

Introduction

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With this year's last issue of *Journal of Southeast Asian Human Rights*, it would be fitting to reflect on the year gone by. We entered the year with the war in Ukraine at the centre of news coverage by the global media outlets. As the year went by, the war in Ukraine started to lose its newsworthiness. The "world" had become immune to the daily gruesome reports of the lives of civilians and the disregard of those human rights that specifically secure the protection of civilians and soldiers during times of war. However, due to the armed conflict in Gaza horrid reportages of perverse brutality and of human sufferings once more dominate the news. The conflict highlights the paradoxical requirement to uphold international agreements to preserve humanity and the respect of human rights in the use of violence in state conflicts.

"International humanitarian law is a set of rules that seek to limit the effects of armed conflict. It lays out the responsibilities of states and non-state armed groups during an armed conflict".¹ International humanitarian laws protect civilians from being attacked or taken hostages, to safeguard prisoners of war and humanitarian personal, and to treat wounded soldiers in custody of an occupying power humanely. International law also clearly stipulates that combative forces must not interfere in or obstruct the provision of social services, such as health provision and education. Importantly, International humanitarian law interplays with international inalienable human right law to protect persons at all times, and they are therefore equally applicable in times of war as in peaceful times.²

This conflict stands out as any aspects of humanitarian law appear to be breached by state military forces and non-state armed groups. Civilians appear to have been targeted and by reducing essential infra structure to ruins people have been deployed basic human necessities to uphold life. According to Euro-Mediterranean Human Rights Monitor "the children of Gaza are being subjected to indiscriminate attacks" leaving about 640,000 children homeless.³ By fifth of December 2023, it was estimated that 342 schools were not functioning, either

1 Directorate-General for European Civil Protection and Humanitarian Aid Operations (ECHO), "International Humanitarian Law - European Commission", online: <https://civil-protection-humanitarian-aid.ec.europa.eu/what/humanitarian-aid/international-humanitarian-law_en>.

2 GA Res. 237,1 2, preambular H 2, UN Doc. A237/1967, (June 14, 1967); see also GA Res. 2252 (ES-V), UN Doc. A2252/ESV, (July 4, 1967), which refers to this resolution

3 Euro-Med Human Rights Monitor, "Over 10,000 infants and children killed in Israel's Gaza genocide, hundreds of whom are trapped beneath debris", (9 December 2023), online: *Euro-Med Human Rights Monitor* <[https://euromedmonitor.org/en/article/6020/Over-10,000-infants-and-children-killed-in-Israel%E2%80%99s-Gaza-genocide,-hundreds-of-whom-are-trapped-beneath-debris%20\(downloaded%2016.12.2023\)>](https://euromedmonitor.org/en/article/6020/Over-10,000-infants-and-children-killed-in-Israel%E2%80%99s-Gaza-genocide,-hundreds-of-whom-are-trapped-beneath-debris%20(downloaded%2016.12.2023)>).

because they served as shelters or because the vast majority were partly or completely damaged.⁴

Most governments have condemned the warfare, but as international politics and economic interests are at stake the important partners of the international political community have not been fully committed to pressurize neither Israel nor Hamas to enforce the rule of international humanitarian law. Political alignments to either Israel or the Palestinians govern their position and priorities. Globally, civil societies seem to have sided with the sufferings of the civilians and disregard the political fight. We may reasonably fear that the faith of civilians in Gaza and Israel and the consideration of their human rights will fade with time. With a possible insipid international civil society to keep governments committed to maintaining a humanitarian approach to the conflict, the conflict in Gaza may lose out to grand politics and its propensity for political partiality at the cost of the respect of humanitarian law and basic human rights.

The conflict between Israel and the Palestinians is originally rooted in territorial claims and forced displacement of people but has over the years evolved into a conjunction of political, social and cultural contentious issues. The conflict has evolved into a sectarian clash between Israel and The Arab World making religion a hostage of a confrontation with huge destructive social ramifications.

In this issue of the *Journal of Southeast Asian Human Rights* we have therefore included articles that cover the relationship between religion and human rights and that discuss the right to land and to basic social provisions. They illustrate the universality of human rights irrespective of locality and reminds us of the negation of human rights in our own environment.

In the article, “Human Rights and Views of the Catholic Church under Habermas Discourse Theory”, Otto Gusti Ndegong Madung et al denote the notion that Western-Christian theology forms the ethical basis of UN human rights. Instead, the authors illustrate how the paradigm of Habermas discourse theory can function as a model for grounding the notion of human rights in more secular terms and in accordance with conditions of contemporary society. Still, the authors stress that religion is important as a source of advocating and upholding human rights. The article concludes that in the context of Indonesia’s religious pluralism Habermas’ discourse theory, that transcends religions, is highly relevant. However, the war in Gaza also underlines the pertinence of this article.

