



# THE RIGHT TO PEACE: ASEAN PERSPECTIVES AND PROSPECTS



AN AICHR THEMATIC  
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**2025**





# **The Right to Peace: ASEAN Perspectives and Prospects**

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**An AICHR Thematic Study (2025)**

The Association of Southeast Asian Nations (ASEAN)  
was established on 8 August 1967.

The Member States are Brunei Darussalam, Cambodia, Indonesia, Lao PDR,  
Malaysia, Myanmar, the Philippines, Singapore, Thailand and Viet Nam.

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## Introductory Message

**His Excellency Ambassador  
Yong Chanthalangsy,**  
Representative of Lao PDR to AICHR

The enduring success of ASEAN rests upon its capacity to sustain peace throughout the region. However, sustainable regional peace transcends merely the absence of conflict between ASEAN Member States; it demands that individuals within each ASEAN country experience peace and security within their own borders. Recognising this critical dimension, the right to enjoy peace in Article 38 of the ASEAN Human Rights Declaration (AHRD) represents a pivotal advancement, underscoring that peace must be cultivated not only externally but also internally within ASEAN Member States.

This study investigates essential matters regarding the realisation of the right to peace in ASEAN. It covers the competing definitions of the right to peace and the right to enjoy peace while demonstrating that the existing regional peace programmes also require extensive national-level social and political changes. Fulfilling the individual and collective right to peace necessitates profound transformations. Meaningful progress towards peace further requires awareness of specific contexts without forgetting global standards.

Learning from rich national experiences – including Cambodia's "Win-Win" policy, Indonesia's "Pancasila" philosophy, Singapore's rigorous economic discipline, the Philippines' proactive engagement in the Bangsamoro peace processes, and peace and reconciliation measures in Viet Nam and Lao PDR – ASEAN can affirm that enduring peace emerges not simply from strict rules and regulations, but from fostering

a vibrant and protective culture of inclusion, understanding, and respect for human dignity and human rights.

Led by the Lao PDR, the ASEAN Intergovernmental Commission on Human Rights (AICHR) has been developing this study for some time, and I wish to thank my predecessors and AICHR colleagues for giving me the opportunity to complete the study. I stress that this is not the end of AICHR's endeavours in conflict prevention, conflict management, and peacebuilding. AICHR will continue to strive to make the region a peaceful one.

Among others, human rights and peace education, along with the strong will to evolve and improve collectively through our shared platform, which is ASEAN, are important. They serve as essential foundations to establish durable, inclusive and sustainable peace.

I am proud to say that the development of a complete peace culture is an essential component of the ASEAN Way. AICHR can be both a forum and a channel to continue delivering those outcomes, and ultimately to enhance the peace, prosperity, and progress of all the ASEAN peoples.

As ASEAN moves ahead with the ASEAN Community Vision 2045, I hope this study will be useful for further deliberations on regional approaches to peace in the region.



## Foreword

**His Excellency Edmund Bon Tai Soon,**  
AICHR Chair (2025) and Representative  
of Malaysia to AICHR

Peace is more than the mere silence of guns; it is the enabling environment where every human right can thrive.

Article 38 of the AHRD recognises this truth, affirming that every person and the peoples of ASEAN have the right to enjoy peace so that the other rights in the Declaration may be fully realised. The right is both an individual and collective right.

This important study on the right to peace was discussed during my first stint at the AICHR in 2016. I was just learning about the key linkages between peace and human rights. Coming from human rights practice, these linkages seemed to be understood only within academic circles. I had to enlist the help of academics and subject matter experts to super-  
vise the production of the Malaysian report.

Fortunately, the learnings I gained from walking with this Thematic Study, ending with its adoption in my second stint at AICHR, have been immense.

Then, I did not know that the late Johan Galtung, a Norwegian sociologist, was the “father of peace studies”. I did not know of his typology of peace, which differentiates “negative peace” (the absence of violence) from “positive peace” (the presence of conditions of social justice, inclusive governance, human

rights, equality and non-discrimination). I did not know of Galtung’s seminal “violence triangle” demonstrating that violence is seldom a single, isolated act. Observable and direct physical or verbal harm and violence exist on two concealed foundations. Structural violence operates through institutional frameworks that embed inequalities while denying people their fundamental needs and rights. Cultural violence comprises the norms, ideologies, symbols and narratives that legitimise or validate both visible and structural harms. Each sustains the other. Peace can only be achieved through the simultaneous confrontation and transformation of all three elements in the triangle.

I did not know too that peace cannot last without both negative and positive peace. Positive peace requires addressing the root causes of conflict, ensuring inclusive and sustainable development, protecting human rights, and fostering societies where individuals can thrive with dignity and security.

To achieve a culture of peace, positive peace must also be promoted, and it must be concrete, achievable, and integral to ASEAN’s policies on security, development, and human rights.

But there are still some quarters that do not get it.

## Article 38's drafting history

The right to development (Articles 35, 36 and 37), right to peace (Article 38) and right to a safe, clean, and sustainable environment (Article 28f) have been touted as the three "add-value" rights that distinguish the AHRD from the Universal Declaration of Human Rights 1948.

The right to peace entered late in the AHRD drafting cycle, championed by Lao PDR. It was proposed in the middle of 2012 during the drafting negotiations of the AHRD. Several countries voiced cautionary objections about the definition and potential abuse but did not oppose the principle. Regional security tensions and the realisation of the State's duty to foster a culture of peace were at the back of their minds.

Some key contestations over the right are noteworthy to highlight in brief. First, several representatives sought definitional clarity to ensure that the right to peace cannot be a pretext to violate human rights, legitimise restrictions on dissent or deny victims of gross human rights violations accountability measures in the name of "stability". Second, one representative excepted the right when called on by necessity to defend the country from external military intervention. Third, the right could not stand alone in the abstract without imposing on governments the practical commitments to build a framework of security, neutrality, friendship and cooperation. For example, demilitarisation, confidence-building, diplomacy and regional preventive mechanisms are needed to deliver peace.

Careful drafting – tying peace to the realisation of all rights, embedding it in ASEAN's cooperative ethos and outlining inter-state responsibilities – allowed AICHR to reach consensus without much difficulty.

## Peace sensitivities

Still, and unfortunately, when some speak about peace and human rights, others look to the other side of the coin and focus on conflict instead. They proclaim that it is a "sensitive" topic in ASEAN that they prefer not to talk about.

However, this misses two points. To discuss peace and human rights, we need to discuss conflict. Second, if peace is a right in an ASEAN document, then spillover conflict problems become region-centric issues that can no longer be considered internal affairs of ASEAN Member States.

To ensure that the text of the 2007 ASEAN Charter will mean something to us in our lived experiences and realities, we need to create and enlarge a safe civil space to discuss and confront complex issues, including conflict and peace, deeply. Given AICHR's overarching mandate as ASEAN's Charter body, it is well-placed and sufficiently flexible to platform and address peace and peacebuilding efforts.

I am hopeful that the AICHR can enhance ASEAN's capacity to operationalise the diplomatic and interlocutor tracks by undertaking various strategic initiatives to advance the right to peace. Through its strength, AICHR may also provide safe spaces for dialogue while enacting collaborative measures with ASEAN actors.



## Next steps forward

After almost 13 years since Article 38 came into being, this Thematic Study is an indispensable springboard for action.

At the cusp of our transition to a new ASEAN Community vision, we are challenged to proactively turn ASEAN's professed aspiration to be a people-centred, people-oriented, caring and sharing community into a structured reality so that every person can live free from fear and want, and secure in the knowledge that the promise of peace underpins – and never undermines – their equal, fundamental and inalienable human rights.

The AICHR commends this report to rightsholders, stakeholders and all those interested in this subject, aiming to provide substance to ASEAN's broad promise of peace and respect for human rights. The data supports existing frameworks for ASEAN Member States to translate promise into practice.

While efforts to promote peacebuilding, preventive diplomacy, and community resilience are on-going, economic disparities, and differing cultures and political systems within ASEAN continue to pose significant hurdles. Without mechanisms able to provide early warning signs and rapid responses, and at the same time, enhanced remedy and grievance channels through which affected people and communities can invoke the right to peace directly – the right risks becoming "illusory".

I applaud the persistence of the Representatives of Lao PDR in leading this piece of work, particularly H.E. Ambassador Yong Chanthalangsy for completing it during his time.

It warms my heart to have chaired AICHR when adopting this study report at our 40<sup>th</sup> Meeting and Retreat held from 11 to 14 February 2025. The study aligns with Malaysia's ASEAN 2025 theme "Inclusivity and Sustainability", which includes the agenda to protect and promote human rights to peace and development.

I am deeply grateful to Professor Sam Blay, who led and authored this study together with his team members, Dr. Nurul Barizah and Dr. Mas Rahmah.

I also thank all the AICHR Representatives who have supported the study alongside the researchers and authors of the report.

Finally, I would like to acknowledge that the publication and printing of this report was made possible through an Australian aid initiative implemented by the Australian Human Rights Commission on behalf of the Australian Government.

As we move forward in the face of regional conflicts and challenges, ASEAN must robustly continue its quest to find common ground to smoothen and deepen our pathways to peace. It will not be easy as we are encountering now, but we need to be strong, brave and courageous if we believe in our actions and believe that what we are doing is right.

*8 May 2025*

*Kuala Lumpur, Malaysia*

*Adoption of the Thematic Study on the Right to Peace,  
40<sup>th</sup> Meeting and Retreat of AICHR, 11-14 February 2025,  
Langkawi, Malaysia*





## ONE

# Introduction

The AHRD<sup>1</sup> expresses ASEAN's commitment to human rights and has become an important instrument in defining the framework for human rights cooperation in the region. Several provisions of the AHRD are a restatement of common human rights norms contained in the Universal Declaration of Human Rights (UDHR), the International Covenant for Civil and Political Rights (ICCPR) and the International Covenant for Economic, Social and Cultural Rights (ICESCR). However, a number of provisions go beyond the Universal Declaration to include "the right to safe drinking water and sanitation"; "the right to a safe, clean and sustainable environment"; protection from discrimination in the treatment for "people suffering from communicable diseases, including HIV/AIDS"; the "right to development" and the "creation of conditions including the protection and sustainability of the environment"; and most relevant to this study, "the right to peace".<sup>2</sup>

The inclusion of these "novel" or "third generation" rights is groundbreaking and sets the stage for the advancement of human rights in the region. However, the AHRD remains a framing instrument and does not define these rights, nor do other international human rights instruments that mention the Declaration offer guidance on its interpretation, implementation, or promotion.

Conscious of the need for clarity in the implementation of the AHRD, the ASEAN Intergovernmental Commission on Human Rights (AICHR) has commissioned thematic studies on several of the rights contained in the instrument, including the right to peace. This report, "The Right to Peace: ASEAN Perspectives and Prospects", presents the results of the Thematic Study on the Right to Peace.

## Preparatory steps for the Thematic Study: Concept Paper and Workshop

To initiate the study, AICHR conducted a workshop based on a Concept Paper adopted in June 2012 in Kuala Lumpur,<sup>3</sup> with Laos and Cambodia agreeing to coordinate on preparatory work.

The Concept Paper noted the "duty of the ASEAN Member States and the world at large to recognise that the peoples of our planet have a sacred right to peace".<sup>4</sup> Significantly, the Paper also noted the Statement of Peace in South East Asia in 1998 and the ASEAN Plus Three Cooperation Work Plan (2009-2017), in which ASEAN Member States aspire to "foster a culture of peace through the effective mobilisation of all pertinent institutions and key social actors, such as experts, academic and civil society groups".<sup>5</sup>

1. Association of Southeast Asian Nations (ASEAN), ASEAN Human Rights Declaration, 18 November 2012, available at: <https://www.refworld.org/docid/50c9fea82.html> [accessed 25 November 2018]

2. Article 28

3. 22-23 June 2012

4. AICHR Working Group Internal Documents AICHR Concept Paper, Kuala Lumpur June 2012

5. Ibid

The objective of the workshop was to “share ideas and exchange experiences among national, regional and international experts on the Right to Peace and the current state of affairs in regional peace promotion efforts, bearing in consideration ASEAN’s unique history and regional particularities.” It was also intended to provide an overall understanding about the Right to Peace as a “collective right” and the extent to which ASEAN Member States enjoy it, as well as to identify various aspects constituting the Right to Peace such as international and regional peace and security, denuclearisation, disarmament, human security, resistance to oppression, peaceful settlement of disputes, peace education, development and the alleviation of poverty. Crucially, the workshop was also tasked to make recommendations for the study group on “how peace and stability can be best promoted ..., as well as how the Right to Peace of each ASEAN Member State and of its citizens can be further enhanced”<sup>6</sup>

The workshop convened in Vientiane in October 2012. Following the workshop, AICHR adopted the terms of reference for the Thematic Study.

### Terms of Reference and the Objectives of the Thematic Study

In accordance with AICHR’s Five-Year Work Plan, Cambodia and Lao PDR were assigned to coordinate the baseline Thematic Study with the following Terms of Reference:

- To produce a study on the Right to Peace in order to contribute to the realisation of the AHRD, especially Article 38 on the Right to Peace, in particular, to map existing regional, bilateral, national initiatives that contribute to the promotion of regional peace and security.
- To contribute to normative development of this emerging human right taking into consideration the ASEAN regional context.
- To encourage further research and studies on the Right to Peace which may be undertaken by any interested parties looking from different perspectives in order to make contributions in the building of a people-oriented ASEAN community of friendship, cooperation, peace, stability and prosperity.

### Methodology

The methodology prescribed in the Terms of Reference includes:

- Appointment of a “national focal point” by each ASEAN Member State to provide information on relevant and appropriate existing national legislative, administrative, judicial, and other frameworks and practices related to the promotion of regional peace.
- The convening of two coordination meetings.
- Submission of a draft report by a consultant engaged to lead the study.
- A Regional Workshop comprising AICHR Representatives, regional and international experts, and all appropriate stakeholders to discuss the outcome of the study and to provide inputs on the final draft.

6. Ibid

In accordance with the agreed methodology, each ASEAN Member State appointed a national focal point. Reports or information on national frameworks related to the promotion of regional peace were received from:

- |                                                                                                                                                                           |                                                                                                                                                                             |                                                                                                                                                                                         |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| → <b>Dr. Alan Chong,</b><br>Senior Fellow, S. Rajaratnam<br>School of International Studies,<br>Singapore                                                                 | → Myanmar Institute of Strategic and<br>International Studies (MISIS)                                                                                                       | → <b>Mr. Phoutsavanh Bounchaleune</b><br>Deputy Head of Division, Treaty and<br>Law Department, Ministry of Foreign<br>Affairs, Lao PDR                                                 |
| → <b>Mr. Sreang Chenda</b><br>Member, Cambodian Human<br>Rights Committee and Director of<br>International Human Rights and<br>the United Nations Department,<br>Cambodia | → <b>Mr. Severo S. Catura</b><br>Executive Director, Office of the<br>President of the Republic of the<br>Philippines, Philippines                                          | → <b>Dr. Eakpant Pindavanija (assisted<br/>by Ms. Ratawit Ouaprachanon)</b><br>Acting Director, Institute of Human<br>Rights and Peace Studies (IHRPS),<br>Mahidol University, Thailand |
| → <b>Ms. Michelle Ng Mei Sze</b><br>Malaysian National Focal Point and<br>Assistant to the Representative of<br>Malaysia to AICHR                                         | → <b>Dr. To Minh Thu</b><br>Deputy Director General, Institute<br>for Foreign Policy and Strategic<br>Studies (IFPSS), Diplomatic<br>Academy of Viet Nam (DAV),<br>Viet Nam | → <b>Mr. Muhadi Sugiono</b><br>Lecturer, Department of International<br>Relations and Researcher, Institute<br>of International Studies, Universitas<br>Gadjah Mada, Indonesia          |

Two Coordinating Meetings were held in Luang Prabang and Vientiane, Lao PDR.

### List of activities related to the Right to Peace Thematic Study

1. Regional Workshop on the Right to Peace, 2 October 2012
2. 1<sup>st</sup> Coordination Meeting for the Thematic Study on the Right to Peace, 18 July 2014
3. 2<sup>nd</sup> Coordination Meeting for the Thematic Study on the Right to Peace, 5 April 2017
4. AICHR Workshop on the Outcome of the Thematic Study on the Right to Peace, 7 December 2018



## TWO

# The Right to Peace: Concept and Meaning

## The “Right to Enjoy Peace” and the “Right to Peace”

Article 38 of the AHRD states, in part:

Every person and the peoples of ASEAN have the right to enjoy peace within an ASEAN framework of security and stability, neutrality and freedom. To this end, ASEAN Member States should continue to enhance friendship and cooperation in the furtherance of peace, harmony and stability in the region.

Article 38 appears under the title “the Right to Peace”. However, the text mentions the “right to enjoy peace” and not “the right to peace” as such. This is in contrast to other provisions of the instrument, such as “the right to education” under Article 31.

The approach adopted by ASEAN is grounded in the key distinction between the “right to” as the object, and the “right to enjoy” as the object. The right to an object ordinarily embodies the right to enjoy said object. On the other hand, the right to enjoy an object may not necessarily mean that one has an exhaustive right to the object in all instances. Whether one chooses to provide for a “right to” the object rather than a “right to enjoy” the object depends on the object in question and the practical implications of subjecting the object to a direct right, as opposed to the right to enjoy it, with potential limitations.



A right is a legal entitlement to something, to do something or to have something not done.<sup>7</sup> The existence of a right implies the corresponding existence of beneficiaries and duty bearers. A beneficiary can ordinarily claim their right against a duty bearer should their circumstances demand that they do so. Where an object is directly subject to a right, the implication is that an aggrieved beneficiary is entitled to make a claim against the state or the duty bearer.

With some rights, there could be practical difficulties in maintaining claims against the state. A good example is the standard of physical and mental health. Article 12 of the ICESCR provides for the *right of everyone to the enjoyment* of the highest attainable standard of physical and mental health<sup>8</sup>, rather than the right of everyone to the highest attainable standard of physical and mental health. There are several similar examples in the ICESCR and in the AHRD itself. The reason for this approach in the case of the highest attainable standard of physical and mental health is the practicality of a beneficiary bringing a claim against the state for not achieving this standard. In other instances, the AHRD<sup>9</sup> provides for the right to enjoy the arts and the benefits of scientific progress and its applications. The logic of this approach is that one cannot claim a right against the state for the arts as such, but one can bring an action against the state for being denied access to enjoy the arts.

A well-known example of the “right to enjoy” approach refers to Article 14 of the UDHR concerning asylum. It provides that “everyone has the right to seek and to enjoy in other countries asylum from persecution”. The AHRD contains a similar provision, under Article 16. In negotiating Article 14 of the UDHR, and conscious of the implications related to the concept of asylum in itself and making it the subject of a direct right, States were unwilling to accept

the right to asylum as such. They instead preferred to make it a subject of the “right to seek and enjoy”.<sup>10</sup> There is thus no “right to asylum” and no corresponding obligation on States to grant asylum. Beneficiaries, however, have the right to request asylum and to enjoy it if granted.

Article 38 of the AHRD does not create a right to peace with a corresponding obligation on States. However, the “right to enjoy” provision creates an obligation for States to foster an environment that promotes the enjoyment of peace. It is argued that while beneficiaries may not necessarily be able to claim a right to peace against the State in the ASEAN framework, the commitment to provide the necessary conditions for the enjoyment of peace creates the foundation for such discourse.

## The Concept of Peace: Negative and Positive Peace

Peace is arguably one of the most important human values. There is no standard definition of *peace*.

Traditionally, peace is understood to mean freedom from, or the cessation of, war or violence, or freedom from disturbance. It is a state of “friendliness” characterised by the absence of internal or external hostilities. The United Nations Declaration on the Right of Peoples to Peace focuses on the absence of war or hostilities and states that “the exercise of the right of peoples to peace demands that the policies of States be directed towards the elimination of the threat of war, particularly nuclear war, the renunciation of the use of force in international relations and the settlement of international disputes by peaceful means on the basis of the Charter of the United Nations.”<sup>11</sup>

7. For a detailed analysis of the rights concept see: R. Dworkin, *Taking Rights Seriously* (London, 1977);

8. W.N. Hohfeld, *Fundamental Legal Conceptions: as applied in judicial reasoning* (ed W.W. Cook) (New Haven, 1923)

9. Reproduced in Article 29 of the AHRD <sup>9</sup> Article 31

10. See a detailed discussion of the views of states on the issue in Roman Boed, ‘The State of the Right of Asylum in International Law’ *Duke Journal of International and Comparative Law*; (1994) Vol. 51, pl.

11. GA Resolution 39/11, 12 November 1984. <https://www.ohchr.org/EN/ProfessionalInterest/Pages/RightOfPeoplesToPeace.aspx>



The concept of peace is, however, more complex than the mere absence of hostilities or violence. The absence of conflict or violence is generally referred to as “negative peace.”<sup>12</sup> However, the absence of war as such (that is negative peace), without an environment that promotes human development and social justice, is not a sufficient basis for peace. As one commentator noted: “negative peace uses a short-term time horizon, which reinforces a tendency to see the job as complete once fighting stops. It undermines efforts for a broader peace.”<sup>13</sup> Peace is based on a concept of a holistic relationship that goes beyond structured violence or conflicts in society. Accordingly, peace as merely the absence of war ignores the relationship element and provides little or no insight into building support structures for human development.<sup>14</sup>

On a very basic level, the absence of war, but the prevalence of the conditions that generate poverty and inhibit human development, undermines the essence of peace.<sup>15</sup>

There is, on the other hand, “positive peace”. The Institute for Economics and Peace defines positive peace as “the attitudes, institutions and structures which create and sustain peaceful societies.”<sup>16</sup> Positive peace refers to the presence of sustainable conditions that promote and enhance human development, including access to basic needs: food and

clean drinking water, health, shelter, education for women and children, security from physical harm, and an environment that respects the rule of law and other inviolable human rights. Positive peace is an ongoing human process and work in progress in which the community is engaged in a continuous harmonious relationship by building supportive structures and institutions that enhance human development and reduce the potential for conflict.

As the former United Secretary-General, Kofi Annan, once said: “the threats to peace and security in the twenty-first century include not just international war and conflict but civil violence, organised crime, terrorism and weapons of mass destruction. They also include poverty, deadly infectious disease and environmental degradation.”<sup>17</sup> While conceptualisations vary, most cultures have embedded aspects of the concept of positive peace.

Negative peace and positive peace are, however, closely related. Negative peace is a pre-condition to the existence of positive peace. A condition of sustained war or conflict undermines the prospects for positive peace. On the other hand, the absence of conflict can enable the development and enhancement of positive peace.

12. Charity Butcher Maia Carter Hallward, 'Bridging the Gap between Human Rights and Peace: An Analysis of NGOs and the United Nations Human Rights Council' *International Studies Perspectives*, Volume 18, Issue 1, 1 February 2017, Pages 81–109, <https://doi.org/10.1093/isp/ekw001>

13. Patricia Shields, 'Limits of Negative Peace, Faces of Positive Peace' *Parameters* 47(3) Autumn (2017), 6. [https://ssi.armywarcollege.edu/pubs/parameters/issues/Autumn\\_2017/4\\_Shields.pdf](https://ssi.armywarcollege.edu/pubs/parameters/issues/Autumn_2017/4_Shields.pdf)

14. Grant Rissler and Patricia M. Shields, "Hidden in Plain Sight: Positive Peace—A Missing Critical Immeasurable in PA Theory" (paper presentation, annual meeting of the Public Administration Theory Network, San Antonio, TX, May 20–22, 2016).

15. Galtung, Johan & Tord Høivik 'Structural and direct violence: A note on operationalization'. *Journal of Peace Research* 8(1): (1971) 73–76.

16. Institute for Economics and Peace (IEP), *Positive Peace Report: Conceptualising and Measuring the Attitudes, Institutions, and Structures That Build a More Peaceful Society* (Sydney: IEP, 2015), 4.

17. Kofi Annan: In Larger Freedom - Towards Development, Security and Human Rights for All, Report of the Secretary-General of the United Nations for decision by Heads of State and Government in September 2005. Doc. A/59/2005 of 21 March 2005, para. 78. See in <http://www.un.org/largerfreedom/>

## A Culture of Peace

The preamble to the Constitution of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) states:

since wars begin in the minds of men, it is in the minds of men that the defences of peace must be constructed...

a peace based exclusively upon the political and economic arrangements of governments would not be a peace which could secure the unanimous, lasting and sincere support of the peoples of the world, and that the peace must, therefore, be founded, if it is not to fail, upon the intellectual and moral solidarity of mankind.<sup>18</sup>

The insightful combination of building defences for peace in the mind and the founding of peace upon the intellectual and moral solidarity of mankind, have led to a school of thought that views a peace-oriented cultural mindset or social engineering as an important foundation for sustainable peace. This has been described as a "culture of peace". In 1999, the United Nations General Assembly (UNGA) adopted the Declaration on a Culture of Peace that described it as a set of values, attitudes, traditions and modes of behaviour and ways of life based on:

- |                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                               |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| a. Respect for life, ending of violence and promotion and practice of non-violence through education, dialogue and cooperation;                                                                                                                                                                | f. Respect for and promotion of the right to development;                                                                                                                                                                                                                                                     |
| b. Full respect for the principles of sovereignty, territorial integrity and political independence of States and non-intervention in matters which are essentially within the domestic jurisdiction of any State, in accordance with the Charter of the United Nations and international law; | g. Respect for and promotion of equal rights and opportunities for women and men;                                                                                                                                                                                                                             |
| c. Full respect for and promotion of all human rights and fundamental freedoms;                                                                                                                                                                                                                | h. Respect for and promotion of the right of everyone to freedom of expression, opinion and information;                                                                                                                                                                                                      |
| d. Commitment to the peaceful settlement of conflicts;                                                                                                                                                                                                                                         | i. Adherence to the principles of freedom, justice, democracy, tolerance, solidarity, cooperation, pluralism, cultural diversity, dialogue and understanding at all levels of society and among nations; and fostered by an enabling national and international environment conducive to peace. <sup>19</sup> |
| e. Efforts to meet the developmental and environmental needs of present and future generations;                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                               |

18. [http://portal.unesco.org/en/ev.phpURL\\_ID=15244&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.phpURL_ID=15244&URL_DO=DO_TOPIC&URL_SECTION=201.html)

19. UNGA Res 53/243A 13 September 1999

What is significant about the Declaration is that it combines the vital elements of negative and positive peace as essential cultural attributes of peace. The “enabling environment conducive to peace” is of particular relevance to this study because of the requirement in the TOR to account for the institutional arrangements in ASEAN that promote or hinder the development of sustainable peace.

