

Proposing an ASEAN Human Rights Commission: A Critical Analysis

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This Article focuses on the advancement of a regional human rights mechanism applicable to the Asia-Pacific region. It is noted that the challenge to the formation of this system lies in the diversity of culture, economics, and role of the state in the area and the ambivalence of the region toward the concept of human rights.

However, there have been indicators of the possibility of the establishment of a human rights system such as: the region's participation in universal human rights treaties, the adoption of the ASEAN Vision 2020 in 1997 and the Hanoi Plan of Action in 1998, which are documents that uphold the need for human rights protection and promotion, the active participation of ASEAN countries in human rights workshops, and the establishment of human rights institutions.

The Author then delves into a discussion of Asian values with respect to the human rights movement. It is noted that presence of two Bangkok Governmental Declarations, which are products of Asia-Pacific government consensus, and the Vienna Declaration on Human Rights, although described as soft law instruments, affirm the universality of human rights and, at the very least, politically bind the states. Next, the Author discusses the history of the ASEAN and the means by which it conducts its diplomatic affairs, again noting that recent actions by the said organization point to an open attitude towards the establishment of a human rights mechanism. The different existing regional mechanisms of Europe, the Americas, and Africa are analyzed, particularly with regard to their mechanism's applicability to the ASEAN region.

Finally, the proposed ASEAN Human Rights Commission is scrutinized through a discussion of its underlying principles and elements, composition, mandate, procedures and their enforcement, and entry into force. It is also asked whether this proposed Commission may be seen as too powerful for the region to accept. The Author concludes that, although the proposed Commission is still premature, the presence of democratizing societies in the region and the body language of the ASEAN itself indicates a certain level of

acceptance of a human rights mechanism. She also recommends plans of action for non-government organizations and civil society, the ASEAN states, and the United Nations to ensure the eventual establishment of an ASEAN Human Rights Commission.