MERE RITUAL OR GRADUAL CHANGE: WHY HAS ASIA FAILED TO ESTABLISH REGIONAL HUMAN RIGHTS INSTITUTIONS THUS FAR?

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MERE RITUAL OR GRADUAL CHANGE: why has Asia failed to establish regional human rights institutions thus far?

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This paper reviews all the major initiatives to establish regional human rights institutions (RHRIs) in Asia and concludes that, for the last twenty years, Asian governments’ efforts to create RHRIs have been ritualistic, with non-legally binding promises and temporal discussions, but without any concrete actions. After analyzing the major initiatives, this paper identifies five main factors that have hindered the establishment of a regional human rights system in Asia. It concludes that those obstacles result not from a different understanding of fundamental human rights under the already existing international human rights legal system, but mainly from political considerations. Thus, this paper questions who benefits from the rejection of RHRIs in the Asia-Pacific region.

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It was never the people who complained of the universality of human rights, nor did the people consider human rights as a Western or Northern imposition. It was often their leaders who did so.¹

In the twenty years [since 1990], there has been a growing recognition in the [Asia-Pacific] region... of the importance of developing regional arrangements to complement national and international efforts in promoting, protecting and realizing human rights... [T]he establishment of regional mechanisms lies at the heart of any credible regional human rights arrangement.²

INTRODUCTION

Since the adoption of the Bangkok Declaration in 1993, there have been numerous initiatives to establish regional human rights institutions (RHRIs) and charters in the Asia-Pacific region.³ All efforts, however, have been impeded by deep cultural, political, and historical issues. There have been two main approaches to the establishment of RHRIs: the top-down one and the bottom-up one. Why have both not worked? Many human rights activists and scholars argue that the former approach of the United Nations (U.N.) and the governments of Asian states have not fully cooperated with already existing national and regional institutions and have mainly relied upon individual governments’

² Kyung-wha Kang, Deputy High Commissioner for Human Rights, Opening Statement at 15th Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asia-Pacific Region (Bangkok, Apr. 21, 2010).
³ Before proceed further, let me explain how this paper understands the Asia-Pacific region. It is impossible to define this region by its single or common elements of identities like ethnicity, culture, history, language or religion. Even geographical boundaries that distinguish this region from others are not clear. Further, in various international institutions there are no general guidelines to categorize their member states into regional groupings in the name of the Asia or Asia-Pacific region. Even in the U.N. structure, there are no official standards. The different institutions of the U.N. use different regional grouping guidelines based on their operational needs, and as a result, the number of member countries grouped into the Asia or Asia-Pacific region are all different. This paper recognizes the Asia-Pacific region as the geo-political notion consisting of several sub-regions which share common elements rather than as a clearly defined geographical concept, which is, in other words, a flexible and fluid notion rather than one with a strict boundary. For human rights discussion purposes, the general scope of this region is followed but not limited to the UNOHCHR regional categories. Therefore, this paper refers the Asia-Pacific region or Asia as one that embraces countries in four sub-regions: the South Asia, the South-East Asia, the Pacific, and the East Asia. See The Asia Pacific Forum (APF), “The Region” http://www.asiapacificforum.net/about/the-region
political will. The latter approach of numerous non-governmental organizations (NGOs) has lacked enough support from formal governmental institutions. Thus, examining this problem is the starting point of my paper, and the main question that should be asked is why Asia has not had successful RHRIs thus far.

To answer this question, first, I will review all the major initiatives to establish RHRIs in this region, especially since the first U.N. Workshop on human rights in the Asia-Pacific Region was held in 1990. This workshop was generally considered the first step in exploring the possibility of regional human rights arrangements in the Asia-Pacific region.4

As the initiatives for setting up RHRIs in the Asia-Pacific region have been mainly categorized by their leading agencies, this paper will review them in three parts: the U.N. initiatives, the NGOs initiatives and the National Human Rights Institutions (NHRIs) initiatives. These are examined in chronological order to see what items have been discussed, what key developments emerged from their discussions, whether they have evolved toward realizing the establishment of RHRIs, and lastly, how their activities can be evaluated.

Through the analysis of all the major initiatives for setting up RHRIs in the Asia-Pacific region, I, then, will provide five main factors that have hindered the establishment of a regional human rights system in Asia. That is, first, sovereignty. Truly, sovereignty and the traditional concepts of the principle of non-intervention have been one of the main obstacles for setting up RHRIs in this region because for a long time, most Asian governments have considered human rights issues an internal affair. The second reason is the failure to recognize human rights after the Second World War. This is deeply related to post-war compensations and war victim reparations paid by Japan, the gross human rights violator at the time of the war. The third reason is the failure of major Asian powers to play a leading role in the human rights movement. The lack of regional leadership for the improvement of human rights conditions in the region by the major Asian powers, China, Japan, and India, shows the practical difficulties in establishing RHRIs in Asia. The fourth reason is the relatively low ratification rate of major U.N. human rights treaties. It means that there is still a lack of individual governments’ political will to comply with international human rights norms in many Asian countries. And lastly, the fifth reason is the Asian values debate, a unique human rights discourse in this region. The first four reasons will be discussed in the same section, while the Asian values argument, which has been examined in a large number of publications by both scholars and activists for over a decade, will be reviewed in a separate section. The reason for

examining it separately is my belief that it is the most important factor in most Asian countries’ reluctance to establish RHRIs. With the ongoing conversation on post-colonialism, Lee Kuan Yew’s famous Asian values debate, indeed, has been a major challenge for setting up a regional human rights system, because it rejects international human rights law as a Western concept and thus argues that it is inapplicable to the Asian context.

After examining the five major reasons, I conclude that all those obstacles, including the Asian values discourse that has hindered the establishment of RHRIs, are the result not of a different understanding of fundamental human rights under the already existing international human rights legal system, but mainly of political considerations. Therefore, I will question who benefits from the rejection of RHRIs. Those who are most vulnerable to violations of their fundamental human rights and find it hard to seek the protection of their rights both at the international and the national level are definitely not the ones who will benefit from the absence of RHRIs. Neither are the human rights defenders who fight for them. Finally, the analysis of the identified obstacles will lead me to focus on national human rights institutions (NHRIs), relatively new actors in the international human rights framework, as a driving force for the establishment of RHRIs in the Asia-Pacific region.

I. INITIATIVES TO ESTABLISH RHRIS IN THE ASIA-PACIFIC REGION

There have been numerous initiatives to establish regional human rights mechanisms in the Asia-Pacific region for the past two decades after the first 1990 Asia-Pacific Workshop on human rights explored the possibility of regional human rights arrangements in the region.5 They can be categorized, in three main subsets: U.N. initiatives, NGOs initiatives, and NHRIs initiatives.

A. The U.N. Initiatives

In the 1960s, the U.N. Commission on Human Rights created a study group to review the establishment of regional human rights institutions all over the world. In 1968, it requested that the U.N. Secretary General, U Thant, organize seminars in the regions with no RHRIs with the goal of establishing such bodies.6 A series of U.N. General Assembly (G.A.) resolutions on regional arrangement for the promotion and protection of

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human rights followed in the 1970s. For example, in 1977, the U.N. G.A. resolution pointed out:

Recognizing the important contribution of the regional commissions of the United Nations in the economic and social fields,

1. **Appeals** to States in areas where regional arrangements in the field of human rights do not yet exist to consider agreements with a view to the establishment within their respective regions of suitable regional machinery for the promotion and protection of human rights;

2. **Requests** the Secretary-General, under the programme of advisory services in the field of human rights, to give priority to the organization, in regions where no regional commission on human rights exists, of seminars for the purpose of discussion the usefulness and advisability of the establishment of regional commissions for the promotion and protection of human rights;⁷

In 1982, the U.N. organized a seminar on “National, Local and Regional Arrangements for the Promotion and Protection of Human Rights in the Asian Region” in Colombo, Sri Lanka.⁸ During the seminar, the U.N. Centre for Human Rights called upon the participating 19 member states of the Economic and Social Commission for Asia and the Pacific to ratify the major human rights conventions and recommended setting up periodic regional meetings on human rights issues.⁹ It called for the Office of the High Commissioner for Human Rights (OHCHR) to facilitate a dialogue among member states on appropriate arrangements for human rights in the Asia-Pacific region, but the participants agreed that it was untimely to discuss the establishment of a regional arrangement in the Asia-Pacific region.¹⁰ Finally, in 1990, the OHCHR began to organize an annual *Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asia-Pacific Region*.


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⁹ *Id.*

¹⁰ Chiam, *supra* note 6, at 128.

¹¹ See website of OHCHR, Regional arrangements for the promotion and protection of human rights in the Asian and Pacific region, [http://www.unhchr.ch/](http://www.unhchr.ch/) See also website
developments of those workshops are briefly reviewed in Appendix I. All fifteen workshops’ main discussions can be summarized using the four priority pillars under the Asia-Pacific regional human rights framework—generally known as the Tehran Framework.

The first pillar is national human rights action plans. The workshops discussed and shared information and good practices to support member states’ initiation of national human rights action plans because the OHCHR and participants believed that the development of a national time-bound plan could strengthen the culture of human rights by reforming various human-rights related domestic legislation and consolidate the cooperation among similarly-minded government officials, NHRIs, NGOs, and all other civil society stakeholders.\(^1\) Along the same lines, a number of sub-regional and inter-sessional regional workshops on national human rights action plans have been organized, e.g. in Bangkok (1999), Tokyo (2000), Ulaanbaatar (2000), and Bangkok (2004). Still, only a small number of Asia-Pacific countries have adopted national human rights action plans, and even in countries with action plans, there are concerns over their slow and limited implementation.\(^2\)

The second pillar is human rights education. The important role of human rights education has been emphasized both for children through the school curriculum and for professional groups like law enforcement officials, judges, and lawyers through technical training programs.\(^3\) Such a rights-based approach to education is believed to raise awareness of human rights among the general public, and at the same time, enhance domestic human rights protection systems. But, as these human rights education programs are national rather than regional, individual states can face financial difficulties implementing them with limited resources if there is no support from the outside, including the OHCHR.\(^4\) Sub-regional and inter-sessional workshops on human rights education have also been held, for example, in Seoul (1999), the Marshall Islands (2001), Chiangmai (2001), Fiji (2002), and Doha (2004).

