

A Systematic Analysis of Constitutional Norms on Ethnic Governance in Southeast Asian States

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ABSTRACT

Southeast Asian countries tend to have social structures marked by multiple ethnic groups and religions, and this has led to considerable institutional diversity in how they legally address ethnic issues, with noticeable differences from one type to another. This paper takes the constitutions and relevant laws of major Southeast Asian countries as its subject, offering a systematic look at legal norms in areas such as ethnic diversity, the relationship between religion and politics, ethnic equality and solidarity, and regional ethnic autonomy. On that basis, the existing laws related to ethnic affairs are sorted and organized. Through a detailed examination and comparative analysis, the paper aims to shed light on the overall structural features and normative logic of the ethnic legal systems in Southeast Asia, while also providing some reference points for understanding the rule-of-law model of ethnic governance in the region.

Keywords: *Southeast Asian countries, National minority, legislative system.*

1. INTRODUCTION

Southeast Asia has always been one of the most ethnically diverse regions in the world. Influenced by its geographical location, land and sea transportation network and long-term population migration, the social structure of the region is diverse in terms of language, religion, culture and lifestyle. Before the colonial era, various ethnic groups mainly existed in the form of tribal alliances, monarchy territories or religious organizations, showing distinct regional characteristics, diversified political organizations and identity. In the colonial era, the colonial powers introduced ethnic division and differentiated governance strategies into the administrative, demographic and legal systems, and incorporated these originally mobile and dispersed ethnic groups into the national framework through modern territorial division. Therefore, the multi-ethnic structure of Southeast Asian countries is not accidental, but deeply rooted in the fundamental historical facts of national construction and social structure evolution.

Against this backdrop, ethnic issues have become one of the core challenges that Southeast Asian countries must address in their post-independence institutional development. How to

maintain national unity and sovereignty while dealing with ethnic differences, mitigating public opinion, and fostering multi-ethnic solidarity are important practical challenges these countries face when designing their constitutions and legal systems. However, Southeast Asian countries have shown remarkable diversity and decentralization in their institutional choices. Some countries have clearly established autonomy at the constitutional level, while others address ethnic issues indirectly through the confirmation of rights, cultural protection, social policies, and development plans.

From a normative point of view, Southeast Asian countries have not yet formed a unified national legal system. On the contrary, ethnic issues are scattered in the constitution, education, culture, religion, local autonomy, official policies and policy documents. This fragmented and function-oriented institutional structure means that ethnic issues are often incorporated into the legal framework of national governance and social management. In some countries, such as the Philippines, there is a trend towards a rights-oriented system in the legislative process. [1]

Based on the background and norms described above, this paper sets out to systematically review

the constitutions and laws that deal with ethnic governance in the major Southeast Asian countries. The focus is on how these countries differ in the way they understand and apply the concept of ethnicity, how their institutional structures are set up, and what functions these legal norms are meant to serve. A typological and comparative analysis is then carried out. The goal here is to bring out the overall structural features of legal systems governing ethnic affairs in Southeast Asia and the underlying logic of state-building, while also providing a starting point for understanding how ethnic rule of law actually works in the region today.

2. ETHNIC LAWS IN THE CONSTITUTIONS OF SOUTHEAST ASIAN COUNTRIES

Significant differences exist in constitutional provisions regarding ethnic norms among major Southeast Asian countries. These differences reflect the different institutional choices each country has made in its governing process regarding issues such as ethnic diversity, religious identity, political stability, and national unity. Generally, constitutional provisions concerning ethnicity and religion can be classified into three types: "explicit recognition", "mitigated treatment", and "highly theocracy".

2.1 Norms of Ethnic Diversity

First of all, with regard to ethnic diversity and norms, Southeast Asian countries present two distinct normative models. A type of state clearly recognizes the multi-ethnic nature of its country at the constitutional level, and promotes national equality, cultural protection or autonomy arrangements to the level of constitutional principles. These countries mainly include the Philippines, Vietnam, Cambodia, Laos and Myanmar.

