indonesia**

| No | Regulation                                                                                                          |
|----|---------------------------------------------------------------------------------------------------------------------|
| 1  | Original 1945 Constitution Article 27-34                                                                            |
| 2  | Constitution of the Provisional Republic of Indonesia 1949 Article 32 Paragraph (1)                                 |
| 3  | Temporary Constitution of 1950 Article 33                                                                           |
| 4  | 1945 Constitution Amended in 2000 Article 28A-28J                                                                   |
| 5  | MPR Decree No.XVII/MPR/1998 on Human Rights                                                                         |
| 6  | National Action Plan on Human Rights (2004-2009) through Presidential Decree No.40 of 2004 by President BJ. Habibie |
| 7  | Indonesia National Action Plan on Human Rights (1998-2003)                                                          |
| 8  | Law No.39 Year 1999 on Human Rights                                                                                 |
| 9  | Law No.26 Year 2000 on Human Rights Court                                                                           |

Source: Processed by Researchers from Various Regulations (2024)

Indonesia's human rights laws and regulations reflect the state's commitment to protecting and promoting the fundamental rights of every individual. Law No. 39/1999 on Human Rights is the main legal basis for regulating the basic rights of Indonesian citizens, such as the right to life, the right to freedom of expression, and the right to fair legal protection. In addition, other regulations such as Law No. 11/2005 on the Ratification of the International Covenant on Economic, Social and Cultural Rights, expanding the scope of human rights protection in Indonesia. This legal instrument shows the government's seriousness in respecting and fulfilling international standards related to human rights.<sup>41</sup> However, the implementation

<sup>37</sup> Rai Yulianti and Sudika Mangku.

<sup>38</sup> E.I. Israhadi, 'A Study of Commercial Arbitration and the Autonomy of the Indonesian Arbitration Law', *Journal of Legal, Ethical and Regulatory Issues*, 21.1 (2018) <<https://www.scopus.com/inward/record.uri?eid=2-s2.0-85045739314&partnerID=40&md5=515632097466362cddf9e4c5416af43d>>; Prisandani.

<sup>39</sup> Rai Yulianti and Sudika Mangku.

<sup>40</sup> F.A. Hudaefi and K. Noordin, 'Harmonizing and Constructing an Integrated Maqāsid Al-Sharī'ah Index for Measuring the Performance of Islamic Banks', *ISRA International Journal of Islamic Finance*, 11.2 (2019), pp. 282–302, doi:10.1108/IJIF-01-2018-0003; D.H. Ma'u, 'The Harmonization of Polygamy Between Islamic Law and Legal Law in Indonesia', *Samarah*, 7.2 (2023), pp. 669–86, doi:10.22373/sjkh.v7i2.8519.

<sup>41</sup> Ishak and Manitra.

of existing regulations requires strict supervision so that these rights are not only stated in writing. (das sollen), but manifested in the practice of daily life (das sein).

However, there are challenges in the implementation of human rights legislation in Indonesia. One of the main challenges is consistent and non-discriminatory law enforcement. Reports from various international organizations show cases of human rights violations, such as torture, enforced disappearances, and discrimination against minority groups.<sup>42</sup> This indicates that, although the legal framework is in place, but implementation in the field still requires significant improvement. Thus, increasing the capacity of law enforcement officials and socializing human rights to the wider community are important steps in overcoming existing problems..<sup>43</sup> Thus, efforts to protect human rights in Indonesia will be effective and sustainable.

However, there is a lack of uniformity in the implementation of human rights norms in Indonesia compared to other Southeast Asian countries.<sup>44</sup> Although the regulations already exist, in practice there are often inconsistencies in their application. These differences in implementation occur between regions in Indonesia, as well as in the handling of various human rights cases. This raises questions about the effectiveness and uniformity of the application of human rights norms in the country.