The third pillar is economic, social, and cultural rights, and the right to development. The recognition of the right to development as a human right is indeed a contribution of developing countries, including most Asian states. The right to development and the realization of economic, social, and cultural rights has been identified as an important item of


\(^3\) Id., at 15.

\(^4\) Id., at 15.
regional cooperation since the Fifth Workshop in Amman (1997). In addition, the workshops, including the inter-sessional and sub-regional ones, have constantly emphasized the close relationship of economic, social, and cultural rights, human trafficking, the rights of women, children and migrant workers, and poverty. But, there has been limited implementation at the national level compared to the active efforts and discussions during the workshops. Even when actions are taken by individual states, in most cases they are “ad hoc rather than sustainable.”

The last pillar is NHRIs. Participating member states at both the 12th Workshop in Doha (2004) and the 13th Workshop in Beijing (2005) stressed that an NHRI is the strongest of the Tehran Framework’s four pillars. Indeed, the Asian-Pacific Forum (APF), a network of national human rights institutions, is the closest that this region has come to regional mechanisms for the protection and promotion of human rights. Seventeen countries in the region have established NHRIs, and their network through the APF has played a central role in the establishment of a culture of human rights in Asia. Under the 1993 Paris Principles, NHRIs have a power to review and monitor national legislation, to review government policies and programs, to meet international human rights standards, to receive and investigate complaints of human rights violations cases, and to raise public awareness of human rights through their human rights education programs. In the Asia-Pacific region, their network under the framework of the APF, established in 1996, has contributed to each NHRI improving its own capacity by sharing human rights information and best practices, and by training and exchanging staff. It also demonstrated how a regional approach to human rights issues can be effectively handled with the cooperation of NHRIs, for example, on the issue of the rights of migrant workers and of internally

17 Id. 

Paris Principles list the role and functions of NHRIs, the requirements for independence and the broad mandate of NHRIs. Paris Principles are internationally recognized standards which have been adopted by the United Nations General Assembly in Dec. 20, 1993.

22 More details on NHRIs’ role and functions for the protection and promotion of human rights will be discussed in depth in Chapters Four and Five.
displaced persons through the APF coordinated annual meetings. The OHCHR has also actively supported and participated in the APF annual meetings. The APF and the network of NHRIs in the Asia-Pacific region, however, differ from RHRIs in other regions.

Under the Tehran Framework’s four pillars, the U.N. Workshops have mainly discussed cooperation programs focusing on individual governments’ actions to strengthen human rights mechanisms at the national level. This is far from what the 1982 Seminar in Colombo and related U.N. resolutions originally tried to initiate for regional human rights arrangements. What is more, in the Asia-Pacific region, government actions alone are not sufficient for the promotion and protection of human rights, especially considering the fact that while most Asian governments have considered human rights an internal affair for a long time, the development of human rights is not solely a domestic matter, but a process of interaction among international organizations, civil society, media, corporations, academics, and other private entities at the international, regional, and national level. Thus, it is important to set up a forum for governments, civil society, the media, academics, NGOs, and all other human rights stakeholders to be linked and to act together for the promotion and protection of human rights in the region. Yet, the workshops have not served a similar function. Therefore, even though the U.N. Workshops have shown some positive signs and provided gradual contributions for the protection of human rights at the national level, they have not properly worked for the establishment of a regional human rights system. No specific items were even discussed during the workshops for the establishment of RHRIs, for instance drafting regional human rights charters, adopting time-bound agreements for the building of regional human rights institutions, or, at least, bringing high-level government officials in order to ensure individual states’ commitment to RHRIs, rather than just adopting non-legally binding declarations. As Vitit Muntarbhorn points out, after 1999, even the title of the U.N. Human Rights Commission’s annual resolutions on the Asia-Pacific region has changed from Regional Arrangements for the Promotion and Protection of Human Rights in the Asia and Pacific Region to Regional Cooperation for the Promotion and Protection of Human Rights in the Asian and Pacific Region. One explanation for this is that most Asian countries in the workshops have formed a tacit consensus that establishing RHRIs in the region is still premature and should be done gradually. They have focused more on building and strengthening the national capacity for human rights than on setting up and initiating regional human rights mechanisms. The discussions at the workshops, especially during the first 10 years, clearly reveal such a position. At the

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23 OHCHR, supra note 20, at 18-9.
first regional seminar in Colombo (1982), there was consensus among the participants that there was little need for a regional human rights arrangement in the Asia-Pacific region. Eight years later, in Manila, participants were concerned with the derogation of national sovereignty that a regional arrangement may cause.\textsuperscript{25} Three years later in Jakarta, governments identified three issues that needed to be discussed before any talk of regional arrangements. These were geographical complexity, different levels of development, and the absence of high levels of understanding between governments.\textsuperscript{26} At the 1994 Workshop in Seoul, one solid principle was established: the development of a regional arrangement should be done through a \textit{step-by-step} and \textit{building-block} approach.\textsuperscript{27} Two years later in Kathmandu, the workshop emphasized the importance of the development of regional cooperation for the strengthening of national capacities in the area of human rights, rather than the development of a regional arrangement.\textsuperscript{28} The 1997 Amman Workshop reaffirmed that “any regional arrangement must emerge from and be directed to the needs and priorities set by governments of the region, with roles, functional tasks, outcomes and achievements determined by consensus by governments of the region” through the \textit{step-by-step} and \textit{building-block} approach.\textsuperscript{29} The same principles have been reiterated at the rest of the workshops, along with a discussion of the 1998 Tehran Framework for strengthening national capacities for the protection of human rights.

Through the U.N. Workshops, there have been dynamic discussions on various human rights issues in Asia, including extreme poverty, human trafficking, racism, the right to development, and the relationship among development, human rights, and democracy. They have indeed contributed at least to identifying the human rights areas of common concern in the region. But for the last two decades, in the name of the \textit{step-by-step} and \textit{building-block} approach,\textsuperscript{30} individual governments in the region have demonstrated that they have no sufficient and concrete political will to enter into the establishment of regional human rights mechanisms in Asia yet. Indeed, some human rights NGOs in the region heavily criticized the U.N. annual workshops as “a means for states to

\begin{footnotes}
\item[26] Hidetoshi Hashimoto, \textit{supra} note 8, at 113.
\item[27] Id.
\item[29] See UN Doc. E/CN.4/1997/44, \textit{supra} note 16.
\end{footnotes}
avoid establishing any such permanent arrangement under the pretext of appearing committed to the ideal.”

B. The NGOs Initiatives

The second subset is NGO initiatives. In 1993, more than 110 NGOs from 26 Asian countries formed the Asia-Pacific NGO Conference on Human Rights in Bangkok and adopted the Bangkok NGO Declaration on Human Rights. In the absence of regional intergovernmental human rights mechanisms, NGOs, such as the Asian Forum for Human Rights and Development (Forum-Asia), the Asia-Pacific Human Rights Information Center (HURIGHTS Osaka, Japan), the NGO Forum on Asia-Pacific Economic Cooperation (APEC), the Asia-Pacific Human Rights NGOs Congress, and the Law Association for Asia and the Pacific (LAWASIA) have deliberated the establishment of an NGO-led regional human rights system in Asia. At the 1995 Expert Meeting organized by HURIGHTS in Osaka, participating NGOs identified the obstacles to establishing RHRIs as follows: 1) the low level of ratification of human rights treaties, 2) the non-observance of treaty-obligations after ratification, and 3) the cultural relativist argument as opposed to the universality of human rights. The NGO Forum on APEC, which urged the member states of the APEC to ratify and implement all major human rights treaties, was held the same year in Tokyo with more than 100 NGO participants. The 1996 Asia-Pacific Human Rights NGO Congress was organized in Delhi by 117 NGOs from 28 Asian countries to reaffirm the importance of observing existing international human rights norms and the respect for the universality, indivisibility, and non-selectivity of human rights. In 1998, over 200 NGOs in Asia adopted the Asian Human Rights Charter—A Peoples’ Charter. It reflects the growing recognition by NGOs of the importance

32 Hidetoshi Hashimoto, supra note 8, at 117-9.
33 Id.
34 Id. The Expert Meeting also proposed three steps for establishing a regional human rights mechanism. They are 1) to set up sub-regional NGO-led body to handle research and education, 2) to set up inter-governmental forum, and 3) to set up sub-regional or regional human rights mechanism.
35 Id.
36 Asian Human Rights Charter, adopted in Kwangju, South Korea, 1998. http://material.ahrchk.net/charter; See also Seth R. Harris, Asian Human Rights: Forming a Regional Covenant, 1 ASIAN-PAC. L. & POL’Y J. 17, 2-5 (2000); Vitit Muntarbhorn,
of regional human rights institutions and conventions against “the official disregard or contempt of human rights in many Asian states.”

Many human rights NGOs have also been deeply involved in and have cooperated in intervening and raising awareness by preparing reports, presenting issues, and disseminating information during most of the major inter-governmental regional meetings, and they have urged member states and regional organizations to place human rights at the center of their agenda.

Undoubtedly, the role human rights NGOs play in supporting RHRI cannot be ignored. I believe such extensive transnational alliances and rich networks make human rights NGOs in the Asia-Pacific region the impetus for a regional human rights system. The reason lies in the fact that many NGOs work across national borders as agents for a regional civil society and for a human rights culture in the region. Indeed, it is encouraging that numerous NGOs in the Asia-Pacific region have worked for the establishment of regional human rights mechanisms. There are, however, still weak links between NGOs and governments and relatively low support from individual governments for NGO initiatives. Unfortunately, this has hampered NGOs’ enormous efforts to bring about regional human rights arrangements.