Among them, the constitutions of Vietnam, Laos and Myanmar clearly declare the multi-ethnic nature of their countries, confirm that these countries are composed of multiple ethnic groups, and emphasize that the state has the responsibility to promote national equality, national unity and common development of all ethnic groups. In addition, although the Vietnamese Constitution recognizes ethnic diversity, it places greater emphasis on national unity and solidarity.[2] The Constitution of the Philippines of 1987 clearly

affirms the legal status of "indigenous peoples" and requires the state to respect and protect their traditional territories, culture and autonomy rights.[3] Although the Constitution of the Kingdom of Cambodia recognizes the equality of ethnic minorities, its normative focus is still the unity of major ethnic groups and countries, and the rights of ethnic minorities are mainly reflected in the cultural and religious fields.[4]

Another group of countries tends to dilute the concept of a multi-ethnic state in their constitutional texts, emphasizing a unified national identity and citizenship. These countries mainly include Thailand, Singapore, Indonesia and East Timor. Thailand's constitution has long been based on the narrative of a single nation-state, emphasizing the overall identity of 'Thais' and 'communities', and often incorporating ethnic issues into social governance and administration.[5] The Constitution of the Republic of Singapore uses more neutral terms in its text, such as "the people", "citizens", and "communities". It places emphasis on civic equality and ethnic harmony, and it addresses the reality of a diverse society through equal protection and community safety.[6] Indonesia, while defining its national identity, emphasizes the concept of a unified state and the whole of 'Indonesian citizens'. The term 'state' in Indonesia's constitution refers to 'citizens', not 'ethnic groups'.[7] As for Timor-Leste, its constitution does not explicitly mention ethnic diversity, but it does stress the unity of citizenship, which is mainly regulated through cultural rights and language policy.[8]

2.2 State and Religious Institutional Norms

Regarding the relationship between state and religion, Malaysia, Brunei, Thailand, Cambodia, and Myanmar have closely linked normative structures of ethnicity and religion in their respective constitutions. Specifically, the Malaysian Federal Constitution closely links ethnicity, religious beliefs, language, and customs by defining "Malay" identity, giving clear constitutional force to ethnic identity itself.[9] Brunei designates Islam as the state religion, placing the unity of religion and state at its core.[10] The Thai Constitution gives Buddhism a special constitutional status through the Constitution and provides support for Buddhism in the system and culture.[11] The Cambodian Constitution clearly stipulates that Buddhism is the state, while guaranteeing freedom

of religious belief, and integrating religion into national consciousness with normative symbols, national mottoes or national rituals.[12] Myanmar gives priority to Buddhism and recognizes the existence of other religions.[13]

In contrast, East Timor, the Philippines and Indonesia take a more neutral position on religious issues. Although Timor-Leste does not designate a state religion and clearly stipulates citizens' freedom of belief, article 77 of its Constitution, "Inauguration and oath of office of the President of the Republic," reflects the retention of strong religious and cultural symbols.[14] Article 29 of the Indonesian Constitution stipulates that the state is based on the principle of "the only supreme god of faith" and guarantees everyone's freedom of faith.[15] The Philippine Constitution clearly defines the principle of separation of church and state, and does not establish a state religion, but at the same time fully guarantees the right of individuals to freely believe in religion.[16] Vietnam, Laos and Singapore take a relatively restrained attitude towards religious issues in the constitution. The Vietnamese Constitution emphasizes the freedom of religious belief, but clearly places religious activities within the framework of state management and social order. Religion does not constitute the basis of political identity or institutional differentiation. Singapore's constitution incorporates religious issues into public governance through strict religious neutrality principles and order maintenance mechanisms.[17]

2.3 Norms of National Equality and National Unity

Southeast Asian countries are addressing the issue of ethnic diversity in various ways, but they exhibit three distinct patterns in their normative expressions of ethnic equality and ethnic unity.

