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## ANALIZA PRAWNA OCHRONY PRAW CZŁOWIEKA W ASEAN: RÓWNOWAŻENIE INTERESÓW GOSPODARCZYCH, HUMANITARYZMU I ADMINISTRACJI PUBLICZNEJ

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**Adnotacja.** Niniejszy artykuł badawczy analizuje związek między interesami gospodarczymi a prawami człowieka w Azji Południowo-Wschodniej, w szczególności w ASEAN. Ponieważ całkowity PKB ASEAN przekroczył 3,66 bln USD w 2022 r., w porównaniu z ochroną praw człowieka poniżej średniej, badanie ma na celu ustalenie, w jakim stopniu państwa mają tendencję do przedkładania korzyści ekonomicznych nad ochronę praw człowieka. Autor przedstawia dwie oryginalne teorie, podważające konwencjonalne pojęcia suwerenności państwa w kontekście globalizacji gospodarczej. Badanie dokładnie analizuje historyczne i prawne podstawy ASEAN, podkreślając jego unikalną strukturę regionalizmu, odmienną od instytucji ponadnarodowych. Szczegółowo przeanalizowano włączenie praw człowieka do Karty ASEAN i późniejsze ustanowienie ASEAN AICHR. Podkreślono brak formalnego mechanizmu monitorowania traktatów w ASEAN, zwracając uwagę na doradczy charakter wielu traktatów ASEAN. Badanie analizuje również istniejące gwarancje praw człowieka w traktatach handlowych ASEAN.

**Słowa kluczowe:** ASEAN, prawa człowieka, interesy gospodarcze, suwerenność, regionalizm, AICHR, prawo międzynarodowe, polityka handlowa.

## LEGAL ANALYSIS OF HUMAN RIGHTS' PROTECTION IN ASEAN: BALANCING ECONOMIC INTERESTS, HUMANITY AND GOVERNANCE

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**Abstract:** This academic article examines the relationship between economic interests and human rights in Southeast Asian countries, focusing on ASEAN. With the total GDP of ASEAN surpassing 3.66 trillion US dollars in 2022, juxtaposed against below-average human rights protection scores, the study endeavors to elucidate the extent to which states are inclined to prioritize economic gains over safeguarding human rights. The author presents two original theories, challenging conventional notions of state sovereignty in the face of economic globalization. The study scrutinizes the historical and legal foundations of ASEAN, emphasizing its unique regionalism framework distinct from supranational bodies. The incorporation of human rights in the ASEAN Charter and the subsequent establishment of the ASEAN ICHR are analyzed in depth. The absence of a formal treaty monitoring mechanism within ASEAN is highlighted, underscoring the aspirational nature of many ASEAN agreements. The study also delves into the examination of existing guarantees of human rights within ASEAN trade instruments.

**Key words:** ASEAN, human rights, economic interests, sovereignty, regionalism, AICHR, international law, trade policies.

## ЮРИДИЧНИЙ АНАЛІЗ ЗАХИСТУ ПРАВ ЛЮДИНИ В АСЕАН: БАЛАНСУВАННЯ ЕКОНОМІЧНИХ ІНТЕРЕСІВ, ЛЮДЯНОСТІ ТА ДЕРЖАВНОГО УПРАВЛІННЯ

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**Анотація:** У цій науковій статті розглядається взаємозв'язок між економічними інтересами та правами людини в країнах Південно-Східної Азії, зокрема, в АСЕАН. З огляду на те, що загальний ВВП АСЕАН у 2022 році перевищив 3,66 трільйона доларів США в порівнянні з показниками захисту прав людини, нижчими за середні,

дослідження має на меті з'ясувати, наскільки держави схильні віддавати перевагу економічним вигодам над захистом прав людини. Автор представляє дві оригінальні теорії, які кидають виклик загальноприйнятим уявленням про державний суверенітет в умовах економічної глобалізації. Дослідження ретельно розглядає історико-правову основу АСЕАН, наголошуючи на її унікальній структурі регіоналізму, відмінній від наднаціональних інститутів. Інкorporація прав людини в Хартії АСЕАН і подальше створення МКПЛ АСЕАН детально розглянуто. Наголошується на відсутності офіційного механізму моніторингу договорів в АСЕАН, що підкреслює рекомендаційний зміст багатьох угод АСЕАН. У дослідженні також розглядаються існуючі гарантії прав людини в торгових договорах АСЕАН.

