

The NGO zone

Asian non-governmental organisations' role in shaping the human rights of the region

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"Universality. We can learn from different cultures in a pluralistic perspective and draw lessons from the humanity of these cultures to deepen respect for human rights. There is emerging a new understanding of universalism encompassing the richness and wisdom of Asia-Pacific cultures."

Bangkok NGO declaration
Bangkok, Thailand, May 29, 1993.

This paper addresses questions of regionalism and in particular, its significance in human rights protection; and explores the role non-governmental organisations (NGOs) have in this regard. It analyses these issues through examining the activities of four Asian NGOs that are similarly active in several countries of Asia. The Asian Human Rights Commission (AHRC) is located in Hong Kong; the South Asian for Human Rights (SAFHR) in Kathmandu; the Asian Forum for Human Rights and Development (Forum Asia) in Bangkok; and the Asia-Pacific Human Rights Network (APHRN) in New Delhi.

Regionalism is an important aspect of international relations, and it is also a decisive factor shaping the human rights field. Although, the backbone of universal human rights protection is the international system, built mainly around the United Nations machinery, regional human rights structures in Europe (Council of Europe), the Americas (within the Organization of American States), and Africa (within the African Union) have played a significant role as well. Regional cooperation often functions as a protective counterbalance to excesses of globalisation, and also provides opportunities to step out of the rigid hold of extreme nationalism and sovereignty-guarding (Katzenstein, 2000). A regional human rights organisation can facilitate local intervention in the case of a human rights crisis, which can be beneficial especially in circumstances where the international system is slow to act and to appreciate the severity of the situation. Furthermore, it provides an additional supervisory mechanism to states.

Asia is the continent with the largest

population and has a notoriously dismal record of human rights violations, yet human rights are conspicuously absent from the agenda of regional cooperation. The Asian region covers vast areas with immense diversity of ethnicities, languages, religions and cultures, and accordingly, it is difficult to view Asia as a single region. Asia is commonly divided into Central, South, Southeast, and Northeast parts. However, with respect to human rights, a region does not have to be strictly homogenous, since pluralism can in fact enrich the regional structure. Thus it is possible to conceive of an encompassing regional human rights framework for the Asian region, similar to those in existence in Europe, Africa and the Americas. More specific sub-regional arrangements could eventually develop under the banner of an Asia-wide system. The reality thus far is that despite growing public awareness about rights and the intense discussions precipitated by the escalation of the "Asian values" debate in the 1990s (Bell, 1999), human rights have still not reached a prominent

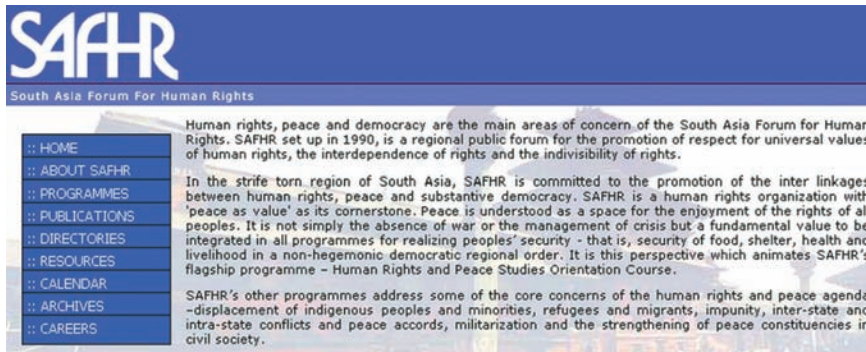
place in the priorities of Asian inter-governmental politics. Recently there have been attempts within ASEAN to incorporate a human rights element into the organisation's work (Charter of ASEAN 2007, Art. 14.), yet the negotiations have not reached considerable results so far. Consequently, it is mostly the growing Asian civil society that has been taking on human rights problems in the absence of a coordinated and substantial governmental contribution. The operation of "native" Asian NGOs is especially significant, particularly those that go beyond local activism and extend their advocacy trans-nationally across large parts of Asia.