The first category of countries clearly stipulates that national equality and national unity are the basic principles of the country. Vietnam, Laos, Myanmar and the Philippines are typical representatives of such countries. The constitutions of Vietnam and Laos clearly point out that the two countries are composed of multiple ethnic groups, and their constitutional provisions directly affirm that 'all ethnic groups are equal and should unite and help each other' and prohibit ethnic discrimination and separatism.[18] Myanmar's constitution also believes that national unity is the basis of constitutional goals and national survival.[19] The Constitution of the Philippines

does not explicitly list the terms 'national unity' and 'national equality', but in the National Policy section, it omits these terms and reflects them by recognizing national rights, respecting national culture, promoting national economic development and guaranteeing national rights through various institutional provisions.[20]

The second type of countries indirectly achieve ethnic equality through general equality provisions. These countries include Indonesia, Singapore, Thailand, Cambodia and East Timor. These countries do not use specific terms in their constitutions to clearly define ethnic equality or ethnic composition, but usually achieve ethnic equality through general provisions such as 'equality before the law' or 'prohibition of discrimination based on race or ethnicity'. In the constitutions of these countries, these provisions are usually translated as general principles of national unity, public order or social harmony.[21]

The third category of countries integrates ethnic issues into specific national identity or ideological structures. While establishing the principle of equality, the Malaysian Constitution gives the Malays and the indigenous peoples of Sabah and Sarawak specific constitutional status through special protection mechanisms, thus ensuring the coexistence of ethnic equality and differentiated protection.[22] Brunei's constitution mainly constructs its national identity through Islam as the state religion and monarchy, in which ethnic integration is more reflected in the national ideology and related policy practices, rather than directly reflected in the constitutional provisions on ethnic equality and solidarity.[23]

2.4 Regional Ethnic Autonomy System

In Southeast Asian countries, regional national autonomy has not formed a unified constitutional model; on the contrary, it shows three institutional forms: national autonomy, authority-based autonomy and general local autonomy.

There are obvious differences in the design of these systems. From the perspective of comparative law, they can be roughly divided into three categories. The first category is the countries that clearly stipulate regional national autonomy in the constitution. The second category is the country that establishes an autonomous region in the constitution and gives it autonomy. The third category is countries that have not implemented regional ethnic autonomy, but have implemented

administrative decentralization and identity protection.

First, the model of national autonomy. Among Southeast Asian countries, Myanmar's situation is special, because its national autonomous entity has been most clearly defined at the constitutional level. The 'Constitution of the Federal Republic of Myanmar' (2008) established 'autonomous states' and 'autonomous regions' under the federal system, and designated a number of national autonomous entities according to the specific areas where ethnic groups lived in history, such as the Wa Autonomous Region, the De'ang Autonomous Region, the Danuban Autonomous Region, and the Pong State Autonomous Region. The constitution gives these autonomous entities certain powers in local autonomy, cultural affairs and administrative management, thus forming a relatively typical constitutional system of national autonomy in Southeast Asia.[24]

Second, the form of autonomy. Although the Philippine Constitution does not define ethnic regional autonomy as a universally applicable constitutional system, it recognizes the establishment of 'autonomous regions' in provinces, municipalities and geographic regions with common historical, cultural and social structures through a special chapter. The Constitution also clearly stipulates that this autonomy must operate within the framework of constitutional order, national sovereignty and territorial integrity, and the president has full supervisory authority over the autonomous region.[25] Based on this, the Philippine Congress formally adopted the "Basic Law of Bangsamoro" in 2018 and formally established the Bangsamoro Autonomous Region. The system systematically constructs the local legislative, administrative, financial and judicial systems. It is a typical example of the combination of national autonomy and peaceful governance under the constitutional mandate. It is also a typical example of the combination of national autonomy and conflict resolution mechanisms.[26]