**Ключові слова:** АСЕАН, права людини, економічні інтереси, суверенітет, регіоналізм, АІСНР, міжнародне право, торгова політика.

### **JEL Classification:** K33

**Introduction.** The issue of human rights protection in Southeast Asian countries has attracted the attention of millions of people in recent years. The total GDP of ASEAN as of 2022 was 3.66 trillion US dollars, and at the same time, human rights organizations gave most of the ASEAN countries scores in the field of human rights protection below average (ASEAN Statistical Year Book 2022, 2022). What methods can be used to measure the dependence of economic ties on the observance of human rights in the country, or in other words, to what extent is the state willing to make concessions regarding the protection of human rights to receive additional income in the form of budget or trade taxes? An equally important question is What is the benchmark for the balance of human rights and the development of economic ties? The author set himself the goal of finding a reasonable balance between the protection of human rights, which is implemented by the ASEAN international organization, and the economic interests of the ASEAN states within the framework of concluded treaties on human rights and trade agreements.

Professor Radhika Balakrishnan believes that human rights are not economically neutral, since each state has the main task of achieving certain goals and results. Human rights do not dictate a certain policy of conducting trade or investment relations. Thus, the main question is whether the state is strong enough to have a successful mechanism for observing human rights when conducting economic policy (Balakrishnan, 2016).

In turn, Professor Mytsyk considers it necessary to separate the application of natural law and positive-law concepts for characterizing human rights in the state system. Thus, no economic interests can override the rights of people, which constitute universal, universal, and moral values (Mytsyk, 2010).

Prof. Ernst-Ulrich Petersmann contends that human rights law and international economic law (possess mutually reinforcing constitutional roles. Furthermore, he posits that IEL ought to be construed in a manner consistent with the legal duties of states to observe, safeguard, and fulfill human rights, by the established customary practices of treaty interpretation enshrined in the Vienna Convention on the Law of Treaties (Petersmann, 2013).

In conclusion, for a variety of points of view, the following theory is added. Noam Chomsky famously pointed to the correlation between patterns of human rights abuse and inflows of foreign capital into some developing countries, arguing that non-respect for human rights served to maintain an economic and political climate that favored foreign investment (Dommen, 2022).

In the framework of such a non-experimental study, it is considered acceptable at the very beginning to talk about the author's thoughts on the relationship between the economy and human rights. Conclusions are usually made last, but they are usually preceded by starting positions. So, the author has the following 2 own theories:

1) *The conventional concept of state sovereignty has undergone significant transformation in the face of economic globalization. Developing and least developed find themselves compelled to align with economic imperatives dictated by more powerful actors, often at the expense of safeguarding the rights of their citizens. This erosion of sovereignty undermines the ability of states to effectively protect and promote human rights;*

2) *Human rights and collective social needs have ceased to be the main goals of states and international organizations. The author puts forward the idea that world trade policy is aimed "not at human rights", but in order "not to affect human rights". In other words, there is a regression in the creation of binding treaties in the area of human rights protection, and international organizations, in search of justification for the situation, create recommendation materials for the high goals of the state in the field of human rights.*

The author is personally interested in not only testing his own theories mentioned above but also empirically investigating what concessions in economic interests and human rights the ASEAN international organization can make to achieve, as stated in Article 1 of the ASEAN Charter, peace, security, stability and the realization of peaceful goals in the region.

**The purpose of this study** is to provide answers to the following 8 questions, which are thematically divided into 5 sections of this study (1) What economic factors and needs for the protection of human rights influenced the creation and early development of ASEAN? What are the legal features of ASEAN as a subject of international law in the context of human rights protection? (2) What instruments in ASEAN regulate human rights scope? What are the tasks of the ASEAN Intergovernmental Commission on Human Rights and is it effective? (3) What is the legal nature of the ASEAN Declaration on Human Rights? How are economic interests interpreted in acts on the protection of human rights? (4) What is the relationship between the economy and human rights in ASEAN? How human rights are covered in the agreements on trade in goods and services of ASEAN?

**Economic and social circumstances that influenced the creation and early development of ASEAN. Features of ASEAN as a subject of international law in the context of the protection of human rights.** Let us delve into the historical foundations of ASEAN. Many European academics tend to study ASEAN through the prism of a classical international organization, through their own experience of the functioning of the EU.

