

Asean Mechanism for Human Security Problems in Southeast Asia: What's Wrong?¹

Natalia Yeti Puspita

Faculty of Law, Universitas Katolik Indonesia Atma Jaya, Jakarta - Indonesia

Abstract

Since the flow of goods and services begins to cross national borders, threats to human security do not originate solely from war. The era of traditional security has begun to shift towards non-traditional security or human security. In this concept, threats to security are directed directly at humans such as natural disasters, epidemics, drugs and human trafficking, and terrorism. Southeast Asia is the region most vulnerable to natural disasters. Relations between countries in this region are under the auspices of ASEAN. ASEAN Way is an ASEAN mechanism based on the principle of state sovereignty and non-intervention. ASEAN Way and Human Security are two different concepts. The ASEAN mechanism cannot be applied absolutely to overcome natural disasters that are massive, cross-border and occur in areas of armed conflict in Southeast Asia. In this case, it is necessary to broaden understanding of the nature of the principle of state sovereignty and non-intervention.

Keywords: ASEAN Mechanism, Human Security, Southeast Asia

Abstrak

Sejak arus barang dan jasa mulai melintasi batas negara di situlah ancaman terhadap keamanan tidak semata-mata berasal dari perang. Era tradisional security telah mulai bergeser ke arah non-traditional security atau human security. Dalam konsep human security, ancaman terhadap keamanan ditujukan langsung ke manusia/individu seperti contohnya bencana alam, wabah penyakit, perdagangan orang dan obat-obat terlarang, serta terorisme internasional. Asia Tenggara merupakan kawasan yang paling rawan terhadap bencana alam. Hubungan antar negara di kawasan ini dinaungi oleh ASEAN sebagai organisasi internasional regional. ASEAN Way merupakan mekanisme ASEAN yang didasarkan pada prinsip kedaulatan negara dan non intervensi. ASEAN Way dan Human Security adalah dua konsep yang berbeda. Mekanisme ASEAN ini tidak dapat diterapkan secara absolut untuk menanggulangi masalah human security di Asia Tenggara khususnya bencana alam yang bersifat masif, lintas batas negara, dan terjadi di daerah konflik bersenjata. Dalam hal ini diperlukan perluasan pemahaman mengenai hakikat prinsip kedaulatan negara dan non-intervensi.

Kata kunci: Mekanisme ASEAN, Human Security, Asia Tenggara

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Introduction

Today there has been a shift regarding the concept of human security. This is especially true since the end of World War II and the Cold War triggered by globalization. In the past when war was still turbulent in the world, threats to security were always interpreted as threats from outside the country, so that security was focused on securing the country such as securing border issues, testing weapons and military equipment and preventing war (Baldwin, 1997). In other words, security is about threats to the country's important values, territorial

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integrity, and political sovereignty. This concept is referred to as the traditional security concept. Over time, globalization that has taken place in the last decade has resulted in changes in relations between countries and within states (**Abad, 2004**). The flow of information, capital, and people moves very quickly across all national borders (**Loetan, 2003**). It is this lifestyle change that causes a change in the concept of security. At present, the concept of security is starting to be directed towards individuals rather than at the state. Human safety issues such as environmental damage (natural disasters), the spread of disease (HIV / AIDS, Avian Influenza), human trafficking and drugs, and international terrorism are categorized as threats to individuals (**Gomez 2014**). This concept is defined as human security or non-traditional security (**Richmond, 2013**). The concept of non-traditional security (human security) has now become a global agenda, namely since the initiation of the Millennium Development Goals Program (MDGs) by the United Nations in 2000 in the Millennium Declaration signed by 147 Heads of State (**Oratmangun, 2003**).

In this paper, the issue of human security in the Southeast Asian region which will be reviewed more deeply is a matter of natural disaster management. Southeast Asia is the region most vulnerable to natural disasters. During the period 1970-2009, there were reported 1,211 natural disasters in Southeast Asia that left 414,900 people dead (**Ayudhya, 2013**). The threat of disaster can occur at any time and does not recognize national borders. Natural disasters have caused suffering for humanity, so it can be said that natural disasters are a problem for human security (**Gasper, 2012**). Over time, natural disasters continue to hit the Southeast Asian region (Benjamin, 2005). Often natural disasters occur on a large scale and across national borders, which makes the national mechanisms of ASEAN member countries unable to cope (**Avgar, 2007**), as seen in the 2004 Tsunami in Aceh Indonesia, Typhoon Nargis Myanmar in 2008, and Typhoon Haiyan struck the Philippines in late 2013.

The principle of state sovereignty and non-intervention is at the heart of the ASEAN mechanism known as ASEAN WAY (**Katsumata, 2003**). This principle is very strongly enforced by ASEAN member countries in the Southeast Asian region (**Nurhidayah, Alam, and Lipman, 2015**). In some cases such as for example in relations between countries or the resolution of conflicts that occur in the territory of an ASEAN member country, this principle is seen as a fairly effective guideline to prevent friction arising from relations between these countries. However, if it is related to the handling of human security problems in Southeast Asia, especially in dealing with natural disasters in the Southeast Asia region, there are still pros and cons regarding the effectiveness of the application of the principle of state

sovereignty and absolute non-intervention in Southeast Asia by ASEAN member countries.

There is an article from Otto von Feigenblatt entitled, "ASEAN and Human Security" (Feigenblatt, 2009) which discusses the different principles of ASEAN WAY and Human Security, only the article does not relate it to natural disaster management problems that occur in the Southeast Asian region. As for the writings of Elizabeth Ferris and Daniel Petz, "In the Neighborhood: The Growing Role of Regional Organizations in Disaster Risk Management" (Ferris and Petz, 2013) only discusses the role of ASEAN in natural disaster management and does not relate it to the strength of the country's sovereignty principles and non-intervention as an ASEAN mechanism that applies in ASEAN member countries. The article also agrees with Daniel Petz's discussion in his article entitled, "Regional Strengthening and National Capacity for Disaster Risk Management - the Case of ASEAN" (Petz, 2014).

Therefore, this article is different from the previous one because the writer will analyze what is wrong with ASEAN mechanisms in dealing with natural disasters in the Southeast Asian region and gives an explanation on the importance of applying the principle of international cooperation with ASEAN centrality in the process of natural disaster management, which is cross-border in nature, massive, and occurs in armed conflicts in the Southeast Asian region.