C. The NHRIs Initiatives

The last subset of initiatives includes the NHRIs initiatives under the framework of the APF. The NHRIs initiatives have worked successfully both with governments and NGOs, and they show some positive signs. Before examining their contribution and limits, the APF’s creation and its current status will be briefly reviewed.

The APF’s goal is to coordinate the functions of NHRIs in accordance with international human rights standards by sharing information on human rights violations, exchanging NHRI staff, and cooperating for best practices. So far, it is considered “the most cohesive regional human rights body in the Asia-Pacific region.”

38 Id. Art.1.6.
39 Hidetoshi Hashimoto, supra note 8, at 39-41.

institution for it to be credible and accountable. With the adoption of the 1993 Paris Principles, the Asia-Pacific region saw an increasing number of NHRIs. In 1994 and 1995, a detailed proposal for the structure of an Asia-Pacific Conference of NHRIs by the Australian Human Rights and Equal Opportunity Commission (HREOC) provided an opportunity for more concrete discussions among several NHRIs, including some from India and Indonesia. Finally, in 1996, following an agreement among the heads of NHRIs from Australia, India, Indonesia, and New Zealand, the APF was established as a regional human rights organization in the Asia-Pacific region and held its first meeting in Darwin. During the first meeting, they adopted its charter, the so-called *Larrakia Declaration*, which outlines the following objectives of the APF:

[T]o provide support to governments in the region in the establishment and development of national human rights institutions, and to expand mutual support, cooperation and joint activity among member institutions.

Based on the two basic principles, in 1998, the APF established the Advisory Council of Jurists (ACJ) to support the Forum and individual NHRIs by giving advice on the implementation and interpretation of international human rights norms and issuing a report on the human rights situation in individual member states. Currently, the APF has 18 full member institutions and two associate members. As a full member, each NHRI should comply with the 1993 Paris Principles, and indeed, the condition of meeting the minimum international standard of human rights has strengthened the credibility of the APF. So far, the APF has held fifteen annual meetings. Their main outcomes are reviewed in Appendix II.

In my estimate, the NHRIs initiatives through the APF annual meetings have made four significant contributions. First, they have strengthened the capacity of each NHRI to protect and promote human rights in its country by sharing information and best practices. The APF meetings have been held to examine the role of NHRIs in human rights issues of common concern in the Asia-Pacific region, such as economic, social, and cultural rights, the right to education, human trafficking,

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42 *Id.*
43 *Id.*, at 98-101.
44 See The History of the Asia-Pacific Forum, http://www.asiapacificforum.net/about/history
gender discrimination, anti-corruption, racism, religion, and the rule of law and democracy. In addition, with the exchange of experiences, each NHRI can get a sense of what should be a top priority for the promotion and protection of human rights in any individual state.

Second, the annual meetings have supported NHRIsm in meeting international standards and effectively implementing them by discussing timely issues, such as the rights of people with disabilities, the rights of migrant workers, the prevention of torture, and the Universal Periodic Review (UPR)—in conjunction with the newly adopted international human rights conventions and treaties, or the new monitoring system of the U.N. For example, the 13th APF meeting in 2008 reviewed what the role of NHRIss are in the effective implementation of the UPR process created in 2006 by the U.N. They also tried to delineate how NHRIss can intervene in governments’ drafting and submission of national reports on human rights to the U.N., and at the same time, reflect concerns from civil society and human rights NGOs in the report.

Third, compared to the U.N. Workshops, the APF meetings provided more opportunities for NGOs, including the Asian NGOs Network on National Human Rights Institutions (ANNI),47 to actively participate in and present their concerns in the region. In particular, at those meetings, NGOs stressed the importance of the rights of human-rights defenders and highlighted the experiences of these defenders.

Fourth, the APF meetings facilitated the cooperation of NHRIss at the sub-regional level for the establishment of sub-regional human rights institutions. Four NHRIss in the South-East Asia region actually adopted a declaration of cooperation during the 12th Annual Meeting, and it became the driving force behind the establishment of sub-regional human rights bodies in the region. As a result, the ASEAN Charter, including the mandate to establish an ASEAN human rights body, was ratified in 2008, and the establishment of an ASEAN Intergovernmental Commission on Human Rights (AICHR) was adopted and approved in 2009.48

By ensuring that NHRIss meet international standards of independence and accountability, the APF has served as “an intermediary in the region between individual state policy and/or behavior and their respective monitoring bodies.”49 Furthermore, though it is not a high-level inter-governmental institution, and its interests are still limited to NHRIss, the APF has fostered “an environment which may increasingly

47 The Asian NGOs Network on National Human Rights Institutions (ANNI) has evolved to coordinate NGOs in the region to develop effective NGO-NHRI relationships with human rights NGOs from 14 countries across Asia.
49 The Asia-Pacific Human Rights Network, supra note 40, at 83.
become more amenable to the creation of a strong regional human rights institution,” through its active work and dynamic cooperation with member NHRIs.

D. Summary

In general, since the First U.N. Workshop for establishing regional human rights arrangements in Manila (1990) and the adoption of the 1993 Bangkok Declaration, there have been futile efforts, both through the top-down approach of the U.N. and Asian governments and the bottom-up approach of numerous NGOs in Asia, which have failed to establish regional human rights mechanisms. Why have both approaches failed? The former has not fully cooperated with already existing national and regional human rights institutions and has mainly relied on individual governments’ political will, which will not lead to the establishment of a regional human rights system and binding norms. The latter has worked without enough support from formal governmental institutions. The NHRIs initiatives, with their relatively intermediate approach, have worked successfully both with governments and NGOs and have shown some promising signs as examined above. To my mind, however, there are no concrete steps toward the establishment of RHRIs yet; there is only the hope that NHRIs and their network through the APF can gradually change the individual governments’ attitudes, as demonstrated at the sub-regional level with the establishment of the ASEAN human rights body.

II. WHY HAS ASIA NOT HAD REGIONAL HUMAN RIGHTS INSTITUTIONS THUS FAR?

Above, I reviewed all of the major initiatives seeking to create RHRIs in the Asia-Pacific region by categorizing them into three subsets. Based on this analysis, I will suggest five main factors that have hindered the establishment of RHRIs. These are: 1) sovereignty, 2) the failure to recognize human rights after the Second World War, 3) the failure of major Asian powers to play a leading role in human rights initiatives, 4) the relatively low ratification rate of major U.N. human rights treaties, and 5) the Asian values debates. The first four items will be discussed in this section, and the Asian values arguments will be examined in the subsequent one.

50 Andrea Durbach et al., supra note 48, at 238.
A. Sovereignty and Human Rights

Many Asian governments still consider human rights issues an internal affair. In this context, states are reluctant to join or establish regional human rights arrangements that might make a state vulnerable to accusations by individuals, NGOs, or even other countries. In other words, most Asian governments have considered international human rights norms a threat to state sovereignty and nothing more than a politicization of human rights by the Western countries in order to intervene in Asian states’ internal affairs. Though the 1993 Bangkok Declaration on Human Rights emphasized the need to explore the possibility of establishing RHRIs in Article 26, it also stressed “the universality, objectivity and non-selectivity of all human rights and the need to avoid the application of double standards in the implementation of human rights and its politicization.” Many U.N. members from third world countries have also shown concern for the politicization of human rights. In fact, most developing countries consider international human rights “merely notes in the margins of legal and political debate, supported with zeal by few and ignored by many.” As Antony Anghie maintains, the challenge to universality from third world countries arose “not because of differences in culture [and religions], but differences in interest: the difference between the developed and developing states.” He also points out the relationship between international human rights law and sovereignty:

52 Hidetoshi Hashimoto, supra note 8, at 130-1.
54 Bangkok Declaration, supra note 51. At preamble and Art. 7.
55 For example, Tareq Ariful Islam, the delegate from Bangladesh said that “the politicization of human rights was an obstacle to the non-selective and universal application of human rights standards.” Nasharudin Mat Isa, the delegate from Malaysia stated that “too often political considerations came into play in debates on economic, social and cultural rights, and some countries continued to pick and choose among the rights, in terms of whether they would highlight those rights and how they would be enjoyed.” The Third Committee (Social, Humanitarian and Cultural) of the U.N. General Assembly, Speakers Warn against Politicization of Human Rights Issues on United Nations, Sixty-third General Assembly session, (Oct. 28, 2008) UN Doc. GA/SHC/3929. http://www.un.org/News/Press/docs/2008/gashe3929.doc.htm
Human rights law is revolutionary because it purports to regulate the behavior of a sovereign within its own territory. The emergence of Third World societies, as independent sovereign states, was simultaneous with the creation of international human rights law, which significantly conditioned the character of that sovereignty.\(^{58}\)

I agree with his argument that “Third World sovereignty is distinctive,” in the sense that Western sovereignty has been protected against the development of international law, while non-Western countries have been subject to international law. But, at the same time, I want to point out that the international human rights mechanism emerged from the ideal to protect the people, whose human rights are violated by their governments but who cannot seek remedies from their countries. Therefore, while it is important to contest the imperial and post-colonial nature of international human rights law, it is also important to extend the original ideals of human rights law for the people who face a hostile government, not for the authoritarian government itself.

Many Asian countries under a modern authoritarian rule, however, have constantly used the traditional concept of state sovereignty for legitimizing human rights violations. China has persistently criticized the U.N. Commission on Human Rights discussion of its policies and stated that human rights belong to its domestic jurisdiction as a sovereign state and that it has a policy of noninterference in the domestic affairs of other states.\(^{59}\) Therefore, it “is opposed to any action by any country to put pressure on other countries by using the human rights issue or politicalizing human rights.”\(^{60}\) The Democratic People's Republic of Korea has consistently denounced the report by the Special Rapporteur of the U.N. Human Rights Council.\(^{61}\) North Korea maintains that “extreme politicization, selectivity and double standards” are prevalent in the U.N.\(^{62}\) It also continuously rejects U.N. General Assembly resolutions,\(^{63}\) condemning its human rights record. For example, Pak Dok Hun, a spokesman for the foreign ministry of North Korea, strongly denounced a resolution as a “product of a political plot to forcibly change

\(^{58}\) Id., at 254.