**Table 2. Human Rights Cases in Indonesia**

| No | Exposed                                       | Not Exposed                                               |
|----|-----------------------------------------------|-----------------------------------------------------------|
| 1  | 1965 Tragedy                                  | Dispossession of indigenous peoples' land rights          |
| 2  | Mysterious shootings (1982-1985)              | Murder of Environmental Human Rights Defenders            |
| 3  | Talangsari incident, Lampung (1989            | Green land destruction & illegal logging                  |
| 4  | Cases of enforced disappearances (1997-1998)  | Corrupt behavior by regional heads (104 cases since 2004) |
| 5  | May 1998 riots                                |                                                           |
| 6  | Trisakti shooting, Semanggi I, II (1998-1999) |                                                           |
| 7  | Case of Wasior & Wamena, Papua (2000)         |                                                           |
| 8  | Kanjuruhan Event (2022)                       |                                                           |

Source: hukum.online.com (Kompas, 2018)

Human rights in Indonesia continue to be a significant issue that needs serious attention from various parties. Based on the table above, there are a number of striking cases of human rights violations, includes various types of violations such as arbitrary detention, violence by security forces, and discrimination

<sup>42</sup> I.A. Sadnyini and A.A.A. Ngurah Tini Rusmini Gorda, 'Social Changes of Traditional Rules in Facing Contemporary Developments: A Sociological Study of Intercaste Marriage in Balinese Society', *International Journal of Criminology and Sociology*, 10 (2021), pp. 79–83, doi:10.6000/1929-4409.2021.10.11; Caballero-Anthony.

<sup>43</sup> Sadnyini and Ngurah Tini Rusmini Gorda; S. Taneja-Johansson and N. Singal, 'Pathways to Inclusive and Equitable Quality Education for People with Disabilities: Cross-Context Conversations and Mutual Learning', *International Journal of Inclusive Education*, 2021, doi:10.1080/13603116.2021.1965799.

<sup>44</sup> M. Syahbandir and W. Alqarni, 'Conflict of Law Regarding Natural Resource Management in Indonesia', *International Journal of Criminology and Sociology*, 9 (2020), pp. 255–61, doi:10.6000/1929-4409.2020.09.24.

against minority groups.<sup>45</sup> Cases of detention of activists fighting for environmental rights in several regions are often in the spotlight. In addition, acts of violence against religious minorities still occur frequently, shows there is still a big job to be done in upholding human rights in Indonesia.<sup>46</sup> These events demonstrate the urgent need to strengthen Indonesia's legal system and human rights protection mechanism.

Responding to the situation, various national and international human rights organizations, calling for more decisive and transparent action from the Indonesian government. Therefore, it is necessary to increase the capacity of law enforcement and institutional reform to ensure that there is no impunity for perpetrators of human rights violations. Improved education and socialization on human rights, so that people are more aware and active in fighting for their rights.<sup>47</sup> These efforts are carried out consistently and continuously, to bring about positive changes in the human rights landscape in Indonesia.

**Table 3. Human Rights Regulations in Southeast Asia**

| No | Southeast Asia                | Regulation                                                                                                                                                                                                                                  |
|----|-------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1  | Kingdom of Brunei Darussalam  | Article 3 (1) of the Brunei Constitution indicates the existence of guarantees for the protection of human rights                                                                                                                           |
| 2  | Kingdom of Cambodia           | The 1999 Constitution of the Kingdom of Cambodia, Chapter III (Articles 31-50) specifically regulates the protection of human rights and citizens                                                                                           |
| 3  | Democratic Republic of Laos   | 2003 regulates the basic rights and obligations of its citizens Chapter 4 Articles 34-51                                                                                                                                                    |
| 4  | Malaysia                      | The Constitution provides for basic freedoms in Part II (Articles 5-130)                                                                                                                                                                    |
| 5  | Myanmar                       | The 1987 Constitution explicitly declares the state's respect for human dignity and fully guarantees human rights in Chapter II, Article 11, Part III, which contains 22 articles on civil rights, Chapter XIII, which provides for welfare |
| 6  | Filipina                      | The 1987 Constitution explicitly declares the state's respect for human dignity and fully guarantees human rights in Chapter II, Article 11, Part III, which contains 22 articles on civil rights, Chapter XIII, which regulates welfare    |
| 7  | Republic of Singapore         | Part IV of Articles 9-16 of the Singapore Constitution provides for the right to personal liberty, the prohibition of slavery and forced labor                                                                                              |
| 8  | Thailand                      | Constitution of 2007 Chapter III on rights and freedoms                                                                                                                                                                                     |
| 9  | Socialist Republic of Vietnam | The 2013 Constitution Chapter II Articles 14-49 provides for human rights and basic citizen rights                                                                                                                                          |