Research Problems

Based on the background of the problems that have been described, the formulation of the problem in this paper is (1) Why does the ASEAN Way experience obstacles in handling human security issues, especially in handling natural disasters that occur in Southeast Asia? (2) What should be the right ASEAN mechanism in handling natural disasters in the Southeast Asia?

Research Method

This paper uses the normative juridical research method, which focuses on secondary data as the main data. This data was obtained through library research. Based on secondary data collection, data obtained in the form of primary legal materials (legislation in this case relating to ASEAN and human security, especially in handling natural disasters), secondary legal materials (books, scientific works, research results related to ASEAN and human security, especially natural disaster management), as well as tertiary legal materials (Indonesian dictionary and legal dictionary/black's law dictionary). The type of data analysis used is qualitative data

analysis. Before being analyzed, qualitative data that has been collected must be separated according to category and then interpreted. In order to answer the research problem, the nature of the data analysis used is descriptive-prescriptive in that the researcher wants to provide an overview or explanation of the research subject and then provide an argument for the results of the research that has been conducted.

Discussion

ASEAN as a Model of Regionalization in Southeast Asia

Regionalization is the connecting bridge between state sovereignty and globalization. This is as expressed by Victor Bulmer Thomas, "In policy terms, almost every country in the world has been chosen to meet the challenge of globalization in part through a regional response" (Thomas, 2001). The existence of regionalization has become a discussion at the UN, especially how it relates to the UN system (Wilcox, 1965). Article 52-54 of Chapter VIII of the UN Charter mentions the role of regional international organizations. It also stated that in the UN Charter there were no provisions that prevented the regulation of regional international organizations to deal with world peace and security issues in a manner that was appropriate to the region as long as it was in accordance with the aims and principles of the UN Charter. Furthermore, the UN International Court also recognized the existence of regionalization which was reflected in the 1950 Asylum Case (Bishop, 1951), in this case, the International Court gave consideration to the country's practices in granting asylum and concluded that there was no uniformity in the practice.

Regionalization is often formalized/institutionalized in the form of regional international organizations or often referred to as regional organizations. Regional organizations (regional organizations) are,

A segment of the world bound together by a common set of objectives based on geographical, social, cultural, economic, or political ties and possessing a formal structure provided for in formal intergovernmental agreements (Tripathi, 2010).

The regionalization instituted in Southeast Asia before the formation of ASEAN in 1967 included the Association of Southeast Asia (ASA), Malaya-Philippina-Indonesia (MAPHILINDO), South East Asian Ministers of Education Organization (SEAMEO), South East Asia Treaty Organization (SEATO) and Asia and Pacific Council (ASPAC) (Acharya, 2014). ASEAN is a regional international

organization in the Southeast Asian region that still exists today. ASEAN was founded by 5 countries namely Indonesia, Singapore, Malaysia, the Philippines and Thailand (Ciorciari, 2017). ASEAN currently has 10 member countries, namely Indonesia, Malaysia, Thailand, Singapore, the Philippines, Myanmar, Cambodia, Laos, Vietnam and Brunei Darussalam. Whereas Timor Leste is still in the status of a reviewer (Rudiany, 2015).

The term Southeast Asia was first introduced by the Allied Forces in the Southeast Asian region at that time under the name of the Southeast Asia Command based in Colombo, because the Southeast Asian region was being occupied by Japan during World War II (Khudi and Anugrah, 2013).

ASEAN aims to increase economic growth, social progress, and cultural development of its member countries, and promote peace at the regional level which is still at the cooperative stage and not yet integrative (Kim, 2011). From 1967 to 2008, the interaction of ASEAN countries was based on the Bangkok Declaration or ASEAN Declaration which in essence was a political statement that did not bind the rights and obligations of member countries and organizations on the basis of law/constitution (Farida, 2009). Since 2008 ASEAN has been transformed into an intergovernmental organization. This was reinforced by the adoption of the ASEAN Charter as the basic statute of ASEAN replacing the ASEAN Declaration on December 14, 2008, in Thailand during the 14th meeting of ASEAN Heads of State (Chalermphanupap, 2009). With the signing of the ASEAN Charter on November 20, 2007, which was later ratified by all ASEAN member countries, it has officially changed ASEAN from a "slow" regional organization to a rule-based organization (Puspita, 2017).

The Principle of State Sovereignty and Non-Intervention as the Heart of the ASEAN Way

The existence of the state is fully supported by the principle of state sovereignty. Adherents of the theory of state sovereignty argue that sovereignty is not in God's hands, but is in the country (Puspita, 2015). This view departs from the teachings of Machiaveli which were later developed by Jean Bodin and Georg Jellinek. Jean Bodin argues that state sovereignty is the most fundamental thing of an entity that is the state, without sovereignty, there is no state. The 1933 Montevideo Convention on the Rights and Obligations of the State also states that state sovereignty is the most important element of an entity in order to be called a state (Kusumawardhana and Zulkarnain, 2016).

Basically there are two theories of state sovereignty, namely the theory of absolute state sovereignty and the theory of democratic state sovereignty (**Riyanto, 2012**). The theory of absolute state sovereignty states that only the state is the sole ruler of lawmakers and the freedom of its citizens is restricted. As for the theory of democratic sovereignty, the sovereignty of the state is only in certain cases so that the rights and individual characteristics of its citizens are maintained. In its development, the theory of democratic state sovereignty has given birth to a new theory, namely the theory of relational sovereignty (**Riyanto, 2012**). Based on this theory as stated by Helen Stacy, the serious and widespread danger that threatens the survival of citizens in an area of the country is proof that sovereignty is not an absolute fortress for international intervention (**Riyanto, 2009**). The existence of a major humanitarian disaster or crisis in the territory of a country can be the basis for a review of the essence or existence of the theory of state sovereignty.

The shift in the meaning of state sovereignty, from the state as the sole ruler to a state with limited rights, was influenced by the effects of the Westphalia Peace Agreement 1648 (**Richmond, 2002**). The Westphalia Peace Agreement 1648 was an agreement that ended the European war for thirty years (**Kayaoglu, 2010**). At that time philosophers emerged who corrected the existence of the absolute nature of state sovereignty such as John Locke (1632-1704) and Montesquieu (1689-1755). Absolute state sovereignty must be limited because it would conflict with human rights. The principle of absolute state sovereignty will hinder the acceptance of international obligations by the state to protect its citizens. In addition, state sovereignty as the highest authority also has a limitation, namely the existence of state borders and also the power of other countries (**Riyanto, 2012**).