ASEAN grew out of a very difficult period in South-East Asia leading up to the period of creation of Malaysia in 1963. The largest country in South-East Asia Indonesia decided to launch a confrontation against Malaysia, which was characterized as a new colonist plot. Surely this event led to a major falling out between Malaysia and Indonesia. Following President Sukarno's dismissal Thanat Khoman (*Minister for Foreign Affairs of Thailand 1959–1971*) took efforts to heal the rift between Indonesia and Malaysia. Should be mentioned that the Philippines was a part of this hostile situation because at that time the idea of close cooperation between Indonesia, Malaysia the Philippines was discussed to lead the region of Southeast Asia both politically and economically (*Maphilindo*). In order to secure peaceful relations in the region representatives of five ASEAN states (Indonesia, Malaysia, Thailand, Philippines, and Singapore) gather in Bangkok to stitch their values together. In 1967 the final version of the Bangkok Declaration or the official ASEAN declaration was signed. The idea behind it was to establish a regional institution for cooperation among its founding states and open for accession to all states that wish to achieve economic growth regional peace, and stability (The ASEAN Declaration, 1967). The idea behind the Bangkok declaration was not to form a supranational institution. The founding states of ASEAN never had the intention that any of these countries would be «surrendering» an iota of sovereignty towards some kind of supranational organization. This tells us that the ASEAN from its foundation was developing through a different framework than the European Union. Even today you will not find a comprehensive discussion among ASEAN MS or drafts in the ASEAN Secretariat about creating a supranational body. To make it more clear the former Secretary-General of ASEAN H.S. Ong Keng Yong mentioned once that his position is rather Secretary than General. People who work in the civil service or international organizations will perfectly understand this comparison. The budget of the ASEAN Secretariat located in Jakarta (*budget is approximately USD 20 million*) is actually ten smaller than the budget of most Ministries of Foreign Affairs in Southeast Asia (*MFA of Thailand USD 257 million; MFA of Singapore USD 489 million; MFA of Vietnam USD 100 million*). In other words, the budget of the Secretariat does not allow at the moment the institutional development. This brief introduction should be helpful to understand from the next chapter what the ASEAN human rights law might be about. As there is no authoritative source in ASEAN the full framework of human rights law is defined differently. The ASEAN Secretariat published just a short list of documents (14 instruments) that are key to Human rights enforcement. At the same time just two Universities combined: the National University of Malaysia and Chulalongkorn University (Thailand) have over 1,500 treaties, MoUs, declarations, and reports related to Human rights protection and development in ASEAN (ASEAN Law and Regional Integration in Southeast Asia: Challenges to Rule of Law, 2021).

Worth mentioning that it took 41 years between 1967 and 2008 before ASEAN gained a real legal personality. According to Article 3 of the ASEAN Charter, the intergovernmental organization ASEAN confers legal personality (ASEAN, 2008). The question arises, What to do with international agreements that were concluded before acquiring legal personality? If the organization could not bear legal responsibility until 2008, was it even an organization before the signing of the ASEAN charter? Such questions make the ASEAN legal system complex but interesting to study. How to briefly answer the above questions: - Yes, the concluded agreements must be carefully observed and the agreements had a tangible legal impact on people's behaviour; - it is necessary to divide the conduct of external relations into at least 3 major categories: signing agreements by all 10 ASEAN members separately, signing agreements on behalf of ASEAN as a whole, and signing agreements by the Secretary-General on behalf of ASEAN.

One more detail is that there is no treaty monitoring mechanism in ASEAN. Treaties signed among the ASEAN members tend to be not terribly enforceable, moreover, they tend to be aspirational in nature. Invariably some disputes arise out of treaties, however, the established formalized mechanism was never enforced. Economic disputes are transferred to the WTO dispute settlement body. This should be a good starting point for studying human rights in the ASEAN and Southeast Asia region. **To recapitulate:**

- 1) ASEAN is not a supranational organization;
- 2) ASEAN cannot take collective efforts in a way many regional organizations may be able to do;
- 3) Most ASEAN actions are enforced on a diplomatic basis rather than legal grounds; 4) the ASEAN Charter is designed in a way to preserve individual state sovereignty;
- 5) Trying to get consensus rather than confrontation is the ASEAN way of diplomacy;
- 6) Most of legal instruments are aspirational in nature and do not provide for monitoring mechanisms and dispute settlement.