\(^{62}\) Id.

\(^{63}\) See, for example, Third Committee Draft Resolutions Address Human Rights Violations, (Nov. 21, 2008) UN Doc. GA/SHC/3940.
North Korea's system and ideology" and "a provocation to the North's dignity. 64

Most of the Asian developing countries’ concern for the politicization of human rights stems from “the conditionalities, or linking development assistance to progress in democratization or human rights.” 65 Since most Asian countries continue to experience poor economic conditions, it is natural for leaders of these nations to prioritize material improvement through economic development. 66 Therefore, it has been considered acceptable in the name of economic development and national integrity to infringe on the civil and political rights of people. 67 I, however, believe that economic development cannot be an excuse for gross human rights violations, especially by authoritarian governments in the region. What China and other Asian countries with human rights violations express is not apprehension of interference in the right to development, but rather of interference by the international community against their sovereignty and power to maintain their authority.

Inoue Tatsuo argues that “the disproportionate emphasis on sovereignty betrays a lack of understanding about the close connection between sovereignty and human rights.” 68 In addition, the constraints on accepting the international human rights standards and concepts, in the Asian human rights context, do not come from a lack of understanding of fundamental human rights, but from political considerations. 69 That is to say, concerns over the politicization of human rights issues are mainly the result of authoritarian governments’ interest in keeping control over their people.

I believe that the protection and promotion of human rights can be enhanced through respecting states’ sovereignty. 70 The traditional concept of sovereignty has gradually changed from the understanding that the right of a state cannot be interfered with by other countries to the concept that includes a state’s responsibility to protect its nationals’ basic human rights. That is, state sovereignty and independence should serve not as a hurdle to, but as a guarantee for, the realization of the

64 See Report: North Korea rejects U.N. rights resolution, the Associated Press, Nov. 22, 2008; North Korea protests proposed UN General Assembly rights resolution, Jurist, (Nov. 22, 2008); North Korea rejects UN human rights resolution, International Herald Tribune, (Nov. 24, 2008).
65 Christina M. Cerna, supra note 53, at 155.
67 Id.
68 INOUE TATSUO, Liberal Democracy and Asian Orientalism in THE EAST ASIAN CHALLENGE FOR HUMAN RIGHTS 27, 31 (Joanne R. Bauer and Daniel A. Bell, eds., 1999).
69 See Bilahari Kausikan, supra note 53.
70 Inoue Tatsuo, supra note 68, at 32-4.
fundamental human rights of a state’s nationals. In this new and better developed concept of sovereignty, states should be viewed not as deniers of human rights, but as protectors and promoters of the human rights of their nationals.\(^1\) Indeed, under the regional human rights mechanisms in Asia, “mutual cooperation in furtherance of human rights will not only strengthen national identities and all that goes with that, [but] may indeed help different states to discover their true identities and enable them to examine the whole issue of sovereignty in a more enlightened context.”\(^2\) Moreover, as identified by the U.N. Workshops and the APF Annual Meetings, there are common concerns over certain human rights issues, such as human trafficking, development, and the rights of migrants, that need to be settled through the cooperation of neighboring countries in the region and with financial support from the U.N. Thus, the principle of sovereignty cannot be an excuse used against the establishment of RHRIs, because a regional compromise is possible, at least in certain areas of human rights, in which each government will be comfortable ratifying and adopting regional human rights arrangements. Such cooperation can be the first step toward setting up RHRIs in the region, and the increasing number of regional arrangements in certain areas of human rights will ultimately extend its regional cooperation for human rights in general.

**B. Past Failures in the Recognition of Human Rights**

It has been argued that a regional human rights mechanism in Asia is hard to establish until Japan, the gross human rights violator during the Second World War, offers redress to its victim countries in Asia.\(^3\) However, as of today, post-war compensations and the reparations of war victims have not been fully settled in spite of the persistent claims against Japan.

The recent unsolved contention over *comfort women* who were forced into prostitution by the Japanese military during the Second World War is a good example. The majority of women were recruited by force from Korea and China, but women from the Philippines, Vietnam, Malaysia, Thailand, Indonesia, India, Myanmar, and other Japanese-occupied Asian countries were also forced into sexual slavery.\(^4\) Another

\(^{1}\) Id.


example is the consistent denial of the Nanking Massacre, despite the estimate of over 300,000 casualties. Further, the 1946 International Military Tribunal for the Far East (the Tokyo Tribunal) failed to fully disclose the cases of gross human rights violations against civilians in colonized Asian states by Japanese military officials. 75 This unwillingness of the Japanese government to offer compensation for its past wrongs not only made its relations with neighboring Asian states worse,76 but, more importantly, if certain Asian countries are criticized for their failure to protect human rights, they point out that Japan has not yet taken full responsibility for human rights violations during its colonial rule. The consistent mutual distrust among countries in the Asia-Pacific region has undoubtedly been a considerable impediment to reconciliation in the region.77 Therefore, the task of establishing a regional human rights system in Asia is largely entrusted to the government of Japan, which once humiliated its neighboring countries by establishing the so-called “Great East Asia Co-Prosperity Sphere.”78

The future of human rights is closely linked to how we understand and accommodate the past in the present. In this sense, a large number of Truth and Reconciliation Commissions (TRCs) have been created since the early 1990s with the goal of achieving national unity and legal justice by revealing long-suppressed truths. Similarly, RHRI can heal the trauma of memory in victim countries and bring regional reconciliation and peace by investigating incidents of gross human rights violations and massacres during the Second World War and acknowledging past wrongdoings at the regional level.

C. Failure of Major Asian Powers to Play a Leading Role in Establishing Human Rights

There has been no initiator or leader to actively work for the establishment of RHRI in the region. If there were a commitment by influential countries, it would be a driving force to persuade other reluctant states to agree to RHRI. Indeed, the role of major Asian powers is critical in establishing a regional human rights system. But, India, China, and Japan, which are generally considered the major powers in Asia with their regional dominance, economic development, and large populations, have all failed to improve the human rights

77 Id.
78 Id.
conditions in the Asia-Pacific region.\textsuperscript{79} On the contrary, these countries have many human rights problems of their own.\textsuperscript{80}

The Chinese government, for instance, has always rejected the idea of the universality of human rights as a Western notion, and the traditional Chinese culture of Confucianism has been skeptical of the concept of rights due to its legalistic nature.\textsuperscript{81} It is true that in 2003, China amended its constitution by adding the provision that "the state respects and safeguards human rights,"\textsuperscript{82} emphasizing the importance of human rights. Yet, considering that China has had and still has a large number of human rights problems, especially against ethnic minorities and political offenders, the Chinese government’s gradual changes to human rights policy are mainly intended to defend their public policy and reduce criticism from the international community rather than to genuinely protect and promote human rights. Thus, it is hard to expect China to lead other Asian countries in the establishment of RHRIs.

India, a democratic country with a pluralistic party system and free elections, has a generally well-developed human rights protection system at the national level, especially with regard to civil and political rights. It, however, has failed to effectively guarantee human rights to its underprivileged people, a large number of whom are illiterate and live in rural areas.\textsuperscript{83} As Onuma Yasuaki argues, “if one adopts a more comprehensive perspective that includes economic, social and cultural rights, India’s overall domestic condition is even less favorable than that of China with regard to human rights.”\textsuperscript{84} In India, there is a huge gap between the elite and the majority of the population in terms of income and education. Also, the broad diversity of religions, languages, and cultures has produced various human rights violations, such as caste discrimination, problems in Kashmir, human trafficking, religious violence, communal violence, and discrimination against minorities.\textsuperscript{85} Therefore, India has been unable to play a leading role in the protection and promotion of human rights in the Asia-Pacific region.

Finally, Japan, who has been as much of an economic power as major Western countries, has shown little concern for the protection and promotion of human rights in the region.\textsuperscript{86} Not only has Japan failed to confront the problems of human rights violations during the Second

\textsuperscript{79} Onuma Yasuaki, \textit{supra} note 66, at 61-9.

\textsuperscript{80} See Bilahari Kausikan, \textit{Asia’s different standard}, Foreign Policy, 24-41 (Fall, 1993).

\textsuperscript{81} \textit{Id.}, at 61.


\textsuperscript{83} Onuma Yasuaki, \textit{supra} note 66, at 62-3.

\textsuperscript{84} \textit{Id.}


\textsuperscript{86} Onuma Yasuaki, \textit{supra} note 66, at 63-9.
World War, most Japanese government officials believe that Japan should not play a leading political role either regionally or internationally in the postwar period. Moreover, the Japanese government has been criticized for its own human rights policies, especially discrimination against minorities like Korean residents (Zainichi), the Buraku, and the Ainu people. Ostensibly, since adopting its 1991 Official Development Assistance (ODA) program, the Japanese government has gradually been making an effort to protect basic human rights and freedoms in recipient countries. As the ODA Charter stipulates, “Full attention should be paid to efforts for promoting democratization and introduction of a market-oriented economy and the situation regarding the securing of basic rights and freedoms in the recipient country.” But, in reality, it is hard to assert that “there has been sufficient consistency and transparency in the implementation of the ODA Charter.” In addition, although there are many domestic human rights NGOs in Japan, they are far less influential and effective in changing the Japanese government’s human rights policies than Western NGOs. For example, even though there have been decade-long deliberate efforts by NGOs, Japan has not established NHRIs yet.