The development of the doctrine of responsibility to protect international law has strengthened restrictions on the application of state sovereignty theory. Otto von Feigenblatt argues that "responsibility to protect refers to the duty of the international community to intervene in other countries in order to prevent or stop gross violations of human rights, with or without the approval of the host country" (**Feigenblatt, 2009**). In this pattern, there are interventions in a country even though the interventions referred to here are humanitarian interventions. In addition, Robert McCorquodale also stated that "t (his) language of international law in relation to territorial boundaries must be in terms of an international society that is inclusive of all, allows all to find and use their voices, is creative of identity opportunities, and recognizes diversity within the international society" (**McCorquodale and Simons, 2007**). In his view, the notion of sovereignty is understood as sovereignty for all humanity and not to be abused by tyrants as a

shield to protect against external pressures (McCorquodale and Simos, 2007). Furthermore, Rosalyn Higgins also stated that "(w) hat truly is truly domestic today will not necessarily be in five years time" (Riyanto, 2012). Higgins's statement if related to human security issues such as terrorism, natural disasters, narcotics will find conformity in the sense that this was not an international problem and tended to be in the domestic sphere but now it has become a common problem with humankind, so a shift in meaning is needed the principle of state sovereignty to handle it. No wonder Boutros Boutros Ghali wrote, "(t) he time of absolute and exclusive sovereignty ... has passed, its' theory was never matched by reality" (Riyanto, 2009).

The existence of the principle of state sovereignty is always accompanied by the existence of the principle of non-intervention. Understanding interventions in the context of international law based on the Black Law Dictionary is, "one nation's interference by force, or threat of force, in another nation's internal affairs or in questions arising between other nations" (Garner, 2004). It was further stated by Philip C. Jessup that,

Intervention may or may not involve the use of force. It is frequently possible for a powerful state to impair the political independence of another weaker state without actually utilizing its armed forces. This result may be accomplished by lending open approval, as by the relaxation of an arms embargo, to a revolutionary group headed by individuals ready to accept the political or economic dominance of the intervening state. It may be accomplished by the withholding of recognition of a new government, combined with various forms of economic and financial pressure until the will of the stronger state prevails through the resignation or overthrow of the government disapproved (Macmillan, 2013).

Based on the above statement it can be seen that the intervention is an act of interference from one country against another country both with threats of force (military) or not. Interventions are categorized into three groups, namely:

- a. *Internal intervention: an example is state A interfering between the disputing sections of state B, in favour either of the legitimate government or of the insurgents;*
- b. *External intervention: an example is state A interfering in the relations-generally the hostile relations-of other states, as when*

Italy entered the Second World War on the side of Germany, and against Great Britain;

- c. *Punitive intervention: this is the case of a reprisal, short war, for an injury suffered at the hands of another state, for example, a pacific blockade instituted against this state in retaliation for a gross breach of treaty (Powers, 2014).*

International law has firmly rejected the existence of interventions that are concrete with the recognition of the principle of non-intervention as a principle of international law. The existence of this principle can be found in Article 2 paragraph (1), (4) and (7) of the UN Charter. In addition, the United Nations in the UN General Assembly Resolution No. 2625 of 1970 concerning the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereign and in the Declaration on Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with the United Nations Charter also states the importance of the existence of the principle of non-intervention in relations between countries. Based on the declaration, it can also be seen that intervention is a form of violation of international law and gives rise to international accountability (Evans, Thakur, and Pape, 2001).

The 1986 International Court of Justice ruling on the "the Military and Paramilitary Activities" case between Nicaragua v the United States has reinforced the existence of the principle of non-intervention in international law. In Paragraph 202-209 the International Court's Decision states that,

The principle of non-intervention involves the right of every sovereign state to conduct its affairs without outside interference, though examples of trespass against this principle are not infrequent; the Court considers that it is part and parcel of customary international law. Between independent states, respect for territorial sovereignty is an essential foundation of international relations and international law requires political integrity also to be respected... the existence in this opinion juris of state of the principle of non-intervention is backed by established and substantial practice. It has moreover been presented as corollary of the principle of the sovereign equality of states.

Based on the opinion of the International Court of Justice, it is understood that the principle of non-intervention has given freedom to a country to regulate its internal affairs and to be free from influence from other parties.

In its development there is a thought that the existence of the principle of non-intervention is not an absolute, intervention is still possible on the basis of humanitarian reasons. Article 2 paragraph (4) of the UN Charter is not an absolute prohibition, but a limitation so that a country does not violate the territorial integrity, political freedom of other countries and does not violate the objectives of the UN Charter (**Dinstein, 2001**).

In addition, if explored more deeply the contents of the decision of the International Court of Justice in the case of Nicaragua v United States of America in 1986 stated that intervention is prohibited by international law if:

- a. *it impinges on matters as to which each state is permitted to make decisions by itself freely (eg. choice of its own political or economic system or adoption of its own foreign policy);*
- b. *it involves interference in regard to this freedom by methods of coercion, especially force (eg. provision of indirect forms of support for subversive activities against the state subject of the alleged intervention)* (**Powers, 2014**).

Based on the description above, all activities that are not included in the two categories above are not interventions that are prohibited by international law. Legitimate interventions carried out in terms of:

- a. collective intervention in accordance with the UN Charter;
- b. interventions to protect the rights and interests and safety of the lives of citizens outside;
- c. self defense, if intervention is needed to eliminate the real danger of armed attack;
- d. in the affairs of the protectorate under his authority;
- e. if the state that is the subject of intervention is blamed for committing grave violations of international law (**Starke, 1994**).

Referring to the above especially point 5, humanitarian intervention can be justified under international law. Humanitarian intervention does not violate a country's political freedom. The action only aims to restore human rights to a particular country's sovereign territory. This is in accordance with D'amato's opinion which states that in the act of humanitarian intervention there is no taking

of a country's sovereignty permanently, the act is only to restore human rights in the country (D'amato, 2001).

ASEAN was originally formed for the purpose of securing the Southeast Asian region and was not intended to integrate the economic fields of its member countries or to create supranational organizations (Emmers, 2018). ASEAN seeks to create regional defense and security stability by increasing cooperation in the social, economic and cultural fields (Winarno, 2008). This was done considering that initially many countries in the Southeast Asian region were hostile to one another such as Indonesia and Malaysia, as well as Thailand and Cambodia, the condition was further complicated by the Cold War that was taking place between the West and East Bloc. Benny Teh Cheng Guan stated that ASEAN's creation was originally for security (Guan, 2004). ASEAN further strengthened cooperation in the field of defense and security, namely by the issuance of the 1971 declaration of a Zone of Peace, Freedom and Neutrality (ZOPFAN) and second, during the 1976 Bali Conference that produced the Treaty of Amity and Cooperation in Southeast Asia (TAC) (Narine, 1997).

