

Progressive Law Implementation in the Southeast Asian Country Environment

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Abstract— Southeast Asian countries still face challenges collectively in resolving regional and international security issues. Progressive law is very necessary. The community currently agrees that handling legal issues is not enough in the hands of their own countries to require cooperation from Southeast Asian countries. Different philosophy and culture must be appreciated and respected. Collaborative institutional strength is absolutely necessary. The problem arises why progressive civil society in Southeast Asian countries is very much needed in the current global era, and what factors and norms are strengthening in developing justice and prosperity together in Southeast Asian countries. This study uses a normative juridical method and descriptive research. Secondary data as the basis of research. Research conducted by searching, choosing, collecting legal rules as the object of research, arranged in a framework to answer the problem. The research finding is the strengthening on civil society based on norms and agreements from Southeast Asian countries is realized if among state stakeholders are aware of the existence of laws and agreements according to the establishment of the ASEAN state in 1976 in Bali. The conclusion of this research is progressive law in Southeast Asian countries is a mutual strengthening and has implications for justice and prosperity in the global era.

Keywords— *legal implementation, strengthening of the Southeast Asian country, justice and prosperity.*

I. INTRODUCTION

Based on unpleasant experiences due to the conflict and the end of the cold war in Southeast Asia, raise perception to strengthen cooperation in the field of law. Marked by the end of political and military competition between the capitalist camp and the socialist camp does not make conflicts between ASEAN members end on their own. Differences in historical background, economic status, culture and form of government, but an agreement between members of Southeast Asia is maintained with mutual respect and mutual cooperation.

The challenges and trials of each country have a complicated and different history. In mainland of Southeast Asia, there were four leading countries which became international political actors at the time, namely the kingdoms of Vietnam, Siam (Thailand), Khmer (Cambodia) and Myanmar. These four countries formed the dynamics of relations between countries until the arrival of colonial European countries. Among the four countries, Khmer is the most prosperous and vast kingdom. Asia's first regional organization, with the

establishment of the SEATO (South East Asia Treaty Organization) of this organization, is an effort by the United States to stem communist influence in the Asian region. The organization that was formed entirely by the countries of Southeast Asia for the first time was the Association of South East Asia (ASA) in 1961, its member countries were Malaysia, the Philippines, and Thailand. In this case, the strength of the people who take shelter in the Southeast Asian region requires protection and cooperation to prioritize the concept of progressive law. The concept of progressive law is a correction of the weakness of the modern legal system that is healthy with the bureaucracy and wants to free itself from the dominance of the liberal legal type. Theory of legal pluralism by Lawrence M. Friedman suggests that there are different systems or legal cultures in a single political community. The reality in Southeast Asia, the power to accommodate differences to achieve common goals is absolutely necessary.

Progressive law is aimed at protecting the people towards the ideal law and rejecting the status quo and does not want to make law as an innocent technology, but a moral institution. This can motivate the importance of Southeast Asian countries to change and initiate unity in the organization not to align with the bureaucratic path in the country, but the people are able to change that the law must be based on the conscience of every human being.

II. OUTLINE OF THE PROBLEM

Based on the description on the background above, the problems raised are:

- A. *Why is progressive civil society in Southeast Asian countries needed in the millennial era and the current global era?*
- B. *What factors and norms are strengthening in building a common justice and prosperity in the Southeast Asian countries?*

III. RESEARCH METHOD

This research belongs to the category of normative juridical research, namely legal research conducted by examining library material or mere secondary data. Research approaches to objects are carried out by means of several regulatory approaches or comparisons of the conditions of each country in Southeast Asia. Data on secondary legal materials. The following are the steps

taken from the research: classifying history, basics, norms, and rules are then analyzed, then concluded as answers to existing problems.

IV. RESEARCH FINDINGS

In reality, ASEAN member countries consist of two groups that become members after ASEAN was developed. As the founders of ASEAN countries are Indonesia, Malaysia, Singapore, the Philippines, and Thailand. These countries are the countries that initiated the formation of regional organizations. ASEAN is a regional organization comprising eleven countries in the Southeast Asia region, which promotes intergovernmental cooperation among its members and other countries in Asia.