Overall, all three countries have failed to play a leading role in the promotion and protection of human rights with the goal of establishing RHRIs, partly because they all have human rights problems of their own. Furthermore, all these major Asian power countries have long been confronting unresolved border disputes. These have raised the regional tension and distrust among neighboring countries and are also considered an obstacle to the establishment of RHRIs. For example, there have been regional conflicts between China and Japan on the Senkaku Islands; China, India, and Pakistan in the Aksai Chin/Jammu and Kashmir/Azad Kashmir region; China, Vietnam, and the Philippines on the Macclesfield Bank and Spratly Islands; India and Bangladesh in the Boraibari, Lathitila, and Daikhata-Dumabari regions; India and Sri Lanka on the

87 Id.
90 Id., at 69.
91 Id.
Kachatheevu Island; Japan and Korea on the Dokdo island/Liancourt Rocks; and Japan and Russia on the South Kuril islands.93

One more thing is worth mentioning in regard to the role of major Asian powers. Europe, the Americas, and Africa have had regional political and economic organizations like the Council of Europe, the Organization of American States, and the African Union, respectively, which have served as the home of the regional system. They have established their regional human rights institutions based on these functional foundations developed over time. Asian states, on the other hand, do not even have such a region-wide political organization. Finally, even in existing regional economic or security arrangements like APEC, human rights issues have not been a main agenda item, but just one among hundreds of others. It might be relevant to introduce what Ernst B. Hass calls the spill-over effect. It is a theory of neo-functionalism in international relations that focuses on how the process of regional integration in certain areas, mainly economic ones, expands and accelerates other areas of integration in a region.94 It parallels the way regionalism has effectively benefited inter-state trade through regional trade agreements like the Central European Free Trade Agreement (CEFTA), the North American Free Trade Agreement (NAFTA), or the Southern African Development Community (SADC). In the case of the Asia-Pacific region, at the sub-regional level, the Association of Southeast Asian Nations (ASEAN) recently established its human rights body almost twenty years after the ASEAN Free Trade Area (AFTA), a trade bloc agreement, was adopted in 1992,95 and this may be considered an example of such progress. I am, however, skeptical to apply this concept to my paper since I agree with Amitav Acharya that, “the literature on regional integration is heavily Eurocentric with fewer examples of comparative studies that applied the different concepts of regional integration to the Third World.”96 In terms of economic integration, although there are several sub-regional political and economic institutions in the Asia-Pacific region, they have not achieved a level of integration equivalent to that in Europe with its “market centralization and generation of welfare,” which can have a spill-over effect into other forms of regional cooperation, including human rights.97 In the same vein, Joseph S. Nye argues that such functionalist approaches are difficult to apply to other regions, especially where only a

95 See ASEAN: AFTA & FTAs, http://www.aseansec.org/12021.htm
96 Amitav Acharya and Alastair Iain Johnston, supra note 94, at 5-8.
97 Id.
small number of elites have control over their governments, which is common in most Third World countries.\(^{98}\) Overall, it is notable that the Asia-Pacific region has not achieved the political and economic integration of other regions, which may partially raise practical difficulties for the creation of RHRIs. Even if there were such political and economic institutions in Asia, I am still doubtful that they would play a critical role in building regional cooperation on human rights, considering the level of economic and political development in most Asian countries and the highly politicized discussion on Asian values that has been going on for over two decades. This is also the reason why I did not include the *spill-over effect* as a factor that hampers the creation of RHRIs in the Asia-Pacific region.

**D. The Lack of Commitment to Human Rights: Relatively Low Ratification Rate of Major U.N. Human Rights Treaties**

Many countries in the Asia-Pacific region still have not signed and ratified many international human rights treaties. Many scholars and human rights professionals in NGOs argue that this is one of the main obstacles for the establishment of regional human rights mechanisms in the Asia-Pacific region.\(^{99}\)

In order to examine this problem thoroughly, I will review all Asian states’ current statuses of ratification of nine core international human rights treaties: the International Covenant on Economic, Social and Cultural Rights (ICESCR);\(^{100}\) the International Covenant on Civil and Political Rights (ICCPR);\(^{101}\) the Optional Protocol to the International Covenant on Civil and Political Rights (OPT 1);\(^{102}\) the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (OPT 2);\(^{103}\) the Convention


against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the Convention on the Elimination of All Forms of Racial Discrimination (CERD); the Convention on the Rights of the Child (CRC); and the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (MWC).

However, before reviewing the statistics on the Asian countries’ ratification rate of major international human rights norms, let me briefly discuss the efficacy of international human rights treaties in terms of states’ compliance, a topic that has recently been vigorously debated.

In her 2002 article, “Do Human Rights Treaties Make a Difference?” Oona Hathaway presents arguments against the effect of international human rights treaties. Based on her research covering the practices of 166 countries over a 40-year period in five areas of international human rights laws, she concludes that the ratification of human rights treaties has little or no effect on each individual state’s human rights record:

> Although the ratings of human rights practices of countries that have ratified international human rights treaties are generally better than those of countries that have not, noncompliance with treaty obligations appears to be common. More paradoxically, when I take into account the influence of a range of other factors that affect countries’ practices, I find that treaty ratification is not infrequently associated with worse human rights ratings than otherwise expected.

She also stresses that it is necessary to reassess the current U.N. human rights policy to pressure individual states into ratifying the major human rights treaties and to enhance the monitoring system of human rights.

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110 Id., at 1940.
treaties by strengthening each state’s self reporting process, best exemplified, I believe, by the Universal Periodic Review. 111

[B]ased on the present analysis, ratification of the treaties by individual countries appears more likely to offset pressure for change in human rights practices than to augment it. The solution to this dilemma is not the abandonment of human rights treaties, but a renewed effort to enhance the monitoring and enforcement of treaty obligations to reduce opportunities for countries to use ratification as a symbol of substitute for real improvements in their citizens’ lives. 112

Ryan Goodman and Derek Jinks challenge Hathaway’s analysis by arguing that “the incorporation of human rights norms [into state practice] is a process… treaty law plays an important role in this process… and Hathaway’s study does not provide a reason to reject these views.” 113

Similarly, in her 2009 book Mobilizing for Human Rights, Beth Simmons argues that “international law, and specifically treaty ratification, has made a positive contribution to human rights practices around the world.” 114 Using six major human rights treaties in the last fifty years, Simmons conducts both quantitative and qualitative analyses showing how treaties have influenced politics and practices in particular countries and how government commitments to treaties translate into better human rights practices. She stresses:

[E]ven the most politically sensitive human rights treaties have significant positive effects in those countries where political institutions have been unstable. Treaties alter politics through the channel of social mobilization, where domestic actors have the motive and the means to form and to demand their effective implementation. In stable autocracies, citizens have the motive to mobilize but not the means. In stable democracies, they have the means but generally lack the motive. 115

Though governments can ratify human rights treaties for both sincere and insincere strategic reasons, 116 she demonstrates that the ratification of treaties can lead to better rights practices by focusing on rights

111 Id., at 2023-4.
112 Id., at 2025.
115 Id., at 16.
116 Regarding insincere strategic reasons, Simmons argues that sometimes, each government’s decision to make a treaty commitment is influenced by the commitments of other countries in the region. And it shows a desire by governments to avoid criticism by pursuing a ratification of treaties that is similar and also acceptable in the region. See Id., at 86-96 and 110-1.
stakeholders within ratifying countries rather than external pressure from
the U.N. or international communities: “It should hardly be surprising
that governments’ solemn commitments to respect rights have been taken
seriously by individuals and groups who imagine a better life if these
promises are in fact kept.”117 In the same vein, Eric Neumayer points out
that the efficacy ratifying human rights treaties depends on the strength
of civil society groups, and without them, “treaty ratification has no
effect and is possibly even associated with more human rights
violations.”118

My interpretation of these discussions of the efficacy of international
human rights treaties and states’ commitment follows. The ratification
of international human rights treaties shows the willingness of individual
countries to comply with them. Surely, the ratification itself cannot be
directly linked to the enhancement of human rights in individual states. It,
however, has been a driving force for all rights stakeholders, including
civil society, to mobilize toward better human rights practices. With the
ratification, they have a means and motives to demand changes of
governments’ human rights policies for the effective implementation of
international human rights norms, even when governments initially
ratified them with insincere motivation.

To establish an effective regional human rights system in the Asia-
Pacific region, it is necessary for most countries in the region to abide by
major international human rights norms. As discussed, their intention to
comply with international human rights standards can be shown through
their ratification of international human rights treaties. But looking at
the ratification of major human rights treaties by Asian states reveals that
there is a consistent lack of political will to set up RHRIs in the region.

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<th>ICESCR</th>
<th>ICCPR</th>
<th>OPT 1</th>
<th>OPT 2</th>
<th>CERD</th>
<th>CEDAW</th>
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Table 1: Ratification Status of Major Human Rights Treaties

This table indicates that except for the CRC and the CEDAW, most of
the treaties are still not ratified in Asia. While it seems that there is an
increasing recognition of the need to protect and promote women’s

117 Id., at 380.
118 Eric Neumayer, Do International Human Rights Treaties Improve Respect for
(CEDAW) and children’s (CRC) rights in the Asia-Pacific region, it is clear that there is still a lack of individual governments’ commitment to the promotion and protection of the fundamental human rights of their nationals.

One positive aspect is that states with NHRIs\(^\text{119}\) have ratified most of the treaties. In addition, since the adoption of the 1993 Paris Principles, many countries in Asia have joined or ratified major human rights treaties with the establishment of NHRIs. This shows that there could be more treaty ratifications if countries without NHRIs establish them.

Another positive aspect is that there are increasing numbers of ratifications in the last 10 years, especially regarding the most important human rights conventions, ICESCR and ICCPR. This demonstrates that there has been a growing consideration of human rights in the Asia-Pacific region even after the 1998 Asian financial crisis when the Asian values debate erupted.

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<th>Sub-region</th>
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Table 2: Ratification Status of Major Human Rights Treaties in the Asia-Pacific region

This table breaks down the ratification rates by sub-region. Notice the extremely low level of ratification in the Pacific region.\(^\text{120}\) Another notable point is the ratification rate of the OPT2. It demonstrates that all East Asian countries oppose the abolition of the death penalty. The last notable point is that only three Asian countries have ratified the MWC.\(^\text{121}\) Considering that Asia includes the biggest migrant countries, there

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\(^{119}\) Here, only the NHRIs with the full membership of the APF are grouped as NHRIs. See [http://www.asiapacificforum.net/members/apf-member-categories](http://www.asiapacificforum.net/members/apf-member-categories)

\(^{120}\) OHCHR also indicates this factor. See [website of OHCHR Pacific Regional Office, Priorities (2008-2009)](http://www.ohchr.org/EN/Countries/AsiaRegion/Pages/PacificSummary0809.aspx)

\(^{121}\) This convention is designed to prevent the exploitation of migrant workers, and in particular, to eliminate the illegal recruitment and trafficking of migrant workers and the irregular condition of employment. It provides the protection of human rights of both documented and undocumented migrants and obligations on migrant-sending and receiving countries. See International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, *supra* note 108.
should be an intensive effort to get Asian governments to ratify this convention.