**ASEAN human rights body and treaties. Mandates and effectiveness of the ASEAN Intergovernmental Commission on Human Rights (AICHR).** From the historical perspective human rights in the common denominator for the ASEAN economic community, the ASEAN socio-cultural community, and the ASEAN political security community. The inter-governmental Commission on Human Rights is a regionalism project of ASEAN member states. The project facilitates original space for regional processes among ASEAN member states to design and reorganize their interaction, relationship, and cooperation on human rights while considering the economic and political interests of ASEAN (ASEAN INTERGOVERNMENTAL COMMISSION ON HUMAN RIGHTS (Terms of Reference), 2009). Contrary to popular belief, cooperation on human rights is not a feature of every state. The successful enforcement of human rights used to be a characteristic of powerful states, rather than all sovereign states by constitution. The peculiar thing about the ASEAN Intergovernmental Commission on Human Rights is that every state according to the rotation schedule should Chair the commission like it or not. Since there is a Chapter on human rights in the ASEAN Charter, all documents that were passed after 2008 should have provisions about human rights protection. AICHR became an important regional platform where different states' responses to international

human rights law have come about to formulate regional standards. AICHR and ACWC are platforms for dialogue to discuss human rights in a regional framework with stakeholders, MS, and NGOs. The ASEAN Intergovernmental Commission on Human Rights is a project based on the political, economic, and cultural interests of member states. This is not a separate monitoring independent body, the mandate are provided by MFAs of each ASEAN MS. Indeed, the development of human rights is not a rapid process since each country have gaps in the legislation or enforcement but interaction among the countries present positive common efforts (ASEAN-IPR Discussion Series 2022 Session 3: “Protection and Promotion of Human Rights for Sustainable Peace,” 2023).

Analyzing the constitutions of all 10 member states of ASEAN there is a clear understanding that all constitutions have written guarantees of human rights, except for Brunei. *Prima facie*, the Constitution of Thailand in Chapter 3 deals only with the rights and Liberties of Thai People as it has the exact title. However, this is just a style of wording of Chapter 3. Articles 27, and 28 of the Constitution of Thailand provide for equal treatment for all without regard to origin, sex, or health conditions (Constitution of the Kingdom of Thailand, 2017). Myanmar, *vice versa*, has a Chapter in its Constitution about human rights called «Chapter 8: Citizen. Fundamental rights and duties of the citizen», but there is a long-lasting issue with enforcement mechanisms. The author highlights article 354 of the Constitution of Myanmar - *Every citizen shall be at liberty in the exercise of the following rights, if not contrary to the laws, enacted for Union security, the prevalence of law and order, community peace and tranquility, or public order and morality*.

Human rights were included in the ASEAN Charter, despite the member states of ASEAN having a different modality in the constitution concerning human rights. Nevertheless, member states came to a consensus to include human rights in the Charter of ASEAN particularly Article 14. The inclusion of human rights in the ASEAN Charter introduces the language of human rights into the regionalism project in ASEAN, which was not anticipated back in 1967. It should be noted that Chapter I on the purposes and principles of ASEAN also mentions the protection of human rights and fundamental freedoms. The implication of the inclusion of human rights in the ASEAN Charter has created two institutions, namely, the ASEAN Intergovernmental Commission on human rights and the ASEAN Commission on the Protection and Promotion of the Rights of Women and Children. The inclusion of the necessity to protect human rights had a positive effect on the creation of numerous instruments within ASEAN: ASEAN Human Rights Declaration, 2012; Declaration on the Elimination of the Violence Against Women and Elimination of Violence Against Children in ASEAN, 2013; ASEAN Convention Against Trafficking in Persons, Especially Women and Children (2015); Kuala Lumpur Declaration on Ageing: Empowering Older Persons in ASEAN (2015); ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers, 2017; Declaration on the Gender-Responsive Implementation of the ASEAN Community Vision 2025 and the Sustainable Development Goals (2017) and others (ASEAN Human Rights. Key Documents, 2023).