Source: Human Rights Journal, 2019

The table above relates to human rights regulation in Southeast Asia, shows the differences in how the basic rights of individuals are addressed and protected in these countries. Some countries, such as Indonesia and the Philippines, are making strides by strengthening laws to protect freedom of speech and

<sup>45</sup> Meyer and others; S. Syaikh and others, 'Legal Harmonization in the Distribution of Inheritance in the Dayak Ngaju Community in Central Kalimantan, Indonesia', *Samarah*, 7.1 (2023), pp. 195–215, doi:10.22373/sjhk.v7i1.12410; Sadnyini and Ngurah Tini Rusmini Gorda.

<sup>46</sup> Tyesta, Saraswati, and Arif, 'Implications of Legal Positivism of the Promotion of Children's Rights on National Law'; Ishak and Manitra

<sup>47</sup> Taneja-Johansson and Singal; Hamanaka and Jusoh.



the right to education.<sup>48</sup> However, there are still countries that have limitations in upholding human rights, such as Myanmar still faces major challenges in addressing issues of human rights violations in conflict areas.<sup>49</sup> Overall, while progress has been made, more effort is needed to ensure that, that human rights regulation in Southeast Asia complies with international standards. This reflects the importance of each government's commitment to improving policies oriented towards the protection of human rights.

Human rights regulation in Southeast Asia shows that while there is a strong legal framework in some countries, there is a lack of legal framework in others, but its implementation still faces obstacles.<sup>50</sup> Many international organizations and non-governmental organizations continue to push governments in the region to be more transparent and accountable in upholding human rights. One of the main challenges is the lack of effective monitoring mechanisms and limited resources to implement existing regulations. In this context, closer regional cooperation is needed to share best practices and strengthen institutional capacity in each country.<sup>51</sup> By doing so, Southeast Asia will become a better example of human rights protection in the future.

One of the main contributing factors is the variance in the interpretation of human rights law. While the norms and regulations are clear, their interpretation and application at the local level often varies. This not only shows the complexity of the legal system in Indonesia, but also challenges in harmonizing the understanding and application of human rights norms nationally. Therefore, a more integrated approach to legal training and education is needed to ensure consistent interpretation of human rights in Indonesia.

In a regional context, when Indonesia is compared with other Southeast Asian countries, significant differences in the application of human rights norms. Although some countries in the region have adopted a more integrated and consistent approach, but others are still in the process of developing their own laws and policies.<sup>52</sup> This non-uniformity reflects differences including political, economic, and socio-cultural systems among the Southeast Asian countries. This affects the way each country responds to and applies its human rights norms.

**Table 4. Southeast Asia Human Rights Cases and Enforcement**

| No | Case                                         | Enforcement     |
|----|----------------------------------------------|-----------------|
| 1  | Rohingya Muslim case, Myanmar                | Difficult to do |
| 2  | The case of ethnic Muslim Patthani, Thailand | Reconciliation  |
| 3  | The case of ethnic Moro Muslims, Philippines | Mediation       |
| 4  | The Tragedy of Tak Bai                       | Unresolved      |

Source: Processed by Researchers from Various Sources (2024)

Cases of human rights violations in Southeast Asia show an alarming trend. Based on the table above a number of significant incidents involved various countries in the region. For example, in Myanmar, the violence against the Rohingya has become a major concern for the international community. In addition, in the Philippines, the government's war on drugs policy has led to thousands of deaths without due process.