The ratification rates of major international human rights treaties by many countries in this region are still low compared to those in Europe, the Americas, and Africa. A recent overall ranking of states by the number of international treaties they have ratified, provided by a team of researchers from University College London, shows that countries in the Americas have the highest number of ratification rates, followed by European and African countries. The bottom end of the ranking is predominately made up of states in the Asia-Pacific region.122 The ratification rates of primary human rights documents in other regions is also high: in Africa, all 53 member states of the African Union have ratified the African Charter on Human and People's Rights; in the Americas, 24 out of 35 member states of the Organization of American States have ratified the American Convention on Human Rights (though the U.S., Canada, and Cuba have not ratified any of the human rights treaties of the Inter-American system); in Europe, all 47 member states of the Council of Europe have ratified the European Convention on Human Rights.123

Overall, such evidence of the lack of commitment to human rights by most countries in the Asia-Pacific region shows that this is one of the main obstacles for the creation of RHRIs.

III. ASIAN VALUES: THE STALE BUT ONGOING HUMAN RIGHTS DISCOURSE IN ASIA

A. The Asian Values Argument

In Asia, the major obstacle for the establishment of RHRIs is the Asian values argument, which stems from different perceptions of human rights.124 As Joseph Chan points out, most of the political vocabulary, constitutional and legal concepts, and structures in Asian states were inherited from the West, especially through the colonial period.125 Although they have accepted other Western institutions and standards in the economic sphere, most Asian countries have been reluctant to adopt and implement international human rights norms.126 The debate over Asian values and different interpretations of the concept of human rights has been going on for over a decade.127 It is generally considered that the

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122 University College London, NOMINAL COMMITMENTS TO HUMAN RIGHTS: A GLOBAL SURVEY, 2009 HTTP://WWW.UCL.AC.UK/SPP/RESEARCH/RESEARCH-PROJECTS/NCHR/
123 Id.
124 Hidetoshi Hashimoto, supra note 8, at 130-1; Dinah Shelton, supra note 99.
126 Id.
idea of Asian values emerged in 1977, when a conference led by Lee Kuan Yew was held on “Asian values and modernization.”

For a long time, many Asian leaders argued that human rights is a Western concept and thus inapplicable to Asian people. The Asian values argument that has justified authoritarian rule has also been strongly supported by many political leaders in Asia. Asian values themselves are a vague concept that was actively discussed in the early 1990s. Though there is no single conception of Asian values, most of the claims include Confucian ideas such as loyalty towards family and state, and a sacrifice of individual rights for the nation’s development and security.

For example, Xiaorong Li briefly summarizes the Asian values argument as follows:

1) Rights are culturally specific.
2) The community takes precedence over individuals.
3) Social and economic rights take precedence over civil and political rights.
4) Rights are a matter of national sovereignty.

As Lee Kwan Yew argues, it is relatively true that traditional Asian values have played a crucial role in the economic success of this region over the last few decades. But based on Asian values, many governments, such as Singapore’s, have maintained that individual Asian countries should interpret most of the international human rights norms. China, too, has contended that Asia should have a different standard of human rights. The Chinese government emphasized regional differences and asked the different human rights frameworks to allow for regional diversity, arguing that individuals must put the rights of states before their own. Some East and South-East Asian governments even saw “order and stability as preconditions for economic growth, and growth as the necessary foundation of any political order that claims to

132 Xiaorong Li, supra note 130.
133 Takashi Inoguchi and Edward Newman, supra note 129.
134 Id.
advance human dignity.”

Overall, through the Asian value debate and a non-Western approach to human rights, many Asian governments have rejected the universal validity of international human rights norms. However, as Amartya Sen points out, there is no general evidence to support the claim that there is a conflict between human rights, especially civil and political rights, and economic development. Rather, the success of most East Asian countries’ economies is due to correct economic policies, which he calls “helpful policies,” including “openness to competition, the use of international markets, a high level of literacy and education, successful land reforms, and public provision of incentives for investment, exporting, and industrialization,” and not the result of a harsher political system that partially sacrifices the country’s basic human rights. Contrary to what Asian values proponents maintain by linking economic development with lower recognition of political rights, many African countries with development-oriented dictatorships are still struggling with economic difficulties and hardships due to political corruption, instability, and inappropriate intervention by outside actors including international financial institutions.

Further, as Sen argues, it is very doubtful that there are pre-existing human rights standards or values that all Asian states can accept. It is hard to define what Asian values are and where they come from, because there are different value systems in Buddhism, Confucianism, Hinduism, and Islam, which are all present in Asia. It is also notable that religious and cultural diversity in the Asia-Pacific region is not defined by national borders or sub-regions. China, Indonesia, India, and Malaysia, for example, are all multi-religious, multi-cultural, and multi-national, even though they have a very strong voice in the Asian value debate. In addition, many ideas of Confucianism are harmonious with the concept of international human rights norms, which are arguably based on Western principles and beliefs. That is, Confucius’ ideas are not necessarily anti-democratic because the basic tenet of Confucianism is benevolence. In fact, Confucius’ heritage has some positive elements consistent with human rights, such as a hard work ethic, an emphasis on

136 Bilahari Kausikan, supra note 80, at 35.
137 Inoue Tatsuo, supra note 68, at 37-42.
139 Id.
140 See Yemi Sinbajo and Oukonyisola Ajayi, Human Rights and Economic Development in Developing Countries, 28 The International Lawyer 727 (1994).
141 Amartya Sen, supra note 138.
142 Id.
143 Inoue Tatsuo, supra note 68, at 42-9.
education, and a respect for the elderly. On a different note, Jack Donnelly contends that it is not uncommon for many authoritarian governments to be reluctant to recognize individual human rights and to try and seek refuge in the self-defined notion of traditional culture. He also writes that:

> Arguments of cultural relativism are far too often made by (or on behalf of) economic and political elites that have long since left traditional culture behind. Even when this represents an admirable effort to retain or recapture cherished traditional values, it is at least ironic to see “Westernized” elites warning against the values and practices they have adopted.

The rebuttals of Dae-Jung Kim and Aung San Suu Kyi against Lee Kuan Yew also successfully show that the Asian values argument could be a politically expedient excuse for an authoritarian regime. Overall, both the argument of Asian values as a defense of human rights violations and the attempt to create an Asian way of human rights protection paired with a skepticism of the Western approach to human rights have impeded the development of regional human rights mechanisms in the Asia-Pacific region.

### B. The Universality of Human Rights in Diverse Cultures

Dae-Jung Kim, Abdullahi An-Na’im, and many other eminent scholars and activists have tried to conceptualize Asian human rights from their ancient forms based on Asian religions and other ancient teachings. They argue that the very existence of the traditional concept of human dignity rooted in Asian culture is evidence supporting the compatibility of human rights within the Asian context. Similarly, my broad position is that human rights ideas are heavily indebted to Western philosophers and the European cultural heritage, but that the Asian

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145 Id.
151 See Kim Dae-Jung, supra note 148.
traditions of respecting human dignity have also contributed to the development of the human rights concept and its legalization in Asia.¹⁵²

I am, however, skeptical of the question of the historical origins of human rights. The validity of the universality of human rights should at the very least be a product of a process, given the fact that most countries in the world are now committed to international human rights law by ratifying major international human rights conventions and treaties. As Christina Cerna argues, such questions are, indeed, not relevant anymore.¹⁵³ This is also related to the cross-cultural dialogue approach, which attempts to incorporate and accommodate the diversity and particularities of norm development within the universality of human rights.¹⁵⁴ Well-known cross-cultural approaches include Onuma Yasuaki’s proposal for an inter-civilization approach,¹⁵⁵ Eva Brem’s framework of inclusive universality,¹⁵⁶ Joseph Chan’s thick and thin accounts of human rights,¹⁵⁷ and Jack Donnelly’s weak relativism arguments.¹⁵⁸ All of these scholars have tried to explain how the universality of human rights functions in the diversity of different cultures and regions.

In the same vein, a number of recent studies have interestingly reported that in many countries in the Asia-Pacific region, even those that support the Asian values argument, provisions of international human rights law have been included in their constitutions, and the “spaces” within national laws and jurisprudence have gradually widened and been effectively employed for the appropriate application of international human rights standards.¹⁵⁹ After reviewing twenty-three Asian countries’ constitutions, Baik Tae-Ung also points out that “a variety of human rights-related provisions are enumerated in each constitution...[and]...the constitutional rights are part of the important human rights norms in the Asian states,” though the degree of recognition of the provisions of international human rights standards and

¹⁵⁴ See Joanne R. Bauer and Daniel A. Bell eds., THE EAST ASIAN CHALLENGE FOR HUMAN RIGHTS, 3-23 (1999)
¹⁵⁵ See Onuma Yasuaki, Toward an Intercivilizational Approach to Human Rights, in Joanne R. Bauer and Daniel A. Bell, id., at 103.
¹⁵⁶ See Eva Brems, HUMAN RIGHTS: UNIVERSALITY AND DIVERSITY (2001)
¹⁵⁸ See Jack Donnelly, supra note 147.
¹⁵⁹ See Jefferson R. Plantilla and Salbiah Ahmad, eds., LAW, JURISPRUDENCE AND HUMAN RIGHTS IN ASIA (HURIGHTS OSAKA and SIRD, 2011).
the pace of incorporating those rights are different in each constitution.\textsuperscript{160} Overall, it is time to focus on how to effectively implement international human rights norms in individual Asian-Pacific countries, which have different backgrounds and contexts, rather than remain stalled on the dichotomy of the universality of human rights versus the Asian values argument.