AICHR was established per Article 14 of the ASEAN Charter on 23 October 2009. The work of the commission is based on its Terms of Reference it has 14 mandates, and each country is represented in the human rights body. The important thing here is that the human rights body does not compete with the national policies of member states. AICHR should complement the national human rights efforts rather than serve as a benchmark (Tan H. (2011). The purpose of the commission is to promote and protect the human rights and fundamental freedoms of the people of ASEAN. The organization should contribute to the realization of the purposes of the ASEAN charter and uphold international human rights standards. The commission reports annually to the ASEAN ministers meeting and the latest AICHR report was issued in July 2023. The commission meets twice a year at minimum discussing the drafts of the commission. Commissioners of AICHR publicly mentioned that sometimes it's even hard for representatives to agree on an agenda. You may ask why. The answer is simple the decisions are taken by consensus and consultation. At the moment there are only nine representatives of the ASEAN Human Rights Commission. A commissioner from Myanmar is missing due to the coup d'état in the country. We already know that all decisions are taken by a consensus, so how does the ASEAN human rights commission function? The representative of the Ministry of Foreign Affairs of Myanmar show up to the meeting not to suspend the operation of the body. Hence there are nine official commissioners in AICHR plus one representative from the Ministry of Foreign Affairs of Myanmar (Wahyuningrum, 2023).

The mandate and functions of AICHR are specified in Article 3 of the AICHR Terms of Reference. These mandates have a limited scope of operation nevertheless the two main components are preserved: AICHR promotes capacity building for the effective implementation of international human rights treaty obligations undertaken by ASEAN and makes reports on human rights reports based on information from member states. Generally, the mandates may be divided into 4 groups: 1) Program development; 2) Informational campaigns; 3) Program toolkit, and 4) Reports. AICHR is an important platform to build space for new human rights rules in ASEAN; It generates regional conversation on human rights in Southeast Asia. AICHR promotes one for all politics of human rights in ASEAN.

Terms of reference of AICHR did not give power to the commission to investigate, conduct a fact-finding mission on human rights; and receive and respond to human rights complaints. This year AICHR is 13 years old and finally, the human rights complaint mechanism is being drafted. At the moment it has the following steps: 1 - Complaint should be sent to ASEAN Secretariat; 2 - Letter of the ASEAN Secretariat and the complaint is studied at the AICHR meeting; 3 - AICHR communicates individually or collectively with the aggrieved side to discuss the possible solutions. It should be highlighted that fact-finding and mediating are not available to AICHR. Thus, the current system is currently not entirely efficient but has room for development (ASEAN Human Rights Body Discuss Priorities, Protection Agenda in the Next Decade, 2022).

**Legal nature of the ASEAN Declaration on Human Rights. Economic interests in documents on the protection of human rights.** Drafting of ASEAN Human Rights Declaration was a task of the ASEAN Intergovernmental Commission on Human Rights according to p.4.2 of the Term of Reference of AICHR «...to develop an ASEAN Human Rights Declaration to establish a framework for human rights cooperation through various ASEAN conventions and other instruments dealing with human rights». This particular paragraph is important as it launched the legal framework of cooperation in human rights protection. The Declaration does not have legally binding power, it's an aspirational document with guidelines (ASEAN Human Rights Declaration, 2012). The vision of ASEAN as reflected in this p.4.2 of the Term of Reference of AICHR says that ASEAN envisions a legally binding document and it's done with an aim of transition from the declaration to some sort of Convention with a binding nature. According to Dr.Sriprapha Petcharamesree (Mahidol University, Thailand) since 2008 the academics of ASEAN have been discussing the Human Rights Convention which is the general trend in regional human rights systems. If we look at the international level the UN started with a Universal Declaration on Human Rights and based on this document other international instruments were developed. The realistic perspective is to expect binding instruments in human rights protection on a subregional level which will have topics that cover the interests of certain groups of states, such as the fight against human trafficking and the prevention of terrorism. Having a regional or sub-regional human rights system in Southeast Asia is a hard-earned mission due to differences in the political systems of ASEAN MS and the decision-making rules of ASEAN, the so-called «ASEAN way» (Petcharamesree, 2013). Differences in understanding and perception of human rights among 10 Commissioners of the AICHR at the same time led to a long consideration of issues, but on the other hand, different legal schools, religions, and economic interests of representatives of states took diversity into account when creating the Declaration.