<sup>48</sup> Pernia; Prisandani.

<sup>49</sup> Jansen, Kalas, and Bicchieri.

<sup>50</sup> Syaikh and others; V. Tauli-Corpuz and others, 'Cornered by PAs: Adopting Rights-Based Approaches to Enable Cost-Effective Conservation and Climate Action', *World Development*, 130 (2020), doi:10.1016/j.worlddev.2020.104923.

<sup>51</sup> Tauli-Corpuz and others; Tauli-Corpuz and others.

<sup>52</sup> R. Arifin, S. Riyanto, and A.K. Putra, 'Collaborative Efforts in ASEAN for Global Asset Recovery Frameworks to Combat Corruption in the Digital Era', *Legality: Jurnal Ilmiah Hukum*, 31.2 (2023), pp. 329–43, doi:10.22219/ljih.v31i2.29381.

In Indonesia, issues related to freedom of speech and restraints on environmental activists further add to the complexity of the human rights situation in the region.

Despite the efforts of governments and international organizations to address human rights violations, the challenges are enormous. Factors of political instability, corruption, and lack of law enforcement contribute to the slow progress of human rights enforcement. The role of civil society in advocating for change and promoting transparency is needed. Given this situation, there is a need for closer regional cooperation and a strong commitment from each country to ensure human rights are respected and protected throughout Southeast Asia.<sup>53</sup> Strategic measures involving various stakeholders are needed, so as to reduce violations and create a more just and humane environment.

Important points related to the implementation of human rights norms in Indonesia, that while progress has been made, further efforts are needed to ensure consistent and effective implementation. Therefore, it is necessary for the Indonesian government to continue efforts to strengthen the legal system and its policies and develop more efficient mechanisms to monitor and evaluate the implementation of human rights norms nationwide.

## 2. Factors Affecting Non-uniformity

The differences in legal systems between Indonesia and other Southeast Asian countries have played an important role in creating non-uniformity in the implementation of human rights norms.<sup>54</sup> In Indonesia, the legal system is mixed, where it combines customary, Islamic, and Western legal systems. This contrasts with some other Southeast Asian countries, some of which follow a common law or civil law system. These differences lead to differences in the interpretation and application of human rights norms, which significantly affects the uniformity of human rights law and implementation in the region.

**Table 5. Factors Affecting Human Rights Implementation in Indonesia and Southeast Asia**

| No | Indonesia                                    | Southeast Asia                         |
|----|----------------------------------------------|----------------------------------------|
| 1  | Customary, Islamic and Western legal systems | Common law system, private law         |
| 2  | Economic development level                   | Economic factors                       |
| 3  | Social aspects and economic conditions       | Socio-political factors                |
| 4  | Interpretation of human rights law           | Language, customs and cultural factors |
| 5  | Community legal education and awareness      | Ethnic factors                         |
| 6  | Politics and history                         | Politics and history                   |

Source: Processed by Researchers from Various Sources (2024)

The implementation of human rights in Indonesia and Southeast Asia is influenced by a variety of complex and interrelated factors. One of the main factors is the political stability in each country.<sup>55</sup> Greater political stability is usually accompanied by greater respect for human rights. Conversely, countries experiencing political conflict or authoritarian rule often exhibit higher human rights violations.<sup>56</sup> In addition, the government's commitment to international treaties and a strong national legal framework also play an important role in ensuring the effective implementation of human rights.

<sup>53</sup> P. Pujiyono, B. Waluyo, and R. Manthovani, 'Legal Threats against the Existence of Famous Brands a Study on the Dispute of the Brand Pierre Cardin in Indonesia', *International Journal of Law and Management*, 63.4 (2020), pp. 387–95, doi:10.1108/IJLMA-01-2018-0006; Palar, Sukarsa, and Ramli.