### The Right to Peace: A Tentative Definition

Building on the above discussion, we define the right to peace as the entitlement to an environment of minimal or no conflict, characterised by the promotion of human development and a culture of peace. It also includes an entitlement to enabling social, political, economic, administrative and judicial institutions that foster continuous and sustainable harmony in community relations and a respect for fundamental human rights. The essence of the right is ultimately the entitlement to good governance and the conditions that respect the dignity of the citizenry and allow the pursuit and fulfilment of basic human values to inform progress and development. It is ultimately the foundation for optimal societal relations.

The right creates what might be called “peace duties”. As a deficit in good governance such as inequalities, exclusion and poverty, and a lack of opportunities can result in the disruption of peace both at the national and international levels, it is the duty of States to promote and encourage social justice both in their own territories and at the international level through frameworks of cooperation, support and dialogue. As a foundation of social relations, the right to peace necessarily also implies that corresponding duties be assumed by individuals and, indeed, all actors within the community with respect to the rule of law. The right to peace, defined to include both negative and positive peace, and as the foundation for economic and social development, is enlivened in the context of ASEAN’s vision of “peaceful and progressive national development”<sup>20</sup> as expressed in Article 1 of the ASEAN Charter.<sup>21</sup>

20. Preamble to the “ASEAN Declaration (Bangkok Declaration)” August 1967.

21. <https://asean.org/storage/images/archive/publications/ASEAN-Charter.pdf>

## THREE

# Evolution of the Right to Peace

While the right to peace commonly appears in several international instruments and has received considerable attention from commentators,<sup>22</sup> it is a relatively new concept. In this section of the report, we outline briefly major milestones that have shaped the evolution of the right to peace.

## Kellogg-Briand Pact<sup>23</sup>

Officially known as the General Treaty for the Renunciation of War as an Instrument of National Policy, the Kellogg-Briand Pact (1928)—also known as the Pact of Paris—was one of the earliest international instruments that began shaping the contemporary approach to peace. Originally proposed as a bilateral non-aggression treaty between France and the United States, the Pact later became a multilateral treaty attracting nearly all States in the post-World War I period. The parties committed themselves to:

- condemn recourse to war for the solution of international controversies, and renounce it, as an instrument of national policy in their relations with one another (Art. 1)
- the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them,...by pacific means (Art. 2)

While the Pact did not specifically mention the right to peace, it provided one of the earliest clear rejections of war as an instrument of national policy and advocated pacific settlement of disputes.

## United Nations Charter

The rejection of war as an instrument of national policy in the Pact was carried further in the United Nations Charter. The Charter provides for the maintenance of international peace and security and the taking of effective collective measures for the prevention and removal of threats to the peace.<sup>24</sup> All members are also to “refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.”<sup>25</sup>

## Nuremberg Charter<sup>26</sup>

After the Second World War, the Allies adopted the Nuremberg Charter to try persons alleged to have committed war crimes, and other related crimes, during the war in Europe. The General Principles of the Nuremberg Charter laid important foundations in international law regarding peace and security, and the responsibility for breaches by incorporating crimes against peace, war crimes and crimes against humanity (Art. 6). The concept of “crimes against peace” in the Charter served as an important precursor to the notion of peace as a judicial attribute capable of being breached in international law, with punitive consequences.

22. William Schabas, ‘The Human Right to Peace’, *Harvard International Law Journal* (April 2017), <http://www.harvardilj.org/2017/04/the-human-right-to-peace/> Philip Alston, ‘Peace as a Human Right’ *Security Dialogue* (1980) Vol. 11; Christian Guillermet Fernández David Fernández Puyana, *The Right to Peace: Past, Present UNESCO*, (2017).

23. Treaty Between the United States and Other Powers Providing for the Renunciation of War as an Instrument of National Policy (1928) 94 LNTS 57.

24. Article 1.

25. Article 2 (4).

26. United Nations, Charter of the International Military Tribunal - Annex to the Agreement for the prosecution and punishment of the major war criminals of the European Axis (“London Agreement”), 8 August 1945, available at: <https://www.refworld.org/docid/3ae6b39614.html> [accessed 25 November 2018]

## Universal Declaration of Human Rights<sup>27</sup>

In the first-ever comprehensive effort by the international community to address the global protection of human rights, the UDHR (1948), included provisions on peace and security that endure today and have contributed to our understanding of the right to peace. Article 3 provides that “[e]veryone has the right to life, liberty and security of person”. Article 28 reinforces this by stating that “[e]veryone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realised”. While the Declaration does not explicitly mention the right to peace, it is significant for the purposes of tracing the evolution of the right to peace grounded in the right to the security of the person, and the social and international order that enables the enjoyment of the rights in the Declaration.

## The Non-Aligned Movement

During the Cold War period, the Non-Aligned Movement had a significant impact on the development of the right to peace. At the Bandung Conference (1955) that inspired the establishment of the Movement, the 29 states present passed a number of resolutions rejecting violence and war among the superpowers based on peaceful co-existence.<sup>28</sup>

The focus of the Movement on peaceful coexistence was primarily motivated by the desire for peace as the basis for international relations and the framework for cooperation. While the Movement did not stop the Cold War or major conflicts including the Viet Nam war, it demonstrated the ability of developing countries at the time to influence the cause of peace and contributed to the evolution of the right to peace.

## Emergence of a “Right to Peace”

After the Viet Nam War, the phrase “right to peace” entered common speech. In 1976, the then-UN Commission on Human Rights stated that “everyone has the right to live in conditions of international peace and security”.

Two years later, the UN General Assembly’s Declaration on the Preparation of Societies for Life in Peace recognised peace both as an individual and collective right. Article 1 of the Resolution stated:

Every nation and every human being, regardless of race, conscience, language or sex, has the inherent right to life in peace. Respect for that right, as well as for the other human rights, is in the common in-

terest of all mankind and an indispensable condition of advancement of all nations, large and small, in all fields.<sup>29</sup>

These efforts set the tone for modern discourse on the right to peace. In 1979, the General Conference of the Agency for the Prohibition of Nuclear Weapons in Latin America<sup>30</sup> proclaimed the right to peace as a human right. In 1997, the Oslo Declaration on the Human Right to Peace asserted that “every human being has the right to peace, which is inherent in the dignity of the human person” and that a “culture of peace must constitute the means of achieving the global implementation of the human right to peace.”<sup>31</sup>

27. UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III), available at: <https://www.refworld.org/docid/3ae6b3712c.html> [accessed 25 November 2018]

28. <http://history.state.gov/milestones/1953-1960/bandung-conf>

29. A/RES/33/73, 15 December 1978.

30. <https://www.iaea.org/publications/documents/treaties/treaty-prohibition-nuclear-weapons-latin-america> [latelolco-treaty]

31. Ibid.

After the Oslo meeting, other international meetings sponsored by UNESCO focused on the right to peace. One of the outcomes was the Bamako Declaration (Mali) (Annex III),<sup>32</sup> adopted on the occasion of Peace Week in March 1997, which proclaimed that the human right to peace is a fundamental right. Similarly, the Maputo Declaration (Mozambique) (Annex IV),<sup>33</sup> adopted by the International Conference on the Culture of Peace and Governance in September 1997, noted that “the human right to peace is an inalienable right”;<sup>34</sup> In the same year, the UNESCO Las Palmas Declaration also recognised that “all human beings have a right to peace which is inherent in their human dignity”;<sup>35</sup>

A significant development in the evolution of the right to peace occurred in 1984, when the UNGA adopted Resolution A/RES/39/11 entitled the “Declaration of the Right of Peoples to Peace”. What is important about this resolution is that it marked the first time that the General Assembly used the phrase “the right to peace” in a resolution. The preamble notes that the General Assembly, having considered the item entitled “Right of peoples to peace”, approves the Declaration on the Right of Peoples to Peace. In the Annex to the resolution, the substance of the Declaration includes that:

- The peoples of the planet have a sacred right to peace;
- The maintenance of a peaceful life for peoples is the sacred duty of each State;
- The preservation of the right of peoples to peace, and the promotion of its implementation constitute a fundamental obligation of each State.<sup>36</sup>

In subsequent resolutions, UNGA reaffirmed the right to peace.<sup>37</sup> Beginning in 2008, the UN Human Rights Council passed a series of resolutions affirming and promoting the right to peace.<sup>38</sup>

In June 2010, the International Catalan Institute for Peace adopted the Barcelona Declaration on the Human Right to Peace.<sup>39</sup> The Declaration was subsequently submitted for approval to the Spanish Society for International Human Rights Law, which included it in its deliberations on the Santiago Declaration<sup>40</sup> in December 2010. The Santiago Declaration was a comprehensive instrument that listed beneficiaries and duty bearers of the right and included implementation strategies. Article 1 stated that “individuals, groups, peoples and all humankind have the inalienable right to a just, sustainable and lasting peace. By virtue of that right, they are holders of the rights and freedoms proclaimed in this Declaration”. Civil society organisations proposed that the United Nations use the Santiago Declaration as a model to develop the Right to Peace.<sup>41</sup> In 2011, the International Symposium on the Right to Peace adopted Nagoya Declaration on the Human Right to Peace.

Within the United Nations system, although UNESCO played a leading role in promoting this right in the late 1900s, the United Nations Human Rights Council has been more active in recent efforts to formalise the right in international law.

32. Ibid.

33. Ibid.

34. <http://unesdoc.unesco.org/images/0011/001100/110027e.pdf>

35. <http://unesdoc.unesco.org/images/0011/001100/110027e.pdf>

36. <http://www.un.org/documents/ga/res/39/a39r011.htm>

37. See for instance Resolutions 53/243, 57/216, 60/163 and 63/189.

38. See for instance (A/HRC/RES/8/9, A/HRC/RES/11/4, A/HRC/RES/14/3, A/HRC/RES/17/16, A/HRC/RES/20/15, A/HRC/RES/23/16).

39. <http://www.icip-perlapau.cat/e-review/issue-4-september-2010/the-barcelona-declaration-human-right-peace.htm>

40. [https://www.uniklu.ac.at/frieden/downloads/Declaracion\\_de\\_Santiago\\_English.PDF](https://www.uniklu.ac.at/frieden/downloads/Declaracion_de_Santiago_English.PDF)

41. <http://www.world-psi.org/en/united-nations-general-assembly-approves-declaration-right-peace>

## FOUR

# The Human Rights Council's Initiatives on the Right to Peace

## The Human Rights Council's Advisory Committee and Working Group on the Right to Peace

Drawing on the success of the Santiago Declaration, the UN Human Rights Commission requested its Advisory Committee to prepare a draft Declaration on the Right of Peoples to Peace. The draft Declaration that was submitted was similar in tone to the Santiago Declaration and noted that "individuals and peoples have a right to peace" and that "states, severally and jointly, or as part of multilateral organisations, are the principal duty-holders of the right to peace".<sup>42</sup> It also noted that "all individuals have the right to live in peace so that they can develop fully all their capacities, physical, intellectual, moral and spiritual, without being the target of any kind of violence".<sup>43</sup> The draft Declaration was ambitious and comprehensive and addressed other issues that the Committee saw as impacting the right to peace.

It included peace education, the right to conscientious objection to military service, the regulation and control of private military and security companies, resistance and opposition

to oppression, peace-keeping, the right to development, protection of the environment, and the rights of victims and vulnerable groups, refugees and migrants. The draft proved controversial when it was submitted to the Human Rights Council.<sup>44</sup>

At its 20<sup>th</sup> session in July 2012, the Human Rights Council adopted resolution 12/15 through which it established an "open-ended intergovernmental working group to progressively negotiate a draft United Nations declaration on the right to peace".<sup>45</sup> Initially, the working group was requested to use the Advisory Committee's draft as the basis for its work,<sup>46</sup> but the Council later authorised the preparation of a new draft. After six years of negotiations and preparatory work, the Human Rights Council accepted the working group's draft in July 2016.<sup>47</sup>

On 19 December 2016, UNGA approved Resolution 71/189, adopting the Declaration on the Right to Peace, as proposed by the Council.

42. Article 1.

43. Article 3.

44. The United States, for instance, opposed the Draft and the subsequent establishment of a working group to consider it. It argued that the declaration would cover issues that are at best unrelated to the causes of peace. Past efforts at drafting the right to peace have always ended in endorsements for new concepts on controversial thematic issues, often unrelated to human rights (thereby using) the cause of peace to advance other agendas. It also argued that the Council can make the greatest contribution to promoting peace by focusing on the implementation of human rights obligations and commitments. The United States did not agree with attempts to develop a collective right to peace or to position it as an enabling right that would in any way modify or stifle the exercise of existing human rights. Finally, it noted that the vote against the resolution is not a vote against peace but rather a vote against the establishment of the Working Group (A/HRC/RES/23/16).

45. A/HRC/RES/12/15

46. A/HRC/RES/23/16. The Council's vote to develop a draft Declaration based on the Advisory Committee's draft was sponsored by Cuba and a number of developing countries including Syria. While initially opposed by many Western countries, the draft was finally adopted by 34 votes in favour, 12 abstentions and 1 (United States) against.

47. A/HRC/RES/32/28.

## United Nations Declaration on the Right to Peace

The Declaration has only five substantive provisions, four of which are directly relevant:

### Article 1

Everyone has the right to enjoy peace such that all human rights are promoted and protected and development is fully realized.

### Article 2

States should respect, implement and promote equality and non-discrimination, justice and the rule of law, and guarantee freedom from fear and want as a means to build peace within and between societies.

### Article 3

States, the United Nations and specialized agencies should take appropriate sustainable measures to implement the present Declaration, in particular the United Nations Educational, Scientific and Cultural Organisation. International, regional, national and local organisations and civil society are encouraged to support and assist in the implementation of the present Declaration.

### Article 4

International and national institutions of education for peace shall be promoted in order to strengthen among all human beings the spirit of tolerance, dialogue, cooperation and solidarity. To this end, the University for Peace should contribute to the great universal task of educating for peace by engaging in teaching, research, post-graduate training and dissemination of knowledge.

The Declaration stands as the most recent authoritative expression on the Right to Peace by the United Nations. It adopts "the right to enjoy" formula coupled with a holistic approach to reflect positive and negative peace, as well as a "culture of peace", focusing on peace education. The "right to enjoy" approach adopted in the Declaration is reminiscent of the Article 38 provision in the AHRD. This approach is largely attributable to the position of the ASEAN, as debated by the working group and UNGA. During the Third Session of the working group's negotiations in 2014, Indonesia proposed the "right to enjoy" approach. The Indonesian proposal was supported by Malaysia, India, Venezuela, Pakistan and the Philippines. The Indonesian proposal thus became the ASEAN position. In June 2015, Viet Nam delivered a statement to the working group on behalf of ASEAN, recalling the "right to enjoy" provision of Article 38 of the AHRD. The ASEAN proposal was supported by several NGOs and Civil Society Organisations (CSOs), which adopted a pragmatic position and called on Member States to "take a step forward in the promotion of peace by adopting a declaration that proclaims the human right to peace, or at least the 'right to enjoy peace'".<sup>48</sup> The draft that was adopted by the working group ultimately reflected the ASEAN "right to enjoy" position.<sup>49</sup>

While the Declaration is an important milestone in the evolution of the right to peace, it is at best only a framework and provides little guidance on the development of the appropriate mechanisms and institutions for the effective implementation of the right. In this regard, ASEAN's initiative for this study is significant because it is an opportunity to develop and refine an effective approach to the right, taking into account any relevant regional particularities and to contribute towards the development of the right in international law.

48. Emphasis added. See the detailed account of the negotiations and the positions of the delegations in Christian Guillermet Fernández David Fernández Puyana, *The Right to Peace: Past, Present UNESCO*, (2017).

49. *Ibid.*



## FIVE

## Questions Concerning the Right to Peace

The Right to Peace has attracted critical commentary since its emergence. This was most evident during discussions led by the Open-ended Intergovernmental Working Group on the Draft Declaration. There was considerable disagreement about the legal status of the right,<sup>50</sup> while some members queried whether it is a collective or individual right. It was also argued that this right is merely an enabling right for other substantive rights and therefore redundant, as those rights are already protected under existing human rights instruments. There was a consensus that it would not be feasible to enforce such a right, even if its parameters could be established.<sup>51</sup> In this section of the report, we present a summary of the main issues concerning the Right to Peace.

### The Legal Status of the Right to Peace

In international law, the legal character of a norm is determined by reference to the sources of law relating to that norm. Article 38 of the Statute of the International Court of Justice, which is the authoritative statement on the sources of international law, lists the following as sources: treaties or conventions, the practice of states as customary international law, the general principles of law recognised by civilised nations, as well as the decisions of tribunals and the writings of highly qualified publicists as subsidiary sources.<sup>52</sup>

### Treaties and Conventions

The UN Charter states international peace and security as a common purpose in Article 1. Peace is also a principle in Article 2 and is the basis for dispute settlement in Chapter VI.<sup>53</sup> In Article 55, the Charter refers to the promotion of human rights as a necessary condition for peaceful and friendly relations between States. However, while peace is inherent in the Charter, and the pacific settlement of disputes is a recognised legal principle, this does not create a separate legal right to peace as such.

Several binding human rights instruments make reference to peace, either directly or indirectly; yet none purports to create a right to peace or indeed the right to enjoy peace.<sup>54</sup>

50. The European Union for instance took the view that the right has no legal basis. See <https://www.uaoce.eu/sites/default/files/investigacion/catedra-unesco/the-right-to-peace.pdf>

51. First Session, A/HRC/WG.13/1/2.

52. Don Greg, 'Sources of Law in International Law' in Blay, Piotrowicz and Tsamenyi, *International Law: Australian Perspectives* Oxford University Press.

53. Articles 33-38.

54. For instance, the ICCPR notes in its preamble that human rights are the foundation of peace in the world. The Convention on the Rights of Persons with Disabilities (CRPD) reaffirms the importance of human rights in general for creating fair and equal societies founded upon freedom, justice, development and peace.

Apart from the Declaration on the Right to Peace, the General Assembly has adopted several resolutions that recognise the right. As noted earlier, in 1984 it affirmed that “the peoples of our planet have a sacred right to peace”. It reaffirmed this in subsequent Resolutions.<sup>55</sup> However, on their own, General Assembly Resolutions are generally not legally binding.<sup>56</sup> Where the Assembly consistently adopts a resolution supported by overwhelming numbers, this could indicate acceptance by States and provide the basis for an emerging customary international law rule on the subject. However, in the case of the right to peace, while there has been support in the General Assembly on the subject, this has routinely been accompanied by dissent and a significant opinion among certain states that there is no legal right to peace as such. Accordingly, General Assembly resolutions recognising a right to peace do not by themselves give the right a legal character.

Outside the UN system, the AHRD recognises the right to enjoy peace. However, the ASEAN Declaration is a framework for cooperation and not a legally binding instrument. While the Declaration may create a basis for developing and refining the right, it does not create a legally enforceable right to enjoy peace as such.

Unlike the ASEAN Declaration, the African Charter on Human Rights and People's Rights<sup>57</sup> expressly recognise the right to peace. Article 23(1) of the African Charter states:

All peoples shall have the right to national and international peace and security...

Significantly, the Charter creates enforcement mechanisms for all recognised human and peoples' rights. These mechanisms include the African Commission on Human and Peoples' Rights (ACHPR)<sup>58</sup> and the African Court on Human and Peoples' Rights (African Court)<sup>59</sup>. To the extent that the African Charter creates enforceable rights and obligations, the express recognition of the right to national and international peace and security makes it a legal right, at least in the African regional context. In practice, however, the implementation or enforcement of this right in the African context has been far from effective. There has not been any instance where either the Court or the Commission has successfully applied the legal conditions to the right.

55. See for instance Resolutions: 53/243, 57/216, 60/163 and 63/189.

56. Joyner, Christopher C 'U.N. General Assembly Resolutions and International Law: Rethinking the Contemporary Dynamics of Norm-Creation', *California Western International Law Journal*, (1981), Vol.11, pp.445-478; Schwabel, Stephen M. 'The Effect of Resolutions of the U.N. General Assembly on Customary International Law', *Proceedings of the Annual Meeting (American Society of International Law)*, (1979), Vol.73, pp.301-309.

57. <http://www.achpr.org/instruments/achpr/>

58. Article 30.

59. The Court established under Article 1 of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, adopted by Member States of the then Organisation of African Unity (OAU) in Ouagadougou, Burkina Faso, in June 1998. The Protocol came into force on 25 January 2004.

## Customary International Law

Article 38 of the Statute of the International Court allows the court to apply “international custom as evidence of general practice accepted as law”. This is usually called customary international law. The essence of general practice as a source of law is that the consistent conduct of States in respect of a subject matter can over time crystallise into law.

The formation of a rule of customary law requires two elements. First, the actuality or evidence of consistent practice by states in respect of the subject matter and second, the opinion juris or the psychological element that the practice or the conduct in question is obligated by law<sup>60</sup> While treaty law binds only the signatories, customary law binds states generally unless they are able to demonstrate their persistent objection to the practice as evidence of a lack of consent or acceptance of any rule that may emerge out of the practice. With respect to the right to peace, the issue is whether there is any evidence of state practice and opinion juris regarding the right for it to be classified as customary international law. Such practice would also include pronouncements by states and the provisions in state constitutions and other forms of legislation.

While the constitutions of several states mention peace,<sup>61</sup> none except Japan expressly recognises the right to peace or the right to live in peace. The Japanese Constitution provides for the “right to live in peace” in its preamble. Article 9 goes on to renounce war and prohibits the use or threat of force by Japan. It would thus seem to be the case that there is a legal right to peace in Japanese law. In general, statements made by States on a subject can also provide evidence of customary international law. However, there are no statements by States that indicate a general acceptance of the right to peace.

For the most part, state legislation or statements on peace relate to law and order and do not point to an acceptance or recognition of a right to peace as such. With the exception of Japan, as indicated, there are no other national constitutions that recognise this right. Our conclusion is that there is no right to peace as such in international customary law.

60. See a critique of this and other aspects of customary international law in Hilary Charlesworth, ‘Customary International Law and the Nicaragua Case’ Australian Yearbook of International Law, (1987), 1-32.

61. See for instance the Constitution of Viet Nam Articles 12, 64 and 89.

## General Principles of Law Recognised by States

"General principles of law recognised by civilised nations" refers to the legal rules common to the legal systems of the community of states. Basic examples include the principles of estoppel, good faith, and the principle of *res judicata* that bars a party from raising a claim again after it has been settled by judicial decision. Other examples are the principles of natural justice and the rule that one cannot be a judge in his or her own case.<sup>62</sup>

For the purposes of this study, the investigative question remains whether there is a general legal principle of a right to peace recognised by the community of nations. While some religions and cultures include "peace" in their greetings<sup>63</sup> this does not constitute a legal rule and there is no evidence of such a rule or principle in any legal system. There is, therefore, no general legal principle of a right to peace commonly recognised by the community of States.

## The Decisions of Tribunals

While the decisions by national and international tribunals are listed as subsidiary sources, it is common in international law to refer to such decisions, where relevant, to help determine or clarify the legal status of a principle. In this section we examine decisions of national and international courts that have pronounced judgments on the right to peace.

As noted earlier, the Japanese Constitution recognises the right to peace. There have been two major cases in Japan in which the right to peace was the subject of litigation.

### *The Naganuma Case (1973) (Sapporo High Court)*

In the Naganuma case,<sup>64</sup> a group of residents who resided within the vicinity of one of the bases of Japan's Self Defence Forces (SDF) argued that the existence of the bases infringed, *inter alia*, their right to live in peace.<sup>65</sup> Judge Fukushima of the Sapporo District, recognised the right to live in peace as a constitutional right and found the SDF bases unconstitutional.<sup>66</sup> On appeal, the High Court of Sapporo reversed the district court ruling and rejected the plaintiffs' claim to the right to live in peace. The Court accepted that the Preamble in the Japanese expresses "noble ideals" (*suko na rin'en*). However, the Preamble, unlike the substantive articles in the Constitution, did not provide any concrete and specific judicial standards upon which one might base a lawsuit relating to the right to live in peace.<sup>67</sup>

62. For examples of cases where the International Court of Justice has used general principles of law see: *Factory at Chorzow* (Germ. v. Pol.), 1927 P.C.I.J. (ser. A) No. 9 (July 26); *Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain)*; Second Phase, International Court of Justice (ICJ), 5 February 1970, available at: <https://www.refworld.org/cases,ICJ,4040aec74.html> [accessed 25 November 2018].

63. For instance: Shalom in Hebrew and Salam in Islam. Tibetans also include peace in their greetings.

64. Sapporo Dist. Ct., Sep. 7, 1973.

65. For a detailed analysis of this case see Tomoyuki Sakaki, 'Whose Peace? Anti-Military Litigation and the Right to Live in Peace in Post-war Japan', *Asia Pacific Journal* Vol. 10, (2012), <https://apjif.org/2012/10/29/Tomoyuki-Sakaki/3794/article.html>

66. Sapporo Dist. Ct., Sep. 7, 1973.

67. Sapporo High Ct., Aug. 5, 1976.

*Mori versus Japan (2008) (Nagoya High Court)*

Following the deployment of troops in Iraq in 2003, 5,700 Japanese citizens filed claims in 11 districts, alleging breaches of their right to peace under the Constitution. The Japanese government argued that the right to live in peace is merely an abstract concept, not an enforceable right, and therefore the claimants lacked a legal interest in the lawsuit necessary to establish standing. The High Court noted that the right to peace is a concrete right but in this particular case, the limited participation by Japan in the Iraq war did not infringe their right to live in peace.<sup>68</sup>

*The African Commission on Human and Peoples' Rights v the Great Socialist Libyan Arab Jamahiriya (2011)*<sup>69</sup>

During the Libyan civil war aimed at overthrowing Colonel Gadhafi, the African Court received an application from the African Commission on Human and Peoples' Rights, alleging that the use of force by the Libyan authorities against peaceful demonstrators in several cities was a serious violation of African Charter norms, including the right to peace under Article 23.