Since ADHR is based on a compromise of all member states one should keep in mind that this compromise should never become the common lowest denominator. Of course, by taking the path of the common lowest denominator it's much easier to reach a consensus on the agenda matters, but it will not get anything useful for the people. The ASEAN human rights declaration was adopted on 18 November 2012 and last year the AICHR celebrated the 10<sup>th</sup> anniversary of their creation. Therefore, it is time to draw specific conclusions about efficiency and results: ASEAN human rights declaration is useful as a reference for the promotion and protection of human rights. The most notorious example of the use of the Declaration occurred in 2017 when the Rohingya ethnic group suffered persecution in Myanmar, where hundreds of thousands of people were displaced and hundreds killed. At that time, the Prime Minister of Malaysia was one of the first, to refer to the ASEAN Declaration on Human Rights, and called on the countries of the region to make joint efforts to stop the brutal violation of human rights.

For any particular document including Human rights documents to be effective a high level of awareness is required among the stakeholders. Unfortunately, in the region of Southeast Asia, millions of people are not aware of the existence of a regional document that ensures human rights. Indeed, in some places, the low level of education is a problem, but it is suggested to imagine for a moment a situation in which every person whose rights have been violated in the ASEAN state knows about the declaration and wants to restore his violated right in another court than the national one that did not help him. Is there such a mechanism for help? No, that's why people's awareness comes from what is beneficial. The enforcement mechanisms within ASEAN are often considered less robust compared to some other regional human rights systems.

ADHR includes provisions on economic, social, and cultural rights (ESCR), which are crucial for the well-being and dignity of individuals within the ASEAN region. The ADHR recognizes the importance of ESCR by affirming the rights of every individual to enjoy just and favorable conditions of work, education, the highest attainable standard of physical and mental health, and other social and economic benefits. This recognition aligns with international human rights principles. The ADHR provides a broad framework for ESCR, acknowledging that these rights encompass various aspects of individuals' lives, including but not limited to work, education, health, and social security. This reflects the holistic nature of ESCR, which addresses not only basic needs but also the broader determinants of well-being. The ADHR underscores the principle of non-discrimination, emphasizing that individuals are entitled to ESCR without any form of discrimination. This includes discrimination based on race, gender, ethnicity, disability, religion, or other similar grounds. This aligns with international norms that emphasize the universality and non-discrimination of rights. The ADHR recognizes that ESCR can be subject to limitations in certain circumstances, provided that such limitations are by law and are necessary for respect of the rights or reputations of others, or for the protection of national security, public order, public health, or public morals. This mirrors the international principle that rights can be subject to certain restrictions, but such restrictions must be proportionate and justifiable. The ADHR recognizes that the promotion and protection of human rights, including ESCR, are integral to sustainable development.

Since the topic of this research concerns the balance between human rights and the economic interests of the state, it was decided to investigate the object that is the embodiment of the impact of the economy on human rights – labor rights. *Article 11 of the ADHR* recognizes the right of every individual to enjoy just and favorable conditions of work. This includes fair wages, equal pay for equal work, safe and healthy working conditions, and equal opportunities for advancement. It also emphasizes the prohibition of child labor and forced labor. This article aligns with international labor standards and conventions, emphasizing the importance of dignified and fair working conditions. It reflects the principle of non-discrimination in employment and underscores the prohibition of exploitative labor practices. *Article 13 of the ADHR* recognizes the right of every person to the enjoyment of the highest attainable standard of physical and mental health. It emphasizes access to medical services, sanitation, food, and clean drinking water. It also calls for measures to prevent, treat, and control diseases. This article reflects

the internationally recognized right to health, which includes both physical and mental well-being. It underscores the importance of access to healthcare services, sanitation, and essential resources for maintaining good health. The focus on disease prevention aligns with global health priorities. *Article 14 of the ADHR* acknowledges the right of every person to social security. It emphasizes the protection of individuals and families against the economic and social consequences of unemployment, sickness, disability, widowhood, old age, or other lack of livelihood in circumstances beyond their control. This article aligns with international standards regarding the right to social security, which is recognized as a crucial element of social protection. It emphasizes the duty of states to establish and maintain social security systems that provide a safety net for individuals and families facing economic hardships.