At that time regional cooperation in the security sector focused on cooperation in the military sector while maintaining the principle of non-intervention and state sovereignty as set out in the Treaty of Amity and Cooperation in South East Asia 1976 (TAC). This treaty contains:

(a) mutual respect for the independence, sovereignty, equality, territorial integrity, and national identity of all nations; (b) the right of every State to lead its national existence free from external interference, subversion or coercion; (c) non-interference in the internal affairs of one another; (d) settlement of differences or disputes by peaceful manner; (e) renunciation of the threat or use of force; and (f) effective cooperation among themselves (Puspita, 2017).

The principle of state sovereignty and non-intervention set forth in the TAC has become the legal basis for ASEAN mechanisms in solving problems in Southeast Asia and also in dealing with member states (Bangun, 2017). This ASEAN mechanism is known as the "ASEAN Way". This ASEAN mechanism is the core of the ASEAN Security culture which consists of several elements, namely: Sovereign Equality, Non-Recourse to the Use of Force, Non-Interference and Non-Intervention, Non-Involvement of ASEAN in bilateral conflicts, Quiet Diplomacy, Mutual Respect , and Tolerance (Saravanamutu, 2005). The concept of the

ASEAN Way itself is a principle that grows and is rooted in the traditions of the Southeast Asian nation, especially in Indonesia in solving a problem, namely the principle of deliberation and consensus or in the ASEAN world referred to as consensus.

Traditional Security Concepts vis a vis Non-Traditional Security Concepts (Human Security) in the Southeast Asian Region

Based on the traditional security concept, the state has the authority and the right to protect its citizens. State power and security have been established and expanded in the interest of world peace. The state has a commitment to carry out the mandate of the people. So at that time the country was in the spotlight and considered a single subject of international law. The role of the state in protecting its citizens is strengthened by the principle of state sovereignty. This principle puts forward a view that a country has the right to its territory and citizens, so that there is a threat to individuals in this case their citizens also means a threat to their country. In this traditional view, threats that come to a country are often interpreted as a war. This is understandable because at that time (during the World War) the people were haunted by wars everywhere, resulting in fear and discomfort towards the surrounding environment. In that context the term security is defined as the concept of "traditional security".

Along with the development of the era, especially since entering the 21st century when there is a change in relations between the state and within the state and the flow of information, capital, and humans move very quickly across all national territorial boundaries, the concept of human security is more towards individuals than to the state (Loetan, 2003). Issues such as environmental damage, disasters, the spread of diseases (HIV/AIDS, bird flu), human and drug trafficking, international terrorism, and cybercrime have received greater attention as threats to human security. War is no longer the single most feared enemy.

Related to this, the human paradigm of security is no longer focused on state security, but rather on individual security. This is then known as the concept of non-traditional security or human security. The concept of human security sees individuals as subjects directly and is not impeded by the existence of the state. In addition, by implementing the concept of human security, it has also directly implemented state security. The definition of human security according to the Human Security Commission is:

to protect the vital core of all human lives in ways that enhance human freedoms and human fulfilment. Human security means protecting fundamental freedoms – freedom that are the essence of life. It means protecting people from diverse and pervasive threats and situation (Hassmann, 2012).

The concept of human security basically emphasizes the pattern of "hard human security", meaning physical security against humans. In its development, security for humans is not only aimed at physical protection but also protection of civil and political rights. The concept of human security is very closely related to the development of human resources. It also received the full attention of the United Nations (UN). In the 1993 Human Development Report issued by the United Nations Development Program (UNDP) two components of Human Security were identified, namely "Freedom from Fear and Freedom from want" (King and Murray, 2001). UNDP explicitly states that,

People's participation is becoming the central issue of our time and it is inextricably linked with and is an inherent component, if not requisite, of both sustainable human development and human security (King and Murray, 2001).

ASEAN has implemented the concept of "security" during the Cold War, although the Bangkok Declaration did not explicitly mention the word "security" (Katsumata, Jones, and Smith, 2008). This is consistent with Severino's statement which states that, "the only item in the Declaration referring to regional security was a call for the promotion of regional peace and stability" (Severino, 2004). In addition, it was also said that peace and regional stability could only be achieved through cooperation in the economic, social and cultural fields (Kim, 2011). At that time regional cooperation in the security sector was emphasized on cooperation in the military sector while maintaining the principle of state sovereignty and the principle of non-intervention as stipulated in the 1976 Treaty of Amity and Cooperation (TAC).

With the shift in the concept of security, the current policy in ASEAN is not only focused on the traditional security concept but also to the non-traditional security field, although this is not explicitly stated in the ASEAN Charter. In Article 1 paragraph (8) of the ASEAN Charter which contains the objectives of ASEAN it is stated that (ASEAN) responds effectively, in accordance with the principle of comprehensive security, all forms of threats, cross-country crime and cross-border challenges. Referring to the contents of the article, it can be seen that ASEAN does not define exactly the form of threats, this means that direct threats to humans

(human security) in the ASEAN region such as the existence of disasters, terrorism, illicit drugs, piracy, people smuggling and human trafficking, HIV / AIDS and cybercrime are also included in this scope. Indeed the problem of human security is not purely a security problem but is also related to political, economic, social and cultural issues. This is implied in the content of the provisions of Article 8 of the ASEAN Charter above which states the principle of overall security.

Natural Disasters as a Human Security Issue in the Southeast Asian Region

Natural disasters are a human security problem, especially in the Southeast Asian region. Based on data from the United Nations of Economic and Social Commission for Asia and the Pacific (ESCAP) in the period 2005-2014, the Southeast Asian region was ranked as the most vulnerable to natural disasters, with a total of 512 natural disasters and 177,000 people died world (**United Nations of Economic and Social Commission for Asia and the Pacific, 2015**). Besides natural disasters also resulted in substantial losses in the economy of a country. Losses due to natural disasters in the Southeast Asian region averaged more than US \$ 4.4 billion annually in the last decade (**Petz, 2014**). Also of note, natural disasters that occur in this region are often cross-border in nature, for example, earthquakes, floods, and typhoons. The increasing intensity of natural disaster events and also the greater impact (loss) of natural disasters caused, making ASEAN member countries such as the Philippines and especially countries that are included as developing countries (Cambodia, Laos, Myanmar) often overwhelmed to cope because they are not comparable with existing national capacity.