While Madung et al argue that religion can incite human rights, in the article by Aga Natalis et al, titled “Determining Appropriate Policies for Prostitution Reform in Indonesia”, the authors posit that religion is a factor denying prostitutes their human rights. Within an Indonesian setting public health concerns and social norms related to prostitution are held up against the human rights of the prostitutes. The analysis is framed within two different strategies known as harm reduction and harm elimination strategies. The authors argue that while the reduction strategy aims at

4 CARE Staff, “7 things you should know about the Gaza crisis right now”, (20 December 2023), online: *CARE* <<https://www.care.org/news-and-stories/news/7-things-you-should-know-about-the-gaza-crisis-right-now/>>.

legalizing prostitution and provide prostitutes with basic human rights it is also more successful in curbing prostitution and its ill effects on public health by emphasizing prevention policies. However, the article demonstrates how religious outlooks guide policies on prostitution and favour harm elimination that is grounded in criminalizing prostitution rather than in preventing the ill effects of it.

Land acquisition is a common cause of conflict. In the article “State Actors in Agrarian Conflicts” Etika Rahmawati brings to our attention the continuing agrarian conflicts in Indonesia. As in Israel, the author demonstrates how local governments also in Indonesia fail to respect the rule of law and to protect small individual landowners and their local cultures and the environment. Indonesian government policies favour big corporations in the name of economic development. The Indonesian conflict exemplifies how a state hand in hand with global capital manages to determine the legal order and entitles corporates to seizure land. The author points out that the rule of law should denote *inclusion*, but in reality, the abuse of the notion leads to *exclusion*.

The upholding of human rights particularly targets vulnerable groups. While the children in Gaza experience the worst suffering children are generally a group with a limited voice to draw attention to any derision of their rights. In the article “Governance and Protection of Indonesian Migrant Workers in Malaysia”, Kuat Puji prayitno demonstrates how especially children in juvenile correctional institutions in Indonesia suffer from lack of respect for their right to education by the society. Though legislation is in place to secure this group of children access to formal education as an important part of their rehabilitation, authorities fail to abide in spite of growing international consciousness of the essential role of formal education in rehabilitation. The study sadly also shows that the children in juvenile correctional institutions may not only be ignored by the authorities but their situation may be aggravated by the lack support of their parents.

While Palestinians living in Gaza or the West Bank but working in Israel experience lack of social rights and discrimination, which is part of the underlying conflict, Indonesian migrant workers are also exposed to violation of their rights in destination countries. However, by applying the analytical framework, *Policy Network*, Andi Luhur Prianto et al in the article “Governance and Protection of Indonesian Migrant Workers in Malaysia” bring to the fore how a Memorandum of Understanding, leading to transnational cooperation between government offices in Indonesia and Malaysia, has helped to improve the social conditions of the migrant workers. Still, the authors point out that innovation in digital-based migrant worker protection agreed between the two countries needs much improvement.

Though the respect of human rights seems evident local traditions and world views may not readily engage with various concepts of human rights. Through the lenses of historical school of jurisprudence and sociological jurisprudence Widodo Dwi Putro in the article “Human Rights and its contested paradigm” illustrates the need to customary laws when implementing human rights in environments where those rights may contravene the local culture. Only by effective communicative means, and not by legal force, may we successfully overcome a reluctance to change local customs and encourage an engagement with human rights in a welcoming spirit.

The war in Gaza is a conflict laying bare the violation of multiple ranges of human rights. It reminds us that the suppression of human dignity may lead to social conflicts and violence. As pointed out by Etika Rahmawati the disrespect of human rights lead to exclusion that plants the seeds for conflicts, not just in Gaza, but in any community. Hitherto, the respect of human rights is a fundamental building block to construct a fair society that operates by peaceful means and not by violent conflicts.

The editorial office of the Journal of Southeast Asian Human Rights decided to select six articles that represent the current situation of human rights in Southeast Asia. It has, as always, been very hard to select the best articles. Thus, the editorial office would like to thank the many people whose hard work has ensured that the process of reviewing, editing, and publication of the selected articles met academic standards. The first thank you goes to the anonymous reviewers who generously gave their time to review the articles. The editorial office is also proud to have Cindy Claudia Putri as the copyeditor, who has always worked hard to ensure that the articles are of the highest quality by ensuring the accuracy of reference citations and journal structure. In the last year, our works have also been supported by Elliot M. Gross and Naomi Frim-Abrams who have always been very helpful for language clarity. Hopefully this edition will give new insights and knowledge on human rights issues in the region for all readers. Happy reading!