The Pan African Union of Lawyers subsequently joined the action with the permission of the Court. The Court ordered (interim measures) that:

- (1) Libya must immediately refrain from taking any action that would result in the loss of life or violate the physical integrity of persons that could be a violation of the Charter or other human rights instruments to which Libya is a party; and
- (2) Libya must report to the Court within 15 days on the measures it has taken to implement this order.

The Gadhafi government ignored the orders.<sup>70</sup> The matter was, however, preempted with the removal of Colonel Gadhafi from office.

68. See the website of Iraku hahei iken soshō no kai [Organisation for plaintiff claiming unconstitutionality of the SDF dispatch to Iraq], [http://comcom.jca.apc.org/iken\\_tokyo/f\\_link.html](http://comcom.jca.apc.org/iken_tokyo/f_link.html), (last visited Feb. 14, 2006).

69. Application No. 004/2011, <http://www.refworld.org/cases/AFCHPR,4da59c082.html>

70. In spite of the existence of enforcement mechanisms in the African Charter, the enforcement of the right to peace remains problematic. Only a handful of States (Ghana, Burkina Faso, Malawi, Mali, and Tanzania) have signed the protocol to the Charter to allow their citizens to bring cases before the court. As a rule, African States have not been willing to bring cases of breaches under the Charter against each other.

## SIX

## The ASEAN Regional Context: Baselines and the Framework for Initiatives

Since ASEAN's establishment, peace has been a dominant theme in the regional cooperation framework. While the Association's focus has generally been on economic development, peace is perceived as the essential third element in the Association's objectives of "peace, progress and prosperity" in the region. In this section, we examine existing regional instruments, institutions and other initiatives aimed at promoting peace in the region, and which provide a foundation to the right to peace.

### The ASEAN Declaration (Bangkok Declaration)<sup>71</sup>

The Bangkok Declaration is the constituent instrument of the ASEAN. The Declaration is brief, with only five substantive provisions. However, it makes six separate references to peace. Article 2 states that one of the purposes of the Association is:

[t]o promote regional peace and stability through abiding respect for justice and the rule of law in the relationship among countries of the region and adherence to the principles of the United Nations Charter.

While it does not expressly mention the right to peace, it embodies elements that provide an important foundation for the right. An important feature of this statement is the commitment to regional peace and security through "abiding respect for justice and the rule of law".

While the commitment is made concerning the relationship among countries of the region, the Fifth Article of the Declaration focuses on the peoples of the region as ultimate beneficiaries, clarified by the following statement:

...the Association represents the collective will of the nations of South-East Asia to bind themselves together in friendship and cooperation and, through joint efforts and sacrifices, secure for their peoples and for posterity the blessings of peace, freedom and prosperity.<sup>72</sup>

The notion of the "peoples" as beneficiaries is reinforced in the preamble with the reference to "the cherished ideals of peace, freedom, social justice and economic well-being".

The Bangkok Declaration is an important instrument for the promotion of peace initiatives in the region. However, by its very nature, it is meant to be a general instrument. Accordingly, it only provides a framework for the development of peace initiatives.

71. Association of Southeast Asian Nations (ASEAN), ASEAN Human Rights Declaration, 18 November 2012, available at: <https://www.refworld.org/docid/50c9fea82.html> [accessed 25 November 2018]

72. Fifth Article, The Asean Declaration (Bangkok Declaration) Bangkok, 8 August 1967. <https://asean.org/the-asean-declaration-bangkok-declaration-bangkok-8-august-1967/>

## South East Asia as a Zone of Peace, Freedom and Neutrality Declaration (1971) (ZOPFAN)<sup>73</sup>

This Declaration is a brief, two-article statement issued by Indonesia, Malaysia, the Philippines, Singapore and Thailand, and represents one of the earliest efforts to make the ASEAN a region of peace. In the preamble, the parties refer to the Bangkok Declaration and ASEAN Member States' primary responsibility for strengthening the economic and social stability of the region and ensuring their peaceful and progressive national development". In the substantive provisions, the parties express their determination "to exert initially necessary efforts to secure the recognition of, and respect for, a Zone of Peace".

The Declaration, brief as it was, does not explain the concept of a zone of peace. Article 1, however, makes a reference to "freedom and neutrality, free from any form or manner of interference by outside powers". The Declaration was in part an effort by ASEAN to isolate the region from the superpower rivalry of the period and an important foundation in ASEAN's efforts to develop a peace framework that allowed the development of other peace initiatives in the region.<sup>74</sup> In fact, ZOPFAN provided more specific institutional objectives on regional cooperation than the Bangkok Declaration.<sup>75</sup>

As Alagappa Muthiah notes, "[t]he purpose was to bring about a relaxation of international tension and lasting peace in Southeast Asia through the prevention of interference by outside powers and the encouragement of greater cooperation among the indigenous states".<sup>76</sup>

While the neutralization of Southeast Asia was mentioned only as a "desirable objective", ZOPFAN is significant in those early years as it established the foundation for a normative code of conduct both inside and outside of Southeast Asia.

This point is reinforced by Kei Koga, who states that the declaration provided a "conceptual framework to consider three basic principles: first, to gain mutual understanding and recognition of the necessity to ensure independence of Southeast Asian states; second, to contain conflicts between member states through economic, social and cultural cooperation; and third, to prevent interference through UN charters".<sup>77</sup>

The Conceptual Framework and Proposals Concerning Steps for the Creation of ZOPFAN that was eventually adopted at the Bali Summit in 1976 clarified ZOPFAN principles and defined peace as a state of affairs in which the region is free from economic ideological, political, armed and other conflicts.<sup>78</sup>

## Treaty of Amity and Cooperation in Southeast Asia (1976) (TAC)<sup>79</sup>

This instrument builds on the Bangkok Declaration and provides a more specific framework for peace in the region. The purpose of the Treaty is to promote perpetual peace, everlasting amity and cooperation among the peoples of Southeast Asia which would contribute to their strength, solidarity and a closer relationship.<sup>80</sup>

73. ASEAN Secretariat. (1971b) 'Zone of Peace, Freedom and Neutrality Declaration', Malaysia, 27 November 1971 <http://www.icnl.org/research/library/files/Transnational/zone.pdf>

74. For a detailed analysis of the factors leading to the adoption of the instrument see Kei Koga, 'Institutional transformation of ASEAN: ZOPFAN, TAC, and the Bali Concord I in 1968-1976', *The Pacific Review* 27(5) (October 2014); Alagappa Muthiah, 'Regional Arrangements and International Security in Southeast Asia: Going Beyond ZOPFAN', *Contemporary Southeast Asia* 12, no. 4 (1991): 269-305. <http://www.jstor.org/stable/42707631>. [https://www.researchgate.net/publication/267635471\\_Institutional\\_transformation\\_of\\_ASEAN\\_ZOPFAN\\_TAC\\_and\\_the\\_Bali\\_Concord\\_I\\_in\\_1968-1976](https://www.researchgate.net/publication/267635471_Institutional_transformation_of_ASEAN_ZOPFAN_TAC_and_the_Bali_Concord_I_in_1968-1976) [accessed 25 Nov 2018]

75. ASEAN Secretariat, *Zone of Peace, Freedom and Neutrality Declaration*, Malaysia, 27 November 1971, (1971)

76. Alagappa Muthiah op. cit., 270

77. Kei Koga, 'The Process of ASEAN's Institutional Consolidation in 1968-1976: Theoretical Implications for Changes of Third-World Security Oriented Institution', RSIS Working Paper No. 234 (2012).

78. See the analytical comments by Alagappa Muthiah op. cit., 274.

79. ASEAN Secretariat, *Treaty of Amity and Cooperation in Southeast Asia*, Indonesia, 24 February 1976. <https://asean.org/treaty-amity-cooperation-southeast-asia-indonesia-24-february-1976/>

80. Article 1.

Accordingly, the ASEAN members undertake “to cooperate in good faith to prevent disputes from arising and to refrain from the threat or use of force and to settle disputes among themselves through friendly negotiations.”<sup>81</sup>

The Treaty’s objective of Kantian-inspired perpetual peace, coupled with everlasting amity among the peoples of the region conveys the depth of commitment and the desire of the ASEAN Member States for peace in the region. It serves an important point of reference in the construction of a framework to promote regional peace and security, and further provides legally binding principles of conduct in Southeast Asia. While the Treaty did not establish any rigorous mechanism to address violations, it nonetheless created behavioural guidelines for members and contributed to the consolidation of a framework for peace.

### Treaty of Southeast Asia Nuclear Weapon-Free Zone (SEANWFZ Treaty) (1995)<sup>82</sup>

The treaty reaffirms the desire of the Southeast Asian States to maintain peace and stability in the region in the spirit of peaceful coexistence and mutual understanding and cooperation as enunciated in various communiqués, declarations and other legal instruments. Parties undertake not to develop, manufacture or otherwise acquire, possess or have control over nuclear weapons. They further undertake not to station nuclear weapons or test or use nuclear weapons anywhere inside or outside the treaty zone. With respect to their relationship with powers outside the region, the parties accept not to seek or receive any assistance to manufacture or acquire any nuclear explosive devices.

### Cha-am Hua Hin Declaration on the

### Roadmap for the ASEAN Community (2009- 2015)<sup>83</sup>

The Declaration is a comprehensive instrument that sets out details of the ASEAN Political-Security Community based on the following three key characteristics:

- Rules-based Community of shared values and norms;
- Cohesive, Peaceful, Stable and Resilient Region with shared responsibility for comprehensive security; and
- Dynamic and Outward-looking Region in an increasingly integrated and interdependent world.

The promotion of peace and security and the pacific settlement of disputes in the region are core values in the Roadmap.

### ASEAN Preventive Diplomacy Framework

A central element that underpins relations and indeed the success of ASEAN has been preventive diplomacy (PD). Adopted at the 7th and 8th Meetings of the ASEAN Forum, PD is defined to include the following elements;

- Helping to prevent disputes and conflicts from arising between States that could potentially pose a threat to regional peace and stability;
- To help prevent such disputes and conflicts from escalating into armed confrontation; and
- To help minimise the impact of such disputes and conflicts on the region. The three key objectives are augmented by eight key principles: reliance on diplomatic and peaceful methods; non-coercive; timeliness; trust and confidence; operates on the basis of consultation and consensus; voluntary; applies to conflict between and among States; to be conducted in accordance with universally recognised basic principles of international law and inter-state relations.

81. Article 13.

82. <https://asean.org/our-communities/asean-political-security-community/peaceful-secure-and-stable-region/southeast-asia-nuclear-weapon-free-zone-seanwfz>

83. [https://asean.org/?static\\_post=cha-am-hua-hin-declaration-on-the-roadmap-for-the-asean-community-2009-2015](https://asean.org/?static_post=cha-am-hua-hin-declaration-on-the-roadmap-for-the-asean-community-2009-2015)



## SEVEN

## ASEAN Regional Peace Actors

CSOs have been active in the ASEAN socio-political environment for several decades. Apart from their independent ASEAN community-wide operations, CSOs often engage with ASEAN Member States through various regional forums including the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC), ASEAN Forum on Migrant Labour, and ASEAN Civil Society Forums.<sup>84</sup> While the work of most CSOs by their nature contribute indirectly to creating conditions of positive peace, there are, however, a number of regional ASEAN-wide CSOs and non-governmental institutions that are directly engaged in the promotion of peace and reconciliation in the region. The presence and impact of these organisations are important elements in the ASEAN peace initiatives framework. References to these CSOs are made later in this report.

### ASEAN Institute for Peace and Reconciliation (ASEAN-IPR)

The ASEAN-IPR was established in pursuance of Article B.2.2 of the APSC Blueprint (2010-2015), which aims to “strengthen research activities on peace, conflict management and conflict resolution”.<sup>85</sup> In May 2011, ASEAN leaders formally adopted a Joint Statement on the Establishment of an ASEAN Institute for Peace and Reconciliation and subsequently

adopted the TOR for the Institute in 2012. In February 2018, Indonesia concluded a Host Country Agreement with Institute.<sup>86</sup> The Institute's mandate includes five main functions: research; capacity building; pooling of experts; networking; and dissemination of information.<sup>87</sup>

84. Forum meetings include: ASEAN People's Assembly (APA); Regional Consultation on ASEAN and Human Rights; ASEAN Civil Society Conference (ACSC)/ ASEAN Peoples Forum (APF); ASEAN Disability Forum.

85. ASEAN Secretariat; <https://asean-aipr.org/resources/apsc-blueprint-2009-2015/>

86. Agreement between the Government of the Republic of Indonesia and the ASEAN Institute for Peace and Reconciliation (ASEAN-IPR) on Hosting and Granting Privileges and Immunities to the ASEAN Institute for Peace and Reconciliation.

87. ASEAN -IPR Secretariat, <https://asean-aipr.org/what-we-do/>

## EIGHT

## Peace Education in ASEAN

There is a comprehensive range of peace education initiatives across the ASEAN region.

The main institutions and actors include:

### The ASEAN Universities Network

This is a network of 30 universities based in ASEAN Member States established to strengthen the foundations of a regional community and foster a shared sense of identity. The network integrates Human Rights Education (HRE) into its activities and aims to promote both human rights and research opportunities across the ASEAN region. The AUN-HRE initiative was launched in 2009 by the AUN Board of Trustees as a platform for collaboration and capacity building among member institutions. Its programmes also incorporate peace research as a key focus area.

### Southeast Asian Human Rights Studies Network (SEAHRN)

Established in 2009, the SEAHRN aims to mainstream human rights and peace through higher education and research. It promotes:

- Sustained collaboration amongst human rights and peace academics;
- Research activities and international conferences;
- Development of teaching and learning materials; and
- Establishing spaces for dialogue with stakeholders.

### Strengthening Human Rights and Peace Research and Education in ASEAN and Southeast Asia (SHAPE-SEA)

Launched in 2015, the SHAPE-SEA programme aims to contribute to the improvement of human rights and peace conditions in ASEAN/Southeast Asia through applied research and education. It focuses on the promotion of human rights and peace education and supports research on innovative and critical projects related to human rights and peace. Further, the programme explores the ways in which this knowledge is made accessible to university students throughout ASEAN and the region.

The programme is supported by the Swedish International Development Cooperation Agency (SIDA) and the Norwegian Centre for Human Rights (NCHR) and is based in Mahidol University in Thailand.<sup>88</sup> It conducts research and undertakes capacity building and outreach projects by bringing together participants across ASEAN and Southeast Asia.

88. <http://shapesea.com/>

## National Institutes and Centres for Peace Research and Education

### Thailand

- The Institute of Human Rights and Peace Studies (IHRPS), Mahidol University and the ASEAN University Network (AUN).
- Mahasarakham University's College of Politics and Governance provides an undergraduate program in human rights and peace studies.
- In addition, several universities have now set up centers on human rights and peace studies in the country, thus leading to increasing academic collaboration among universities at the national and regional levels.

### Cambodia

- Centre for Peace and Conflict Studies.
- Institute for Cooperation and Peace.

### Myanmar

- The Institute of Peace and Security Studies.
- Institute of Strategic and International Studies (Myanmar ISIS).
- The Myanmar Peace Centre.

### Malaysia

- Institute of Strategic and International Studies.

### Indonesia

- The Institute for Peace and Democracy (Udayana University).

### Philippines

- The Asian Peacebuilders Scholarship (APS), a Dual Degree Master of Arts Programme, is a shared initiative of The Nippon Foundation, the UN Mandated Peace University and Ateneo de Manila University. The objective of the programme is to train young Asian professionals to become peace building practitioners, ready to take up leading positions in organisations across the globe.<sup>89</sup>
- Peace studies at the Asia Graduate School of Theology.
- The Philippines Institute for Peace Violence and Terrorism Research.
- Master in Peace Studies (MPS), Silliman University.

### Singapore

- S. Rajaratnam School of International Studies at the Nanyang Technological University.
- International Conflict Analysis and Resolution at the Lee Kuan Yew School of Public Policy, National University of Singapore.

89. <http://old.upeace.org/academic/partnership-programmes/asia-peacebuilders-scholarship>

## NINE

## Country Reports on their National Policies and Initiatives

ASEAN Member States share the aspiration of “one vision, one identity, one community” and a demonstrated commitment to ASEAN principles, including the AHRD. However, Member States have diverse historical backgrounds. This in turn shapes their domestic constitutional and legal institutions, as well as their political perspectives. Each Member State’s approach to peace is therefore linked to its unique history and socio-cultural circumstances. Accordingly, the enabling environment for rights generally, and the drivers for peace initiatives, in particular, in each State are different.

In this section we examine the Member States’ national reports to identify the following:

- Policies and legislation with respect to peace;
- Cultural elements and drivers;
- Main peace actors;
- Peace education and public awareness of peace issues;
- Conflict resolution and pacific settlement of disputes;
- Bilateral treaties;
- Programs supporting a culture of peace; and
- Implementation initiatives.

### Singapore

The Constitution of Singapore mentions peace four times in relation to the maintenance of law and order and peaceful assembly. However, Singapore has adopted an approach to the right to peace that is “encapsulated in the idea of development.”<sup>90</sup> National policies, in this regard, are shaped by the country’s unique history and developmental experience in the last five decades. Positive peace-oriented policies focus on the following:

- Access to multiracial equality of space and dignity;
- The dignity of living in a physical home;
- Security of economic upliftment in tandem with national economic growth; and
- Meritocracy.

90. Singapore National Report, 3 April 2017.

### *Multiracial equality of space and dignity*

As a multi-racial society, Singapore pursues a policy of national social integration in which every ethnic group receives and exercises a "comfortable measure of social and physical space on a relatively crowded island state". The focus is on national harmony premised on respect for each group's legitimate right to coexist with others while practising very different cultures. The fundamental element of the Singapore economic approach is that peace is an "indispensable by-product of an inclusive wealth generating social system" that helps to minimise or remove the ethnic tensions that might otherwise undermine harmony.

### *The dignity of living in a physical home*

Another important element is the construction of a relationship between peace and the "fundamental longing of the human being to possess a roof over his or her head".<sup>91</sup>

While this addresses the human right to shelter<sup>92</sup>, the Singapore approach explains the link to peace in the following terms:

This physical ownership of a living space protects one from the physical elements. This space in turn delivers the next level of happiness understood in terms of organizing one's private space according to one's right to self-expression in terms of speech, physical decoration and acquisition of leisure facilities according to one's will.<sup>93</sup>

### *Security of economic upliftment in tandem with national economic growth*

The individual's economic upliftment is an essential condition to peace in society and a dividend from national economic growth. This is further explained on the basis that "material needs are never abstract. They are the basis for reinforcing the meaning of family and the guarantee of social and occupational mobility. With the physiological needs secured, human beings can contemplate the philosophical goals of life without the fear of disruption".<sup>94</sup>

### *Peace through meritocracy*

The notion of peace premised on meritocracy is innovative, especially given the level of corruption that frequently plagues many developing countries. The justification for the link between peace and meritocracy is that social and occupational mobility contributes to "individual self-fulfillment over time" and that when "a human being attains a sense of progressively adding experience to a career, and enjoying respect from peers in society, he or she achieves a level of contentment within the context of his or her self-identified society. Meritocracy is therefore about reconciling personal achievement within society",<sup>95</sup> ultimately helping to create a condition of harmony.

For Singapore, the national experience of the right to peace is located contextually within multiple variations of the traditional social contract between citizens and the State. Individuals can only be at peace if they are comfortable with, and respected by, their host society.

91. Ibid, 4.

92. 92 United Nations Conference on Human Settlements, or HABITAT II; Article 25 of the Declaration provides, "Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including ... housing"; International Covenant on Economic, Social and Cultural Rights: Article 11 recognises, "the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing" and that "States Parties will take appropriate steps to ensure the realization of this right".

93. Singapore Report 4.

94. Ibid.

95. Ibid.

## Myanmar

The preamble of the Myanmar Constitution provides that the State “shall stalwartly strive for further burgeoning the eternal principles, namely justice, liberty, equality and perpetuation of peace and prosperity of the National people.”<sup>96</sup> The preamble also declares that the State “will uphold the principles of peaceful co-existence among nations with a view to having world peace and friendly relations among nations”. In Article 21(c) under Basic Principles of the Union, every citizen has a responsibility for “public peace and tranquility and prevalence of law and order”.

Article 41 further refers to Myanmar’s international relations and provides that the Union “practices independent, active and non-aligned foreign policy aimed at world peace and friendly relations with nations and upholds the principles of peaceful co-existence among nations”.

Myanmar’s current political situation and community tensions define the country’s approach to peace institutions and related initiatives. In March 2018, the then President declared the Government’s commitment to:

- Rule of law and improvement of the socio-economic life of the people;
- National reconciliation and internal peace.

The judiciary and other state institutions are employed to assist in the pursuit of these commitments. In 2015, the Union also adopted the Law on Protection of Ethnic Rights to ensure that ethnic minorities obtain full constitutional rights, and to help promote peace in the Union.

As further commitment to protect the interests of ethnic minorities, the Union has established the Ethnic Literature and Culture Department and Ethnic Rights Protection Department to strengthen the national spirit and “develop the

socio-economic situation of...ethnic nationals by maintaining and raising ethnic literature and culture” and to secure full rights for ethnic nationals respectively.<sup>97</sup>

### *Main peace actors*

The main peace initiatives and actors in the country include:

#### **The Forum on Sustainable Development of Ethnic Nationals**

- Organised in Naypyitaw in January 2018, the forum focused on economic development, peace and ethnic national media, and sharing of ethnic national resources. The outcome was the establishment of the Ethnic Entrepreneurs Association in the Republic of the Union of Myanmar Federation of Chambers of Commerce and industry in Yangon.<sup>98</sup>

#### **Pyi Daung Su Institute for Peace and Dialogue**

- The Institute was founded in 2013 with the aim of building a just, democratic and pluralistic society in Myanmar. Its purpose is to provide research and documentation support to all stakeholders involved in the peace process and political transition in Myanmar.

#### **Alliance for Gender Inclusion in the Peace Process (AGIPP)**

- Formed in August 2014, AGIPP is a civil society alliance formed by national organisations and networks working on women’s rights, gender justice and peace and security processes.<sup>99</sup> AGIPP has two central goals: (1) to increase the number of women substantively participating in the peace process, including negotiations and implementation arrangements; and (2) to ensure gender perspectives and priorities are included across the agenda of peace talks, agreements and implementation strategies.

96. Constitution of the Republic of the Union of Myanmar (2008)

97. Myanmar, National Report, March 2018.

98. Ibid.

99. The members are: the founding members include: the Gender and Development Institute (GDI), Gender Equality Network (GEN), Kachin State Women’s Network (KSWN), Mon Women’s Network (MWN), Nyein (Shalom) Foundation, Women’s League of Burma (WLB), Women’s Organisation Network (WON), and Women and Peace Action Network (Shan State).

## National Solidarity and Peace-Making Negotiation Committee (NSPNC)

- NSPNC has been holding formal and informal meetings and peace initiatives that are personally led by the Chairman of the State Administration Council, inviting leaders of Ethnic Armed Organisations (EAOs) for negotiations since February 2021. In the period between May 2022 and February 2023, three rounds of talks took place at the leadership level, agreeing on four points: to cooperate for the prevalence of law and order; to work for the Democratic Federal Union; to implement a Multi-party Democratic System through free and fair general elections; and to cooperate for peace and progress of the State. By August 2023, 119 rounds of talks were held.

### *Peace education and public awareness of peace issues*

As part of the effort to ease community tensions in the country, Myanmar hosted Peace Talks with local people in different locations across the country. The purpose of these talks is to inspire and motivate people to think of how they can spread peace in their communities and the role they each play, and thus contribute to this end. This thinking is the start towards unity and peace.

### *Peace and ceasefire dialogues*

The Union has also established or adopted several other peace initiatives to address the ongoing ethnic tensions. The initiatives include:

- The Nationwide Ceasefire Agreement (NCA)
- Union Peace Dialogue Joint Committee (UPDJC)
- Joint Ceasefire Monitoring Committee (JMC), as its name implies, is responsible for ceasefire monitoring and implementation, functioning at the Union, state and local levels.
- Union Peace Conference - 21st Century Panglong
- National Reconciliation and Peace Centre (NRPC)
- Ethnic national political talks

Myanmar's recent history and current ethnic tensions pose significant challenges to the country as it transitions into a peaceful society. While the Union has adopted several dialogue-oriented initiatives to deal with ethnic tensions, nationwide peace as such remains problematic.

## Cambodia

### *The Win-Win Policy*

Having emerged relatively recently from a period of prolonged conflict and civil war that saw a total destruction and the breakdown of almost all social infrastructure including education, health and social protection services, Cambodia is a post-conflict society transitioning to peace. The transition involves a management strategy that allows the Khmer Rouge (KR) to be reintegrated into the society without recriminations for their role in the civil war.

The centerpiece of this management strategy is the Win-Win Policy adopted by Prime Minister Hun Sen. First developed in 1998, the Win-Win policy is premised on "shared prosperity in peacetime."<sup>100</sup> Under the policy, in return for defection, Khmer Rouge forces were given three main concessions:

- Khmer Rouge soldiers were allowed to maintain their military ranks in the Cambodian Royal Armed Forces;
- their properties were not to be confiscated; and
- their personal safety was to be protected.

The policy was credited with convincing Khmer Rouge rebels to drop their arms and accept a unified government in the 1990s. The rationale and spirit of the Win-Win policy underpins other current peace initiatives in Cambodia.

The essence of the policy is to grant or make concessions to former enemy combatants for peace in the national interest. The policy has laid the foundation for both peace and stability in the country.

100. For detailed study of the Win-Win Policy, see Ly Sok-Kheang *The Reconciliation Process in Cambodia: 1979-2007*

In addition to the Win-Win Policy, Cambodia has several institutions that promote peace and human rights initiatives. The Human Rights Protection and Complaints Handling Committee of the National Assembly and Senate is one of 10 committees of the National Assembly and Senate and has the mandate to protect human rights. The Cambodian Human Rights Committee is also tasked to investigate and gather information related to the enforcement of human rights in preparation of relevant reports. The Criminal Code 2009 prohibits incitement to racial discrimination or hatred, as stated under Articles 494, 496 and 497.

### *Peace actors*

The Ministry of National Defense and the Ministry of Interior are the main actors in maintaining peace and national security. Besides these two main actors, other national institutes also play a vital role to protect and maintain peace in Cambodia. The Government provides an enabling environment for NGOs and relevant associations. Currently, Cambodia hosts several civil society organisations, media organisations and trade unions that are active in the country.