<sup>54</sup> Adiyanto.

<sup>55</sup> A. Aflah and others, 'IMPACT OF THE ENFORCEMENT OF ASEAN ECONOMIC COMMUNITY ON POLICY AND STRATEGY OF SEA TRANSPORTATION DEVELOPMENT IN INDONESIA', *Indonesian Journal of International Law*, 20.4 (2023), pp. 671–96, doi:10.17304/ijil.vol20.4.3.

<sup>56</sup> Caballero-Anthony.

Economic factors also play a significant role in the implementation of human rights.<sup>57</sup> Countries with high poverty rates tend to face more challenges in protecting the rights of their citizens, that economic inequality can lead to discrimination and injustice, resulting in human rights violations. Similarly, social factors such as education and public awareness of human rights are highly influential. People with higher levels of education and a better understanding of their rights are more likely to be able to demand these rights from the government.<sup>58</sup> Therefore, improving public education and awareness is a strategic step in strengthening the implementation of human rights in the region.

Furthermore, the level of economic development is an important factor affecting the implementation of human rights. Countries with high economic development in the region tend to have more resources to implement their human rights policies and programs. Indonesia with its unique economic challenges, faces obstacles in allocating sufficient resources to implement its human rights norms.<sup>59</sup> This creates disparities in the effectiveness of human rights implementation between Indonesia and other Southeast Asian countries. Socio-cultural context also plays a crucial role in the application of human rights. Indonesia's deeply rooted culture and traditions are very different from those of other Southeast Asian countries, thus providing a unique context for the application of human rights norms.<sup>60</sup> For example, the way a society views certain rights such as freedom of expression or women's rights can be very different, depending on the socio-cultural norms prevailing in the region. This difference has led to different approaches in the implementation and protection of human rights between Indonesia and other countries in Southeast Asia.

Similarly, differences in education and legal awareness among the public contribute to this non-uniformity. In some Southeast Asian countries, legal education and awareness are more advanced, and facilitation of acceptance and implementation of human rights norms is also more effective.<sup>61</sup> While in Indonesia, there are challenges such as a lack of access to education and low legal awareness among the public. This hinders the effective implementation of human rights norms.

In addition, political and historical factors have a significant effect on the non-uniformity of human rights implementation. Where Indonesia's political history differs from that of other Southeast Asian countries, has established a unique legal and policy framework.<sup>62</sup> This is particularly evident in the way the Indonesian government deals with human rights issues in contrast to the approach taken by other Southeast Asian countries. Overcoming this lack of uniformity requires coordinated efforts at both the national and Southeast Asian levels, promoting legal education and awareness, as well as policy adjustments that take into account socio-cultural and economic diversity. In addition, regional dialogue and cooperation in harmonizing approaches to human rights is also important to reduce disparities in the region

### 3. Harmonization of Law and Policy

There are significant implications for the policymaking process in the region. On the other hand, despite progress in the implementation of human rights in Indonesia, but there is still a lack of uniformity when compared to other Southeast Asian countries. This demonstrates the importance of considering the

<sup>57</sup> L.A.L.W. Tyesta, R. Saraswati, and F. Arif, 'Implications of Legal Positivism of the Promotion of Children's Rights on National Law', *Journal of Advanced Research in Law and Economics*, 11.2 (2020), pp. 661–66, doi:10.14505/jarle.v11i2(48).36.

<sup>58</sup> Sudarman Sudarman, 'Contribution of Level of Education, Employment, and Ethnicity on the Integration of Muslims and Christians in Central Lampung', *Indonesian Journal of Islam and Muslim Societies*, 11.2 (2021), pp. 243–70, doi:10.18326/ijims.v11i2.243-270.

<sup>59</sup> Rai Yulianti and Sudika Mangku.

<sup>60</sup> Pernia.

