



## **To Promote and to Protect: Strengthening the Regional, National, and Individual Impacts of the ASEAN Human Rights Declaration (AHRD) on the Southeast Asian (SEA) Peoples**

By Mr. Marc Kevin M. Maralit  
Department of Political Science,  
College of Social Sciences and Philosophy  
University of the Philippines Diliman  
Philippines

A decade since the Association of Southeast Asian Nations (ASEAN) adopted the AHRD, the Member States find themselves still stymied by various obstacles to accomplishing what the sixth article states as their primary responsibility to promote and protect all rights and freedoms set forth in the Declaration (ASEAN, 2012). Claims of fulfilling this twofold mandate are instantly drowned out by incidents of violating — either by commission or by omission — the AHRD. This apparent failure is evinced at different levels: regional, national, and individual. Howsoever ASEAN intends to facilitate a human rights culture, its members are yet to individually and collectively address the hindrances at every level.

The insignificance, and hence the failure, of the AHRD at the regional level lies on the absence of a body capable of assuring its implementation in each Member State. The ASEAN Intergovernmental Commission on Human Rights (AICHR) would be the ideal body had it not been limited to its purely promotional mandate (Gomez & Ramcharan, 2020a). Since its terms of reference adheres to the principle of non-interference (Lee et al., 2015), the AICHR lacks adjudicative and even investigative prerogatives. Consequently, the body is merely able “to promote” but is unable “to protect” as it disseminates the Declaration. Nevertheless, since other human rights bodies like those at the UN were also constrained at their onset, the 13-year-old AICHR may still grow its teeth (Lee et al., 2015). Hence, to be fair, it is not futile to expect that someday the AICHR will become at once a promoter and a protector of rights and freedoms, insofar as its further empowerment will be kept on the table.

For now, the gap left by a weak regional mechanism to implement the AHRD can be potentially filled by the Member States' national human rights institutions (NHRIs). Those



ASEAN University Network  
Human Rights Education (AUN-HRE)



Supported by



UiO : Norwegian Centre for Human Rights  
University of Oslo

2022 Essay Writing Competition on Critical Human Rights and Peace Issues in ASEAN/Southeast Asia  
THEME: "ASEAN Human Rights Declaration (AHRD): Ten Years On"

Ref.No.132

already established have the powers to receive complaints, investigate, and call witnesses; some of them can even enter prisons or work on court cases (Lee et al., 2015). Notwithstanding these protective capabilities, Gomez and Ramcharan (2020b) identify SEA NHRIs' defects: their context within problematic democratic transitions, unwillingness to follow through concerning their quasi-judicial investigative processes, and inability to provide remedies for human rights victims. Topping these is the fact that the AHRD has not been enough until now to prompt five Member States to establish their respective NHRIs.<sup>1</sup> To honor the declaration and the members' adoption thereof despite its being non-binding,<sup>2</sup> ASEAN must persuade its NHRI-free members to finally establish their own and guarantee these new bodies as not being mere attempts to appease the international community but to demonstrate their commitment to everything the AHRD contains. Once present in all Member States and their defects properly addressed, NHRIs can work together with the AICHR in further promoting and protecting rights and freedoms in the region. Martin (2020) even suggests that effecting the complementarities between NHRIs and the AICHR can be guided by the example of NHRIs' interactions within the European, Latin American, and African contexts.

At the individual level, the AHRD's weak impact is manifested in the SEA peoples' unfamiliarity with the AHRD. Admittedly, I had not read the entire AHRD until I learned about the competition whereto this essay is submitted. Asking my friends, some have never heard of the AHRD and some know it only by name. Sustaining such unawareness among the SEA peoples delays the emergence of a human rights culture in the region. For the AHRD to be cherished, the incorporation of human rights education in all SEA schools' curricula — a move that will satisfy the Declaration's 31<sup>st</sup> article — is a start. To reinforce it, the help of institutions that possess moral ascendancy, like religions, must be sought.

An AHRD inculcated in SEA communities would have provoked strong resentment against the growing devaluation of human rights victims' memory in the Philippines, the July execution of four opposition activists in Myanmar, the incessant filing of *lèse majesté* charges against democracy protesters in Thailand, and other similar human rights violations in SEA.

<sup>1</sup> In truth, the Declaration did not incite any Member State to establish an NHRI since the existing SEA NHRIs were created before 2012. Those that remain NHRI-free are Brunei, Cambodia, Laos, Singapore, and Vietnam. Timor-Leste, which has yet to become a full member of ASEAN, already has its own NHRI.

<sup>2</sup> In the second Universal Periodic Review (UPR) cycle, Cambodia reminded Laos about its obligations towards the AHRD even if it is *non-binding* (Martin, 2018).



ASEAN University Network  
Human Rights Education (AUN-HRE)



Supported by



UiO : Norwegian Centre for Human Rights  
University of Oslo

2022 Essay Writing Competition on Critical Human Rights and Peace Issues in ASEAN/Southeast Asia  
THEME: "ASEAN Human Rights Declaration (AHRD): Ten Years On"

Ref.No.132

For such cases to be effectively addressed, the AICHR must be enabled to receive complaints and investigate, NHRIs must be established in all Member States, and human rights education must be genuinely taught. Only then can the AHRD become truly meaningful.

**References:**

- ASEAN (2012). *ASEAN Human Rights Declaration*. <https://asean.org/asean-human-rights-declaration/>
- Gomez, J. & Ramcharan, R. (2020a). Preface. In J. Gomez & R. Ramcharan (Eds.), *National human rights institutions in Southeast Asia: Selected case studies* (pp. v–viii). Asia Centre.
- Gomez, J. & Ramcharan, R. (2020b). Introduction: National human rights institutions in Southeast Asia —Challenges to the protection of human rights. In J. Gomez & R. Ramcharan (Eds.), *National human rights institutions in Southeast Asia: Selected case studies* (pp. 1–17). Asia Centre.
- Lee, B., Mullen, M., & Hayes, M. (2015). Protecting human rights in Southeast Asia. In A.U. Abubakar, A. Sharom, M. Mullen, M. Hayes, T. T. Hai Nguyen, & Y. Sumarian (Eds.), *An introduction to human rights in Southeast Asia* (Vol. 1, pp. 73–100). Strengthening Human Rights and Peace Research and Education in ASEAN/Southeast Asia (SHAPE-SEA).
- Martin, C. (2018). The UPR and its impact on the protection role of AICHR in Southeast Asia. In J. Gomez & R. Ramcharan (Eds.), *The Universal Periodic Review of Southeast Asia* (pp. 201–212). Asia Centre.
- Martin, C. (2020). National human rights institutions in Southeast Asian states: The necessary foundation for an efficient ASEAN Intergovernmental Commission on Human Rights. In J. Gomez & R. Ramcharan (Eds.), *National human rights institutions in Southeast Asia: Selected case studies* (pp. 37–54). Asia Centre.