### *Conflict Resolution and Pacific Settlement of Disputes*

Following the fall of the Khmer Rouge regime in January 1979, Cambodia used a variety of external agencies to help deal with cases as part of its peace initiatives.

## **Viet Nam**

The Constitution of Viet Nam makes several references to peace. The country purses a diplomatic policy of independence, autonomy, peace, friendship, cooperation and development.<sup>101</sup> It seeks to contribute to the cause of peace, national independence, democracy and social progress in the world.<sup>102</sup> It supports granting asylum to foreigners who are at risk due to their struggle for freedom, national independence,

socialism, democracy and peace, or scientific work.<sup>103</sup> The country also aims to contribute to the protection of peace in the region and in the world.<sup>104</sup>

Human rights are a key component of the Constitution. Chapter II lists all civil, political, and cultural human rights found in international conventions and mentions the rights of vulnerable groups, old people, women, and children. It stipulates the right to live and to enjoy cultural values, freedom to choose a language for communication, and to live in a healthy environment.

Viet Nam does not have specific peace education programmes. However, there are projects and programmes that include education about the laws and regulations related to human rights and peace, and the history of peace protection. Educational institutions also organise contests on the understanding of the law on human rights. There are publications on cases that reflect the efforts of different state agencies in ensuring the promotion and protection of human rights.

Peace involves equitable, participatory and stable political institutions that guarantee diversity and minimal standards of well being and protection for the vulnerable. Accordingly, as part of its peace architecture, Viet Nam fosters an enabling environment for CSOs. Viet Nam views CSOs as contributing to help disadvantaged and vulnerable groups and working in partnership with the State to lay the foundations for social equity and peace.

Viet Nam today is a relatively peaceful society. The Constitution and supporting national policies have formed the basis for economic growth with benefits for ordinary Viet Namese. The country is among the best-performing nations on poverty reduction. Among the eight Millenium Development Goals (MDGs), Viet Nam achieved impressive results with the eradication of extreme poverty and hunger, surpassing the target set. In fact, the country achieved its MDG targets before the deadline.

101. Art. 12.

102. Ibid.

103. Art. 49.

104. Art. 64.



## Philippines

The preamble to the Constitution of the Philippines, adopted after the People Power Revolution mentions truth, justice, freedom, love, equality, and peace. Philippines accepts “principles of international law as part of the law of the land and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations”.<sup>105</sup> The Constitution also states that the “maintenance of peace and order, the protection of life, liberty, and property, and the promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy”.<sup>106</sup>

The Constitution includes provisions on civil and political rights in Article III under the Bill of Rights. Economic, social and cultural rights are recognised in several Articles including: Article XII on National Economy and Patrimony; Article XIII on Social Justice and Human Rights including Labour, Agrarian and Natural Resources Reform, Urban Land Reform and Housing, Health, Women and Rights of People's Organisation; Article XIV on Education, Science and Technology, Arts, Culture and Sports; and Article XV on the Family. Article II on the Declaration of Principles and State Policies also expresses the Philippines' commitment to guarantee full respect for human rights. The Constitution enabled the creation of a Commission on Human Rights (CHR) as the State's independent human rights institution, following the Paris Principles, to oversee the implementation of these rights.

While the Constitution provides a general framework for the right to peace, the country's peace architecture is shaped in part by its history and persistent armed conflicts at three levels, namely, local communist insurgents under the banner of the Communist Party of the Philippines (CPP), New People's Army (NPA) and the National Democratic Front (NDF); Muslim separatists in Southern Philippines; and even seemingly random terrorist groups in Southern Philippines, which have

become the operating ground for 23 terrorist groups linked to the Islamic State of Iraq and Syria (ISIS).<sup>107</sup>

The 1987 Philippine Constitution, which was adopted after the People Power Revolution, incorporates an array of human rights provisions.

### *The peace process and conflict management measures*

Acknowledging that armed conflicts pose a serious threat to national peace, conflict management has become a central focus of the Philippines' comprehensive peace process. These efforts are guided by three core principles:

1. **Peaceful negotiated settlement with each group:** This component involves the conduct of face-to-face negotiations to reach peace settlement with the different rebel groups. It also involves the effective implementation of peace agreements.
2. **Programmes for reconciliation and reintegration into mainstream society and rehabilitation:** This component includes programmes that address the legal status and security of former rebels, as well as community-based assistance programmes to address the economic, social and psychological rehabilitation needs of former rebels, demobilised combatants and civilian victims of internal armed conflicts.
3. **Addressing concerns arising from continued armed hostilities:** This component involves the strict implementation of laws and policy guidelines, and the institutionalisation of relevant programmes that ensure the protection of non-combatants and reduce the impact of armed conflict on communities living in conflict areas.

<sup>105</sup>. Art. II(2)

<sup>106</sup>. Art. II(5)

<sup>107</sup>. The Country Report lists the following groups: These groups are as follows: Abu Sayyaf Group (Basilan faction), Abu Sayyaf (Sulu faction), Bangsamoro Islamic Maute Group, Ansar Dawiah Fi Filibbin, Rajah Solaiman Islamic Movement, Al Harakatul Islamiyah Battalion, Jama'at Ansar Khilafah, Ansharul Khilafah Philippines Battalion, Bangsamoro Justice Movement, Khilafah Islamiyah Mindanao, Abu Sayyaf Group (Sulu faction), Syuful Khilafah Fi Luzon, Ma'rakah Al-Ansar Battalion, Dawla Islamiyah Cotabato, Dawlat Al Islamiyah Waliyatul Masrik, Ansar Al- Shariyah Battalion, Jamaah al-Tawhid wal Jihad Philippines, Abu Dujanah Battalion, Abu Khubayn Battalion, Jundallah Battalion, Abu Sadr Battalion, Jamaah Al Muhajirin wal Anshor, and Balik-Islam Group.

Further, the following peacebuilding and conflict management pathways complement these principles:

1. **Pursuit of social justice and economic and political reforms:** This involves the vigorous implementation of various policies, reform measures, programmes and projects aimed at addressing the root causes of internal armed conflict and social unrest.
2. **Consensus-building and empowerment for peace measures:** This includes continuing consultations at both national and local levels to build consensus for a peace agenda and process, and the mobilisation and facilitation of peoples' participation in the peace process.
3. **Building and nurturing a climate conducive to peace:** This refers to peace advocacy and peace education programmes, and the implementation of various confidence-building measures.

### *Institutions that implement international human rights instruments*

The Philippines has several institutions that oversee the implementation of international human rights instruments. Under the supervision of the Presidential Human Rights Committee, the State's treaty compliance is assigned to specific lead agencies.<sup>108</sup> The Department of Justice (DOJ), mandated to implement the International Covenant on Civil and Political Rights (ICCPR), chairs an inter-agency committee that addresses cases of extrajudicial killings, enforced disappearances, torture, and other violations to the right to life and liberty, and the movement and resolution of these cases, thereby addressing allegations of impunity. The Anti-Torture Act of 2009 and the Anti-Enforced or Involuntary Disappearance Act of 2012 both complement this mechanism. The DOJ further implements an Access to Justice Programme that prioritises the poor who seek justice.

In addition to this, the Department of the Interior and Local Government (DILG) oversees the implementation of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), and leads the Philippine OPCAT Working Group which has been crucial in pushing for the ratification of the Optional Protocol to the CAT and, the establishment of the National Preventive Mechanism as required under the said instrument.<sup>109</sup>

### *Local mechanisms advancing the peace process<sup>110</sup>*

The Office of the Presidential Adviser on Peace, Reconciliation, and Unity that leads the government peace actors in the implementation of the Comprehensive Peace Process, especially in managing, directing, integrating, and supervising the same and playing an indispensable role in promoting reconciliation, fostering inclusive dialogue, and reinforcing national unity across the country.

Furthermore, these are some of the peacebuilding programmes as pursued by government peace actors:

#### **1. Payapa at Masaganang Pamayanan (PAMANA) programme**

As the government's peace and development convergence programme, PAMANA addresses the root causes of conflict by delivering development interventions to remove, conflict-affected, and vulnerable communities. It focuses on redressing historical injustices, empowering communities, and implementing peace-promoting socioeconomic initiatives. All interventions are anchored in conflict-sensitive and peace-promoting principles, contributing to both development and social cohesion.

108. Severo Catura, Philippines Country Report, June 2017.

109. Ibid.

110. This section was updated by the Philippines Representative to AICHR by letter to the AICHR Chair dated 20 May 2025.

## 2. Enhanced Comprehensive Local Integration Program (E-CLIP)

E-CLIP is a flagship, community-based reintegration initiative for former rebels. It offers a holistic package of support – including legal, psychosocial, educational, health, housing and livelihood assistance – to enable their sustainable return to civilian life. Grounded in a Whole-of-Nation Approach, the programme promotes collaboration among national and local governments, civil society, and communities to address the root causes of armed conflict and facilitate peaceful reintegration.

## 3. Localised Peace Engagement (LPE)

The LPE framework provides a contextualised and inclusive mechanism for engaging with local insurgent groups. By enabling direct communication with rebel returnees and community stakeholders at the grass-roots level, LPE ensures tailored, community specific solutions to long-standing grievances. This approach supports local driven peacebuilding efforts and ensures that responses are grounded in the lived realities of affected communities.

## 4. Peace Education Initiatives

The Department of Education (DepEd) has reaffirmed its commitment to peace education through the roll-out of the MATATAG Curriculum, launched in August 2023. To support this, DepEd established a National Technical Working Group (NTWG) on Peace Education, tasked with strengthening the institutionalisation and integration of peace education across the basic education system. This initiative seeks to instill the values of nonviolence, tolerance, and understanding among young Filipinos from an early age.

## Lao PDR

### *General framework*

Lao PDR places significant emphasis on the promotion and protection of the right to peace, both domestically and internationally. The country acknowledges the interconnected nature of human rights and acknowledges that the full realisation of the right to peace hinges on the promotion and protection of other fundamental rights. The key measures to promote the right to peace includes the following:

1. **Strengthening the justice sector:** Ensuring the rule of law and good governance is a cornerstone of peace promotion, and prioritising the strengthening of the country's justice sector as a key measure.
2. **Conflict prevention:** By actively addressing potential sources of conflict and advocating for equality and non-discrimination, Lao PDR seeks to achieve negative peace and foster an environment of tolerance, dialogue, cooperation, and solidarity.
3. **Ensuring freedom from want:** Social and economic development plans, poverty reduction activities, and targeted responses to challenges in national socio-economic development contribute to the pursuit of positive peace and the realisation of the right to be free from want.

### *Peace education and international engagement*

Lao PDR promotes peace education and related concepts, including human rights, to foster a culture of peace within the country. Additionally, Lao PDR actively engages with the regional and international community to advocate for the right to peace on a global scale.

### *Policies and legislation in respect of peace and human rights*

Lao PDR's policies and legislation in respect of the right to peace are shaped by the country's unique political history and culture. In line with its national slogan of building a nation "of the people, by the people, and for the people", the Lao PDR government prioritises the promotion and protection of human rights. The government consistently works to create a strong legal framework that enables citizens to enjoy a full range of rights, including political, civil, economic, social, and cultural rights, by integrating these rights into the Constitution and laws. As part of its efforts to foster a culture of peace, the Lao PDR government actively promotes conflict resolution among individuals, groups, and nations through peaceful means such as dialogue and negotiation. This commitment is reflected in various domestic laws, including the Labour Law, the Law on Investment Promotion, and the Law on Economic Dispute Settlement.

In addition to these initiatives, the government has adopted the Decree on the Mediation of Disputes at the Village Level, which encourages disputing parties to address conflicts at the grassroots level before escalating them to higher authorities. Internationally, Lao PDR recognises that friendly relations and the absence of threats to peace and security are essential for national development. Consequently, the country's foreign policy emphasises peace, independence,

friendship, and cooperation. The Constitution supports global struggle for peace, national independence, democracy, and social progress, further highlighting the country's commitment to international peace and stability.

### *Peace education and awareness raising*

The Lao PDR government acknowledges the importance of peace education in fostering a culture of tolerance, dialogue, cooperation, and solidarity. Although no specific peace study course is currently available in the curriculum, law students are taught subjects indirectly related to peace promotion, including peaceful conflict resolution concepts, and approaches within various laws such as the Law on Investment Promotion, the Law on Labour, and the Law on Economic Dispute Resolution. Some private colleges offer conflict management courses for students.

Lao PDR places a strong emphasis on human rights education and research. The Ministry of Education and Sports has developed a human rights education curriculum, and a Human Rights Unit has been established at the Faculty of Law and Political Science of the National University.

### *Promoting and protecting the Right to Peace at the international level*

To address threats to national and international peace and security, Lao PDR has actively participated in regional and global efforts to uphold these principles. The country has ratified and acceded to various treaties aimed at promoting peace and security, including the Treaty on the Prohibition of Nuclear Weapons and the TAC. It has also engaged in global initiatives to combat terrorism, climate change, natural disasters, and communicable diseases.

## *Main peace actors*

### **The Lao Government**

The Lao PDR government is tasked with maintaining peace and order in society in accordance with the Constitution and relevant laws. It ensures and promotes the right to peace by developing legal frameworks, strategies, and plans, as well as implements development projects and poverty reduction programmes to guarantee that all citizens can enjoy this right along with other fundamental rights.

### **Political and community organisations**

Political organisations such as the Lao Front for National Construction and mass organisations also play a crucial role in fostering unity among the diverse ethnic groups, encouraging participation in socio-economic development, and effectively implementing laws and regulations. They are dedicated to advancing self-determination and protecting the rights and interests of their members.

### **Key human rights agencies**

The Lao PDR government has established several key human rights agencies that are instrumental in promoting and safeguarding human rights, including the right to peace. These agencies include the National Steering Committee on Human Rights (renamed the National Committee on Human Rights in 2020), the National Commission on the Advancement of Women and Children, the National Committee for Persons with Disabilities and the Elderly, the National Steering Committee on Anti-Human Trafficking, the National Committee for

Rural Development and Poverty Alleviation, and the National Committee Against Human Trafficking. These agencies operate at both central and local levels, integrating state policies and legislation into various action plans, such as the five-year plans on gender equality, women's advancement, and the prevention of violence against women and children.

### **Civil Society Organisations**

CSOs and NGOs also contribute to the promotion of human rights, including the right to peace, in the Lao PDR. Recognised for their focus on specific human rights issues and their ability to reach vulnerable and remote populations, CSOs and NGOs are vital partners. Given Lao PDR's status as a least developed country with limited financial and technical resources, these organisations provide essential support for human rights projects.

While significant progress has been made, challenges remain. Geographical constraints, social issues such as poverty and corruption, and external factors such as climate change and global crises, continue to impact the realisation of the right to peace. Addressing these challenges requires ongoing collaboration between government bodies, international organisations, and civil society.

Overall, the Lao PDR's multi-faceted approach to promoting the right to peace, involving various actors and aligning with international standards, reflects a comprehensive and committed strategy. Continued cooperation and innovation in addressing the remaining obstacles will be crucial for fully realising the right to peace for all citizens.

## Malaysia

The Constitution of Malaysia mentions peace in three sections,<sup>111</sup> however, the right to peace as such is not mentioned. The Constitution and various laws and regulations protect rights in relation to peace, for example, the Constitution guarantees the right to peaceful assembly and association, while the Peaceful Assembly Act 2012 regulates public protests.

Highlighting Article 38, the country report for Malaysia discusses the definition of the right to peace and notes that “In implementing Article 38 of the AHRD, States must be mindful of the position of international human rights law on the relations between rightsholders and the government.”<sup>112</sup> The report concludes with recommendations that AICHR:

- a. Collaborate with the ASEAN-IPR to adopt a common ASEAN declaration or document to interpret Article 38 of the AHRD and elaborate its meaning.
- b. Adopt a common position and/or approach to interpret, and elaborate on, the other rights in the AHRD. This would enable ASEAN to fully operationalise the right to peace in Article 38 of the AHRD.<sup>113</sup>

### Peace actors

Several organisations actively promote peace in Malaysia, thus serving as peace actors. These include:

#### Global Peace Foundation Malaysia

- A non-profit organisation that promotes peace and understanding through education, leadership development, and community building.<sup>114</sup>

#### Global Peace Mission Malaysia

- A coalition of NGOs working to promote peace and justice in Malaysia and internationally.<sup>115</sup>

#### Universal Peace Federation of Malaysia

- A global network of individuals and organisations dedicated to promoting peace and understanding.<sup>116</sup>

#### Women's Federation for World Peace

- This is a global organisation that promotes women's leadership and empowerment in the pursuit of peace.<sup>117</sup>

#### Champions for Peace

- This is a programme run by the Kofi Annan Foundation that supports young people in their efforts to promote peace and understanding.

### Peace education

#### Peace Education Programmes

Malaysia offers peace education hosted by multiple institutions that include:

- Peace Education Centre
- Peace Education Program at Taylors University, Subang Jaya
- MySkills Foundation, Kalumpang, Selangor
- Malaysian Scouts Association Headquarters
- Pelitacom, Subang Jaya

111. Articles 2,3 and 10.

112. Country Report, pg. 3.

113. Ibid, pg. 8.

114. <https://globalpeace.org.my/>

115. <https://gpm.com.my/>

116. <https://www.upfmalaysia.org.my/>

117. <https://www.wfwpmalaysia.org/our-activities/>

## Thailand

### *Background and context*

The military coup in Thailand aimed to bring peace after years of political conflict, forming the National Council for Peace and Order (NCPO). Despite efforts to uphold human rights and peacebuilding, barriers hinder progress. The 1997 Constitution marked a breakthrough, guaranteeing rights like education, assembly, and creating key institutions. Decentralisation empowered local governance. These steps pave the way for a right to peace framework, strengthening human rights bodies and checks and balances. The Human Rights Commission played a vital role in educating the public and promoting peaceful coexistence. However, political conflicts pose a challenge, escalating violence and impacting many lives. Thailand faces the task of navigating these complexities to achieve lasting peace and uphold human rights for all.

### *Policies in relation to peace*

Human rights for Thai citizens are protected under the 2017 Constitution, ensuring dignity, liberties, and equality. The Constitution includes 24 sections guaranteeing rights like life, freedom of movement, and freedom of expression. However, rights are limited by state security and public order. The 4<sup>th</sup> National Human Rights Plan (2019-2023) aims for a peaceful society by promoting rights, freedoms, and equality. It focuses on 11 human rights dimensions, including politics, governance, security, and community rights. The Thai government made human rights a national agenda for 2018-2019 under the Thailand 4.0 Policy. The 20-year National Strategic Plan (2018-2037) emphasises peace through security strategies for the Southern Border Provinces and regional levels. It also aims to reduce inequality and promote social justice. The National Reform Plan on Politics includes peace, non-violence, and human rights education. However, implementation challenges remain, given Thailand's high income inequality and unresolved political and violent conflicts.

### *Peace education and education for peace*

Peace education and studies have gained ground in Thai universities since the late 1980s. Early initiatives like the 1986 International Conference on Peace Studies and Conflict Resolution at Chulalongkorn University paved the way for centres like Thammasat University's Peace Information Center (1988) and Khon Kaen University's Institute of Dispute Resolution (1995). These centres focus on promoting peace and non-violence.

The establishment of the Institute of Human Rights and Peace Studies at Mahidol University in 1998 marked a significant milestone, with the introduction of Master's and Doctoral programmes in human rights and peace studies.

Following the outbreak of violence in Thailand's Deep South in 2004, the Thai government, through a 2005 Cabinet resolution, encouraged universities to establish peace studies centres and integrate peace and non-violence education into their curricula. This led to the creation of institutions like the Research Center for Peace Building at Mahidol University, the Center for Peace and Conflict Studies at Chulalongkorn University, and the Peace Studies Institute at Prince of Songkhla University. Several universities also launched peace studies programmes, such as Valai-Alongkorn Rajabhat University's MA in Integrated Conflict Management and Prince of Songkhla University's MA in Conflict and Peace Studies.

Despite these advancements, peace and human rights studies in Thai universities have faced challenges. Between 2014 and 2018, five degree programmes were closed or suspended due to low enrolments and the subsequent lack of job opportunities. However, while there are only nine degree programmes in human rights and peace across five universities, the number of courses on these topics have increased significantly.

From 30 universities offering such courses in 2013, the number rose to 70 universities in 2018, offering over 200 courses. These courses cover a range of issues, including human rights law, fundamental rights, human security, peace studies, and conflict management.

Beyond academic programmes, several institutions offer peace and human rights education for professionals. The King Prajadhipok Institute, a parliamentary think tank, provides certification courses for professionals on peace and human rights. The Rotary Peace Center at Chulalongkorn University offers an international fellowship programme for professionals to learn about emerging peace and conflict issues.

The National Human Rights Commission of Thailand (NHRCT) has played a vital role in promoting human rights education by establishing six regional Centers for Human Rights Studies and Coordination and collaborating with over 50 universities nationwide.

Furthermore, online learning platforms and CSOs have contributed to the dissemination of knowledge on peace and human rights. YouTube channels like Textbooks Project, Library NHRCT, Thai Civic Education, Amnesty Thailand, and South Deep provide information on topics related to these issues. The creation of over 70 short films on human rights by school and university students, and 24 short films on peace and conflict between 2014 and 2018, showcase student engagement with these topics and their use of technology to raise awareness. The Friendly Quarrel Project, supported by the Sirindhorn Anthropological Center, highlights the positive influence of such initiatives.

CSOs like Amnesty International Thailand, Internet Law Reform Dialogue (iLaw), Thai Volunteer Service (TVS), the Sirindhorn Anthropological Center, and Book Republic have actively promoted human rights education through various projects and initiatives, including workshops, training programmes, and human rights clubs.

These developments demonstrate a growing awareness of peace and human rights in Thailand, driven by a commitment to peaceful coexistence and a desire to address social issues through education, research, and civic engagement.

### *Online education*

Online education has brought new opportunities for learning about human rights and peace outside of traditional classroom settings. Platforms such as YouTube host various channels dedicated to this educational content, including the Textbooks Project, Library NHRCT, Thai Civic Education, Amnesty Thailand, and South Deep Outlook. In the past five years, the number of short films on human rights and peace made by students and uploaded to YouTube has significantly increased. Additionally, CSOs and the NHRCT have been actively engaging with academic institutions to promote human rights education. Multiple institutions, such as Chulalongkorn University and Thammasat University, have signed agreements with NHRCT to develop comprehensive strategies for human rights education. Various organisations including Amnesty International Thailand and Internet Law Reform Dialogue, have also been involved in human rights education initiatives, fostering a culture of human rights awareness and advocacy among students and young professionals.



### *Partners in building peace and protecting rights*

Thailand, as a member of ASEAN and the international community, has ratified several treaties and is committed to promoting human rights. It is a signatory to eight out of nine key international human rights treaties, including those addressing racial discrimination, civil and political rights, economic and social rights, women's rights, torture, children's rights, and the rights of People with Disabilities (PwDs). Thailand has also signed the International Convention for the Protection of All Persons from Enforced Disappearance.

Beyond international commitments, Thailand has established various governmental mechanisms to promote human rights within the country. These include the National Anti-Corruption Commission, the Ombudsman, the Law Reform Commission, and committees within the Senate focusing on good governance, human rights, and justice.

While Thailand demonstrates commitment to human rights and peace, challenges remain. The country has faced political turmoil and conflict in the deep south, highlighting the ongoing tension between promoting human rights and achieving peace. The experience has shown that simply establishing institutions and policies is not enough. Public awareness and active participation are crucial to build a "culture of human rights" and a "culture of peace", ensuring that human rights and peace are integrated into daily life.

### Indonesia

The concept of the right to peace is consistent with the spirit underlying the birth of Indonesia as a nation. Since the beginning, the struggle for independence has reflected the idea of the right to peace that was enshrined in many provisions of the Constitution, safeguarding the rights of citizens. The Constitution's preamble mentions the State's contribution to the "establishment of a world order based on freedom, abiding peace and social justice."<sup>118</sup> In addition, various international norms adopted into Indonesian laws have also contributed further to the development of the right to peace in the country. Today, the Constitution provides a general framework for the right to peace.<sup>119</sup> But despite the framework, it does not necessarily mean that the right to peace can be consistently implemented. The problem arises from the contradiction between the role of the Constitution as a regulating framework and the Constitution as an instrument for nation-building, leaving a gap between the framework and its implementation.

118. [https://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---ilo\\_aids/documents/legaldocument/wcms\\_174556.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_174556.pdf)

119. The general framework for the right to peace in this report refers only to the UUD 1945. Apart from the UUD 1945, Indonesia had two other Constitutions in its history, that is, the Federal Constitution of 1949 (Konstitusi RIS 1949) and the Provisional Constitution of 1950 (Undang Undang Sementara 1950 or UUDS 1950). Two reasons underlie the focus on the UUD 1945. First, it was the first constitution drafted as soon as Indonesia gained its independence in which the spirit of the struggle for independence was very strong. Second, it has been serving as the Indonesian Constitution for the most part of Indonesian history, until today and, therefore, has more significant impacts on the life of Indonesians.

TEN

## Conclusions on the Existing Peace Framework

The existing ASEAN framework for peace in the region has been relatively effective, particularly for conflict prevention, and to some degree, conflict management. The framework comprises instruments such as the ASEAN Human Rights Declaration, ZOPFAN, the TAC, the SEANWFZ Treaty. Indeed, the work of the ASEAN Troika further complements these instruments. For three decades, the ASEAN region has been relatively free from any major international conflicts. In the few instances where there have threats of conflicts or internal strife, the existing framework has provided the basis for ASEAN's intervention, as was the case in Myanmar. ASEAN has consistently engaged with Myanmar in search of durable peace with respect to its ethnic conflicts and a solution to the refugee crisis.<sup>120</sup> The success of the framework has been largely due to ASEAN Member States' acceptance of it as the normative basis for their conduct in the region. In other words, in any potential conflict the framework now provides guidance for the conduct of Member States.

The approach by individual Member States on the issue of peace in their domestic legal system is varied and is generally determined by their respective historical background and specific internal socio-economic and political conditions. Most States' constitutional and other legislative instruments only deal with peace within the context of law and order, rather than through a recognition of a right to peace as such. All Member States, however, are signatories to core United Nations human rights instruments.

High-level peace actors, peace centres and networks in educational institutions in the region help to complete the architecture of the existing peace promotion framework. By their very nature, educational institutions play a central role in developing a culture of peace through various programmes and have been active in the ASEAN region.