The natural disasters in each country in the Southeast Asian region in the period 1970-2009 can be seen in the following table (table 1).

Table 1 Disaster Matrix by Country (1970-2009)

Country	Hazards							
	Earthquake	Flood	Landslide	Drought	Storm	Volcano	Forest Fire	Tsunami
Brunei	X	X	X	X	X		X	
Cambodia	X	XXX	X	XX	X		X	
Indonesia	XXX	XXX	XXX	XX	XX	XXX	XX	XXX
Laos	X	XXX	XX	XX	XX	X	X	
Malaysia	X	XXX	XX	X	X		XX	X
Myanmar	XX	XXX	XX	XX	XXX		X	X
Philippines	XXX	XXX	XXX	XX	XXX	XX	X	X
Singapore	X	XX			X			

Scale: Disaster incidence ranges relative within the country/region from XXX 'high' to X 'low'

Sumber: ASEAN Disaster Risk Management Initiative, 2010.

Based on these data, it can be seen that in the period 1970 - 2009 Indonesia was the country in the Southeast Asian region that was most frequently hit by natural disasters, followed by the Philippines, Myanmar, Laos, and Cambodia. As for 2015, the Philippines and Indonesia became countries in the region in Southeast Asia which are among the top 5 regions in the world most frequently hit by natural disasters after China, the United States, and India.

With the increasing number of natural disasters occurring each year, the number of victims suffering from natural disasters has also increased. Table 2 shows that in the period 2000-2009, deaths from natural disasters were highest in the country of Indonesia.

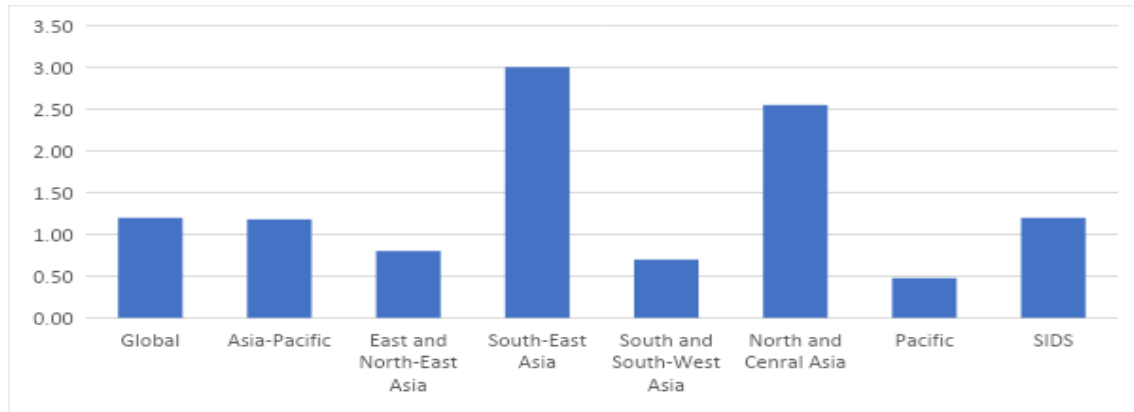
Table 2 *The Deaths from Natural Disasters in Southeast Asia 2000 – 2009*

	Cambodia	Indonesia	Laos	Malaysia	Myanmar	Philippines	Singapore	Thailand	Vietnam	Total
Earthquake	0	174921	0	80	71	15	0	8345	0	183432
Epidemic	189	1190	46	62	30	35	35	112	105	1804
Flood	455	2790	33	112	102	489	0	968	2000	6949
Mass movement dry	0	0	0	0	0	11	0	0	0	11
Mass movement wet	0	1026	0	10	41	1727	0	109	109	2951
Strom	19	4	16	3	138636	7141	0	1319	1319	147165
Volcano	0	2	0	0	0	0	0	0	0	2
Total	663	179933	95	267	138880	9418	35	3533	3533	342314

Source: *EM.DAT: the OFDA/CRED International Disaster Database* (ASEAN Disaster Risk Management Initiative, 2010).

In the period 2005 - 2014, deaths from natural disasters in Southeast Asia were also the highest compared to other regions in the world (see table 3) (ESCAP, 2015). 512 natural disasters recorded with 177,000 people died in Southeast Asia.

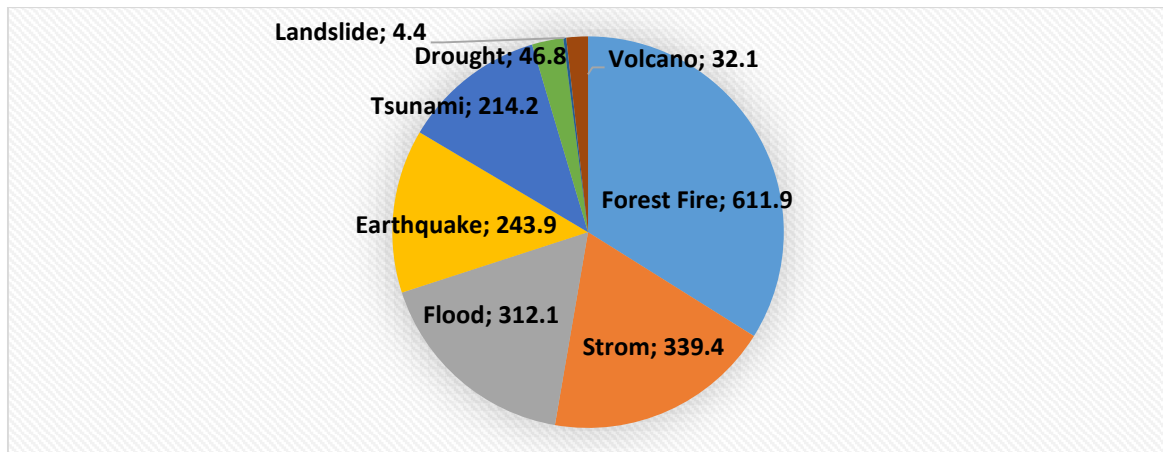
Table 3 Deaths per 100.000 People



Sumber: ESCAP based on population data from ESCAP statistical database, EM-DAT: the OFDA/CRED International Disaster Database.

Apart from deaths, natural disasters also resulted in significant losses in the economic sector (see table 4).