Third, the general local autonomy. These countries include Malaysia, Indonesia, Vietnam, Laos, Cambodia, Singapore, Thailand, Brunei and Timor-Leste. These countries do not set up a system of regional ethnic autonomy through the constitution to solve ethnic differences, but through the decentralization of general administrative power and the formulation of provisions to protect national identity. In Malaysia, the constitution does not set up autonomous regions to achieve national

autonomy, but guarantees the special status of Malays and Sabah and Sarawak aborigines.[27] The Indonesian Constitution establishes the principle of local self-government and implements different forms of self-government in different regions through special laws such as the 'Local Self-Government Act' and the 'Aziz Special Self-Government Act', but such self-government is mainly based on regional particularities rather than regional ethnic autonomy.[28]

3. CLASSIFICATION OF ETHNIC LEGAL NORMS IN SOUTHEAST ASIAN COUNTRIES

In the context of multi-ethnic society, Southeast Asian countries usually adopt a multi-level approach to deal with ethnic diversity, covering the constitution, special laws, administrative regulations and policy formulation, showing a variety of normative types and different institutional functions. From the perspective of normative function, the existing legal documents can be roughly divided into five categories: rights confirmation, autonomy and governance structure, cultural and lifestyle protection, social policy support, and strategic planning and policy documents.

3.1 Types of Rights Confirmation

In the legal systems governing ethnic groups in Southeast Asia, rights protection norms are the most common form of regulation. These norms are primarily embodied in constitutional provisions concerning "equality", "non-discrimination", "national unity", and "fundamental citizenship rights". Through these fundamental constitutional provisions, these norms affirm equality in the legal status of different ethnic groups, prohibit discrimination based on ethnicity, race, or group identity, and establish national unity, national integration, and social harmony as fundamental national values. The main function of these norms is not to grant each ethnic group universally independent autonomy or collective political rights, but rather to establish a fundamental constitutional order concerning ethnic relations, guarantee equal rights for citizens, and maintain national unity.

3.2 Autonomy and Governance Structure

Some Southeast Asian countries have established autonomy and governance systems based on constitutions and special laws, created

differentiated local governance mechanisms, allocated autonomy to specific regions, and coordinated the relationship between ethnic diversity, local governance and national unity, which is different from general administrative divisions. The Philippines promulgated the 'Basic Law of Bangsamoro' in accordance with the constitutional authorization to implement the local autonomy system, established the Bangsamoro Autonomous Region as a special political entity, and systematically defined its administrative, financial and central and local relations system. Indonesia has enacted the 'Papua Special Autonomy Law', which is a special autonomy law for specific areas and establishes a system of local and regional special autonomy.[29] The Constitution of Myanmar clearly defines the entity of national autonomy and establishes autonomous regions and special autonomous regions under the federal system. These entities mainly correspond to specific ethnic groups and constitute the institutional basis of Myanmar's national autonomy. The autonomy of Thailand, Vietnam, Laos, Cambodia, Brunei and Malaysia is mainly achieved through the legal authorization of administrative power, and there is no clear establishment of national autonomous organizations.

3.3 Types of Cultural and Lifestyle Protection

Norms concerning the protection of culture and lifestyles are the most common institutional form in the ethnic governance systems of Southeast Asia. These norms emphasize the cultural aspects of ethnic differences over the political aspects, and guarantee the continuation and development of ethnic culture through institutions such as the protection of cultural heritage, the transmission of traditional knowledge, the protection of ethnic languages, religions, cultural customs, and traditional lifestyles.

The Philippines has one of the most perfect cultural and ethnic legal systems in Southeast Asia. The "National Cultural Heritage Law" has established a system for the protection of tangible and intangible cultural heritage, and clearly incorporates traditional knowledge, customs, language and national culture into the national protection object.[30] At the same time, the 'Aboriginal Rights Act' further guarantees the rights of Aboriginal people to cultural integrity, traditional knowledge protection, religious freedom, and the continuation of traditional systems, forming

a system that combines cultural protection with the protection of ethnic rights.