120. Following a request by Malaysia, Myanmar called a special informal meeting with ASEAN foreign ministers in Yangon in December 2016 to discuss international concerns over the situation. Myanmar committed to providing regular updates on the crisis to fellow ASEAN members and possibly working with them to coordinate aid efforts. See the analysis and comments by Richa Shivakoti, 'ASEAN's Role in the Rohingya Refugee Crisis', GlobisAsia National University of Singapore, <https://lkyspp.nus.edu.sg/gia/article/asean-s-role-in-the-rohingya-refugee-crisis>

What is commonly known about ASEAN is that it is an “intergovernmental organisation aimed primarily at promoting economic growth and regional stability among its members.”<sup>121</sup> This view is consistent with the purposes of the Association set out in the ASEAN Declaration:

To accelerate the economic growth, social progress and cultural development in the region through joint endeavours in the spirit of equality and partnership in order to strengthen the foundation for a prosperous and peaceful community of South-East Asian Nations.<sup>122</sup>

While the Declaration, in fact, goes on to mention the promotion of “regional peace and stability through abiding respect for justice and the rule of law in the relationship among countries of the region”,<sup>123</sup> this point usually receives less attention.

What emerges from our study is that ASEAN is fundamentally about peace. It is, first and foremost, about the promotion of peace and stability as the essential infrastructure for economic progress and prosperity in the region. Without peace and stability, economic progress and prosperity are elusive. In other words, progress and prosperity are dividends from peace and stability. This underscores the significance of the inclusion of the right to enjoy peace in the AHRD.

ASEAN's focus on peace has been based on cooperation between Member States and the need for the peaceful settlement of disputes. The inclusion of the right to enjoy peace in an instrument that is individual-oriented adds a new dimension. How can this right be managed to benefit the people of the ASEAN region? We examine this in the next section of our report.

121. World Economic Forum, <https://www.weforum.org/agenda/2017/05/what-is-asean-explainer/>

122. ASEAN Secretariat, ASEAN Declaration, Article 2(1). <https://asean.org/the-asean-declaration-bangkokdeclaration-bangkok-8-august-1967/>

123. *Id.*, Article 2(2).

## ELEVEN

# Implementation of the Right to Enjoy Peace

## The Legal Status of the AHRD

The AHRD is not a legally binding declaration.<sup>124</sup> The instrument is meant to be part of an evolutionary process towards the adoption of a binding treaty on human rights in the future.<sup>125</sup> The instrument is nonetheless important in the human rights discourse in the ASEAN region. Importantly, it was AICHR's first significant effort at human rights standard-setting for the region.

While it does not create enforceable rights, it is argued that the contents of the Declaration constitute soft law<sup>126</sup> in ASEAN relations. Hence while the AHRD is not binding in a formal sense, it has a "compliance effect" with adverse reputational consequences for violations of its provisions. Having committed themselves to its provisions, Member States are expected to be guided by the AHRD in their conduct. Another reason for its significance is that for the most part, the provisions of the Declaration are restatements of obligations in core United Nations human rights instruments which have been accepted by the ASEAN Member States. In this regard, it is worth noting that in Article 10 of the AHRD, Member States "affirm all the civil and political rights in the Universal Declaration of Human Rights". Similarly, in Article 26, they "affirm all the economic, social and cultural rights in the Universal Declaration of Human Rights".

As noted earlier, the AHRD introduces novel rights not found in core human rights instruments. The right to enjoy peace is one of these novel rights.

## Defining the Status of the Right to Enjoy Peace in ASEAN

As a novel right in a non-binding Declaration, what is the status of the right to enjoy peace in ASEAN? As noted earlier, the AHRD has the status of soft law in the ASEAN framework. It follows that the right to enjoy peace too has the status of soft law, as an integral part of the AHRD. The idea of soft law is that while not legally binding, Member States would still be required to respect and uphold these rights in both their conduct and the formulation of policies and legislation, to reflect their commitments in the AHRD.

While the ASEAN peace architecture is generally focused on interstate relations, the inclusion of the right to peace in the AHRD considers the individual element: "[e]very person and the peoples of ASEAN have the right to enjoy peace within an ASEAN framework of security and stability, neutrality and freedom". Rights have corresponding obligations. Unlike other ASEAN instruments such as TAC or ZOPFAN, the rights and related "soft obligations" concern a direct relationship between Member States and the individual person in their jurisdictions. That is, the benefits arising from the right to enjoy peace create direct obligations for Member States towards their citizens, however "soft" one might choose to define the right in law.

124. The American Bar Association 'The ASEAN Human Rights Declaration: A legal Analysis', <https://www.americanbar.org/content/dam/aba/directories/roli/asean/asean-human-rights-declaration-legalanalysis-2014.pdf>

125. Catherine Shanahan Renshaw; The ASEAN Human Rights Declaration 2012, *Human Rights Law Review*, Volume 13, Issue 3, 1 September 2013, Pages 557-579, <https://doi.org/10.1093/hrlr/ngt016>

126. On the concept of soft law see generally Andrew T. Guzman and Timothy L. Meyer, 'International Soft Law', Vol. 2 *Journal of Legal Analysis* (2010) 171.

If Member States have direct obligations towards every person in their jurisdiction regarding the right to enjoy peace, then what are the parameters of that obligation? Conversely, if every person in a Member State's jurisdiction has the right to enjoy peace, then what is the content of this right and what is the scope of legitimate expectations?

It has been suggested that "peace" is too abstract a concept for it to be the subject of a substantive right. An extension of this view is that peace cannot be the subject of a substantive right because it is the enabler for the enjoyment of other rights. This study does not agree with these views. As we noted earlier, without peace, the enjoyment of other rights is undermined. In this regard, we agree that peace is an enabling right. However, to illustrate this with another example, so is the right to life. Without life, one cannot enjoy other human rights; but the right to life as a substantive and fundamental human right has never been questioned. The status of a right as an enabler only emphasises the fundamental character of the right, it does not undermine its nature or character as a right.

We also do not accept that peace is too abstract a concept to be the subject of a substantive right. There are different definitions of peace. However, peace as an attribute of human existence is not so abstract as to defy explanation or inclusion in an instrument on human rights. For the purposes of this study, we take the view that peace is no less or more abstract than, for instance, "conscience." Conscience is the subject of the substantive right of the freedom of conscience that is enshrined in the UDHR. Its status as a substantive right in the UDHR has never been questioned.

As was noted in the case of *Mori v Japan*:

[t]here is a point of view denying the possibility of characterizing the right to live in peace as a right, or a concrete right, based on the fact that "peace" is an abstract concept, and that there are so many ways to define and achieve peace. [H]owever, constitutional concepts are generally abstract, and filled in by interpretation. For example, even "freedom" and "equality" have many ways of achievement, and there is no reason to single out the right to live in peace and deny it the possibility of being characterised as a legal right or a concrete right because the concept of peace is abstract.<sup>127</sup>

## Defining the Content of the Right to Enjoy Peace

To define the content of the right, we begin by examining the rationale for the right and indeed the basis for its inclusion in the AHRD. As noted earlier, despite the often-stated economic focus of ASEAN, the success of the Association ultimately depends in its ability to maintain peace and stability in the region. The current ASEAN peace architecture is very focused on interstate relations, with insufficient attention to the condition of the ASEAN individual within the State. However, peaceful relations between Member States without corresponding peace within the borders of the States will undermine the values of the ASEAN as an institution dedicated to the welfare of ASEAN peoples. The AHRD in general, and for the purposes of this study, the right to enjoy peace, in particular, addresses the ASEAN individual deficit by making the individual person the centre of this right. Civil strife, widespread community discontent and the denial of basic human rights in one Member State have the potential to spill over and destabilise the region. An individual-centred approach to peace is therefore consistent with the ASEAN peace framework for the region as a whole.

127. Hamilton, H., 'Mori v. Japan: the Nagoya High Court recognises the right to live in peace', *Pacific Rim Law & Policy Journal Association*, 2010, p. 560-561.

Within the ASEAN environment, with conditions fairly free of major international conflicts, what is the normative content of the right to enjoy peace? At the regional level, the ASEAN framework for negative peace has worked relatively well. What is lacking is the appropriate corresponding framework within the Member States. It is the view of this study that the normative content for the right to enjoy peace within the borders of Member States should be positive peace-oriented. As we have noted, the absence of conflict but the prevalence of the conditions that generate poverty and inhibit human development, undermine the essence of peace.<sup>128</sup> At the national level, the peace framework should focus on the creation or building of sustainable conditions that promote and enhance human development.

The content of the right to enjoy peace may, therefore, be defined as the entitlement to access sustainable conditions and basic needs such as food and clean drinking water, health, shelter, education for women and children, security from physical harm, and an environment that respects the rule of law and basic human rights. The role, and indeed the obligation, of the State should be to build supportive structures and institutions that foster human development, provide basic needs and reduce the potential for conflict.

## Lessons from ASEAN Member States

In defining the content of the right, the study has also drawn on the experience of Member States as useful indicators. Singapore's economic approach regards peace as an "indispensable by-product of an inclusive wealth generating social system" that helps to minimise or remove ethnic tensions that might otherwise undermine harmony. The Singaporean approach, based on four pillars (i.e., access to multiracial equality of space and dignity; the dignity of living in a physical home; security of economic upliftment in tandem with

national economic growth; and meritocracy) comes closest to the authors' preferred contents for the right. The focus of the Singapore model, however, is on economic, cultural and social rights, and appears to overlook civil and political rights.

The Cambodian Win-Win approach adopted to rehabilitate the Khmer Rouge also offers important lessons in peacebuilding. The focus of the policy is the integration of former opponents into civil society. However, a broader lesson from the policy is that where citizens are accepted and treated as stakeholders and "co-winners" with social, economic and political guarantees, it fosters an environment that reduces the potential for conflict and creates an effective foundation for peace.

Similarly, there are elements in Indonesia's Pancasila (5 Principles) philosophy that can be tailored for general application in defining the content of the right. The Pancasila are:

- Belief in the one and only God;
- Just and civilised society;
- The unity of the State;
- Democracy guided by the inner wisdom in the unanimity arising among representatives; and
- Social justice for the whole of the community.<sup>129</sup>

The principle of a just and civilised society requires that human beings be treated with due regard to their dignity. It emphasises that society does not tolerate physical or spiritual oppression. The principle of unity of the State concerns the blending of social differences to create harmony. The democracy principle calls for decision-making through deliberations, to reach a consensus with respect for human dignity and integrity, and with a view to preserving and strengthening national unity and the pursuit of social justice.

128. Galtung, Johan & Tord Høivik 'Structural and direct violence: A note on operationalization'. *Journal of Peace Research* 8(1): (1971) 73-76.

129. For a detailed study of Pancasila see generally, Eka Darmaputera, *Pancasila and the Search for Identity and Modernity in Indonesian Society: A Cultural and Ethical Analysis* (1982).

Finally, the social justice principle involves the equitable distribution of welfare to the entire population, and to ensure that the country's natural resources and national potential are used for the greatest possible good and happiness of the people.

Pancasila resonates with basic rights principles. Its combination of social justice, democracy, unity of the State through harmonising social differences and an emphasis on human dignity and the equitable sharing of resources and national wealth provide useful lessons that can be used to shape the substance of the right.

In the Philippines the success of the Transitional Justice and Reconciliation Commission (TJRC) mandated to “address the legitimate grievances of the Bangsamoro people, to correct historical injustices and to address human rights violations, including marginalization through land dispossession”<sup>130</sup> also provides instructive lessons in peacebuilding through the recognition of legitimate interests. In similar fashion, the Patani Peace Process in Thailand and the Southern Thailand Peace Dialogues have helped to address dissident issues in Southern Thailand.

## Setting the Standards for Implementing the Right to Enjoy Peace: AICHR’s Role

Under the TOR of AICHR, one of the purposes of the Commission is to “uphold the right of the peoples of ASEAN to live in peace, dignity and prosperity.”<sup>131</sup> Read together with the Commission’s general mandate, AICHR may wish to develop standards or a set of norms to guide Member States. We are mindful that simply setting standards is not sufficient. The purpose of establishing norms is to enforce, or at least, police them and to ensure that State conduct aligns with the principles outlined. Transforming the way Member States conduct

their affairs within their borders to foster an enabling environment for individuals, as envisaged under the right to peace, entails addressing issues that are shaped by their respective level of economic development and the socio-political culture. To be effective, standards need to be realistic, practical and implementable. More important, setting standards is not necessarily an end in itself, but a means to ensuring that Member States are able to meet their obligations. Given the disparities between the Member States, AICHR should adopt guidelines that are “ASEAN generic” to ensure compliance by all Members States.

Accordingly, we recommend the following as the basis for a guide:

### *Policy and legislation*

Evidence of a policy or legislative framework in each Member State that implements at a minimum:

- International Covenant on Civil and Political Rights (ICCPR);
- International Covenant for Economic, Social and Cultural Rights; (ICESCR);
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW);
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT);
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD); and
- Convention on the Rights of the Child (CRC).

These instruments are emphasised given they embody fundamental rules that protect human rights and human dignity. The rules also reflect the foundations essential for peace.

130. Report of the Transitional Justice Reconciliation Commission, [https://www.menschenrechtphilippinen.de/tl\\_files/aktionsbuendnis/dokumente/weiterfuehrende%20Dokumentensammlung/Transitional\\_Justice\\_and\\_Reconciliation\\_Commission\\_-\\_Report\\_2016.pdf](https://www.menschenrechtphilippinen.de/tl_files/aktionsbuendnis/dokumente/weiterfuehrende%20Dokumentensammlung/Transitional_Justice_and_Reconciliation_Commission_-_Report_2016.pdf)

131. ASEAN Secretariat, AICHR Terms of Reference, <https://www.asean.org/storage/images/archive/publications/TOR-of-AICHR.pdf>

### *Judicial and Administrative Institutions*

Another important element for peacebuilding is the availability of forums for citizens to seek administrative or judicial remedies for grievances. Members could therefore establish:

- An independent judiciary;
- Administrative appeals mechanisms; and
- Anti-corruption agencies.

We specifically proposed the establishment of national anti-corruption agencies to ensure that each Member State has the capacity to police transparency in the distribution of national wealth. This study favours the Singapore view that social and occupational mobility contribute to “individual self-fulfilment over time”, and when individuals are treated on the basis of merit in their social and community endeavours, they are far less likely to harbour discontent which undermines social cohesion.

### *Peace Education*

Peace education is essential in laying the foundation for peace in the region. The essence of peace education is to build community awareness of what peace entails and peoples’ rightful entitlements. At a minimum, Member States could:

- Offer Peace Studies, incorporating the right to enjoy peace, in their educational curriculums at appropriate levels of study;
- Adopt a regional strategy, potentially including an ASEAN Peace Day, to raise community awareness of peace;
- Consider the establishment of ASEAN Peace Scholarships to actively support and promote peace programmes in higher education institutes and centres across the region.



## TWELVE

## Conclusions and Insights for Consideration

The success of ASEAN ultimately depends on the Association's ability to maintain peace and stability in the region. However, regional peace will not be sustainable unless the peoples of ASEAN enjoy peace within the borders of Member States. The inclusion of the right to enjoy peace in the AHRD is an important step towards ensuring peace in the region, not just between ASEAN Member States, but also within States. The existing ASEAN framework largely supports interstate peace initiatives. However, the right to enjoy peace is essentially an individual right to be exercised first within the borders of Member States. Unlike interstate peace initiatives, providing the framework to support the individual right to enjoy peace requires social and political changes in Member States. The different stages of economic development and differences in political culture among Member States necessarily demand that one must be realistic and cautious in adopting standards and guidelines if they are to be effective. Accordingly, the recommended guidelines are broad, and deal principally with institutions and existing treaty commitments which must be adhered to irrespective of the recommendations.

The establishment of ASEAN Peace Scholarships and the introduction of Peace Studies across educational institutions in ASEAN can inspire peacebuilding, with a higher mission to advance a strong culture of peace and human rights. We agree with the proposal advanced by the Philippines in its national report that "advocacy for a culture of peace must be anchored on human rights along the strength of an informed constituency". Education for peace and human rights must be a priority. We acknowledge that what will ultimately strengthen peace and the right to enjoy peace within Member States is not a strict regime of rules, but a change in culture. What we have gleaned from Cambodia's Win-Win Policy, Indonesia's Pancasila, Singapore's uncompromising economic approach, and indeed the Philippines' efforts to address the legitimate demands in Bangsamoro is not only an indication of the success of a regime of rules and guidelines, but sound evidence of a culture of inclusion that can and should be explored and enhanced as the basis for a culture of peace in the region. The active development of a culture of peace inspired by successes in ASEAN provides an opportunity for the Association to enrich the ASEAN Way by strengthening the conditions for peace, which is vital for prosperity and progress for all peoples in ASEAN.

# Annexes

## Annexes: Country Reports

These country reports have been published largely as received from the respective country focal points or representatives, with only minimal editing for language and consistency.

## CAMBODIA

# National Report of Cambodia on the Thematic Study on the Right to Peace

## Overview/Introduction

1. Cambodia is situated in Southeast Asia and bordered the Northeast by Lao PDR, on the East and Southeast by Viet Nam, on the West and Northwest by Thailand, and on the Southwest by the Gulf of Thailand. According to the population census of 2008, the population is between 13.8 to 14.8 million people with roughly 90 percent of the population made up of ethnic Khmer. The remaining 10 percent is made up of a number of different groups, namely Cham, Chinese, Lao, Thai, Viet Nameese and indigenous peoples. The different groups have different ways of living. The ethnic groups voluntarily incorporate themselves into the State's system with no coercion. Even though Cambodia consists of many different ethnic groups, the tensions among them never happened so far now.<sup>1</sup>
2. Furthermore, Cambodia is a country that has emerged from its past period of tragedy, hardship and suffering. The conflicts and civil war had plagued Cambodia with the total destruction and the break-down of all social fabrics including education, health and social protection services. The loss of qualifications and devaluation of human capital through the Khmer Rouge regime left Cambodia with untold sufferings and uncalculated consequences.
3. As such, it has been a long way for the country to recover from its legacy by overcoming all those challenges toward the processes of peace building, national reconciliation, reconstruction and development. The country has encountered constraints over its progress in establishing institutions, economy and other infrastructures due to the protracted political environment in many years after the Khmer Rouge regime. Cambodia achieved full peace only in 1998 through the Win-Win Policy of Samdech Akka Moha Sena Padei Techo Hun Sen, Prime Minister of Cambodia.
4. In this context, the assessment of Cambodia human rights should take into account the retrospective of the past situation along with efforts it has then made at the early stage after the Paris Peace Accords toward the process of ensuring peace and stability, of reconstruction and development of Cambodia with the support by the international community and through the evolving process of internal politics of a national reconciliation based on the Win-Win policy of the Royal Government of Cambodia in late 1990s.
5. About boundary demarcation issues, Cambodia always respects and upholds international, regional and internal laws. For example, article 53 of the Constitution of Cambodia in paragraph 1 states: "The Kingdom of Cambodia maintains resolutely a policy of permanent neutrality and non-alignment. The Kingdom of Cambodia coexists peacefully with its neighbors and with all other countries throughout the world"; and in paragraph 2 states: "The Kingdom of Cambodia shall never invade any country, nor interfere in any other country's internal affairs, directly or indirectly, and shall solve any problems peacefully with due respect for mutual interests."

1. CEDAW/C/KHM/4-5

## Human Rights Policies and Legislation with Respect to Peace

6. All human rights legal frameworks stipulated in international instruments are ensured by the constitution and other laws of the Kingdom of Cambodia. Though, nothing in the constitution and other laws of the Kingdom of Cambodia contradicts the principle of human rights stated in international instruments. The key principles of those instruments were, however, drawn to be incorporated into the state law, which is an important instrument to protect human rights in Cambodia.
7. Human rights protection mechanism: Human Rights Protection and Complaints Handling Committee of the National Assembly and Senate is one of the 10 committees of the National Assembly and Senate with the role to protect legal rights of the people. These committees, on behalf of the national assembly and senate, resolve all requests of the people who suffer from the abuse of rights. The Cambodian Human Rights Committee, on behalf of the Government of the Kingdom of Cambodia, is tasked with the role of investigating, gathering information related to the enforcement of human rights to prepare reports to be submitted to the United Nations Human Rights Council and the Human Rights Treaty Bodies. Also, on behalf of the Government, this committee seeks to understand the situation of human rights in order to develop appropriate measures with an aim to enhance the enforcement of human rights. Judicial jurisdiction: this institution is granted with judicial power, which is an independent power to ensure and maintain the impartiality and protection of the rights and freedom of the people. All people shall receive the protection of their rights and freedom through judicial means; all people are fully entitled to lodge a complaint to the court in order for this institution to protect their rights when they fall under the situation of physical abuse, abuse on their asset, dignity and other rights and freedom. The legitimate complaints lodged by people are attended by the court to punish the perpetrators and provide proper compensation for damage. NGOs in charge of human rights, facilitated and encouraged by the Government of Kingdom of Cambodia, are actively engaged in the monitoring of human rights enforcement activities and providing spiritual, in-kind and technical supports to promote better enforcement of human rights in the Kingdom of Cambodia.
8. The Government of Kingdom of Cambodia adheres strictly to unity policy of all Khmer citizens under a single constitution without separation of political tendency, past, sex, race, religion, beliefs and social status in order to mobilize the labor forces to develop the country, to protect the nation and to strengthen social harmonization. According to Article 31 of the Constitution, the Royal Government of Cambodia accepts the definition of the term (racial discrimination) as stipulated in the International Convention on the Elimination of All Forms of Racial Discrimination for the ground of real practice without any interpretation in other ways besides this convention. The Criminal Code 2009 regulates the punishment on incitement to racial discrimination or hatred as clearly stipulated in Articles 494, 496 and 497. Article 494 on the existence of incitement shall be punishable when it is committed by: 1. Speech of any form made in a public place or meeting. 2. Writing or picture of any forms, either displayed or distributed to the public. 3. Any audio-visual communication to the public.
9. Win-Win Policy was a significant tool created by Samdech Akka Moha Sena Padei Techo Hun Sen, Prime Minister of Cambodia, for ending the civil war and peacefully reintegrating the Khmer Rouge. In particular, the Government of the Kingdom of Cambodia has committed to strengthening peace, stability, security, and social order. Cambodia has now

now enjoyed the fruit of peace and territorial integrity. Cambodia has managed to integrate itself into the region and global environment, and through the equal status of its membership in various organisations, it is playing a significant role at sub-regional, regional, inter-regional and global level. The restoration of long-lost peace, territorial integrity and political stability allows us to engage in reform of all sectors to build human resources, institutional capacity and socio-economic infrastructure, and create an environment conducive to investment.

### Cultural Elements and Drivers

10. Religious and cultural issues are the bedrock for building and strengthening the very vital "social capital" that no amount of economic or social development can alone create or sustain. As a country of tolerance, endowed with its rich cultural heritage and tradition, the Government has made great efforts and progress in promoting the various cultural programs and social harmony among people with broader participation of stakeholders without any discrimination against races, colors, religion or backgrounds.
11. The Government of the Kingdom of Cambodia has offered a broad freedom in the practice of religion and beliefs: At present, Cambodia possesses 4,331 pagodas in total; among those there are 4,184 Mahanikaya Pagodas and 147 Dhamayut Pagodas. Number of monks in total is 56,040; among those 54,784 monks belong to Mahanikaya sect (30,741 novices and 2,403 Phikhus) together with 1,256 monks belonging to Dhamayut sect (732 novices, and 524 Phikus). For Christianity, there are 237 churches, 887 praying halls, 199 Christianity teaching schools with 112,398 Christian followers. For Islam, there are 254 mosques, 8 praying halls, 177 Islam teaching schools with 463,732 Muslims. For Chinese Mahayana, there are 80 temples, 37 praying halls, and 102,371 Mahayana followers. For Caodaism, there are 3 temples with 2,058 followers. For Bahai, there are 7 temples with 6,995 followers.
12. Constitutionally Cambodia prohibits any discrimination on grounds of race, religion, sex or birthplace in its society. Article 31(2) of its Constitution states that "Every citizen shall be equal before the law, enjoying the same rights, freedom and fulfilling the same obligations regardless of race, color, sex, language, religious belief, political tendency, birth origin, social status, wealth or other status". This stipulation provides guarantees for equality before law and equality of opportunity for all citizens including the affirmative action that applies for the minority and other disadvantaged groups. In compliance with the Convention on the Elimination of all Forms of Racial Discrimination, to which it is a Party, Cambodia has submitted its subsequent National Report to its relevant Treaty Body.
13. Cambodia is mostly a homogenous society. But it attaches high importance to the promotion of respect for diversity; especially respect for the rights of persons belonging to minorities as it believes that the situation of various specific groups in the society and particularly of minorities is an essential part of the democratic development in every country. To this end, a practical step was taken with the establishment of the National Council on Ethnic and Demographic Issues at the Council of Ministers which is acting as a body for consultation and coordination between government institutions and non-governmental organisations with the priority objective of designing and implementing the national policies for addressing the ethnic programs and interests.

## Main Peace Actors

14. In the Kingdom of Cambodia, the Ministry of National Defense and the Ministry of Interior are the main actors in maintaining peace and national security. Beside these two main actors other national institutes also play a vital role to protect and maintain peace in Cambodia.
15. The Government of the Kingdom of Cambodia has been attentive to strengthening official cooperation between State and civil society based on the principle of rule of law for democracy, ensuring rights and freedom and human dignity, social order and respect of the law. Civil society plays the role as an effective partner of the Government of the Kingdom of Cambodia in building the nation. The Government has provided all forms of encouragement to legal NGOs and associations operating to serve the interests of the people across the country. More especially, the royal government welcomes the participation of NGOs in socio-economic rehabilitation and development processes and promotes the implementation of democracy and respect of rights and freedom and human dignity. Currently, there are thousands of civil society organisations, and many media organisations and trade unions operating in the Kingdom of Cambodia following their respective roles and duties without any obstacles.
16. The Article 41 of the constitution of Cambodia states that "the regime of the media shall be determined by law." The press law follows the Charter of the United Nations and Universal Declaration of Human Rights as well as various treaties to which Cambodia is a signatory. Since 1993, the democracy and human rights situation in the Kingdom of Cambodia has made gradual and remarkable progress. Similarly to other democratic countries in the world, the Kingdom of Cambodia does not allow the spread of intentional public defamation and dissemination of

false information with an intention to create social instability which affects social welfare, dignity and reputation of all citizens who shall gain respect and firm protection.