Table 4 Average Annual Economic Loss (\$ million) of ASEAN



Annual exceedance probability	Economic Loss Potential	
	Economic loss (\$ million)	Percentage to GDP PPP (2009)
0,5%	13942,52	0,49
5,0%	6207,27	0,22
20,0%	2888,84	0,10

Sumber: ESCAP based on population data from ESCAP statistical database, EM-DAT: the OFDA/CRED International Disaster Database.

The data shows that the impact of natural disasters has affected the economic sectors of the Southeast Asian region.

The economic vulnerability of a country can be measured from the economic losses due to the impact of natural disasters that occur in the country. The way to measure it is to see economic losses as a percentage of the country's GDP (Gross Domestic Product-Purchasing Power Parity). Indonesia is ranked first in the country that suffered the greatest losses both overall and in terms of economic losses due to natural disasters, this is because of the high and the high level of natural disaster events in Indonesia. However, when viewed from the economic loss to GDP-PPP, in 2009 Myanmar had the highest level of economic vulnerability due to natural disasters, this was caused when Myanmar was in a situation of armed conflict.

Besides that an area is said to be prone to natural disasters can be seen from several indicators namely the number of disaster events, deaths, affected populations, and economic losses. When referring to these indicators, based on the data mentioned earlier (most disasters, most victims, most losses), Indonesia is the most vulnerable to natural disasters in the Southeast Asian region, followed by the Philippines and Myanmar. However, if it is juxtaposed with the income per capita of each country to determine the level of a country's ability to cope with natural disasters in its country, Myanmar is the country with the lowest level of ability (economy) in dealing with disasters, this is because Myanmar is among the top 3 countries the most prone to natural disasters as well as the second-lowest ranked income per capita country. The climax was seen when Myanmar failed to cope independently with the huge natural disaster of the Nargis storm in 2008 that struck the region.

As for Indonesia, although it is the most vulnerable country with the highest number of victims, the readiness of Indonesia's infrastructure and economy is strong enough to overcome it. On the other hand, Cambodia can be categorized as a fragile/risky country in tackling natural disasters in its country, because although the region is rarely a major natural disaster compared to other regions such as Indonesia, the Philippines or Myanmar this country is the poorest country in the region of Southeast Asia, so that if a major natural disaster occurs it will be difficult to cope independently.

Many natural disasters in the Asian region, especially Southeast Asia, are cross-border in nature. This is because the Asia Pacific region is located between two tectonic plates and is also located in the ring of fire. Examples of cross-border natural disasters are earthquakes, tsunamis, hurricanes, floods, landslides, droughts and forest fires.

In the ASEAN Political Security Community (APSC) Blueprint, the mention of the concept of non-traditional security is listed in item 9 of the chapter on Characteristics and Elements of the APSC. There are three key characteristics of APSC namely,

- a). *A Rules-based Community of shared values and norms;*
- b). *A Cohesive, Peaceful, Stable and Resilient Region with shared responsibility for comprehensive security; and*
- c). *A Dynamic and Outward-looking Region in an increasingly integrated and interdependent world (The ASEAN Political-Security Community, 2016).*

The problem of disaster management is clearly mentioned in the second characteristic, namely a Cohesive, Peaceful and Resilient Region with Shared Responsibility for Comprehensive Security.

One of the most important milestones in disaster management in ASEAN after the enactment of the ASEAN Charter is the adoption of the ASEAN Agreement on Disaster Management and Emergency Response (AADMER) in 2009, even though this agreement was made in 2005. This agreement is basically an internal agreement between ASEAN member countries and is binding on ASEAN member countries to jointly coordinate and cooperate in the management of natural disasters in ASEAN. Elizabeth Ferris and Daniel Petz further stated that "AADMER is tasked with supporting ongoing and planned national initiatives of member states and with supporting and complementing national capacities and existing work programs" (Ferris & Petz, 2013). To carry out this function, ASEAN has established the ASEAN Coordinating Center for Humanitarian Assistance on disaster management (AHA Center) which began operating in November 2011 and has the function of coordinating natural disaster management in ASEAN.

Weaknesses of the ASEAN Way as an ASEAN Mechanism in Natural Disaster Management in the Southeast Asian Region

The principle of state's primary responsibility has become the legal basis for disaster management that occurs in an area of the country. Therefore, the state has an absolute responsibility in protecting its citizens affected by natural disasters by providing guarantees for the fulfillment of human rights.

Within the scope of natural disaster management in the Southeast Asian region, the implementation of the principle of state sovereignty is stated in Article 3 AADMER "... each affected Party shall have the primary responsibility to respond to disaster occurring within its territory and external assistance or offers of assistance shall only be provided upon request or with the consent of the affected Party ". The Southeast Asian region consists of countries that adhere to the principle of national sovereignty given the history of the formation (independence) of the countries in this region obtained with a struggle after decolonization by countries from parts of the European continent such as the Netherlands, Britain, Spain, and Portuguese. Therefore the spirit of nationalism is highly valued by these countries and is reflected in every action and policy taken by the organization that houses them, namely ASEAN.

The strong application of the principle of state sovereignty and non-intervention in AADMER is also shown by the absence of provisions that explain the terms, conditions and when a victim country is required to request / obtain humanitarian assistance. In addition, based on Article 11 of AADMER, it is known that the involvement of the AHA Center in natural disaster management in a country is only an option/alternative not as an obligation and must also be with the consent of the victim country.

Over time, natural disasters that occur in the Southeast Asian region are increasing, massive, and across national borders. This condition is inversely proportional to the economic level of some ASEAN member countries which is still low, which in turn has an impact on the loss of the country's ability (national capacity) to cope with natural disasters, such as for example Cambodia, Myanmar, Laos, Vietnam, and the Philippines. On the other hand, there are also ASEAN member countries that have had and are having internal conflicts between the government and separatists in their region. When natural disasters occur in conflict areas, the responsibility of the government (the state) will certainly not run optimally, in other words, the government concerned does not want/is reluctant to cope with natural disasters that befall on its territory, for example, Myanmar (**Taylor, 2015**). Based on these facts, the authors argue that the principle of the state's primary responsibility cannot be applied absolutely. The principle of sovereignty and state responsibility in this context must be interpreted broadly so that the distribution of humanitarian assistance can be given quickly and on target (the right time, place and subject).

Referring to the theory of state sovereignty, currently the theory of state sovereignty has experienced a shift in meaning. State sovereignty is indeed an

important thing that is owned by a country because it shows the identity / spirit of a country but in it still adheres to state obligations, so it can be said that state sovereignty is not absolute. John Locke states that absolute state sovereignty must be limited because it is contrary to human rights. Through his writings entitled "Two Treatises on Civil Government", John Locke explained that, "humans have natural rights, namely human rights from birth so that they have the same rights and opportunities, therefore the state exists to guarantee the freedom of its citizens" (Tunick, 2014) includes guaranteeing the fulfillment of human rights. The principle of absolute state sovereignty will also hamper the acceptance of international obligations by the state to protect its citizens.