After analyzing the general document on human rights of ASEAN, it is advisable to analyze and highlight the main provisions of multilateral agreements of ASEAN that protect the rights of workers. In 2007 ASEAN agreed on the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers. The Preamble of the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers outlines the background and objectives of the document. It emphasizes the commitment of ASEAN Member States to protect and promote the rights of migrant workers, taking into account the principle of non-discrimination and the need for cooperation among member states (ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers, 2018). The Consensus emphasizes that migrant workers should be treated with equality and dignity, without discrimination based on race, nationality, religion, or gender. This principle aligns with established international norms. Member States commit to establishing clear and transparent processes for the recruitment, placement, and employment of migrant workers. This aims to prevent exploitative practices and ensure that workers are informed of their rights. The Consensus calls for the humane and fair treatment of migrant workers, including the right to decent working and living conditions, as well as access to social services. This aligns with international standards for the protection of labor rights.

**Relationship between the economy and human rights. Human rights in the agreements on trade in goods and services of ASEAN.** To provide a satisfactory level of protection of human rights states create national institutions that monitor human rights policies implementation and suggest new guidelines. However, an approach to possessing a human rights institution is not supported by every country. Brunei, Cambodia, Singapore, and Vietnam did not establish a body that may receive complaints, investigate cases of abuse, and provide humanitarian education. Before going into details on how human rights and the economy correlate it is essential to study the main economic statistics on the financial support of people, in particular, the main category through which the impact of the economy on human rights is manifested – labour.

Table 1

State/Indicator	Minimum wage 1	Retirement age (male workers)	National Human Rights Institution	Life expectancy (male)	Human rights and rule of law index 2	GDP per capita (USD) 3
<b>Brunei</b>	n/a	60	n/a	79	6.6	32,283
<b>Cambodia</b>	US\$190	60	n/a	72	7.8	1,603
<b>Indonesia</b>	US\$193	58 (to be 65 until 2043)	Indonesian National Commission on Human Rights 1993	68	6.2	4,348
<b>Lao PDR</b>	US\$116	60	n/a	71	6.8	2,693
<b>Malaysia</b>	US\$347	60	Human Rights Commission of Malaysia 2011	75	7	11,399
<b>Myanmar</b>	US\$90	62	Myanmar National Human Rights Commission	65	n/a	1,314
<b>Singapore</b>	n/a	63	Not available	83	4.8	72,399
<b>Philippines</b>	US\$290	65	Commission on Human Rights of Philippines	72	7.8	3,552
<b>Vietnam</b>	US\$132	60 years and 9 months	Not available	73	7.8	3,674
<b>Thailand</b>	US\$330	60	National Human Rights Commission of Thailand	76	7.6	7,645

Analysis of the provided data gave the following conclusions: 1) The consequences of the economic hegemony paradigm are profound, particularly for marginalized and vulnerable populations. The prioritization of economic interests has been associated with widening wealth disparities, environmental degradation, and social injustices; 2) States that have a stable political base and have a large volume of export and import operations have higher indicators in respect of human rights, their residents are better protected and have a longer life span; 3) For least developed states human rights, once considered inviolable, are now subject to compromise in the pursuit

of economic gain. Statistics show that in the pursuit of economic benefits that will satisfy the entire population of the country in the future, taxpayers and workers who work right now, frankly, have a low level of protection and financial opportunities to improve their lives. It was established that the proper level of human rights protection depends significantly on the general economic development of the states. The table shows that the GDP per capita in Singapore is the highest, and the human rights index is again the highest. GDP per capita in Singapore is 2.25 times that of Brunei. In turn, the GDP per capita of Brunei is 3-20 times higher than the GDP per capita of the other 8 ASEAN member states. Countries in which there is an emergency situation with the possibility of realizing human rights are Cambodia and Myanmar. Since the last 2 states have strong cross-border migration, the problem of the implementation of human rights has acquired a regional scale.