## Conflict Resolution and Pacific Settlement of Disputes

17. Following the fall of Khmer Rouge regime in January 1979, Cambodia's civil conflict had not ended. Efforts to resolve the conflict in Cambodia range from external intervention to internal actors. The UN intervention failed to secure full peace and unity in this country because the Khmer Rouge boycotted the UN-sponsored election in 1993 and continued military attack against the *de jure* government. In the late 1998, the prolonged armed conflicts were successfully resolved by the Cambodian government's so-called 'Win-Win' policy, which dismantled the Khmer Rouge's last stronghold without bloodshed and integrated the separatists into the mainstream society.
18. Although external intervention did not indeed fully secure peace on the ground, it contributed to transformation of the conflict and formation of a democratically-elected coalition government. Recognizing that the external intervention's effort was hampered by the international actors' interests in the negotiation outcomes, internal actors devised a so-called 'Win-Win' policy, putting an end to the long-standing conflict through amnesty and integration of some former Khmer Rouge leaders and soldiers into the mainstream society. The implication of Cambodia's peace-making experience through its unique 'Win-Win' policy could be a model of diplomatic endeavors to deal with conflicts in other countries.
19. Samdech Akka Moha Sena Padei Techo Hun Sen's 'Win-Win' policy chiefly addressed the last two dimensions of reconciliation. First, the government's amnesty was accorded to former Khmer Rouge leaders and soldiers

in exchange for defection and peace. The forgiveness served to recognise their humanity back to society. Second, the 'Win-Win' policy guaranteed defectors' safety in terms of life, career and property. Therefore, this policy addressed the former Khmer Rouge troops' concern about and fear for revenge, discrimination and prosecution.

## Bilateral Treaties

20. Cambodia lives in peaceful co-existence with the neighboring countries and all other countries in the world. The Kingdom of Cambodia does not invade any country at all and has the right to self-defense when there is an invasion from outside. The Government of the Kingdom of Cambodia has tried to build friendship, solidarity and better cooperation among other countries and various international partners to boost national development. The Government of the Kingdom of Cambodia implements the international policy based upon neutral, peaceful coexistence and non-alliance principles to build friendship and cooperative relationships with all countries in the world based on the ground of equality, respect for independence, sovereignty and territorial integrity.
21. The Government of the Kingdom of Cambodia has also strived to strengthen bilateral and multilateral relationships with amicable countries, international organisations, regional organisations and sub-regional organisations to develop the country and to join in addressing key international problems, including combating terrorism and transboundary crimes, protecting environment to keep and strengthening peace, security, stability, cooperation and development of the sub-regions and the world as well as ensuring the protection of rights and interests of all people.
22. Cambodia has gone through an important period in its history and has witnessed a profound transformation in all aspects of the society. Twenty years ago, Cambodia was a war-torn and conflict-stricken poor country which accepted the deployment of the UN Blue Berets for peacekeeping operations. It is now a country which dispatches forces to join the UN's peacekeeping missions in some hot spot countries of the world. Since 2006, Cambodia has dispatched 4,769 troops to take part in UN peacekeeping missions. Cambodia, previously well known as a killing field, an insecure region and dangerous mine fields, now transformed into an "Island of Peace" and a popular tourist destination in Southeast Asia that welcomes more than 3 million tourists annually. Cambodia, previously well known for using armed forces in power struggle and changing of government, is now a country that firmly respects the principles of multiparty democracy through regularly holding free and fair elections to allow people to choose the country's leadership; a state governed by rule-of-law that firmly adheres to legal principles; and a sovereign state with full territorial integrity and deep respect for human rights and dignity. Cambodia, not long ago politically isolated and placed under economic embargoes, is now actively integrating itself into the regional and global architecture, and playing a dynamic role in all regional and global affairs on equal footing and with equal rights as other nations.

## Programs Supporting a Culture of Peace

23. In the Kingdom of Cambodia, all people have full freedom of thoughts and religion. To ensure the freedom of religion and belief, the Government of the Kingdom of Cambodia has permitted many religions to do activities responding to the need in beliefs of all people which includes so far the following religions: Buddhism, Christianity, and Muslim. Cambodia adopts Buddhism as the State religion, but the Government of the Kingdom of Cambodia does not have any regulation or provision to prohibit or enforce any provision to follow Buddhism. Every person has freedom to choose the religion according to his or her personal belief. Articles 508 to 516 of the Criminal Code specified the offences affecting Buddhism, however; the Government does not separate or discriminate against any religion and puts no restriction that may affect the freedom of other beliefs and religions.
24. The Kingdom of Cambodia has no pattern of coercion with regard to the management or administration imposed on individuals who follow any specific religion or belief. And the Cambodian local competent authorities do not force the followers of any religion to follow Buddhism, so every person has full freedom in holding and exercising their own religion at any time without caring that anyone or other have to adhere to Buddhism (paragraph 3, article 31 and paragraph 2, article 43 of the Constitution).
25. In the curriculum framework of general education and technical education of the ministry of education, youth and sport of Cambodia, learners will be able to apply competencies in personal, family and social

development to their mental and spiritual development so that they can adapt in their daily lives as citizens in the changing and competitive world. Competencies in personal, family and social development aim to equip citizens with 1) responsibility for themselves, family and society with understanding, love and commitment, 2) ethics, right-wrong judgment, protection and expansion of integrity, 3) unity in undertaking team responsibility or mutual relationship with compassion and kindness to promote happiness for self, family and society.

## Poverty Eradication Programs

26. The Government of the Kingdom of Cambodia succeeded in meeting its strategic objectives which set out in the previous Legislature through securing national sovereignty and territorial integrity, and strengthening political stability, rule of law, multi-party democracy, and public order along with good progress in resolving border issues with neighboring countries to establish precise boundaries with them in pursuit of peace, friendship, cooperation and development. This progress has been fundamental for long-term development and poverty reduction. In consequence, Cambodia has succeeded in securing heightened confidence of investors and foreign travelers as reflected in increased inflow of investments and tourist arrivals in Cambodia. Building on these achievements, the objectives of the Government of the Fifth Legislature are to further strengthen the protection of national sovereignty and territorial integrity, national unity and territorial unification, peace, political stability, security, public order, respect for human rights and dignity and social harmony.



27. With peace and stability in place, Cambodia has achieved remarkable socio-economic growth, scoring an average GDP growth of 7.6% per annum spanning over two decades. Furthermore, it maintained macroeconomic stability and achieved a manageable rate of inflation of 3.1% in 2016. Our GDP per capita increased from USD 1,042 in 2013 to approximately USD 1,435 in 2017, and to USD 1,568 in 2018.<sup>2</sup> This impressive growth has enabled Cambodia to recently graduate from a low-income country status and move up to a lower-middle income country status. We aim to achieve an upper middle-income status by 2030 and a high-income country by 2050. Currently, the Cambodia economy is projected to maintain a 7% growth rate in 2017 and 2018. The exchange rate was generally stable, with a slight appreciation of the Riel against the US Dollar. Poverty Incidence dropped drastically from 47.8% in 2007 to 19.8% in 2011, or by 7 percentage points per annum, which secured for Cambodia the 4th rank in the world in terms of best performance in poverty reduction.
28. Foreign Direct Investment has always played a big part of our growth engine. Last year, the Kingdom of Cambodia recorded a total investment of USD 3.6 billion, with China ranking first with about 30% of the total investment, followed by Japan, Thailand, the Republic of Korea, the United States, Singapore, and Viet Nam. In term of external trade, the Government has witnessed a gradual increase from USD 19 billion in 2015 to more than USD 22 billion in 2016. As far as our long-term socio-economic policy is concerned, Cambodia is implementing its Rectangular Strategy Phase III focusing on four priorities: growth, employment, equity and efficiency. The Government has also its specific Industrial Development Policy 2015-2025, which is a policy package aimed at transforming the country's industrial structure from a labor-intensive to skill-driven industry by 2025.

### Implementation Initiative Regarding both Negative and Positive Peace

29. Article 128 (new) of the 1993 Constitution of Cambodia states: The judicial power is an independent power. The judicial power is the guarantor of impartiality and the protector of the citizens' rights and liberties. The judicial power covers all litigations, including administrative litigation. This power is entrusted to the Supreme Court and to the Jurisdictions of the various categories and at all the degrees. And the Breach of National Security was enshrined in the Criminal Code of Cambodia. For instance, Article 443: Conspiracy with foreign power is the act of having secret agreement with foreign state or its agents, with a view to fomenting hostilities or acts of aggression against the Kingdom of Cambodia. It shall be punishable by imprisonment from 15 to 30 years. And Article 446: Collecting information prejudicial to national defense: Receiving or collecting information, process, objects, documents, computerized data or files, with a view to supplying them to a foreign state or its agents which are liable to prejudice the national defense shall be punishable by imprisonment from 5 to 10 years. The serious punishment on the breach of national security meaning that the Government of Kingdom of Cambodia is paying so much attention on keeping peace for this country as well as in the region, and in the whole world. And because of the bitter experience of wars and genocides have compelled the Government to make it as its priority the maintenance of the hard-earned peace and stability and the strengthening of the rule of law in order to ensure that our rapid national development will continue unimpeded.

2. 2018 Extraordinary Congress of All Representatives across the Country

## Annex

- Constitution of the Kingdom of Cambodia (1993)
- International Covenant on Economic Social and Cultural Rights (1992)
- International Covenant on Civil and Political Rights (1992)
- International Convention on the Elimination of all forms of Racial Discrimination (1991)
- International Convention against Torture (1992)
- Optional protocols to the Convention against Torture (2007)
- Optional protocols to the Convention on the Elimination of all forms of Discrimination against Women (2010)
- Paris Peace Accords in 1991
- Law on Organisation and Functioning of the Council of Ministers (1994)
- Law on Regime of the Press (1995)
- Labor Law (1997)
- Code of Civil Procedure (2006)
- Code of Criminal Procedure (2007)
- Civil Code (2007)
- Criminal Code (2009)
- Rectangular Strategy Phase 3 of the Royal Government of Cambodia for the fifth mandate of the National Assembly
- Policy of the Royal Government of Cambodia for the fifth legislature of the National Assembly
- Royal Decree NS/RKT/1213/1336, dated December 06, 2013 on the Restructuring of Cambodian Human Rights Committee
- The Curriculum Framework of General Education and Technical Education of the Ministry of Education, Youth and Sport of Cambodia
- Conflict Resolution in Cambodia by An Sokkoeurn (Cambodian Institute for Cooperation and Peace-CICP)
- World classification of GDP growth 2000-2010, World Development Indicators, the World Bank, May 2013.
- Who Are the MDG Trailblazers? A new MDG Progress Index, Working Paper No. 222, Center for Global Development, August 2010.
- Report on Human Development Index 2000-2010, UNDP.
- The 2008 Population Census of Cambodia
- The second circle of the UPR Report of Cambodia.

## INDONESIA

## Thematic Study Report on the Right to Peace: Indonesia

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The adoption of the concept of the right to peace as part of the 3<sup>rd</sup> generation of rights in the ASEAN Human Rights Declaration (AHRD) should be applauded as a positive development in the human rights discourse in Southeast Asia. But, given the fact that it is not supported by any human right instrument, it can simply mean that the implementation of the concept, if any, can be very weak. By adopting the notion of the 'right to enjoy peace,' instead of the 'right to peace,' ASEAN has very clearly prevented peace from becoming a claimable right. In short, the adoption of the right to enjoy peace does not create any obligation for the ASEAN member states to provide enforceable rights associated with peace.<sup>1</sup> Despite its limitation, however, the adoption of the right to peace conceived as 'the right to enjoy peace' can lead to the emergence of a normative standard among the ASEAN member states which can at the end contribute to the realization of peace as right in Southeast Asia.

For Indonesia, the idea of the right to peace is not very remote from Indonesian history. Since the beginning, the struggle for independence has quite clearly reflected the idea of the right to peace. Internal political dynamics, however, affect the adoption and the implementation of the right to peace in Indonesia. While authoritarian governments and military repression have clearly undermined the right to peace in Indonesia for almost half a century, the political transformation towards democratization has brought about positive development to the right to peace. In addition, various international norms adopted into Indonesian laws have also contributed further to the development of the right to peace in Indonesia.

### General framework of the right to peace

The idea of the right to peace fits perfectly well the spirit underlying the birth of Indonesia as a nation. Indonesia gained its independence in 1945 through long struggles against Dutch rule. The popular slogan during the independence struggle, i.e. 'merdeka atau mati' (live free or die) very clearly reflects the high value that the Indonesians attach to freedom which, in this context, means to be independent of colonial rule. For those living under colonialism, becoming independent does not only mean being free from oppression and exploitation but also from various forms of limitations and inhibitions set by the colonial ruler. Colonialism makes human development practically impossible. Colonialism is a form of violent social relation. Referring to the concept developed by Johan Galtung, such a social relation is 'avoidable insults to basic human needs, and more generally life, lowering the real levels of needs satisfaction below what is potentially possible' and it is the opposite of peace (1990, 291). The struggle for independence, therefore, is also the fight for 'the right to peace.' The preamble of the Indonesian Constitution 1945 clearly refers to independence as '... a genuine right of all nations..'

Having won the struggle for independence, the most immediate challenge for the new nation is how to deal with its diversity. Indonesia is a divided society of 200 million people separated into 200 ethnic groups, 250 languages and more than 15 thousands islands of a 3,500 mile archipelago.

1. This should, however not be attributed exclusively to ASEAN. As the previous part of the report (p.13) clearly indicates, the legal status of the right to peace has been subjected to debate since from the very beginning. What makes it interesting in the case of ASEAN, however, is the fact that the decision to adopt the right to enjoy peace rather than the right to peace cannot simply be understood from the legal aspect of the concept alone. Arguably, the centrality of the state's members in relations to ASEAN as a collective has also played a significant role in the decision.

Like most, if not all, former colonies, it had to bring together peoples with different ethnocultural as well as religious backgrounds into a single nation. In addition, the new nation also has to bring all the benefits that independence promised to the people. Obviously, they are not an easy task. Even after more than 70 years since its independence, Indonesia is still struggling to manage its unity in diversity and to meet the promises of independence.<sup>2</sup>

The Indonesian Constitution of 1945<sup>3</sup> constitutes a constitutional design for the new nation. While it was drafted in a hurry, the Constitution clearly reflects the vision of its founding fathers of Indonesia as an independent nation. Its preamble envisions an independent nation which will bring sovereignty, justice and prosperity to its people. The Constitution also guarantees the social, political as well as economic rights of the citizens. A shortlist of rights are explicitly mentioned in the Constitution which includes freedom of expression association (art. 28), religious freedom (art. 29), the right to decent work and living standard (art. 27), education (art. 31) and social welfare (art. 33 and 34). While it is far from comprehensive, the Constitution has provided a legal basis for human development in the new nation. It is a general framework for the right to peace.<sup>4</sup>

The Constitution is also significant as a framework for the right to peace in a different way. It was a product of political consensus among the founding fathers of the nation in dealing with diversity. The first consensus was related to the relations between the majority and the minority in terms of religion. As the majority of the Indonesian population is Muslim, an effort has been made to 'Islamise' the Constitution by introducing provisions indicating that all Muslims have to practice Islamic law and that the president has to be a

Muslim. The preamble of the draft of the Constitution was adopted from the draft prepared for the declaration of Independence and known as Piagam Jakarta (Jakarta Charter) on 22 June 1945. The Piagam Jakarta would give Pancasila, the national ideology, an Islamic character and oblige the state to implement Islamic law. But the effort to Islamize the Indonesian Constitution failed and the Islamic provisions were finally removed from the constitution adopted on 18 August 1945, one day after the declaration of independence (Elson 2013, 279-280; Syarif 2016, 24). The removal of the Islamic provisions from the Constitution has been a great relief for the non-Muslims and, despite the disappointment of the Muslim factions, signifies a positive development in managing diversity in the new nation.

The second consensus reflected in the Constitution is the adoption of Indonesian as the national language. Article 36 of the Constitution states that Indonesian is the state's language.<sup>5</sup> While it was not controversial as the Piagam Jakarta, the adoption of Indonesian as the national language is of significance as a framework of the right to peace. Again, at issue is the relations between the majority and the minority. Indonesian comes from Malay. Originally spoken in the small areas around the Malacca Straits, it has also been spread to many coastal areas of the Indonesian archipelago (Nugroho 1957, 24). But Malay is not a language spoken by the dominant ethnic in Indonesia, that is, Java. The adoption of Malay instead of Javanese, therefore, has been a significant political decision. In the context of managing diversity, Indonesian reflects 'an aspiration to unity and equality' in contrast to the hierarchical character of the Javanese (Anderson 2018, 139-140). The decision can also mean to avoid the dominance of Java in the newly independent country.

2. The UNDP's Human Development Index (HDI), i.e. long-term progress achieved in three basic human developments i.e. a long and healthy life, access to knowledge and a decent standard of living puts Indonesia at 116 in the list of 189 countries, in the category of medium human development, in 2017 (UNDP 2018).

3. It is called Undang Undang Dasar 1945 or, for short, UUD 1945.

4. The general framework for the right to peace in this report refers only to the UUD 1945. Apart from the UUD 1945, Indonesia had two other Constitutions in its history, that is, the Federal Constitution of 1949 (Konstitusi RIS 1949) and the Provisional Constitution of 1950 (Undang Undang Sementara 1950 or UUDS 1950). Two reasons underlie the focus on the UUD 1945. First, it was the first constitution drafted as soon as Indonesia gained its independence in which the spirit of the struggle for independence was very strong. Second, it has been serving as the Indonesian Constitution for the most part of Indonesian history, until today and, therefore, has more significant impacts on the life of Indonesians.

5. As an important political consensus, however, Indonesian has been adopted as the 'national' language much earlier. It is part of the Sumpah Pemuda (the Youth Pledge) declared by young nationalist on the 28 October 1928 in a meeting called Kongres Pemuda Kedua (the Second Youth Congress) in which they proclaimed to have single motherland, nation and language (Foulcher 2000).

The discussion above quite clearly indicates that the Indonesian Constitution does not only serve as a framework through which political institutions and the power relations are arranged or governed but also as an instrument to create a polity with a common identity as a single nation (Choudhry 2008, 4-5). This is a very common phenomenon in a divided society. At the same time, this can also be very problematic. The Indonesian Constitution is criticised as being built upon the spirit of integrationism characterised by centralized structure of power and giving not much room for ethnic diversity. This spirit has led to the tendencies toward authoritarianism and repressive actions towards any discontents especially as manifested in ethnic expressions which the government considers as threatening the national unity (Bertrand 2008, 205-206).

### Challenges to the right to peace

The Indonesian Constitution has undoubtedly served as the general framework of the idea of the right to peace in Indonesia. But, despite the framework, it does not necessarily mean that the right to peace can consistently be implemented. The problem emanating from the contradiction between the role of the constitution as a regulating framework and the constitution as an instrument for nation-building has created a gap between the framework and its implementation. Authoritarianism and the military repression against separatist movements in different parts of Indonesia have been the most significant challenges to the right to peace in Indonesia for more than five decades after its independence.

#### *Authoritarianism*

The history of authoritarianism in Indonesia began with the return to the 1945 Constitution in 1959. After the failure of the short experiment with liberal democracy in the 1950s, Soekarno proposed what so-called 'Guided Democracy' which gave a strong power to the president and allowed him

to pursue a more authoritarian rule. Indonesian politics was centred on him. His position as the president, his political skill as well as his charisma as a leader enabled Soekarno to bring three powerful ideological strands together which otherwise do not have anything in common and are very conflicting to each other: nationalism, religion and communism. He was more interested in building his self-glorification than dealing with the real problems facing the nation. With a sinking national economy, no human development was possible. As such the right to peace during this period was simply non-existent.

The end of Soekarno's rule, however, did not bring a better picture for the right to peace in Indonesia. This is for two reasons. Soeharto took over the power following political turbulence and a wave of violence throughout the country. In contrast to Soekarno's tendency toward socialism, Soeharto reoriented the Indonesian economy toward capitalism and gave special emphasis on development, understood as economic development as signifies mainly by economic growth. But, similar to Soekarno, Soeharto has also concentrated power on himself and ruled the country in an authoritarian way. He did not allow any opposition against him and silenced all of his critics. Combining the authoritarian political regime and development-oriented policy, Indonesia was known as an 'authoritarian developmental state' (Sato 2019, 70). Soeharto and the military are also believed to be responsible for the mass killing or even genocide of the communists as well as alleged communists which took place in 1965-1966 following the political turbulence at the end of Soekarno rule (Cribb 2001; Farid 2005). An estimated number of 80,000 to 1,000,000 people were killed during the purge of communists. Through the stigmatization of the post 1965 killings, Soeharto government has also deprived the social, political as well as economic rights of so many people associated or allegedly associated with communism. For them, there was no right to peace under the Soeharto government.

### *Military responses to separatism*

An expression of difference can be very sensitive politically in a context of a nation built upon integrationist policy. Any difference can be interpreted as a threat to unity and therefore tends to be responded to seriously. In Indonesia, the dissatisfaction with the centralised power has led to some rebellions or separatist movements. The challenge to the unity began with the Darul Islam movement aiming at establishing an Islamic state and gained victory in Aceh, West Java and South Sulawesi. The rebellion broke out in 1949 and was defeated in 1962. Other military movements launched by a group called Permesta (Perjuangan Rakjat Semesta or Universal Struggle Charter) in Sulawesi and PRRI (Pemerintah Revolusioner Republik Indonesia or Revolutionary Government of the Republic of Indonesia) in Sumatra at the end of 1950s. Finally, another challenge was posed by the proclamation of the Republik Maluku Selatan (the Republic of South Moluccas) by a group of former Dutch army in 1950. All those threats to national unity have been successfully silenced through the military force.

More serious threats to Indonesian integrity, however, took place in Aceh, Papua and East Timor, before its independence in 1999. Three secessionist movements in the three provinces posed real challenges to the concept of unitary state and have led to prolonged and violent conflicts. Harsh military responses have been used to suppress the demands for independence. They did not only fail to silence the movements but strengthened them instead (Jardine 1996; Sukma 2004; Bhakti dan Pigay 2012). Prolonged military conflicts in those three areas have led to the worsening of the life of the people. The right to peace of the people in those three areas disappeared with the constant threat of violence, political repression, human right violation as well as socioeconomic deprivation became more a rule than an exception.

### *A new framework for the right to peace*

The fall of Soeharto in 1989 has brought a significant transformation to the political landscape toward political openness and democracy in Indonesia. One of the most significant changes begins with the amendment of the Indonesian Constitution. The four amendments enacted between 1999-2002 have transformed the Indonesian Constitution into a new and democratic constitution (Horowitz 2013). Among the most important amendments is the change in the structure of power through devolution. The latter gives more room for diversity in the context of unitary state. The right to peace has a new general framework: a quite positive one.

The political transformation in Indonesia did not take place very smoothly. A period of turbulence took place after the fall of the authoritarian regime. Sectarian conflicts occur throughout Indonesia, while prolonged secessionist conflicts gained new momentum in the transition period. The seriousness of the problem facing Indonesia during this period has led many to talk about the disintegration of Indonesia (Crouch 2000; Armstrong 2004).

Despite all those challenges, however, the new constitutional framework has prevented the government from responding to the conflicts in repressive manners which the previous governments did. Most of those conflicts have been solved through relatively peaceful ways. This was also the case with prolonged violence secessionist conflicts. In the case of East Timor, the conflict was resolved through a referendum in 1999 which led to its independence from Indonesia. While chaos and violence took place soon after the referendum, the independence of East Timor has ended the cycle of violence in this area. Different from East Timor, a Memorandum of Understanding signed by representatives of the Indonesian government and the Free Aceh Movement

(GAM - Gerakan Aceh Merdeka) in Helsinki, Finland in 2005 signifies the end of the conflict in Aceh. The peace deal took place after GAM dropped its demand for independence and accepted a solution of self-government of Aceh under the Indonesian state (Aspinall 2005, 26-27). With comprehensive aspects included in the MoU, the peace deal had significantly improved the right of the people in Aceh to enjoy peace.

With the resolution of the conflicts in East Timor and Aceh, Papua is the only remaining unsolved secessionist conflict. Through a 'special autonomy' status, the central government has granted more power to control its territory as well as significant financial support to Papua and the Papuans (Undang undang Republik Indonesia 2001). This constitutes a major change in the government policy towards Papua. But, the impact of the policy does not seem to be very significant. It failed to stop conflict and violence in Papua (Bertrand 2014). As a result, the prospect for the right to peace in Papua is still bleak.

Apart from the unresolved conflicts, the threat to the right to peace comes from the growing intolerance toward minorities. While this is not a phenomenon exclusive to Indonesia (Pew Research Center 2019), the tendency toward intolerance has increased significantly in Indonesia. Various reports show that violence against mainly, but not exclusively, religious minorities was on the rise to the scale of a worrying crisis (Human Rights Watch 2013; Jakarta Post 2019). Ironically the

rising of intolerance occurs along with the development of democracy in Indonesia.

Religious conservatism has undoubtedly hijacked the political openness to pursue their agenda more freely. But, no less important is the role of many discriminatory laws and regulations in helping and promoting violence against minorities. The number of discriminatory laws increased dramatically through local governments' legislation. Apart from religious discrimination, an increased number of local legislations are discriminative against women (Tempo 2016). The failure or the lack of willingness of the democratic government to address this problem seriously seems to tend to normalize intolerance. It is difficult to guarantee the right to peace under such circumstances.

As a new framework, the amended Indonesian Constitution does not give a solution to all the problems that Indonesia is facing. Despite persisting challenges to the right to peace, the new framework does give a positive impact on the right to peace. Indonesians enjoy not only more political freedom but also other rights which have been deprived of for decades. The resolution of various conflicts both sectarian and secessionist has contributed a lot in improving the right of peace. The increase of 31.4% of the Indonesian Human Development Index between 1990-2017 probably reflects the improvement of the right to peace that Indonesians are enjoying after the end of authoritarian rule.

## International aspect

The right of the population to enjoy peace has undoubtedly been influenced by internal political dynamics. But, we should not overlook the impact of the external aspects of the right to peace. These external aspects of the right to peace are associated with Indonesian external relations as well as the existence of various international norms adopted by Indonesia.