Singapore maintains the stability of its multicultural society through functional legislation on cultural heritage protection and the maintenance of religious harmony. The Preservation of Monuments Act 2009 protects cultural heritage of historical, religious, and ethnic significance.[31] while the Maintenance of Religious Harmony Act 1990 safeguards public order in a religiously diverse society.[32]

Thailand has established a system to protect cultural heritage and inherit traditional lifestyles through institutional means. The Law on Monuments, Cultural Relics, Fine Arts and National Museums has established a cultural heritage protection system, which clearly protects the traditional lifestyles, cultural customs and cultural resources of all ethnic groups, and reflects the legislative characteristics of dealing with ethnic diversity through cultural protection.[33]

Vietnam mainly through the 'cultural heritage law' and 'education law' barrier minority culture, language and education development rights, stressed that the state has the responsibility to protect its cultural heritage, and promote the common development of national culture.[34] Indonesia's Cultural Heritage Law protects traditional customs, historical sites, and forms of cultural expression, and its Law on the National Flag, Language, National Emblem, and Anthem establishes Indonesian as the national language and allows local languages to continue to be used in some areas.[35]

Malaysia's National Heritage Act provides a unified legal framework for protecting cultural heritage, and it does not draw distinctions between the cultural rights of different ethnic groups.[36] Myanmar's constitution clearly recognizes the country's multi-ethnic structure and, according to where specific ethnic groups are concentrated, creates self-governing administrative units at the local level.

In its cultural policies and heritage regulations, Laos explicitly places traditional customs, ethnic cultures, and religious practices under state protection. Cambodia's legal framework for cultural heritage protection stresses the state's duty to safeguard historical sites, traditional culture, and religious culture. Brunei has not introduced separate laws on ethnic or cultural rights; instead, it blends cultural traditions, religious practices, and

ethnic identity into its national ideology and administrative system, forming a highly unified set of cultural and religious norms.

3.4 Types of Socioeconomic Support

Socio-economic policies and regulations form an important part of ethnic governance in Southeast Asia. Their main role is to use legal and policy documents to help disadvantaged groups, marginalized areas, and ethnic minorities gain better and more regulated access to social services, education, employment, and opportunities for economic development.

The Indigenous Rights Act of the Philippines is one of the most representative social security laws in Southeast Asia. The Act clearly sets out the State's obligation to guarantee the economic, social and cultural well-being of Aboriginal peoples, including the provision of basic social services, the promotion of participation in education and employment, and the guarantee of housing and social security. (The Act requires the State to ensure that indigenous peoples enjoy equal rights and opportunities with other citizens in social and economic well-being.) Indonesia has established an anti-discrimination legal framework through the Constitution and the Elimination of Racial and Ethnic Discrimination Act to provide legal protection for ethnic minorities to enjoy equal rights.[37]

In addition to specific laws, many Southeast Asian countries also rely on national development plans, special development projects and comprehensive social policies to promote social and economic development in ethnic minority areas. Vietnam, Laos and Thailand have improved public services in ethnic minority areas and promoted regional development coordination through policies and regulations such as ethnic minority development planning, education support and infrastructure construction.[38] Singapore, Brunei and Timor-Leste mainly rely on the inclusive social security system and public welfare policies to ensure that different ethnic groups enjoy equal access to basic public services such as education, medical care, housing and employment. The institutional basis is mainly reflected in the constitution, social security legislation and national development policies.[39]

4. CONCLUSION

Generally speaking, Southeast Asian countries have not yet formed an independent, unified

national legal system. Rather, under the complex influence of the nation-building process, ethnic structure, and historical institutional traditions, they have developed a diverse and functionally differentiated system of national governance norms. At the constitutional level, most countries enshrine fundamental values such as ethnic equality, national unity, and religious relations through principle clauses. General law constructs differentiated institutional arrangements, mainly in areas such as autonomy and local autonomy, protection of rights, protection of culture and lifestyles, and support for social policies, while policy norms play a more complementary and coordinating role.

Taken together, national governance in Southeast Asia is based primarily on the basic forms of national governance, with laws in various fields distributed decentralizedly. These governance norms aim to protect and maintain local traditional cultures, religious beliefs, and customs, preserve ethnic diversity, ensure national governance and social stability, and promote equality, unity, and social development among all ethnic groups.

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