<sup>61</sup> K. Koga, 'Institutional Dilemma: Quad and ASEAN in the Indo-Pacific', *Asian Perspective*, 47.1 (2023), pp. 27–48, doi:10.1353/apr.2023.0001; Syahlan; M.N. Wangid, A. Mustadi, and S.E.B. Mokshien, 'The Exploration of Teachers' Efficacy in Teaching: Comparative Study in Indonesia and Malaysia', *Cakrawala Pendidikan*, 39.2 (2020), pp. 257–68, doi:10.21831/cp.v39i2.30012.

<sup>62</sup> Syaikh and others; M. Zhang and others, 'Green Credit and Fossil Fuel Resource Efficiency: Advancing Sustainability in Asia', *Resources Policy*, 86 (2023), doi:10.1016/j.resourpol.2023.104204.

national context in the formulation of effective human rights policies. Therefore, policymakers in Southeast Asia need to take these differences into account when designing regional policies.

Harmonization of human rights law and policy in the region is needed to achieve uniformity. Therefore, there is a need for a more integrated framework involving all member states. This harmonization does not only include the formulation of uniform laws and policies, but also a consistent implementation strategy across the region.<sup>63</sup> This is helpful in ensuring that human rights are similarly understood and applied across Southeast Asian member states.<sup>64</sup> The importance of strong political commitment from all Southeast Asian member states should not be underestimated in achieving this uniformity.<sup>65</sup> However, without political support, efforts to harmonize laws and policies will be ineffective.<sup>66</sup> Therefore, the role of governments in each Southeast Asian country is key in promoting and protecting human rights. This commitment should be translated into proactive policies and active participation in regional dialogue and cooperation.

The political commitment needs to be balanced with a deep understanding of the different legal systems, level of economic development, and socio-cultural context in each country. These factors have a major influence on the implementation of human rights in each country. This harmonization also provides an opportunity to strengthen regional cooperation in the field of human rights. With uniformity in the understanding and application of human rights, Southeast Asian countries can more easily collaborate on regional initiatives. These initiatives could include knowledge exchange, capacity building, and joint advocacy to strengthen human rights norms in the region. Therefore, harmonization strategies must take these aspects into account to ensure that the policies and practices developed are inclusive and regionally effective.

## **conclusion**

It turns out that human rights law and the implementation of human rights norms in the Southeast Asian region are not uniform. However, there has been significant progress in the implementation of human rights norms in Indonesia, although there is still striking non-uniformity when compared to other Southeast Asian countries. Therefore, efforts to harmonize human rights principles still face significant challenges. The main factors contributing to this non-uniformity, it is the differences in legal systems between Indonesia and other countries in Southeast Asia that play an important role in the implications of human rights norms. In addition, diverse economic conditions and socio-cultural aspects in each country also influence the application of norms.

Significant implications for policymaking in the region and its implementation need to consider these factors. It aims to strengthen human rights uniformity with a more integrated and inclusive approach. Considering the diversity of conditions in each member country, harmonization of laws and policies is an important step towards achieving human rights uniformity in Southeast Asia. In this context, the role of political commitment from all member states also plays a role in harmonizing human rights norms and practices in the region.

## **Limitation**

The limitation of this research is that it only looks at the non-uniformity of human rights in Indonesia compared to countries in Southeast Asia. Therefore, further studies are recommended to examine legal violations of human rights in Indonesia and other countries in the Southeast Asian region from the perspective of criminal sanctions

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<sup>63</sup> T. Sudrajat, 'Harmonization of Regulation Based on Pancasila Values Through the Constitutional Court of Indonesia', *Constitutional Review*, 4.2 (2018), pp. 301–25, doi:10.31078/consrev426.

<sup>64</sup> H.P. Wiratraman, 'Does Indonesian COVID-19 Emergency Law Secure Rule of Law and Human Rights?', *Journal of Southeast Asian Human Rights*, 4.1 (2020), pp. 306–34, doi:10.19184/jseahr.v4i1.18244.

<sup>65</sup> Harsanto and others.

<sup>66</sup> Tauli-Corpuz and others.

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