Indonesian external relations are conducted based on the independent and active principle. Laid by former Vice President Hatta in 1948 to respond to the development of global politics signified by heightened tension between the US and the Soviet Union after the end of World War II, this principle aimed at preventing Indonesia from being trapped into either side and having conflict with one or the other (Hatta 1979). The principle would assist Indonesia to achieve peace, at least in negative terms, in such a hostile global environment. But, as no positive peace is possible without negative peace, the adoption of the principle constitutes an important decision with regard to the right to peace.<sup>6</sup>

Reflecting its independent and active foreign policy, Indonesia played an important role in the establishment of the Non-Aligned Movement (Tan and Acharya 2008). It provides a platform for its member countries to promote national self-determination, world economic equalities and international

cooperation, especially South-South cooperation. Indonesia has also played an important role in establishing ASEAN (Association of Southeast Asian Nations). Established in 1967, it signified a dramatic shift in the Indonesian foreign policy posture, from confrontational into cooperative. Similar to the Non-Aligned Movement, ASEAN was established to prevent the influence of the external power rivalry into its member countries. But, different from the Non-Aligned Movement, ASEAN has become a more institutionalised framework of international cooperation and creates a positive international environment for the right to peace of its member countries, including Indonesia. The adoption of the Treaty of Amity Cooperation (TAC) in 1976 and the Treaty on the Southeast Asian Nuclear-Weapon-Free Zone (SEANWFZ) in 1995 strengthened further the meaning of ASEAN for the right to peace in Southeast Asia.

Apart from actively pursuing independent and active foreign policy, Indonesia is also committed to international norms as signified by signing or ratifying various treaties. The adoption of those treaties through ratification makes Indonesia a state party to those treaties and it is legally binding. The Indonesian government's commitment to guarantee their implementation is demanded. The table below shows among the most important treaties with significant impact on the right to peace which Indonesia has adopted into its national laws.

6. The threat to peace during the war does not only come from physical violence in the form of military attacks, but also from the mobilisation and the use of all resources for war purposes. Apart from all restrictions imposed on the population during the war, human development is also impossible as the national economy is subjected to 'a war economy.' The mobilisation of resources for the war against Malaysia during Soekarno rule, for example, took place at the expense of human development needs in Indonesia.



International Treaties Signed and Ratified

No	Treaty	Year	Ratified
1	The Convention on The Elimination of All Forms of Discrimination Against Women	1981	<i>UU No. 7 tahun 1984</i>
2	The Convention on the Prohibition of The Development, Production, and Stockpiling of Bacteriological (Biological) and Toxic Weapons and on Their Destruction	1972	<i>Keppres No. 58 tahun 1991</i>
3	Geneva Convention	1949	<i>UU No. 59 tahun 1958</i>
4	The Convention on The Rights of the Child	1989	<i>Keppres No. 36 tahun 1990</i>
5	Convention on The Political Rights of Women	1953	<i>UU No. 68 tahun 1958</i>
6	The International Convention Against Apartheid in Sports	1988	<i>UU No. 48 tahun 1993</i>
7	Convention on the Elimination of Racial Discrimination	1965	<i>UU No. 29 tahun 1999</i>
8	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	1984	<i>UU No. 5 tahun 1998</i>
9	ILO Convention No. 87 Concerning Freedom of Association and Protection on The Rights to Organise	1998	<i>UU No. 83 tahun 1998</i>
10	The International Covenant on Civil and Political Rights	1966	<i>UU No. 12 tahun 2005</i>
11	The International Covenant on Economics, Social, and Cultural Rights	1966	<i>UU No. 11 tahun 2005</i>
12	The Treaty on the Southeast Asia Nuclear Weapon Free Zone	1995	<i>UU No. 9 tahun 1997</i>
13	Nuclear Non Proliferation Treaty	1968	<i>UU No. 8 tahun 1978</i>
14	The Comprehensive Nuclear-Test-Ban Treaty	1996	<i>UU No. 1 tahun 2012</i>

Apart from those treaties that Indonesia has adopted into its national laws, Indonesia has also ratified other treaties but hasn't ratified yet, for very different reasons. Among those treaties are the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2000, signed in 2001), the Optional Protocol to the Convention on the Rights of the Child on the Involvement of the Children in Armed Conflict (2000, signed in 2001), the International Convention for the Suppression of the Financing Terrorism (1999, signed in 2001), the Convention on Cluster Munitions (2008, signed in 2008), and the Treaty for the Prohibition on the Prohibition of Nuclear Weapons (2017, signed in 2017).

## Summary and conclusion

The idea of the right to peace has been part of the spirit underlying the struggle for Independence of Indonesia. Colonialism has deprived Indonesians of their rights and freedom to pursue human development. Independence, therefore, promises to bring these rights and freedoms. But a serious challenge faced the new nation soon after it declared its independence, i.e. to realise the spirit of unity in diversity, to unite the otherwise divided society it inherited from its former colonial ruler without at the same time undermining its pluralism. The adoption of the integrationist policy in the Indonesian Constitution has led to the centralisation of power at the expense of pluralism. Two successive authoritarian governments emerged from this constitutional design. At the same time, any opposition against the central government in the form of secessionist movements was met with military repression. The right to peace became a luxury for many Indonesians.

The transformation of Indonesian politics with the fall of Soeharto brought the right to peace slowly back to the life of Indonesian people. While it was far from smooth, the transformation has given more space for pluralism. But, at the same time, more political openness has also brought about a new challenge in the form of increased intolerance in the relations between the majority and the minorities. Unless this problem

is seriously addressed, it is hard for many Indonesians to enjoy the right to peace, which independence has promised.

Apart from its internal dynamics, external factors have also played an important role in the promotion of the right to peace. Friendly relations with other countries have undoubtedly given a positive impact on the right to peace in Indonesia. In addition, various international treaties have also contributed to strengthening Indonesian commitment to the right to peace.

The right to peace cannot be taken for granted. There is no linear process of its development either. Internal dynamics, as well as external factors, can both contribute or undermine the right to peace.

## References

- Anderson, B. (2018). *Language and power : Exploring political cultures in Indonesia (The wilder house series in politics, history, and culture)*. Ithaca, NY: Cornell University Press.
- Armstrong, D. (2004). The next Yugoslavia?: the fragmentation of Indonesia. *Diplomacy & Statecraft*, 15(4), 783-808.
- Aspinall, E. (2005). *The Helsinki Agreement: A More Promising Basis for Peace in Aceh?*. Washington: The East West Center.
- Bertrand, J. (2008). Indonesia's quasi-federalist approach: Accommodation amid strong integrationist tendencies. In Choudhry, S. ed. *Constitutional Design for Divided Societies : Integration or Accommodation?* Oxford: OUP Oxford, 205-232.
- Bertrand, J. (2014). Autonomy and stability: The perils of implementation and "divide-and-rule" tactics in Papua, Indonesia. *Nationalism and Ethnic Politics*, 20(2), 174-199.

Bhakti, I. N. nan Pigay, N. (2012). Menemukan akar masalah dan solusi atas konflik di Papua: Supenakah?. *Jurnal Penelitian Politik*, 9(1), 1-18.

Cammack, M. (2006). *Changing Indonesia's Constitution: A Review Essay*. Indonesia, (81), 151-163.

Choudhry, S. (2008). Bridging comparative politics and comparative constitutional law: Constitutional design in divided societies. In Choudhry, S. ed. *Constitutional Design for Divided Societies : Integration or Accommodation?* Oxford: OUP Oxford.

Cribb, R. (2001). Genocide in Indonesia, 1965-1966. *Journal of Genocide Research*, 3(2), 219-39.

Crouch, H. (2000). Indonesia: Democratization and the Threat of Disintegration. *Southeast Asian Affairs*, 115-133.

Elson, R. (2013). Two Failed Attempts to Islamize the Indonesian Constitution. *Sojourn: Journal of Social Issues in Southeast Asia*, 28(3), 379-437.

Farid, H. (2005). Indonesia's original sin: Mass killings and capitalist expansion, 1965-66. *Inter-Asia Cultural Studies*, 6(1), 3-16.

Feith, H., (1962). *The decline of constitutional democracy in indonesia*. Ithaca, NY: Cornell University Press.

Foulcher, K. (2000). Sumpah pemuda: The making and meaning of a symbol of Indonesian nationhood. *Asian Studies Review*, 24(3), 377-410.

Galtung, J. (1990). Cultural Violence. *Journal of Peace Research*, 27(3), 291-305.

Hatta, Muhammad. (1976). *Mendayung di antara dua karang (Rowing between two reefs)*. Jakarta: Bulan Bintang.

Horowitz, D. (2013). *Constitutional change and democracy in Indonesia (Problems of international politics)*. Cambridge England: Cambridge University Press.

Hosen, N. (2005). Religion and the Indonesian Constitution: A Recent Debate. *Journal of Southeast Asian Studies*, 36(3), 419-440.

Human Rights Watch. (2013). In religion's name: Abuses against religious minorities in Indonesia. Retrieved from <https://www.hrw.org/report/2013/02/28/religions-name/abuses-against-religious-minorities-indonesia>.

Jakarta Post (2019). Intolerance Crisis - Editorial. 11 May. Retrieved from <https://www.thejakartapost.com/academia/2019/05/11/intolerance-crisis.html>

Jardine, M. (1996). Pacification, resistance, and territoriality: Prospects for a space of peace in east timor. *Geojournal*, 39(4), 397-404.

Mackie, J. A. C. (1974). *Konfrontasi: The Indonesia-Malaysia dispute, 1963-1966*. New York: Oxford University Press.

Nugroho, R. (1957). The origins and development of Bahasa Indonesia. *PMLA - The Journal of the Modern Language Association of America*, 72(2), 23-28.

Pew Research Center (2019). *A Closer Look at How Religious Restrictions Have Risen Around the World*. 15 July. Retrieved from <https://www.pewforum.org/2019/07/15/a-closer-look-at-how-religious-restrictions-have-risen-around-the-world/>

Robison R. (1988) Authoritarian states, capital-owing classes, and the politics of newly industrializing countries: the case of Indonesia. *World Politics* 41(1):52-74.

Sato Y. (2019). Re Emerging Developmental State in Democratized Indonesia. In: Takagi Y, Kanchoochat V., Sonobe T. (eds) *Developmental State Building: The Politics of Emerging Economies*. Singapore: Springer.

Sukma, R. (2004). Security operations in Aceh : Goals, consequences, and lessons (Policy studies, 3). Washington, DC: East-West Center Washington.

Syarif, M. (2016). Spirit piagam jakarta dalam Undang-Undang Dasar 1945. *Jurnal Cita Hukum - Indonesian Law Journal*, 4(1).

Tan, S., & Acharya, A. (2008). Bandung revisited : The legacy of the 1955 asian-african conference for international order. Singapore: NUS Press

Teik, G. (1972). Why Indonesia's Attempt at Democracy in the Mid-1950s Failed. *Modern Asian Studies*, 6(2), 225-244.

Tempo (2016). 980 Peraturan Daerah Bersifat Diskriminatif terhadap Perempuan. 21 April. Retrieved from <https://nasional.tempo.co/read/764587/980-peraturan-daerah-bersifat-diskriminatif-terhadap-perempuan>

Undang Undang Dasar 1945 (The Constitution of the Republic of Indonesia)

Undang Undang Dasar Negara Republik Indonesia Amandemen (Amended Constitution)

Undang Undang republik Indonesia Nomor 21 Tahun 2001 tentang Otonomi Khusus bagi Propinsi Papua (Law No. 21, 2001 of the Republic of Indonesia on Special Autonomy for the Province of Papua.

UNDP (2004). Cultural liberty in today's diverse world. New York: The United Nations Development Program.

UNDP (2018). Briefing note for countries on the 2018 Statistical Update Indonesia. Retrieved from [http://hdr.undp.org/sites/all/themes/hdr\\_theme/country-notes/IDN.pdf](http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/IDN.pdf)

## LAO PDR

# The Promotion and Protection of the Right to Peace

## Introduction

The international community has developed several instruments to promote and protect human rights ranging from the general Universal Declaration of Human Rights to the conventions for specific rights. The right to peace is one aspect of human rights and the instruments precisely describing this right have emerged since the late 19th century, starting from the 1984 Declaration on the Right of Peoples to Peace to the 2016 United Nations General Assembly (UNGA) Declaration on the Right to Peace. In the Asian region, ASEAN has built on such instruments and included the right to peace in its 2012 human rights declaration and interpreted it as the right of people to enjoy peace. This illustrates the acknowledgment of the ASEAN member states towards the significance of peace and the link between the right to peace and other human rights. According to ASEAN Human Rights Declaration, “every person and the peoples of ASEAN have the right to enjoy peace within an ASEAN framework of security, stability, neutrality and freedom, such that the rights [civil, political, cultural, social, economic and development] set forth in the declaration can be fully realised” (ASEAN, 2012), this is in line with the UNGA Declaration on the Right to Peace providing that the right to peace can be promoted through the promotion and protection of human rights, recognising that development is a prerequisite, respecting, implementing and promoting equality and non-discrimination, justice and the rule of law, along with guaranteeing freedom from fear and wants, encouraging the participation of different actors in promoting the right to peace; promoting peace education to ensure the spirit of tolerance, dialogue, cooperation and solidarity (United Nations General Assembly, 2016).

The Lao PDR considerably places attention on the promotion and protection of the right to peace as well as the right of people to enjoy peace within the country and plays an active role in promoting and ensuring the right to peace in the region and international arenas. Because of the interrelation of all human rights, the right to peace may not be fully achieved without the promotion and protection of other human rights. This report begins with the illustration of the country's policy and legislation in relation to peace, peace promotion, human right to peace, then examines the measures that the Lao government applies in promoting and protecting the right to enjoy peace of the citizens through strengthening justice sectors, implementing rule of law and pursuing good governance as well as preventing conflict to obtain the negative peace by promoting equality and non-discrimination. Next, it will demonstrate how the Lao government promotes the positive peace-guarantee freedom from wants through implementing the social economic development plans and projects, poverty reduction activities, together with responding to the challenges to the national social economic development. It will also show how peace education and other concepts related to peace, including human rights have been promoted in the Lao PDR and how the country engages with the regional and international community in the aspect of promoting the right to peace. Finally, it identifies the main peace actors in the Lao PDR.

This report is drafted based on the country's policies, laws and regulations, programs, and projects related to the promotion and protection of human rights, including the national reports on human rights, the implementation of socio-economic development plans, programs and projects proved by the Lao government.

## Policies and Legislation in Respect of Peace and Human Rights

Between the 19th and 20th centuries, the Lao PDR suffered from foreign aggression and domination. During such periods, the fundamental rights of the Lao people were deprived, especially their right to self-determination and the right to live in peace. As a result, many movements fighting for national liberation and independence occurred aiming at upholding fundamental rights and creating lasting peace in the country. Lao PDR recognise that peace is valuable and indispensable for the existence and growth of the country. Therefore, after becoming independent in 1975, the Party and government attached attention to building and promoting a culture of peace, pursuing two strategic tasks of safeguarding and developing the country. The Lao PDR embraced the adjustment to mobilize the resources within the country to maintain the people's democratic rule and create environments to achieve the socialism objectives. In the late 1980s, the Party and government realised the need to govern the country by laws and regulations and this brought to the adoption of the first constitution in 1991. As mentioned in the preamble of the amended constitution 2015, the development of the constitution indicates the enduring ambitions and strong determination of the nation struggling to accomplish the goal of building the Lao PDR into a country of peace, independence, and democracy, unity and prosperity.

As a part of promoting a culture of peace, the Lao government, to prevent conflict and violence, promotes the settlement of conflict among individuals, groups, and nations through dialogue, negotiation and other peaceful means. Domestically, the peaceful conflict settlement approaches have been provided in several laws such as Labour Law, Law on Investment Promotion and Law on Economic Dispute Settlement. Recently, the government has adopted a Decree on the Mediation of Disputes at Village Level which allows and encourages the disputing parties to bring and handle the cases at the root level before submitting them to higher levels. Internationally, the Lao government believes that friendly relations and the absence of wars and other

threats to peace and security are conditions for national development (The Rule of Law in the Lao People's Democratic Republic, 2017). Consequently, Lao PDR focuses on the promotion and protection of peace and security in its interaction and cooperation with foreign countries as illustrated in the foreign policy of peace, independence, friendship and cooperation. The Constitution also stipulates that Lao PDR supports the struggle of the world's people for peace, national independence, democracy and social progress. Moreover, the Law on Overseas Representative Missions of Lao PDR defines the rights and duties of the Lao representative missions in promoting political, defence and security relations. The Law of Treaties and International Agreements provides for respecting the principles of international law, including refraining from threats or using threats and ensuring the consistency with the foreign policy are obligatory in concluding a treaty or an international agreement. Law on National Boundaries indicates the policy of building the border of peace, friendship, stability and sustainability with the neighbouring countries and adhering to the principles of peaceful settlement of land and border conflict.

To concretise the national slogan which is to build the country that is of the people, by the people and for the people, the promotion and protection of human rights have been prioritised by the government. The government constantly creates legal conditions for the citizens to enjoy all aspects of rights, including political, civil, economic, social, and cultural rights by integrating them into the constitution and laws. The amended constitution (2015) provides that Lao PDR recognises, respects, protects and guarantees human rights, including the fundamental rights of the citizens in accordance with the laws. Particularly, the constitution provides the right of the Lao citizens to vote and to be elected (art. 36), the rights to lives, bodies, dignities, and shelters (art. 42), and the right and freedom to believe or not to believe in religions (art. 43) the rights and freedom of speech, press and assembly (art. 44), the right and freedom to conduct studies in and to apply advanced sciences and technologies and to engage in cultural activities which are not contrary to the laws (art. 45). In addition to

the constitution, many laws and sub-laws concerning the promotion and protection of the rights of specific groups have been enacted such as the Law on the Development and Protection of Women, the Law on Preventing and Combating Violence Against Women and Children, the Law on Disabled Persons, the Law on Gender Equality, the Law on Media, etc. Significantly, the Penal Code criminalises the act of torture, human trafficking, corruption, genocide, terrorism, and discrimination against women (National Assembly, 2017b). Apart from ensuring national peace and security, this determination derives from the political will to integrate the elements of the international treaties to which Lao PDR is a party into the domestic legislation.

### Promoting and Implementing Justice, Rule of Law and Good Governance

Promoting and implementing justice, rule of law and good governance is a measure to build peace within society. In enhancing the justice sector, the Lao government concentrates on accomplishing its laws making and amending goals, reforming the organisations in the justice sector, developing capacity for the legal professionals, and advocating law dissemination and access to justice. In terms of promoting the rule of law, the adoption of the national constitution in 1991 was the turning point in the country's governance system shifting from one that relied upon the executive orders to the rule of law. In 2003, Lao PDR, at the UNGA, announced that it desired to create a country strongly based on the rule of law by 2020. The determination to govern the society by the constitution and laws is expressed in the constitution which specifies that all the party and government organisations, the Lao Front for National Construction, mass organisations, social organisations and all Lao people must exercise in accordance with the constitution and the laws. To date, the National Assembly has adopted 168 laws and plans to develop and revise 96 laws in the period 2021-2025 (National Assembly, 2021). In addition to the constitution and laws, a number of sub-laws, including the presidential decree, and ordinance, the government's decree, decision, the ministry and provincial regulations have been adopted. These normative documents contribute to maintaining

national security and order as well as warranting the rights of people to enjoy peace.

The government has carried out constant administrative reforms to enable the participation of citizens in state management and to completely offer public services. The country improves its governance apparatus, including restructuring the organisations of all public management levels to be more effective, transparent, fair and responsible. The establishment of the local authorities and machinery (the local peoples' assemblies) have enabled the people throughout the nation to have their representative organs at all levels (Human Rights Council, 2019). Moreover, the improvement of state mechanisms has created a favourable environment for the Lao people to fully enjoy and exercise their rights, including the right to enjoy peace. As a part of strengthening good governance, anti-corruption has been paid special attention to. Since 2015, the Lao PDR has adopted some legislation related to these issues such as the Law on State Inspection and the Decree on Ethics of State Official-Employees. Besides, the Lao PDR has adopted and implemented the Strategic Plan on Anti-Corruption, Plan of Action on Anti-Corruption 2016-2025. Anti-corruption inspection has been operated in a strict manner, particularly in monitoring and scrutinising corrupt behaviour of government officials with the application of different measures towards those who commit corruption such as re-education, fine, compensation and punishment depending on the severity of each case (Human Rights Council, 2019).

### Promoting Equality and Non-Discrimination

Inequality and discrimination are the root causes of conflict and violence within society. To prevent the conflict and ensure the rights to enjoy peace, the Lao PDR adheres to the respect, implementation and promotion of equality and non-discrimination. These have been ensured by the constitution that all Lao citizens are equal before the law, regardless of their gender, social status, education, beliefs, and ethnicities (art. 35) and both genders enjoy equity in all aspects of rights (art. 37). The government

has periodically adopted the National Plan of Action on Gender Equality sets out specific activities to achieve the gender equality targets. Along with the adoption of the Law on Gender Equality guaranteeing the parity of all men and women in all aspects, the country also criminalises the acts of obstructing another person's civil right to vote or to be elected, violating an individual's freedom to engage in lawful speech, writing, gathering, participation at meetings and other freedoms, discriminating against children, women, disabled persons or divides, obstructs or restricts them from participating in any political, economic, scientific, socio-cultural or family activity, on the basis of their gender or disability (National Assembly, 2017b).

Recently, the amended Law on Making Legislation requires the impact assessment of the policies including gender roles in the law-making process. This is to ensure that all legislation made has been taken into account gender equality.

The Lao PDR is a country that comprises different ethnic groups. In promoting equality and preventing discrimination among ethnic groups, the country has developed and implemented the relevant normative documents. Particularly, the amended constitution (2015) specifies that “the state pursues the policy of promoting unity and equality among all ethnic groups. All ethnic groups have the right to protect, preserve and promote the fine customs and cultures of their own tribes and of the nation. All acts creating division and discrimination between ethnic groups are prohibited” (art. 8). In addition to the constitution, the Decree on Ethnicities provides that the state promotes and encourages individuals, legal entities, organisations and all stakeholders to participate in implementing ethnic activities by enhancing unity and harmonious traditions, implementing equal rights among ethnicities before laws, protecting and increasing fine tradition, customs and culture, educating all ethnic groups about the solidarity, unity, pride of their ethnicities, resolving the development gaps, promoting the knowledge

and abilities of people of each group as a measure to obtain national safeguard and development. The state is not allowed the behaviours and activities that divide or discriminate within or between the ethnicities. Moreover, different policies have been covered in ethnic issues such as economic and financial, public health, culture, education and sport, labour and social welfare issues. This ultimately creates unity and harmony among Lao ethnic groups.

### Ensuring Human Security

Individuals cannot enjoy the right to peace if their lives are insecure. To guarantee the security of the citizens, the Lao PDR has developed and implemented a number of social security legislation and programs. After gaining independence in 1975 the Lao government issued several legal documents with respect to social security. The first legislation was a regulation on pensions and death grants for government employees. In 1986, the government issued two regulations substituting the previous one. These new regulations provided the benefit for invalid persons, the payment for the family of government employees who sacrificed their lives for the national protection and construction, and the benefits for government employees who suffer social contingencies. In 1993 the first comprehensive social security decree for the public sector was approved. The decree offered various benefits for the elderly, people with disability, those losing capacity, death benefits, sickness, maternity, employment injury, child allowance and health care (Sonthany, 2015). In 2018, the National Assembly has adopted the Law on Social Security as a tool for protecting the rights and interests of the labourers, employees and their family members both public and private sectors who are willing to provide the contributing funds aiming at ensuring meeting the basic needs for a living, creating harmony within society. These social security policies and programs play a significant role in guaranteeing the Lao people's security.



## Promoting Social-Economic Development and Eradicating Poverty

The Lao PDR recognises that peace is not only the absence of conflict, but social-economic development is ensured. After becoming independent in 1975, along with upholding national security and political stability, the Lao PDR has determined to implement various tasks to heal the wounds of wars and to enhance the living conditions of the Lao people. In 1986, the government embraced the new economic apparatus, altering the centrally planned economy to a market-oriented economy, paving the way for gradual progress in national economic development. The government has periodically developed strategies and vision for socio-economic development which have been turned into different plans and programs such as the National Socio-Economic Development Plan (NSEDPlan), the sectoral development plans, and the master plan for developing a rule of law state. Recently, the government has created the 10-year strategic development plan for 2016-2025 and the 2030 vision, with the ultimate goals of lifting the country from the least developed country status by 2024 and becoming a self-reliant and upper-middle-income country by 2030 (Human Rights Council, 2019). In relation to poverty reduction, the Lao government has adopted the National Growth and Poverty Eradication Strategy, established the National Committee for Rural Development and Poverty Eradication and the Poverty Reduction Fund to facilitate the implementation of poverty reduction policies and programs.

The Lao government creates the conditions for the Lao people to participate in the national socio-economic development plans and projects by guaranteeing the citizens' social and economic rights through the legislation. For instance, the state is obligated to promote the health and well-being of the Lao people by focusing on developing disease prevention and providing healthcare to all people, creating the conditions for all people to access healthcare services (National Assembly, 2015a). In addition, to promote education and work, the 2015 constitution also provides that the Lao people have the right to receive education, knowledge and skills development as well as the right to work and engage in occupations that are not contrary to the laws. Moreover, to ensure the stable and secure living place of the citizens, the government has pursued an appropriate policy and adopted proper regulations concerning settlement and housing provisions. These include the policy on providing houses and land to the public employees, establishing the development villages and gathering villages by allocating land to the local people for the agriculture purposes, providing lasting land and home to the poor people in the rural and remote areas as well as developing necessary services such as education, healthcare, transportation, communication. These replacement and resettlement policies play a part in poverty reduction and creating enduring means for people to make their living.

## Dealing with Challenges to Social Economic Development

The challenges to national social-economic development derive from domestic and international factors. Domestically, the geographic factor prevents the Lao people from accessing their basic needs and taking part in social-economic development, particularly those who live in the mountainous and remote areas, resulting in unequal development. Also, the country is located at the hub of the Mekong Sub-Region and shares borders with the other five countries (China, Cambodia, Myanmar, Thailand and Viet Nam). This factor gives rise to the emergence of some issues such as drug and human trafficking. Unexploded Ordnance (UXO) is acknowledged as another challenge to national development. Even though the government has made an effort in UXO clearance over the decades, it is still far from complete due to the lack of experts, technical tools and budgets.