\textbf{C. Asian Values, but for whom?}

Human rights are both a crucial concern for and a rising challenge to national identities. As discussed, Asian values are clearly expressive of a growing need to make one’s own culture more explicit in the face of rapidly modernizing and globalizing forces outside the control of national elites. In this sense, it is necessary to pay attention to the questions that Sharon Hom asks: who benefits from these assertions of difference, who asserts these differences, and on whose behalf?\textsuperscript{161} She argues that to ensure the clarity of the opposing East-West, universalist-relativist paradigms, voices of the people inside are marginalized and eventually made invisible.\textsuperscript{162} And as she concludes, “[h]uman right is too important an issue to be left to governments, at least exclusively.”\textsuperscript{163} Kofi Annan also stresses that, “[i]t was never the people who complained of the universality of human rights, nor did the people consider human rights as a Western or Northern imposition. It was often their leaders who did so.”\textsuperscript{164}

For a long time, the competing frameworks of universalism and cultural relativism surrounding Asian values debates have essentially been based on the philosophical and epistemological understandings of the nature of human rights. The debates between the two schools are mostly focused on abstract concepts, and there are few empirical studies of how human rights norms can be implemented for the people who are living in individual countries in this region and what their functions are.\textsuperscript{165} As Randall Peerenboom points out, “the second round of debates of Asian values” is shifting from abstract theoretical discussions toward more concrete situations and I believe that this is not for the interest of the state, but for the rights of the people inside.\textsuperscript{166} Constitutional rights and other domesticated human rights norms in Asia are not a simple copy

\begin{itemize}
\item[\textsuperscript{162}] \textit{Id}.
\item[\textsuperscript{163}] \textit{Id}.
\item[\textsuperscript{164}] Kofi Annan, \textit{supra} note 1.
\item[\textsuperscript{165}] See Randall Peerenboom, \textit{Beyond Universalism and Relativism: The Evolving Debates About ‘Values in Asia’} UCLA, School of Law Research Paper No. 02-23 (2002).
\item[\textsuperscript{166}] \textit{Id}.
\end{itemize}
of international norms, nor are they a pure continuance of their domestic traditions.\textsuperscript{167} Foreign norms are introduced through the “filters” of domestic conditions, and they are combined with existing norms to produce a new fusion.\textsuperscript{168} Therefore, as Tae-Ung Baik suggests, this dynamic incorporation process of international human rights norms can be divided into two stages. The first stage in the development of human rights in Asia can be described as the introduction of Western-oriented international norms and standards by state elites—a coercive transplanting by colonial powers.\textsuperscript{169} The next stage can be the internalization and localization among all rights stakeholders, which may generate national struggles or conflicts.\textsuperscript{170} Such a process should reflect various aspects that are unique to the Asian human rights context, such as cultural conditions, regional politics, and domestic interests. Therefore, establishing intermediate institutions like RHRIs is important in this filtering process, which can mediate between the regional culture and the internationally recognized standards on human rights, working with the individual governments, civil society, and international human rights institutions. However, this filtering process in Asia was conducted and manipulated for a long time solely by governments for the effective control of their people with the argument of Asian values. As a result, they have rejected the idea of establishing RHRIs. Further, human rights related domestic policies produced without interaction with other rights stakeholders and at the sole discretion of governments have often raised internal conflicts and tensions in many Asian countries.

CONCLUSION

This paper explored why Asia has not established regional human rights institutions thus far. To answer this question, I first reviewed the major initiatives to establish RHRIs in the Asia-Pacific region, which were divided into three categories: the U.N. initiatives, the NGOs initiatives, and the NHRIs initiatives. After examining these initiatives in chronological order, I concluded that though there have been dynamic discussions on various human rights issues in Asia, as well as efforts to identify the human rights areas of common concern in the region, all the major initiatives have failed to take a concrete and specific step toward


\textsuperscript{168} Tae-Ung, Baik, \textit{supra} note 160, at 94.

\textsuperscript{169} See PYONG-CHOON HAHM, \textit{KOREAN JURISPRUDENCE, POLITICS AND CULTURE} 125 (1986).

establishing RHRIs in Asia in the last two decades. Most governments in the region have shown that they still have no sufficient political will to enter into the establishment of RHRIs. There has also been relatively low governmental support for the initiatives by NGOs. The NHRIs initiatives have worked successfully both with governments and NGOs and have showed some positive signs. But, they are limited to a regional cooperation among NHRIs.

Through the analysis of all the major initiatives for setting up RHRIs in the Asia-Pacific region, I then identified five main obstacles in establishing a regional human rights system in Asia: 1) sovereignty, 2) the failures in the recognition of human rights after the Second World War, 3) the failure of major Asian powers to play a leading role in human rights in Asia, 4) the relatively low ratification rate of major U.N. human rights treaties, and 5) the Asian values debates. As discussed, I believe that all those obstacles, including the Asian values discourse, that have hindered the establishment of RHRIs, have not come from a different understanding of fundamental human rights within the already existing international human rights legal system, but mainly from political considerations.

The analysis of the obstacles led to my focus on NHRIs, another intermediary similar to RHRIs, only at the national level. NHRIs and their network through the APF, at least, have gradually changed each government’s human rights policy for better human rights practices, e.g. greater openness toward the ratification of major human rights treaties, and provided more appropriate spaces for the effective implementation of international human rights norms. As intermediate institutions, they can also actively cooperate with other rights stakeholders, including civil society. Furthermore, the way in which NHRIs have cooperated at the sub-regional level in the establishment of the ASEAN human rights body reveals that they can be eminent actors in surmounting obstacles and ultimately setting up RHRIs. Therefore, unlike other initiatives toward RHRIs, their cooperation and networks will strengthen the human rights protection system at the national and regional level, and in the end, change each government’s skeptical attitude towards RHRIs.

The next question is how NHRIs can work together to take specific steps toward establishing a regional human rights mechanism, and it should be answered through active and dynamic discussions both in academia and in the field. I will leave this for my next research project in the hope that by pursuing this question in the future, I can fill in the important margins between the successful creation and the effective operation of RHRIs, especially through enhancing our understanding of the role, capacity, and potential of NHRIs and their networking in the Asia-Pacific region.
**APPENDIX I: THE U.N. WORKSHOP ON REGIONAL COOPERATION FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS IN THE ASIA-PACIFIC REGION**

<table>
<thead>
<tr>
<th>The Asia-Pacific Workshop on Human Rights</th>
<th>Time, Place and Participation</th>
<th>Main Issues and Report (emphasis added)</th>
</tr>
</thead>
</table>
| The 1st Asia-Pacific Workshop            | Manila, the Philippines, 1990. 23 governments. | * Reviewed the role the Universal Declaration of Human Rights had played.  
* Reviewed other regional systems for promoting and protecting human rights.  
* Debated the advantage of a regional human rights institution. |
| The 2nd Asia-Pacific Workshop            | Jakarta, Indonesia, 1993. 28 governments. | * Outlined the main objectives of subsequent meetings, including: 1) raising awareness of human rights standards and procedures and 2) of existing mechanisms available to governments in fulfilling their human rights obligations, 3) promoting bilateral cooperation, and 4) encouraging the development of human rights institutions in the region.  
* Identified key obstacles to the establishment of a regional system: 1) the geographical complexity, 2) different levels of development and cultural diversity, 3) the lack of a unifying tradition and 4) the absence of mutual understanding between governments. |
* Emphasized the importance of national-level actions to protect human rights, particularly through national human rights institutions (NHRIs) and the development of national action plans (NAP). |
<table>
<thead>
<tr>
<th>Workshop</th>
<th>Location</th>
<th>Year</th>
<th>Governments</th>
</tr>
</thead>
<tbody>
<tr>
<td>The 4th Asia-Pacific Workshop</td>
<td>Kathmandu, Nepal</td>
<td>1996</td>
<td>30 governments</td>
</tr>
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</table>
| * Focused on the need to create regional arrangements that would be *agreed upon by consensus*.  
* Welcomed the NGOs’ participation in the process of development of regional arrangements.  
* Affirmed that the building blocks of human rights arrangements include: 1) national human rights education programs, 2) the ratification of human rights instruments, 3) the development of national action plans, and 4) the establishment of national human rights institutions.  
* UN Doc. E/CN.4/1996/46/Add.1 |
| The 5th Asia-Pacific Workshop | Amman, Jordan | 1997 | 31 governments |
| * Urged OHCHR to work with governments to implement a regional technical cooperation program.  
* Reiterated that any regional arrangement must emerge from the needs and priorities set by the governments of the region.  
* UN Doc. E/CN.4/1997/44 |
| The 6th Asia-Pacific Workshop | Teheran, Iran | 1998 | 36 governments |
| * Stressed that any regional arrangement for the Asia-Pacific region should be based on priorities and needs identified by the region.  
* Adopted *a Framework for Regional Technical Cooperation in the Asia Pacific Region* (the so-called *Teheran Framework*) built on four pillars: 1) national human rights plans of action, 2) human rights education, 3) national human rights institutions, and 4) strategies for the realization of the right to development and economic, social |
| **The 7th Asia-Pacific Workshop** | New Delhi, India, 1999. 29 governments. | * Decided that countries in the region would implement technical cooperation programs in partnership with OHCHR.  
* Recommended that a series of *inter-sessional workshops* be organized to discuss the Framework’s four pillars.  
* Reaffirmed the universality, indivisibility, interdependence, and interrelatedness of all human rights and the promotion of universal respect for human rights by the *step-by-step and building-blocks approach.*  
* UN Doc. E/CN.4/1998/50 |
| **The 8th Asia-Pacific Workshop** | Beijing, China, 2000. 40 governments. | * Emphasized the importance of the rights of women, children, and other marginalized groups.  
* Requested OHCHR to undertake an evaluation of the implementation of the *Tehran Framework.*  
* UN Doc. E/CN.4/2000/102 |
| **The 9th Asia-Pacific Workshop** | Bangkok, Thailand, 2001. 33 governments. | * Called for “concrete and sustainable sub-regional and national activities” and for “training and awareness programs for government officials and key professional groups…”  
* With recognizing civil society’s significant contribution for human rights, decided to hold consultations with NGOs prior to the opening of each annual Workshop.  
* UN Doc. E/CN.4/2001/98 |
| **The 10th Asia-Pacific Workshop** | Beirut, Lebanon, 2002. 30 governments. | * Recommended that activities to combat *racism* be included in national action plans for human |