According to the theory of democratic sovereignty, state sovereignty is only in certain cases so that the rights and individual characteristics of its citizens are maintained. In its development, the theory of democratic state sovereignty has given birth to a new theory, namely the theory of Relational Sovereignty. Based on this theory, as stated by Helen Stacy, a serious and widespread danger that threatens the survival of citizens in an area of the country is proof that sovereignty is not an absolute fortress for international intervention (Riyanto, 2012). The existence of a major humanitarian disaster or crisis in the territory of a country can be the basis for a review of the essence or existence of the theory of state sovereignty. Rosalyn Higgins also stated that "(w) hat is truly domestic today, which will not necessarily be in five years' time" (Riyanto, 2012). Higgins statement if related to the issue of natural disasters that are massive, across national borders and occur during armed conflict, will find conformity in the sense that this was not an international problem and tends to be in the domestic sphere but now it has become a common problem with mankind, so it needs a shift in the concept of state sovereignty to handle it.

Therefore, in a state of emergency response to natural disasters that are massive, crossing national borders and in the event of an armed conflict that makes the country unable or unwilling to handle it as happened in the Southeast Asian region, then state sovereignty in this context must be interpreted as the responsibility of the government the country concerned to cope with providing full guarantees for the fulfillment of the rights of victims of natural disasters. State responsibility here is interpreted in accordance with the concept of state responsibility in the Roman law "*Sic utere jure tuo ut alienum non laedes*" which means that a person may exercise his rights over all his possessions, but must be maintained so as not to harm or harm others (Proulx, 2016). This is related to the state's responsibility in dealing with natural disasters in the Southeast Asian region, means that countries in the Southeast Asian region have full authority over

their citizens and territories for disaster management in their region, but that authority must be maintained so as not too detrimental to the interests of its citizens. Protection of human rights in the context of natural disaster management means an action concerning prevention, implementation, and recovery related to events before, during and after natural disasters. Antonio Fortin as quoted by Sigit Riyanto stated the importance of protecting human rights, namely that international protection means direct protection to individuals or groups of individuals carried out by bodies in the international community (**Riyanto, 2009**).

Based on this, the ASEAN mechanism, the ASEAN Way, which emphasizes the implementation of the principle of absolute sovereignty of the state and non-intervention (**Nurhidayah, Shawkat, and Lipman, 2015**) will not succeed in addressing human security issues, especially in the case of massive natural disasters national borders as well as when armed conflicts occur which make the country unable or unwilling to handle them as happened in the Southeast Asian region. This is also influenced by differences in views and targets between the ASEAN Way concept and the Human Security concept. The ASEAN Way focuses more on national security against threats that attack the country directly so that the state has full authority to act. This author's view is corroborated by the opinion of Otto von Feigenblatt which states that there are differences between the ASEAN Way and Human Security. The difference is as follows:

- a. *The “ASEAN way” stresses that the referent of security is the sovereign nation-states and on some occasions the “peoples” of Southeast Asia. On the other hand, “protective Human Security” claims that the referent of security is the individual;*
- b. *The “ASEAN way” identifies the nation-state as the proper securitizer, enforcer of security, while “protective Human Security” identifies the global community as the securitizer;*
- c. *The “ASEAN way” promotes the gradual and voluntary cooperation of nation-states in order to achieve comprehensive security, while “protective Human Security” favors short- and mid-term decisive action with or without the cooperation of other nation-states;*
- d. *The “Protective Human Security” accepts the two Covenants on Human Rights as a universal standard, while the ASEAN way is more ambiguous regarding the standard (**Feigenblatt, 2009**).*

Application of the Principle of International Cooperation with the Centrality of ASEAN as an International Organization as a Solution for Managing Natural Disasters in the Southeast Asian Region

The form of state's primary responsibility when dealing with natural disasters, especially when responding to natural disasters that are massive, cross-border, in armed conflict, and outside the national capacity limits of the country concerned is willing/willing to cooperate with other parties. Cooperation with other parties during a natural disaster response is not a form of political intervention but a form of involvement of external parties to help in relation to humanity. The provision of humanitarian assistance is not an intervention as referred to in Article 2 paragraph (4) of the UN Charter because there is no violation or threat to the territorial integrity, political freedom of other countries and does not violate the objectives of the UN Charter. In the process of providing humanitarian assistance, there is no take over the sovereignty of other countries, these actions are only to ensure the fulfillment of the rights of victims of natural disasters. In addition, the process of providing humanitarian assistance is also based on the principles of humanity, neutrality, impartiality, and independence.

International cooperation essentially requires the release of an absolute understanding of sovereignty. Cooperation is based on the understanding that human beings are actually social beings who are always in contact with each other and need each other especially when there is a problem or need that cannot be solved alone. Cooperation is one of the characteristics of a perspective/liberal understanding, which emphasizes "cooperation as the main characteristic of all human relations and that government is needed but the centrality of power is not good" (Mattes and Rodrigues, 2014).

The existence of international cooperation, whether through UN agencies or other international organizations, does not mean that there has been any restraint or restriction on the sovereignty of its member states. International cooperation is discussed in Article 1 paragraph (2) of the UN Charter which states that,

Promote friendly relations between nations based on respect for the principles of equal rights of nations to self-determination, and take other appropriate actions to strengthen universal peace.

And in Article 1 paragraph (3) which reads,

Achieve international cooperation in solving international problems in the economic, social, cultural or humanitarian fields, as well as in efforts to promote and encourage respect for human rights and basic

freedoms for every human being without differentiating race, gender, language or religion.

The importance of the principle of international cooperation can be traced through the existence of a liberal view. Liberalism is an understanding that believes in the capacity of humanity to solve problems that seem difficult through collective action. This action through groups can expand influence, insofar as power can be seen as the capacity to act to increase profits or to influence the outcome of an event or decision. These people also value freedom above all else and believe that state actions that can hinder freedom must be limited (**Griffiths, 2001**).