A. ASEAN Members of Countries

1) *Indonesia*: Known as the only ASEAN member country that has the widest area coverage compared to countries in the ASEAN region. Indonesia has differences in ethnicity, language, culture, religion. The population of Indonesia is predominantly Muslim and the largest in the world. In the early 1960s, Indonesia's economic condition was unstable because Sukarno launched his ideology and ignored economic affairs and failed. The communist coup of 1965 led to the name of General Suharto as his successor. With his strategy, Suharto's military was able to manage development and economic arrangement as the spearhead of state improvement and development.

2) *Malaysia*: Malaysia is an important member of ASEAN with a population of 24.5 million. The largest population in Malaysia is ethnic Malays (Bumiputra) 65.1%, then followed by ethnic Chinese 26% and India 7.7%. Malaya gained independence from the British colony in 1957 and later changed to Malaysia with the emergence of Singapore as an independent state and free from the ties of the Malaysian federation in 1965.

3) *Singapore*: Singapore is known as one of the most densely populated countries in the world. In 2003 the population reached 4.6 million. Ethnic Chinese make up the majority of Singapore's population with ethnic composition as well as Chinese 77%, Malay 14%, India 7.6%. Although the population is small and the area is very narrow, Singapore is known as one of the most prosperous countries in Southeast Asia today.

4) *Thailand*. Thailand is a country with a population of 61.23 million people with ethnic composition, namely as follows: Thai 75%, China 14% and other ethnicities 11%, the majority of the population are diverse Buddhism. Among ASEAN countries, the country that has never been colonized by another country is Thailand, including the third largest country. Thailand is known as the country that has experienced the most military coups in Southeast Asia such as Pakistan in South Asia.

5) *The Philippines*. This country is a former Spanish and American colony. The country has a population of around 81 million people with ethnic makeup as follows: 91% Christian Malay, 4% Islamic Malay, 1.5% Chinese

and 3% others. For 400 years, the Malays lived under the influence of Spain to become the most diverse population of Roman Catholics throughout Southeast Asia. After the Philippines fell to America, the nation's political system was similar to the political system of its colonial state. Long before ASEAN was born the Philippines had become a member of SEATO and was an ASEAN country capable of mobilizing military bases for American.

6) *Brunei*: As the richest country in Southeast Asia, the population is very small, around 336 thousand people. Brunei consists of several ethnicities with a comparison: Malay 62%, Chinese 15%, Indigenous population 6%, while others 17%. The area is small but rich in oil and gas. But in order to maintain a vulnerable position, especially the pressure of Malaysia, Brunei remained as a protectorate until early 1984 until now.

7) *Laos*. Laos's state is one of the poorest countries in Southeast Asia. Its population is around 5.4 million and most of them are Lao tribes. They are Chinese descendants who immigrated to the South a few centuries ago. This country was very poor and lived under Communist rule. Laos is a country directly bordering Thailand and Vietnam, the two countries have always been the threat of Laos in the period before independence.

8) *Cambodia*: Cambodia is the successor of the Khmer empire which was very glorious in the past. But the invasion of Thailand and Vietnam made the Khmer recede and during the independence period, this country became known as Cambodia. The country has a population of 12 million and the majority of its population is Khmer, 90%, other ethnicities Vietnam is 5%, China is 1%, and have a very loyal leader called Prince Norodom Sihanouk, a well-known politician in the Cambodian government. After the Vietnam War, Heng Samrin with the support of Vietnamese forces seized the power of Pol Pot and became a puppet under the influence of Vietnam.

9) *Vietnam*: The country of Vietnam's most expansionist country in the Southeast Asia region has almost been in a situation of war regularly since the end of World War II. Unlike other countries in Southeast Asia and even Asia, Vietnam is the only country that has successfully expelled large invaders such as France and America. The population is ethnic Vietnamese 90% and the rest are ethnic Chinese, including ethnic Khmer from the Khmer kingdom in the past.

10) *Two other countries also joined the association*: Myanmar joined ASEAN in 1997 and was followed by Timor Leste after declaring his independence.