Asian NGOs in the forefront of human rights protection

The activities of the AHRC, the Forum-Asia, the SAFHR, and the APHRN demonstrate well the impact that civil society can have on the Asian human rights discourse. These NGOs are "natively Asian" in the sense that they were founded and are still operated by individuals

The screenshot shows the AHRC HK NET website. The header includes the logo 'AHRC HK NET' and 'Asian Human Rights Commission'. Below the header, there are navigation links: 'About AHRC', 'Material in other languages' (with icons for Chinese, French, German, Italian, Korean, Nepali, and Japanese), 'Home | ALRC site | Book Store | Join! | Contact us', and a 'Quick Launch to AHRC' dropdown menu. The main content area features a news article dated 'November 13, 2008, 17:57' with the headline 'SOUTH KOREA: Presidential commission must be allowed to continue investigations into suspicious military deaths'. A small map of East Asia is visible to the right of the headline. The article text begins with a 'STATEMENT' regarding South Korea's military and its investigation of suspicious deaths. A 'Read More...' link is at the bottom of the article snippet.

Source: AHRC: <http://www.ahrchk.net/index.php>



from Asia, as opposed to transnational NGOs with roots primarily stemming in the “first world”. They have a clear human rights focus, which further distinguishes them from the vast array of developmental and welfare projects. Within the field of human rights, these native Asian human rights NGOs are concerned with similar issues such as the fight against torture, illegal detention, and unfair trials. They apply methods of investigation, documentation, and research, as well as publishing, advocating and lobbying. All four NGOs have a legal-orientation, implying that their primary focus concerns the deficiencies of law enforcement, flaws in legislation, and the breakdown of the legal institutions as the root-causes of the problematic human rights situation in Asian countries. They function on a regional level, distinguishing them from locally constrained grassroots groups, and also from larger international NGOs with far greater global outreach. They engage in transnational advocacy in several countries of Asia, pursuing human rights activism in cooperation with their partner organisations based on shared values, common discourse, and a dense flow of information and services exchange (Keck & Sikkink, 1998). Three factors determine the outcomes of their transnational advocacy. They are: to maintain close ties to the grassroots, to additionally hold an influential presence at the international level, and to maintain a high-level of communication and data management.

Firstly, close links to the grassroots are essential for the functioning of these “native NGOs”. Victims’ accounts and a contextual approach concentrating on uncovering all aspects of human rights problems are major characteristics of their operation. The empirical data gathered in the local environment are the

core building blocks in their activism. Keeping up close ties to the grassroots however requires more than just exploiting local groups as mere information providers. The NGOs uphold a mutually beneficial partnership with their local counterparts, providing regular assistance to them including training, education and material resources. This local ‘capacity-building’ improves the opportunities of grassroots activists, yet also benefits the regional NGOs, since in this way they are able to secure the partnership of a competent and well-trained staff in the field.

Secondly, exerting their influence at the international level is also vital to the success of these NGOs. Information on human rights problems collected at the grassroots is channelled towards the international community, providing an indispensable source of knowledge to international organisations. The NGOs offer a ‘first-hand account’ of the situation in the local environment, which often depicts a situation different from that propagated by state officials. Many prominent UN officials noted that the contribution of UN NGOs became an indispensable part of the United Nations’ operation (Alston 1992: 501). The NGOs issue ‘shadow-reports’ to the Treaty Bodies of the UN, to the Special Rapporteurs or through the Universal Periodic Review (an annual country-specific reporting system in the UN) revealing an alternative and critical assessment of the realities of human rights situations.