David Mitrany has introduced international relations regulated by organizations and cooperative practices between countries. The theory introduced by David Mitrany is a functionalist theory which states that the development of international trade and interdependence weakens the power of sovereign states (**Long, 1993**). Furthermore, it is said that functionalists are a school of thought that supports integration, that the state is not the only important actor in international relations, but there are also international organizations. Mitrany expressed his thoughts on how to make the country can work together in dealing with issues that cross territorial boundaries. The number of issues that cannot be resolved in the national scope causes the need for cooperation and the delegation of control and management of these issues through the institutional and operational framework of the organization. It is in this group that people struggle together to defend their lives as they fight danger and cope with disaster. The functionalist approach is used to address these problems, with the consideration that: (1) cooperation begins by addressing specific transnational issues; (2) the process can begin when the government begins to recognize that their greater duty in the welfare of their citizens cannot be fulfilled by themselves (**Griffiths, 2001**). A simple structure that serves the same interests of several countries is not only an ordinary structure but is the basis of a community based on shared responsibility for solving common problems.

Based on the explanation above, the authors are of the view that if the handling of natural disasters was initially only partially carried out by each country, then given the current natural disasters increasing in intensity, cross-border in nature, and sometimes exceeding the national capacity of the country then there should be an increase in cooperation conducted by countries in the Southeast Asian region. The cooperation should be directed through international organizations, namely through ASEAN as an independent regional international organization and distinguished from its member countries, especially if the natural disasters that occur are massive, cross-border and the national capacity of the

country concerned is insufficient/adequate to deal with it or the country they don't want to deal with it. The ASEAN body which has the authority in this matter is the AHA Center. In addition, it is also necessary to strengthen the role of the Secretary-General of ASEAN (the manifestation of ASEAN in the form of an independent international organization and distinguished from its member countries) in situations of humanitarian emergency response. At present, the role of the ASEAN Secretary-General is still under the control of its member countries, which are limited to being the coordinator of humanitarian assistance during a natural disaster response. Going forward, with the authority held by the ASEAN Secretary-General under Article 41 paragraph (7) of the ASEAN Charter Juncto Article 2 the 2009 Agreement on the Privileges and Immunities of the Association of Southeast Asian Nations and Article 8 of the 2011 Rules of Procedure for the Conclusion of International Agreements by ASEAN, the ASEAN Secretary-General can play a more active role in the process of disaster management in the Southeast Asian region. For example, the ASEAN Secretary-General can make decisions quickly and cooperate with other parties in seeking and receiving humanitarian assistance for member countries affected by disasters in the event that the country is unable or unwilling to cope. This is only done as a form of guarantee for the fulfillment of the human rights of victims of natural disasters.

The legitimacy of ASEAN as an independent international organization and distinguished from its member countries in dealing with natural disasters in the Southeast Asian region can be explained based on agency theory. In this theory, it is said that an international organization is an agent for the countries that form it (the principal) to help realize the goals of the state that cannot be implemented alone (**Nielson and Tierney, 2003**). In the context of agency relations, agency theory mentions three actors in agency relationships, namely principal, agent, and third party. In the opinion of Daniel L. Nielson and Michael J. Tierney stated that "Member governments (making up the principal) hire an IO (agent) to perform some functions that will benefit the members (**Nielson and Tierney, 2003**). Referring to the statement, the member state government which acts as the holder of power appoints an international organization as an agent to carry out several functions that will benefit the member countries. Within this framework, member states set goals that will later be implemented by international organizations (**Gutner, 2005**).

In addition regionalism is a bridge between state sovereignty and globalization. In the current era of globalization, regionalism can be an effective way or link between international and national systems. ASEAN is a regional international organization formed to maintain security and peace stability in the

Southeast Asian region which was in turmoil due to the cold war between the Western and Eastern blocs. Victor Bulmer Thomas once stated, "In policy terms, almost every country in the world has been chosen to meet the challenge of globalization in part through a regional response" (Thomas, 2001). This goal cannot be achieved if it is only carried out individually by each country.

International organizations are essentially a mechanism for establishing cooperation in all activities in various sectors of international life that are of common interest (Burton, Stein, and Gartzke, 2008). International organizations have independent interests that can advance cooperation between countries and are intended to fulfill common interests. The trust between countries to provide information to each other makes international organizations can help reduce fear between countries and provide a forum for negotiations.

Conclusion

1. Human Security and the ASEAN Way are two different concepts. Human Security is more focused on the concept of human security (individuals) directly, while the ASEAN Way focuses more on the concept of state security directly. With the shift in the concept of security from traditional security to non-traditional security (human security) in the Southeast Asian region, it will affect the pattern of handling or the mechanism. If security issues are emphasized on individual security (human security) then surely the approach to handling taken is no longer based solely on the bureaucratic approach that emphasizes the principle of state sovereignty and the principle of non-intervention in absolute terms but rather pays more attention to the fulfillment of guarantees of human rights as a form of protection for individuals as a whole live. Natural disasters that are cross-border, massive and occur in areas of armed conflict in the Southeast Asia region that result in the state being unable or unwilling to deal with them is a matter of human security. Under these conditions, the ASEAN Way as an ASEAN mechanism that focuses on the application of the principle of the absolute sovereignty of the state and non-intervention will be difficult to implement.
2. In the emergency response situation of natural disasters in the Southeast Asia region that is massive, across national borders and in times of armed conflict

that makes the country unable or unwilling to handle it, then the country's sovereignty in this context must be interpreted as the responsibility of the government of the country concerned to cope with provide full guarantee for the fulfillment of the rights of victims of natural disasters. The form of the state's primary responsibility in this condition is to be willing / willing to cooperate with other parties. Cooperation with other parties during natural disaster response is not a form of political intervention but a form of involvement of external parties to help in relation to humanity. International cooperation essentially requires the release of an absolute understanding of sovereignty. Such cooperation can be carried out through ASEAN as an independent regional international organization and is distinguished from its member countries. The ASEAN body which has the authority in this matter is the AHA Center. In addition, it is also necessary to strengthen the role of the Secretary-General of ASEAN (the manifestation of ASEAN in the form of an independent international organization and distinguished from its member countries) in situations of humanitarian emergency response.

Suggestions

1. It is necessary to strengthen the national capacity of ASEAN member countries in dealing with natural disasters that occur in their regions.
2. Cooperation between ASEAN member countries is needed if natural disasters occur in the Southeast Asia region that is massive, cross-border or occur in areas of armed conflict with the main objective of ensuring the fulfillment of the rights of victims of natural disasters.
3. It is necessary to grant the authority of ASEAN as an international organization to be involved in overcoming the problem of human security, especially natural disasters, in the event that member countries are unable or unwilling to deal with it.

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