TABLE I. SOUTH EAST ASIA'S POPULATIONS (2016)

No	Population per Country in South East Asia	
	Country Name	Population in Millions
1	Indonesia	261.115 M
2	Philippine	103.320 M
3	Vietnam	92.701 M
4	Thailand	68.864 M
5	Myanmar	52.885 M
6	Malaysia	31.187 M
7	Cambodia	15.762 M
8	Laos	6.758 M
9	Singapore	5.607 M
10	Brunei	0.423 M

^a. World Bank Data. (2016)

B. Norms and Strengthening of Southeast Asian Countries

A joint agreement between Southeast Asian countries in Bali in 1976 was sufficient to underlie the following: (1) mutual respect for the independence, sovereignty and territorial integrity of all nations, (2) every country has the right to maintain its existence from interference, subversion, violence from force (3) do not interfere in other countries' affairs, (4) adjust differences of opinion and disputes peacefully, (5) reject the threat of the use of violence.

According to Acharya, there are four norms and principles underlying the life of ASEAN countries. First, they oppose the use of violence and prioritize peaceful solutions. Second, regional autonomy. Third, the principle of not interfering in the affairs of other countries. Fourth, reject the formation of military alliances and emphasize bilateral defense cooperation. When direct parties' negotiations fail to produce a solution that is beneficial to the peace of both parties, according to the provisions, the next step is to create an Ad Hoc agency.

ASEAN as an international organization certainly has a big role in taking attitudes which are then divided into three categories. First, the role of the organization as an instrument is used by its member countries to achieve certain goals based on the objectives of foreign policy. Second, as actor independence, where international organizations can make their own decisions without being influenced by power from outside the organization. The ASEAN community forms to care for each other, accelerate cooperation.

C. Challenges for Southeast Asian Countries

ASEAN experienced various kinds of challenges to face in order to maintain the sustainability of ASEAN. The challenges are as follows:

1) *Challenges of Communism*: This still exists and are owned by Southeast Asian countries. Every domestic affair of each country in their own country is not the matter of the Southeast Asian country in general, but it is

the consequence of a country where some of its citizens still adhere to communism.

2) *Non-traditional Security*: According to the current situation, security outside the environment and the economy has occurred in the Southeast Asian region, including human security, namely organized crime trafficking. This requires institutional cooperation and mutual strengthening among Southeast Asian countries. One of the pillars of the strength of the Southeast Asian region is the existence of norms/values that characterize ASEAN, namely ASEAN WAY. With all the limitations and advantages possessed by ASEAN norms that are stable in Southeast Asia is proof that these norms contribute positively. In addition, according to King and Wilder (2012), the formation of a nation's identity for countries in the Southeast Asia region, especially Indonesia begins with the process of unification or ethnic reconciliation.

3) *Organized Crime and Trade*: Organized crime or also called transnational crime is an organized group whose main purpose is to obtain money legally or illegally by selling goods as high and with minimal risk. Its activities include buying and selling weapons, narcotics, crime, violence, extortion, money laundering, pornography, prostitution, computer crime, and ecological crimes and various other crimes. This activity is strangely supported by accountants, legal experts, financial advisors, bankers, chemists, corrupt politicians, judges, local government officials, members of the military, media executives, professionals, and businessmen. The danger of the threat being transnational is only realized when several ASEAN countries enter the initial period of the economic crisis. It was only after the conference in Manila about organized crime because the economy in 1998 was a result of the economic crisis in ASEAN that this was the reason why the crime was rampant in the ASEAN region and this was a new challenge.

4) *Piracy*: Piracy is a form of organized crime which is one of the main threats to shipping safety in the Strait Malacca. This crime has been going on for a long time even hundreds of years ago. It has been realized by ASEAN countries about the potential threat of piracy since the early 1990s. Bilateral efforts in overcoming this hijacking have been done, even ARF has organized a conference on piracy several times. But as a forum ARF does not have the authority to take practical policies to overcome this threat of piracy. When piracy was increasing in 2003 there have been 445 ship hijackings worldwide around twenty-five percent (25%) have occurred in Indonesia.

