

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

A decade since the Association of Southeast Asian Nations (ASEAN) adopted the AHRD, the Member States find themselves still stymied by various obstacles to accomplish 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 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 the 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 lie 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 one 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), 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 used to be constrained also 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). The ones 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 contextualization within problematic democratic transitions, unwillingness to follow through concerning their quasi-judicial investigative processes, and inability to remedy 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.¹ To honor the declaration and the members' adoption thereof despite its being non-binding (Martin, 2018), the ASEAN must persuade its NHRI-free members to finally establish their own and guarantee its not being a mere attempt 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, AHRD's weak impact is manifest in the SEA peoples' unfamiliarity with the AHRD. Admittedly, I have not read the entire AHRD until I learned about the competition whereto this essay is submitted. Asking my friends, some have never heard of AHRD, 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 AHRD to be cherished, the incorporation of human rights education in all SEA schools' curricula — a move that will satisfy the Declaration's 31st article — is a head start. To reinforce it, the help of institutions that possess moral ascendancy like religions must be sought.

An AHRD inculcated 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. 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.

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¹ 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.

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