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<tr>
<th>Event</th>
<th>Location</th>
<th>Participants</th>
<th>Highlights</th>
</tr>
</thead>
<tbody>
<tr>
<td>The 11th Asia-Pacific Workshop</td>
<td>Islamabad, Pakistan, 2003, 29 governments</td>
<td>* Recognized the importance of good governance, at national and international levels. * Recognized that poverty and unemployment are among the major obstacles to the realization of the right to development and economic, social, and cultural rights. * UN Doc. E/CN.4/2002/WP3</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>* Focused on the right to development and economic, social, and cultural rights. * Recognized the link between development and the full realization of human rights. * Emphasized the need for participation by developing countries in international economic decision-making and standard-setting. * UN Doc. E/CN.4/2003/109</td>
</tr>
<tr>
<td>The 13th Asia-Pacific Workshop</td>
<td>Beijing, China, 2005, 33 governments</td>
<td>* Discussed in depth the issue of human rights and human trafficking. * For the future of the Asia-Pacific Framework, some states stressed</td>
<td></td>
</tr>
</tbody>
</table>
| The 14th Asia-Pacific Workshop | Bali, Indonesia, 2007. 25 governments. | the primacy of improving national level activities for the protection of human rights, while other states supported a sub-regional approach to promoting the Framework.  
* UN Doc. E/CN.4/2006/100 |
|-----------------------------|-----------------------------------|--------------------------------------------------------------------------------|
* Recognized the important linkage between human rights and efforts to address extreme poverty.  
* UN Doc. A/HRC/7/35 |
|                            |                                    | * Provided participants with an opportunity to study already existing regional human rights mechanisms in Africa, the Americas, and Europe, as well as the recent sub-regional developments such as ASEAN and the Arab League.  
* Recognized that regional networks of NHRIs can play a valuable role in supporting the establishment of regional human rights mechanisms.  
* Noted that the regional arrangements, while evolving in different forms in different regional contexts, should reinforce universal human rights standards.  
* Underlined the importance of developing partnerships between governments, NHRIs and civil society at the national and regional levels in developing regional mechanisms.  
* UN Doc. A/HRC/15/39 |
## APPENDIX II: THE ASIA-PACIFIC FORUM OF NATIONAL HUMAN RIGHTS INSTITUTIONS ANNUAL MEETING

<table>
<thead>
<tr>
<th>The Asia-Pacific Forum Annual Meeting</th>
<th>Time, Place and Participation</th>
<th>Main Issues and Report (emphasis added)</th>
</tr>
</thead>
<tbody>
<tr>
<td>The 1st APF Annual Meeting</td>
<td>Darwin, Australia, 1996 4 NHRIs.</td>
<td>* Discussed matters of common interest to NHRIs: independence, functions and powers, education, media relations, and investigation process. * Adopted the Larrakia Declaration with an agreement to establish the APF.</td>
</tr>
<tr>
<td>The 2nd APF Annual Meeting</td>
<td>New Delhi, India, 1997 6 NHRIs.</td>
<td>* Emphasized that no category of rights takes priority over another by focusing both on the economic, social and cultural rights and the civil and political rights. * Agreed to set up an international human rights law advisory panel stressing the importance of developing human rights jurisprudence for the Asia-Pacific region.</td>
</tr>
<tr>
<td>The 3rd APF Annual Meeting</td>
<td>Jakarta, Indonesia, 1998 6 NHRIs and 21 governments as observers.</td>
<td>* Changed the name from Regional Workshop to Annual Meeting to reflect the growth of the APF. * Established an Advisory Council of Jurists. * Rejected arguments that human rights were out of character with Asian Values, and stressed a clear commitment to the universality of human rights.</td>
</tr>
<tr>
<td>The 4th APF Annual Meeting</td>
<td>Manila, the Philippines, 1999 7 NHRIs and 20</td>
<td>* Addressed the role of NHRIs in the fight against gender discrimination, especially the</td>
</tr>
<tr>
<td>The 5th APF Annual Meeting</td>
<td>Rotorua, New Zealand, 2000</td>
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<tr>
<td></td>
<td>8 NHRIs and 21 governments as observers.</td>
<td></td>
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<tr>
<td>* Discussed the role of NHRIs in the promotion of democracy, and against racism.</td>
<td></td>
<td></td>
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<tr>
<td>* Discussed the use of child soldiers and the situation of internally-displaced persons in the region.</td>
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<tr>
<th>The 6th APF Annual Meeting</th>
<th>Colombo, Sri Lanka, 2001</th>
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<tbody>
<tr>
<td></td>
<td>9 NHRIs.</td>
</tr>
<tr>
<td>* Addressed the role of NHRIs in responding to gender issues and HIV.</td>
<td></td>
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<tr>
<td>* Stressed building co-operative relationships with NGOs.</td>
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<tr>
<th>The 7th APF Annual Meeting</th>
<th>New Delhi, India, 2002</th>
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<tbody>
<tr>
<td></td>
<td>12 NHRIs.</td>
</tr>
<tr>
<td>* Addressed the role of NHRIs for the prevention of the trafficking of women and children.</td>
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<tr>
<td>* Considered the role of NHRIs in the development of a proposed international convention on the rights of people with disabilities.</td>
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<tr>
<td>* Established the category of ‘Associate Membership’ of the APF.</td>
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<tr>
<th>The 8th APF Annual Meeting</th>
<th>Kathmandu, Nepal, 2004</th>
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<tbody>
<tr>
<td></td>
<td>12 NHRIs as full members.</td>
</tr>
<tr>
<td>* Focused on the rule of law, anti-terrorism measures, and the role of NHRIs.</td>
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<tr>
<td>* Discussed the independence of NHRIs based on the Paris Principles.</td>
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<tr>
<td>* Discussed the issue of trafficking, the death penalty, and child pornography.</td>
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<tr>
<th>The 9th APF Annual Meeting</th>
<th>Seoul, Korea, 2004</th>
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<tbody>
<tr>
<td></td>
<td>14 NHRIs as full members.</td>
</tr>
<tr>
<td>* Held prior to the 7th International Conference for NHRIs. (One-day closed business session meeting.)</td>
<td></td>
</tr>
<tr>
<td>Event Description</td>
<td>Details</td>
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<td>-------------------</td>
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</tr>
<tr>
<td>The 10th APF Annual Meeting</td>
<td>Ulaanbaatar, Mongolia, 2005 15 NHRIs as full members.</td>
</tr>
<tr>
<td>The 11th APF Annual Meeting</td>
<td>Suva, Fiji Islands, 2006 16 NHRIs as full members.</td>
</tr>
<tr>
<td>The 12th APF Annual Meeting</td>
<td>Sydney, Australia, 2007 17 NHRIs. (150 representatives from NHRIs, governments, NGOs, and the U.N.)</td>
</tr>
</tbody>
</table>

* Considered a training workshop and seminar for NHRIs.  
* Discussed the issue of the responsiveness of governments to the recommendations and findings of NHRIs.

* Discussed the role of NHRIs in the prevention of torture and other forms of ill-treatment.  
* Addressed the role of NHRIs in human rights education.

* Welcomed proposals to strengthen the accreditation guidelines of the International Coordination Committee of National Institutions (ICC) and recommended that the APF membership procedures be reviewed once the ICC guidelines were finalized.  
* Addressed the role of NHRIs for international labor standards focusing on incorporating them in domestic codes and applying them to issues of trafficking and migration.  
* Discussed strategies to protect the rights of human rights defenders.  
* Discussed ACJ’s report on the right to education.

* Discussed the issues of 1) the protection of the rights of people with disabilities and 2) the response to the human rights dimensions of climate change.  
* NHRIs from Thailand, Indonesia, Malaysia, and the Philippines signed a Declaration of Cooperation with a
commitment to work together in areas of shared concern. They agreed to cooperate in the development of a human rights mechanism for the ASEAN region.

* NHRI from Afghanistan, Jordan, Palestine, and Qatar also expressed strong interest in establishing a similar model of cooperation for West Asia.

* NGOs highlighted the important role of NHRI for the protection mechanisms for human rights defenders.

<table>
<thead>
<tr>
<th>The 13th APF Annual Meeting</th>
<th>Kuala Lumpur, Malaysia, 2008 17 NHRI (170 representatives from NHRI, government, NGOs, and the U.N.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>* Discussed effective approaches to engage with the <em>Universal Periodic Review</em> process established by the U.N. Human Rights Council.</td>
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<tr>
<td>* Stressed the importance of the <em>corporate social responsibility</em> for the protection of human rights.</td>
<td></td>
</tr>
<tr>
<td>* Discussed the situation facing <em>human rights defenders</em> across the Asia-Pacific region, and NGOs suggested practical steps to the APF for supporting human rights defenders.</td>
<td></td>
</tr>
<tr>
<td>* Noted the APF’s concern with the continuing human rights violations in Myanmar.</td>
<td></td>
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<tr>
<th>The 14th APF Annual Meeting</th>
<th>Amman, Jordan, 2009 17 NHRI (150 representatives from NHRI, government, NGOs, and the U.N.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>* Discussed the role of NHRI in <em>fighting corruption</em> by developing a human-rights based approach.</td>
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<tr>
<td>* Regarding the issue of <em>human rights and religion</em>, stressed the building of inter-faith and intra-faith dialogue to promote understanding the protection of human rights, and shared</td>
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<tr>
<td>The 15th APF Annual Meeting</td>
<td>Bali, Indonesia, 2010&lt;br&gt;17 NHRIs and 3 newly established NHRIs in the region as observers.</td>
</tr>
</tbody>
</table>