

Analysis - ASEAN Convention on Counter Terrorism 31 January 2006

Benefits

- Important centerpiece to anchor members of the regional grouping. ASEAN member states have varying terrorism laws. The ASEAN Convention on CT implies a more formal/rules-based approach which could imply homogenizing terrorism laws for all countries within the regional grouping thus making it an effective tool in dealing with transnational terrorism in Southeast Asia.
- Currently, there is only CT cooperation within ASEAN in terms of intelligence sharing/repatriating a terrorist from one ASEAN country caught in another ASEAN country back home for example. The only way to move forward in further deepening cooperation among ASEAN Law enforcement agencies and relevant authorities countering terrorism is to have a concrete framework for regional cooperation to not only counter but prevent and suppress terrorists. The ASEAN Convention on CT is a right step in the right direction in deepening cooperation among law enforcement agencies/authorities within ASEAN as they will all be working towards a common agenda.
- ASEAN needs a legal personality for very practical reasons otherwise more key terrorists like Abu Bakar Bashir, JI Spiritual Leader will be arrested, detained and then released shortly thereafter with nothing other ASEAN countries can do but to watch helplessly as terrorists/potential terrorists walk free.
- At present, there are significant institutional gaps within ASEAN and there is a pressing need to ‘beef’ up the whole ASEAN structure. There is realization that the current model is efficient, but if you want to move ASEAN to a higher plane (much like the European Union for example), something more needs to be done. One of the ways of beefing up ASEAN is to strengthen CT Convention. This will also enable ASEAN to up its reputation in the international community as ASEAN will be viewed as an effective regional grouping that is capable of taking irresponsible member states to task if it deems that particular member state ineffective in combating terrorism. The ASEAN CT Convention will thus entrust the regional grouping with such powers.
- The CT Convention is a milestone for ASEAN as it finally carries a definition for terrorism. Although one can argue that the definition is derived from a whole series of past UN Conventions, it is indeed a step in the right direction for ASEAN. Previously, many ASEAN member states could not agree on how to move forward collectively in the fight against terrorism as each member state possessed its own definition of what constituted terrorism.

Limitations

- No matter how many conventions are signed, ASEAN is still lacking in the necessary institutions needed to enforce the conventions. In the absence of enforcement mechanisms, ASEAN member states can choose to ignore conventions. Thus, the appropriate institutions need to be built up in all the ASEAN member states before the conventions can be enshrined in legislation.
- Also, it appears that the ASEAN CT Conventions seem to have been taken directly off the Western model/offshoot of UN. The question is whether these make the conventions unsuitable as ASEAN member states have their own unique characteristics and it is necessary to take these into account. Thus, there is the question of the CT Conventions effectiveness in the Southeast Asian context.
- Under the section of Withdrawal, it says that any party may withdraw from this convention at any time after the date of entry into force of that convention. The implications of this is that ASEAN member countries will just agree to the CT Convention and subsequently give an excuse and withdraw from the convention at a later date. Thus, the effectiveness of the convention is in doubt.
- Under the section on Non-Application – Under Preservation of Sovereignty. A country like Thailand for example can insist that the conflict in Southern Thailand for example is a strictly domestic issue and by so doing, other ASEAN countries cannot intervene under any circumstances as intervening in addressing the conflict for example will mean interfering in the sovereign rights of an ASEAN member state. Thus, the ASEAN CT convention is quite ineffective if ASEAN member states keep on insisting that their sovereignty is being violated.