An interesting part of this research is the examination of the existing guarantees of human rights in the ASEAN trade agreements, namely: the ASEAN Trade in Goods Agreement (ATIGA) and the ASEAN Trade in Services Agreement (ATISA). While there isn't a specific section in the ASEAN Trade in Goods Agreement that is dedicated exclusively to human rights, it's important to note that ATIGA, like other trade agreements, indirectly impacts human rights through its provisions related to economic development, labor, and social welfare. Here are some articles and aspects of ATIGA that have implications for human rights: Article 3 (Objectives): This article outlines the objectives of ATIGA, which include enhancing economic cooperation, promoting fair competition, and contributing to the improvement of living and working conditions. Article 23 (Cooperation for Development): This article emphasizes cooperation for economic development, which indirectly impacts human rights by contributing to improved living conditions and economic well-being. Article 24 (Labor): ATIGA recognizes the importance of promoting and protecting workers' rights, which is a critical component of human rights. However, the agreement doesn't go into specific details on labor rights. Article 38 (Trade and Environment): This article acknowledges the importance of environmental protection, which is closely linked to human rights, especially in terms of the right to a healthy environment. Article 46 (Economic Cooperation): Economic cooperation under ATIGA can contribute to poverty reduction and overall socio-economic development, which in turn can impact human rights. Article 47 (ASEAN Food Security Reserve): Ensuring food security is a fundamental aspect of the right to an adequate standard of living, which is recognized as a human right., Annex 1 (ASEAN Dispute Settlement Mechanism): While this annex primarily deals with dispute resolution mechanisms, it indirectly supports the principles of rule of law and access to justice, which are integral to human rights (ASEAN Trade in Goods Agreement, 2009).

ASEAN trade-in services agreement has the next implications for human rights: Article 4 (Domestic Regulation): This article emphasizes transparency, reasonableness, and non-discrimination in the formulation and application of domestic regulations. Ensuring fair treatment in the application of regulations is an important aspect of human rights. Article 6 (Transparency): Transparency in the provision of services can indirectly contribute to human rights by promoting accountability and access to information. Article 8 (Recognition): This article focuses on the mutual recognition of qualifications, which can impact the right to work and access to education. Article 21 (Development): This article recognizes the differing levels of development among ASEAN member states. It indirectly addresses socio-economic rights by acknowledging the need for flexibility in implementation (ASEAN Trade in Services Agreement, 2019).

**Conclusion.** ASEAN emerged from a complex geopolitical context in Southeast Asia, focusing on regional cooperation without intending to create a supranational body, especially one in the field of human rights protection and monitoring. Human rights provisions in ASEAN documents and agreements demonstrate a growing recognition of the importance of human rights in the region. AICHR was established to promote and protect human rights and fundamental freedoms in ASEAN countries. Its work is based on a set of 14 mandates outlined in its Terms of Reference, and it operates with a consensus-based decision-making process. AICHR serves as a platform for member states to discuss and coordinate on human rights issues, reflecting regional interests, and providing a mechanism for dialogue with stakeholders, member states, and NGOs. The consensus-based decision-making process can lead to challenges in reaching agreements on various issues, as evidenced by difficulties in setting agendas during meetings. The absence of a representative from Myanmar due to the coup further complicates the decision-making process. Member states have varying approaches to human rights in their constitutions, with some explicitly guaranteeing rights while others present challenges in enforcement. Despite these variations, there is a shared commitment to human rights principles within ASEAN, evident in the inclusion of human rights provisions in the ASEAN Charter. The inclusion of human rights language in the ASEAN Charter led to the establishment of key institutions and the development of several instruments addressing human rights issues within the region. The ASEAN Declaration on Human Rights is an aspirational document that provides guidelines for human rights cooperation within ASEAN. While not legally binding, it reflects the region's commitment to progressing towards a binding human rights instrument in the future. Labor rights are a crucial aspect of human rights, and ASEAN member states have varying levels of minimum wages, retirement ages, and human rights institutions. These factors can significantly affect the well-being of workers. Some articles in these trade agreements recognize the importance of environmental protection, which is closely tied to human rights, particularly the right to a healthy environment.

ASEAN's approach to human rights is evolving, with a commitment to preserving member state sovereignty, engaging in diplomatic consensus, and recognizing the importance of human rights within the region. The establishment of AICHR and the development of various human rights instruments signify a positive trajectory towards greater human rights protection in Southeast Asia. While human rights and collective social needs were once paramount, they have now receded from the forefront of priorities. The prevailing notion suggests that world trade policies are crafted with the aim of non-interference rather than proactive promotion of human rights. This

paradigm shift is evident in the diminishing emphasis on creating binding treaties for human rights protection. Additionally, the author proposes an innovative provision for agreements related to economic cooperation between states: 1) Member States shall ensure that their economic interests and policies do not compromise or undermine the human rights of individuals within their territories. 2) Economic interests shall not be pursued at the expense of fundamental human rights and freedoms.

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