Thirdly, the use of information technologies (ICTs) and data constitute a major component in the activism arsenal of these NGOs. Since their core activities involve documentation, researching, verifying, analysing and publicising information on human rights violations, their effectiveness is largely dependent on the

quality and integrity of the information they provide and on the fluency of the communication they conduct. Supplying accurate, timely, well-evaluated and strategically presented data increases the possibility of favourable external intervention in certain cases of human rights abuses, lends credibility even to less-powerful organisations, and yields long-term gains for their activism. Another important function of the NGOs is to uphold free flow information among them and their partners, which has significance in counterbalancing the global trend of inequality in access to authentic information (Metzl 1996: 716). The AHRC conducts a “Human Rights Correspondence School” (Francis, 2007), the SAFHR holds annual “Human Rights and Peace Studies Program” (Kumar, 2008) and the APHRN takes part in the “Human Rights and People’s Diplomacy Training” (Nair, 2008) in an effort to educate and train local activists and public servants in human rights activism. The “technologies of freedom” – as web-communications are coined (Metzl 1996: 707) – provide the organisations with the possibility to acquire and transmit data in a timely and cost-effective manner, and allow the opportunity to localised civil society actors to amplify their messages and the meaning of their activities. The AHRC takes great advantage of email-lists to convey information about human rights problems, and maintains 39 websites explaining their campaigns. It is nonetheless a constant challenge for these NGOs to continue on developing their communication technologies in order to minimise the risks, whilst seeking to take utmost advantage of ICTs to further their activism.

The NGOs’ regional activism

The purpose of the NGOs’ distinctive advocacy, on the one hand, is to bridge the private and public spheres by encouraging victims to break the wall of silence and publicly express their private grievances. This way they gain a genuine empirical basis for their activism, and narrow the gap between the official rhetoric and the often very different reality of the human rights situation. On the other hand, through ‘vertically’ conveying information between distinct levels, the NGOs construct a link between


the domestic and international spheres as well. The AHRC for instance, internationalises human rights issues through its “Urgent Appeals Program” (UAP, <http://www.ahrchk.net/ua/>), which is a primarily email based alert-network facilitating almost instantaneous ‘chain-reactions’ to individual cases of human rights violations from all over Asia. Local partners alert the AHRC about a human rights-related incident, which is then forwarded by the NGO in the form of an ‘Urgent Appeal’ including the most accurate data available to an email network of around 200 000 recipients. The receivers of this email-alert are then urged to send a letter of concern, and thus put pressure on the defined ‘target authorities’ to redeem the violation. The NGOs ‘horizontal’ activism involves programs and thematic campaigns which are pursued simultaneously in several countries in Asia, such as the SAFHR’s campaign on refugees and internally displaced people in South Asia (http://www.safhr.org/refugee_rights.htm).

The combination of ‘vertically’ acquired information on the human rights situation with the experiences of human rights defenders brought together through ‘horizontal’ activism from all over Asia, provides an opportunity to raise ideas and create a ‘regional platform’ for consultations and dialogue, and to construct more insightful and comprehensive knowledge on human rights. The discussions then develop into a common a discourse, which has the potential of creating new normative understandings for the region. This activism gives rise to bottom-up oriented norm creation, generating standards, which are rooted genuinely in an empirically supported collage of real human rights situations across Asia.

Norm setting is an otherwise common role for NGOs around the world. There are several examples for NGO’s active involvement in standard-setting in the United Nations, for instance during the drafting of the Rome Statute (Forsythe 2000: 192). The activism of the International Commission of Jurists (ICJ) is particularly remarkable as regards its lengthy preparatory work towards the establishment of the African human rights system. The ICJ first organised a pan-African conference in 1961 in Lagos

FORUM-ASIA Asian Forum for Human Rights and Development
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CAMBODIA: Soldiers and police escape prosecution
Friday, 24 October 2008



For Cambodia's police and armed forces, impunity is the rule of law. In recent months Phnom Penh has been witness to a spate of shootings perpetrated by police or Royal Cambodian Armed Forces (RCAF) personnel.

FORUM-ASIA's member in Cambodia, LICADHO, details in its website various cases of police abuse and violence.