5) *Drugs Trade*: The Golden Triangle is a region located in Southeast Asia. This golden triangle consists of northern Thailand, western Laos, and eastern Myanmar. In this area narcotics, heroin and amphetamine are produced and distributed throughout the world. This business with multiple profits makes its main actors, especially in the Myanmar region very difficult to

conquer. From this golden triangle, area drugs are then distributed to Thailand. Other transit routes are Vietnam, Cambodia, and the Philippines and from this region, the illegal drugs will be circulated throughout the world including Asia, which has begun to increase its absorption of amphetamine. Thailand is one of the countries closest to the golden triangle area. In 2003, Prime Minister Thaksin Shinawatra actively launched an open war against not illegal drugs in his country. The Thai government set a target that within three months of the beginning of February this war would end with authority on the part of the government. The implementation of this policy turned out to reap public protests because the arrest and execution of those accused of being involved in drug networks resulted in human rights violations.

6) *Human Smuggling and Trafficking*: Human trafficking is forms of transnational crime that are difficult to detect and are lightly sanctioned compared to, for example, the crime of trafficking in drugs. For most ASEAN countries this problem is exacerbated by the weak political will and capacity of institutions that deal with transnational issues. This type of crime involves trafficking illegal workers from Indonesia and the Philippines to Malaysia and from South Asia to the Southeast Asian region to Australia. In addition, the trafficking in women and children has grown rapidly to meet the demand for the prostitution and child labor market in the Southeast Asian region. Thailand is one of the destination countries for female trafficking.

7) *Environment Safety*: Economic development that has made ASEAN as one of the economic zones with the speed of amazing development throughout the decade of the 1990s is not without negative consequences. One of the impacts of economic development that makes economic growth a target is a damage to the soil, water, and air environment. Initially, environmental damage was limited to the domestic level. However, in the not-too-distant future, environmental damage began to penetrate the region and affect international relations in ASEAN. Today people no longer hesitate to make the environment one of the main problems of international relations in the region. Environmental problems are starting to become a source of conflict between ASEAN countries.

8) *Terrorism*: Terrorism is an event that can be carried out by groups or individuals. There are a number of motives for someone in carrying out acts of terrorism, for example, that someone commits an act of terrorism because of an economic motive, the motive for dissatisfaction in carrying out the ideology of religion, political ideology, and other ideology. The anti-terrorism campaign carried out by President Bush has made Southeast Asia two things: First, the majority of the population in the Southeast Asian region is predominantly Muslim, that is, the same religion as Osama Bin Laden who is accused of being behind the attacks in New York and Washington D.C. secondly, there is indeed a group of Islamic minorities in Southeast Asia who tend to express their aspirations in Indonesia, Malacca, and the

Philippines. Therefore it is very easy for the American government to map Indonesia as the second battleground in the context of the fight against terrorism. This accusation is not acceptable to the government in Southeast Asia and observers who understand Southeast Asia. According to Alan Collins, the Bush administration's accusations were false statements. According to Collins, the population of Islam in Southeast Asia is moderate and tolerant Muslims. In Indonesia, there are even two largest Islamic organizations, Muhammadiyah, and Nahdhatul Ulama, which oppose extreme acts of violence in broadcasting Islamic religion. According to some observers, Indonesia is attractive as a target of attacks from terrorist nests because Indonesia has several factors. The two main factors are the weak control of the central government and the rise of social and political instability. Another factor that also determines is the population of Indonesia, which is predominantly Muslim. Therefore the American accusations are illogical and very basic. As a result of the acts of terrorism that have occurred in the world, the impact is only damaging the environment, damaging social life and harming the enormous economic losses of a country, especially in Southeast Asia.

V. CONCLUSION

The implementation of progressive law by countries in the Southeast Asian region is a necessity that is immediately formed with the foundations of togetherness, mutual respect and not interfere with the affairs of each country's government, using basic norms that have existed in the formation of ASEAN beneficial to the millennial community as a strategy to deal with global flows and form a strengthening of a new era that leads to justice and prosperity. The people's loyalty in the Southeast Asian country to remain coordinated is not broken and is not easily provoked from the threats of the superpower, the threat of terrorism and others.

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