These individuals at the time of the shooting incidents were either off-duty or working second jobs as security guards, during which they were illegally carrying firearms.

These perpetrators escaped prosecution because they were protected by their high-level connections, paid out-of-court compensation to the victim to ensure a criminal complaint was not made, or were allowed to go into hiding.

More information on "Impunity at Work in Cambodia" related to police violence can be found at LICADHO's website: <http://www.licadho.org/articles/20081015:82/index.html>

Source: Forum-Asia: <http://www.forum-asia.org/>

to promote the idea of regional human rights protection among African states (Parakh 1994: 85-87), which was then followed by numerous other discussions, and concluded in the founding of the regional system. This can be a promising model for these Asian NGOs embarking on a path towards constructing a regional human rights framework from the grassroots.

The NGOs' 'imagined regional community'

The establishment of a regional judicial-institutional structure (such as Europe, the Americas or Africa have) is realistically can only be the aim of the distant future. Constructing such a system would require active cooperation from states as well. Until this long-term goal can be fulfilled, the NGOs seek to lay down certain normative bases for a regional human rights arrangement, by building up norms and standards focusing on human rights violations at the grassroots as starting points. Through exploring individual human rights abuses, the NGOs gradually reveal patterns of structural problems which spread across countries of the region. In this way a new normative agenda can be created that applies international human rights standards as the basis, but takes into account regional particularities as well. The NGOs accentuate human rights implementation by warning against the regionally specific factors that threaten the proper enforcement and the due redress

of these rights – such as dangers of illegal detention or custodial torture on the hands of police, or the lack of adequate witness protection.

One prominent example for this is the AHRC's “Asian Human Rights Charter” (Charter), which was finalised after four years of drafting conducted with the inclusion of hundreds of civil society actors. The Charter lays down a basic framework for human rights protection and promotion in Asia. It invokes the universal human rights norms as its basis, but reconstructs the international discourse through a frame created from the bottom-up by using the AHRC's and its partners' grassroots experience and knowledge about regional human rights problems (Fernando, 2007; Wilde 1998: 139). Rights are not merely listed, but formulated in a complex manner to denote what they indeed stand for, what threatens them, and most importantly how they can be effectively enforced in the Asian environment. Whereas the right to life is simply proclaimed in most international human rights documents (Art. 2. of the Universal Declaration of Human Rights; Art. 6. International Covenant on Civil and Political Rights), the Charter interprets this fundamental right in the Asian reality, understood as life “with basic human dignity”, denoting “the right to livelihood”, “to a habitat”, “to education”, and “to a clean and healthy environment”, which are often neglected necessities in Asia (Asian Human Rights Charter, Art. 3.2.). At present, the



AHRC is working on the ensuing project of the “Asian Charter on the Rule of Law” (<http://material.ahrchk.net/ruleoflawcharter/>), in the process of which they once again bring actors together in a series of consultations to address problems of broken legal systems and flawed rights enforcement held to be the major cause of human rights crises in Asia.

On the whole there is a growing potential for Asian human rights NGOs to fulfil a normatively meaningful role in shaping the region-wide human rights development. Due to their fortunate ‘intermediary positions’, they have the ability to reach out equally effectively to the grassroots and to international actors, and to mediate between them. Keys to

their successful activism lie in their abilities to explore the particularities of the local context, to similarly have influence on the international system, and to effectively manage and communicate information through utilising ICTs.

However, the delicate process of conveying messages and negotiating meanings among multiple levels and actors in the complex field of human rights carries numerous hazards for the NGOs, including being corrupted by donor dependency or co-opted by politicians – an issue that the present paper has not the space to discuss. Nevertheless, the potential that such NGOs represent promotes hopes and aspirations for progress in terms of human rights in the region.

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Kind bei Angkor Wat/Kambodscha (3. Platz bei Coverwettbewerb der aktuellen Ausgabe).
Quelle: Bastian Zitscher