Human trafficking has long threatened national peace and security. The Lao PDR is not only a source of trafficking in persons, but also a transit and destination country. Because of the prevalence of poverty, the income disparity and lack of education, Lao people, particularly women and children, leave the country and become victims of commercial sex labour. Besides, the rapid economic development in the border areas and the weak border control has resulted in an increase in foreign victims. To tackle these matters, the Lao PDR has issued some legislation, including the Law on Anti-Trafficking in Persons, the Law on the Development and Protection of Women, the Law on the Protection of the Rights and Interests of Children, and the Penal Code that prohibits human trafficking and authorizes penalties ranging from five years to life imprisonment. Apart from the enactment of the legislation, the government has paid attention to raising awareness of human trafficking and some preventive measures across the country. The government has allocated the budgets and personnel, provided equipment for implementing the anti-trafficking in-person activities and encouraged individuals, legal entities, organisations, families and society to participate in such activities by contributing

their efforts, financial support, materials and other forms of contribution (National Assembly, 2015b). Lao PDR has also formed a National Steering Committee on Human Trafficking, an inter-agency body under the Ministry of Public Security, along with the adoption of the National Plan of Action in each period. Recently the third 5 years National Plan of Action on Preventing and Combating Human Trafficking 2021-2025, with precise targets and indicators, has been approved.

The Lao PDR is currently confronting the problems of drug abuse and trafficking. Many strategies, regulations and programs aiming at tackling the drug problems have been adopted and established such as the Law on Drugs, the Decree on Drug Prevention and Combating Funds, the Lao National Commission for Drug Control and Supervision. The government has carried out the reform in relevant organs, developing basic infrastructure, providing budgets, vehicles and other necessary tools. However, the number of drug trafficking cases has increased every year. According to Thanabouasy (2021), the police have managed more than 13,000 drug-related reports and detained over 20,000 people, 10 percent of which are women between 2015 and 2019. In response to such problems, drug prevention and control have been placed on the national agenda between 2021-2023. This national agenda clearly stipulates six prioritised areas, including developing and amending the relevant laws and sub-laws; raising awareness across the party and society through educating and disseminating legislation and the negative effects of drugs, reforming the organisational structure and enhancing the capacity of the law enforcement agencies and relevant sectors; increasing the effectiveness in managing and guiding the implementation of drug-issues responding activities; improving the competence of the political system at each level in leading and guiding drug-issue solving under their scope of responsibilities; and performing international cooperation.

UXO remains an issue threatening human security and development in the Lao PDR. Over 2 million tons of bombs were dropped on the Lao PDR between 1964-1975. The widespread contaminated land areas obstruct the Lao people

from accessing agricultural land and bring about an increase in the prices of the development projects. As a tackling approach, the Lao government has included the UXO clearance in its national socio-economic development plan, recognised UXO clearance as a localised Sustainable Development Goal, along with seeking support and assistance from foreign countries. In 2018, the Prime Minister revised the Decree on Organisation and Structure of the National Governing Committee on the Clearance of Unexploded Ordnances to ensure the effectiveness and efficiency of work across the country. Presently, because of effective risk education, the advance in the clearance of contaminated areas and broader economic opportunities, the risky behaviour declined, resulting in a decrease in the number of casualties from 302 in 2008 to 41 in 2017. According to the NRA (2022), the Lao PDR has already confirmed 157,647 hectares of hazardous area and recorded about 75,000 hectares of land cleared of UXO and more than 1.7 million items of UXO destroyed. UNDP Lao PDR (2022) shows that recently, around 12 people annually were killed and injured by the UXO and cluster sub-munitions.

Recently, some outside factors have increased the national economic vulnerability, including financial crises, fluctuations in oil prices, the trade wars between the world superpowers, political and military conflicts and the COVID-19 pandemic. Due to the outbreak of COVID 19 and the impact of disaster since 2020 and the hardship in Macro-Economic management in recent years, the Lao economy has been affected, the rate of economic growth has a decreasing tendency from 7% in 2016 to 3.3% in 2020 (Ministry of Planning and Investment, 2022). In dealing with these challenges the Lao government has adopted the national agenda 2021-2023 to tackle the financial-economic difficulties, which in turn contributed to the implementation of the NSEDP. The program aims to address economic woes by creating a service, business, and production base that is adequate for domestic supply and demand, as well as increasing exports, strengthening revenue collection, promoting austerity, increasing effectiveness among state investments, addressing spending and debt repayment and stabilizing the currency.

## Peace Education and Awareness Raising

The Lao government notes that peace education is necessary to ensure the spirit of tolerance, dialogue, cooperation and solidarity. Although there is no peace study course or specific peace subject available in the education curriculum, some subjects that indirectly relate to peace promotion have been taught to law students, specifically, the peaceful conflict settlement concepts and approaches are a part of several laws, namely the law on investment promotion, the Law on Labour, and the Law on Economic dispute resolution. Some private colleges provide conflict management subjects for students. The Lao PDR attaches importance to human rights study and research. A human rights education curriculum has been developed by the Ministry of Education and Sport and a human rights Unit has been formed at the Faculty of Law and Political Science of the National University in order to provide teaching on the knowledge of human rights.

While peace education has not yet been included in the curriculum, the dissemination of the knowledge of peace, including human rights, has been carried out through various initiatives on a regular basis. It has actively led the propagation of human rights principles and norms stipulated in international human rights laws such as the UN Charter, the Universal Declaration of Human Rights, and human rights treaties to which the LAO PDR is a party, along with the dissemination of domestic laws and regulations among civil servants, authorities at the central and local levels, as well as the general public (Human Rights Council, 2010). The Lao PDR also concentrates on building capacity as well as raising awareness for the authorities in charge of coordinating and implementing the promotion and protection of human rights such as law enforcement officers, members of the National Assembly and the People Provincial Assemblies, scholars and students through organizing training, seminars and occasionally inviting foreign experts to share lessons and perception on specific area of human rights. In addition, the Ministry of Foreign Affairs has also created a book compiling human rights treaties and a manual on basic human rights information and distributed them to the relevant stakeholders.

## Promoting and Protecting Right to Peace at the International level

In dealing with the threats to national and international peace or security, the Lao PDR has joined the regional and global efforts in maintaining peace and security. This is evident in the country's ratification and acceding to a number of treaties related to peace and security, such as the Treaty on the Prohibition of Nuclear Weapons, the Treaty of Amity and Cooperation in Southeast Asia, taking part in the global efforts in dealing with terrorism, climate change, natural disaster, and communicable disease, etc. In respect of human rights promotion and protection, the Lao PDR has become a party to seven out of nine core human rights conventions and two optional protocols. These include the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of Persons with Disabilities, the Convention on the Rights of the Child and two protocols related to the sale of children, child prostitution and child pornography, and the involvement of children in armed conflicts. The Lao PDR also signed the Convention for the Protection of All Persons from Enforced Disappearance and became a party to other conventions in the field of human rights, international humanitarian law and labour law.

Apart from joining treaties and international stages, the Lao PDR has also collaborated with the international community and international organisations such as the UN Office of the High Commissioner for Human Rights and its regional office in promoting and protecting human rights. The Lao PDR has an annual human rights dialogue with the EU and twice-yearly with Australia, in order to exchange the lessons learned regarding implementing the promotion and protection of human rights (Human Rights Council, 2019). Furthermore, The Lao PDR has vigorously cooperated with ASEAN in fostering the promotion and protection of human rights through the development of legal contexts, policy, and

plans for the operation of all human rights apparatuses. Importantly, the Lao PDR has played an initiative role in launching the ASEAN thematic studies on the right to peace and the right to access to tertiary education (Human Rights Council, 2010).

## Main Peace actors

The Lao government has a responsibility to maintain peace and order in society in accordance with the constitution and relevant laws. The government guarantees, promotes and protects the right to peace by building legal instruments, strategies, plans and priorities in each period, adopting development projects, and poverty reduction programs to ensure that everyone enjoys the right to peace and other fundamental rights. Additionally, the political alliance organisations such as the Lao Front for National Construction and the mass organisations have enhanced their roles and duties to supplementary forge unity among the multi-ethnic people, motivate and mobilise the mass to participate in the social-economic development and effectively implement laws and regulations as well as to develop the right of self-determination of the people and to protect the legitimate rights and interests of members of their respective organisations.

The human rights agencies established by the Lao government are important actors in relation to the promotion and protection of human rights in general and the right to peace specifically. These comprise of the National Steering Committee on Human Rights established in 2012, which has been renamed to the National Committee on Human Rights in 2020, the National Commission on the Advancement of Women and Mother-Children, the National Committee for persons with disabilities and the Elderly, the National Steering Committee on Anti-human trafficking, the National Committee for Rural Development and Poverty alleviation, and the National Committee Against Human Trafficking. These agencies set up its network at central and local levels and are responsible for integrating state policies and legislation into plans, action plans, programs including

the 5-year plan of action on gender equality, 5-year action plan for the advancement of women, mother and children, the 5-year national plan of action for the advancement of women and mother-children, the 5-year plan of action on preventing and eliminating the violence against women and children.

CSOs and NGOs play a part in promoting human rights, including the right to peace in the Lao PDR. CSOs and NGOs are acknowledged as peace actors due to the fact that these actors are likely to focus on the promotion and protection of specific areas of human rights and they are able to reach specific groups of people such as those who are vulnerable and live in the remote areas. Furthermore, as a least developed country with a limitation of budget and capacity, the Lao PDR needs both financial and technical support from these actors in implementing human rights promotion protection projects.

In conclusion, the Lao PDR has sufficient enabling conditions and environment for the citizens to enjoy peace as well as the right to peace. With the appropriate leadership of the Lao People's Revolutionary Party and the Lao government, the Lao PDR can maintain political stability, social order and safety as well as ensure harmony and continue enhancing the livelihood of the People. The Party and government have also placed attention to the promotion and protection of human rights and the cooperation with international and regional institutions to promote peace within the country and around the globe. The Lao PDR seems to have a promising outcome of promoting peace and rights to peace, particularly in pursuing with the negative peace; however, some domestic and international factors remain constraint the Lao people to enjoy the right to peace such as the country's geography, the effectiveness of the government approaches dealing with the issues preventing people from enjoying peace such as poverty reduction, anti-corruption, human trafficking, drugs and other issues beyond the management of the country like climate change, the regional and global economic crisis, war and conflict, the outbreak of communicable diseases. These issues remain the questions for the right to peace in the Lao PDR.

## References

- ASEAN. (2012, December 18). ASEAN Human Right Declaration. Retrieved April 7, 2022, from [https://asean.org/wp-content/uploads/2021/01/6\\_AHRD\\_Booklet.pdf](https://asean.org/wp-content/uploads/2021/01/6_AHRD_Booklet.pdf)
- Human Right Council. (2010, February). National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1\*. United Nations General Assembly. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/111/67/PDF/G1011167.pdf?OpenElement>
- Human Rights Council. (2019, November). National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21. United Nations General Assembly. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/321/71/PDF/G1932171.pdf?OpenElement>
- Ministry of Planning and Investment. (2022). The National Agenda on Financial and Economic Remediation 2021-2023.
- Ministry of Planning and Investment. (2016). The 8th Five years National Socio-Economic Development Plan 2016-2020
- National Assembly. (2015a). The Amended Constitution. Retrieved April 21, 2022, from <https://na.gov.la/wp-content/uploads/2021/10/Constitution-lao-2015.pdf>
- National Assembly. (2015b, December 17). The Law on Anti-Trafficking in Persons.
- Laoofficialgazette. Retrieved June 4, 2022, from <http://laoofficialgazette.gov.la/kcfinder/upload/files/Promulgated%20TIP%20%20Law.pdf>
- National Assembly. (2017a, May 8). Law on Treaties and International Agreements. MoFA. Retrieved April 24, 2022, from <http://mofa.gov.la/images/legal-documents/Law.pdf>

National Assembly. (2017b, May 17). Panel Code. Laoofficialgazette. Retrieved May 14, 2022, from [http://laoofficialgazette.gov.la/kcfinder/upload/files/10ct2020\\_Lao%20Penal%20Code\\_English%20version.pdf](http://laoofficialgazette.gov.la/kcfinder/upload/files/10ct2020_Lao%20Penal%20Code_English%20version.pdf)

National Assembly. (2018a, June 27). Law on Social Security. Laoofficialgazette. Retrieved June 3, 2022, from <http://laoofficialgazette.gov.la/kcfinder/upload/files/Law%2054%20BA%20AA%20BA%209E%20BA%208A.pdf>

National Assembly. (2018b, December 11). Law on Overseas Representative Missions of the Lao PDR. MoFA. Retrieved May 5, 2022, from <http://mofa.gov.la/images/2020Document/Diplomatic-document.pdf>

National Assembly. (2019, November 28). Law on Gender Equality. Retrieved May 24, 2022, from [https://na.gov.la/wp-content/uploads/2021/11/9\\_1\\_2020.pdf](https://na.gov.la/wp-content/uploads/2021/11/9_1_2020.pdf)

National Assembly. (2021, November 26). Law on National Boundaries. Laoofficialgazette. Retrieved June 4, 2022, from <http://laoofficialgazette.gov.la/kcfinder/upload/files/10%E0%BA%AA%E0%BA%9E%E0%BA%8A2021.pdf>

National Assembly. (2021). Resolution of the National Assembly on 5 years (2021-2025) law development and amendment plan of the 9th legislature of the National Assembly.

National Assembly. (2021). The National Agenda on the Fight Against Drug Trafficking, 2021-2023

NRA. (2022). The National Regulatory Authority for the UXO/Mine Action Sector in the Lao PDR (NRA). Retrieved May 18, 2022, from <http://www.nra.gov.la/>

Sonthany, P. (2015). LAO PDR: SOCIAL SECURITY. ILO. Retrieved May 3, 2022, from <https://www.ilo.org/wcmsp5/>

[groups/public/---ed\\_protect/---soc\\_sec/documents/publication/wcms\\_secsec\\_6601.pdf](groups/public/---ed_protect/---soc_sec/documents/publication/wcms_secsec_6601.pdf)

Thanabouasy, P. (2021, May 17). Lao Government Declares Drug Problem a National Agenda. The Lao Time. Retrieved May 20, 2022, from <https://laotiantimes.com/2021/05/17/lao-government-declares-drug-problem-a-national-agenda/>

The Rule of Law in the Lao People's Democratic Republic. (2017). United Nations. Retrieved June 5, 2022, from [https://www.un.org/ruleoflaw/wp-content/uploads/2017/05/Statement\\_Lao-PDR.pdf](https://www.un.org/ruleoflaw/wp-content/uploads/2017/05/Statement_Lao-PDR.pdf)

The Government of the Lao PDR. (2020, March 20). Decree on Ethnicities. Laoofficialgazette. Retrieved May 15, 2022, from <http://laoofficialgazette.gov.la/kcfinder/upload/files/207%E0%BA%A5%E0%BA%9A2020.pdf>

The Government of the Lao PDR. (2021, October 22). Decree on the Dispute Mediation at Village Level. Laoofficialgazette. Retrieved May 16, 2022, from <http://laoofficialgazette.gov.la/kcfinder/upload/files/626%E0%BA%A5%E0%BA%9A2021-1-17.pdf>

UNDP Lao PDR. (2022). Unexploded Ordnance (UXO). UNDP. Retrieved May 28, 2022, from [https://www.la.undp.org/content/lao\\_pdr/en/home/crisis-response.html](https://www.la.undp.org/content/lao_pdr/en/home/crisis-response.html)

UNDRR. (2022). NATIONAL STRATEGY ON DISASTER RISK REDUCTION (NSDRR) 2021–2030: LAO PDR. UNDRR. Retrieved June 5, 2022, from <https://www.preventionweb.net/publication/national-strategy-disaster-risk-reduction-nsdrr-2021-2030-lao-pdr>

United Nation General Assembly. (2016, July 18). Resolution adopted by the Human Rights Council on 1 July 2016. Aedidh. Retrieved May 15, 2022, from <http://aedidh.org/wp-content/uploads/2016/10/resolution-32-28.pdf>

## MALAYSIA

# Thematic Study on the Right to Peace in the ASEAN Human Rights Declaration 2012: Report by Malaysia

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1. This Thematic Study is premised on Article 38 of the ASEAN Human Rights Declaration 2012 (AHRD). It reads as follows:

*Every person and the peoples of ASEAN have the right to enjoy peace within an ASEAN framework of security and stability, neutrality and freedom, such that the rights set forth in this Declaration can be fully realised. To this end, ASEAN Member States should continue to enhance friendship and cooperation in the furtherance of peace, harmony and stability in the region.*

2. The purpose of this report is to contribute to the discussion on the definition of the right to peace in light of Article 38 of the AHRD. There needs first to be a common understanding on the meaning of the right to peace. Without a foundational basis, it would be challenging to identify with precision which initiatives fall under this right, and which do not. Therefore, the focus of this report has been to consider how Article 38 should be interpreted by ASEAN Member States.
3. As a preface, Article 38 must be consistently and harmoniously read with the Charter of the United

Nations, the Universal Declaration of Human Rights, the Vienna Declaration and Programme of Action, and other international human rights instruments to which ASEAN Member States are parties as well as to relevant ASEAN declarations and instruments pertaining to human rights.

## A. Preliminaries

4. Human rights is often portrayed as the foundation of peace.
5. The Preamble of the Universal Declaration of Human Rights opens with these words:

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world ...

6. This phrase is repeated verbatim in the first paragraph of the Preamble to the International Covenant on Civil and Political Rights<sup>1</sup> and the International Covenant on Economic, Social and Cultural Rights.<sup>2</sup>

1. International Covenant on Civil and Political Rights, UN General Assembly resolution 2200A (XXI), adopted 16 December 1966, entered into force 23 March 1976.

2. International Covenant on Economic, Social and Cultural Rights, UN General Assembly resolution 2200A (XXI), adopted 16 December 1966, entered into force 3 January 1976.

7. Similar statements are made in other international human rights treaties such as the International Convention on the Elimination of All Forms of Racial Discrimination and Convention on the Rights of the Child.<sup>3</sup>
8. This is also the case in regional human rights treaties such as the European Convention for the Protection of Human Rights and Fundamental Freedoms.<sup>4</sup>
9. 'Peace' is explicitly a component of the right to freedom of peaceful assembly that is recognised in both<sup>5</sup> and regional<sup>6</sup> human rights treaties and instruments.
10. 'Peacefulness' is implied in the rights to freedom of association<sup>7</sup>, thought, conscience and religion, and expression.
11. With the numerous prohibitions on inciting hate, violence and war; it is implied that all human rights are to be exercised peacefully. On the other hand, in times of wars and emergencies, human rights must still be respected and protected.

## B. Peace in ASEAN

12. ASEAN, which was initially established as a regional security group, has made the maintenance of peace and stability within the region as one of its founding principles. The 2008 ASEAN Charter provides that

ASEAN's purpose is to, among others:

- a. maintain and enhance peace, security and stability and further strengthen peace-oriented values in the region;
  - b. preserve Southeast Asia as a Nuclear Weapon-Free Zone and free of all other weapons of mass destruction; and
  - c. ensure that the peoples and Member States of ASEAN live in peace and a harmonious environment.<sup>8</sup>
13. In fact, the Treaty of Amity and Cooperation in Southeast Asia mentions 'peace' 12 times. It is also notable that the Treaty of Amity and Cooperation provides for the settlement of differences or disputes by a peaceful manner, and the renunciation of threat or use of force<sup>9</sup> - thus reflecting the well-known features of 'peace'.
  14. In addition to the Treaty of Amity and Cooperation, the Declaration on the Commitments for Children in ASEAN and the Declaration on the Basic Duties of the ASEAN Peoples and Government mention peace.<sup>10</sup> ASEAN Member States have ratified the Treaty on the Non-Proliferation of Nuclear Weapons<sup>11</sup> and firmly embedded 'peace' as part of the core values of the ASEAN.

3. See for instance International Convention on the Elimination of All Forms of Racial Discrimination, UN General Assembly resolution 2106 (XX), adopted 21 December 1965, entered into force 4 January 1969, Preamble; UN Convention on the Rights of the Child, UN General Assembly resolution 44/25, adopted 20 November 1989, entered into force 2 September 1990, Preamble.

4. See for instance European Convention for the Protection of Human Rights and Fundamental Freedoms ETS No. 5 (as subsequently amended), adopted 4 November 1950, entered into force 3 September 1953, Preamble.

5. See for instance Universal Declaration of Human Rights, Article 20(1); International Covenant on Civil and Political Rights, Article 21.

6. See for instance Article 24 of the AHRD; the American Convention on Human Rights, O.A.S. Treaty Series No. 36, 1144, adopted at San Jose, Costa Rica, on 22 November 1969, entered into force 18 July 1978, Article 15; the European Convention for the Protection of Human Rights and Fundamental Freedoms, Article 11(1).

7. Article 20(1) of the Universal Declaration of Human Rights provides that '[e]veryone has the right to freedom of peaceful assembly and association' implying that both must be peaceful.

8. ASEAN Charter, Articles 1(1), (3) & (4).

9. Treaty of Amity and Cooperation in Southeast Asia, Articles 1, 2, 4, 6, & 13.

10. Declaration on the Commitments for Children in ASEAN, Singapore, 2 August 2001, No (16); and Declaration of the Basic Duties of the ASEAN Peoples and Governments, Article 45.

11. Treaty on the Non-Proliferation of Nuclear Weapons, Adopted 1 July 1968, effective 5 March 1970. 'Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights on 25 June 1993, A/CONF.157/23, Article 5.



### C. Article 38 of the AHRD

15. Article 38 of the AHRD has not been worded as a restriction or limitation to the other rights in the AHRD. It cannot therefore be interpreted as such. What this means is that the 'Right to Peace' cannot be used to justify State persecutions, repression, oppression or reprisals on the grounds that dissident groups pose a threat to other peoples' right to peace.
16. In implementing Article 38 of the AHRD, States must be mindful of the position of international human rights law on the relations between rights- holders and the government. There can be no hierarchy of human rights: Peace cannot be used to subjugate one's right to the rights of others, or to violate one's right to uphold the rights of others.
17. This principle is clearly expressed in Article 7 of the AHRD. Article 5 of the Vienna Declaration and Programme of Action also states as follows:<sup>12</sup>

All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis.
18. Article 7 of the AHRD does state that human rights must be *considered* in the regional and national context bearing in mind different political, economic, legal, social, cultural, historical and religious backgrounds. This means that different national contexts may serve

only to enrich the discourse on, and implementation of, human rights. It does not allow ASEAN Member States to act below the minimum international human rights standards. So long as these minimum standards are met, as set out in the first part of Article 7, then there may be a 'margin of appreciation' that may be accorded to Member States in respect of how certain restrictions to human rights may be interpreted.

19. In the present context, reading Article 7 of the AHRD with Article 5 of the Vienna Declaration and Programme of Action to interpret Article 38 of the AHRD means that neither the right to peace nor any other right may be used as an excuse to refrain from respecting or protecting other human rights. The Vienna Declaration and Programme of Action illustrates this point in the case of the right to development – but it would apply equally to any other right:<sup>13</sup>

While development facilitates the enjoyment of all human rights, the lack of development may not be invoked to justify the abridgement of internationally recognised human rights.

20. It bears mention at this juncture that the restriction of rights is only permissible if they are first, provided by law; second, placed for the purpose of protecting certain public interests (national security or public safety, public order, protection of public health or morals); and, third, in conformity with the strict tests of necessity and proportionality. Any restrictions imposed which do not meet all elements of this 3-part test constitute violations of the right.<sup>14</sup>

12. Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights on 25 June 1993, A/CONF.157/23, Article 5.

13. *Ibid.*, Article 10. See also Article 35 of the AHRD.

14. See, for example, Human Rights Committee, General Comment No. 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34 (2011), paragraph 22. This General Comment also provides guidance with regard to elements of the right to freedom of peaceful assembly – see Communication no. 1790/2008 in *Govsha, Syritsa, and Mezyak v. Belarus*, Views adopted 27 July 2012.

21. The right to peace can also be found in Article 23 of the African Charter on Human and Peoples' Rights.<sup>15</sup> It reads as follows:

*All peoples shall have the right to national and international peace and security. The principles of solidarity and friendly relations implicitly affirmed by the Charter of the United Nations and reaffirmed by that of the Organisation of African Unity shall govern relations between States.*

*For the purpose of strengthening peace, solidarity and friendly relations, State Parties to the present Charter shall ensure that:*

- a. *any individual enjoying the right of asylum under Article 12 of the present Charter shall not engage in subversive activities against his country of origin or any other State Party to the present Charter;*
- b. *their territories shall not be used as bases for subversive or terrorist activities against the people of any other State Party to the present Charter.*

22. The function of the right to peace in the African Charter appears to be more specific in its application, namely, to the right of asylum and the issue of terrorism.

23. Article 38 of the AHRD is wider. It begins by:

- a. *acknowledging first*, that every person has the right to enjoy peace;

Every person and the peoples of ASEAN have the right to enjoy peace within an ASEAN framework of security and stability, neutrality and freedom ...

- b. *second*, stipulating that the *function* of the Right to Peace is to ensure the realisation of the other rights in the AHRD;

*... such that the rights set forth in this Declaration can be fully realised ...*

- c. *third*, that the method of achieving the said function is for ASEAN Member States to continue to enhance friendship and cooperation in the region.

*...To this end, ASEAN Member States should continue to enhance friendship and cooperation in the furtherance of peace, harmony and stability in the region.*

24. These three points are elaborated below.

#### D. Acknowledging the Right to Peace

25. Johan Galtung draws a distinction between 'negative' peace and 'positive' peace.<sup>16</sup>

26. Negative peace in very simple terms is the 'absence of violence, absence of war', and positive peace is the 'integration of human society. Positive peace also includes an increase in social justice and the creation of a culture of peace among people within and across societies.<sup>17</sup>

27. In recognising that this right relates to the ASEAN framework of security and stability, neutrality and freedom, it would not be far-fetched to submit that instances of armed or unarmed conflict – both within the borders of Member States and outside of the borders – restrict the ASEAN peoples' enjoyment of human rights. Peace is therefore linked to exercise of the full range of rights, and one of its pre-conditions.

15. African Charter on Human and Peoples' Rights, OAU Doc. CAB/LEG/67/3 rev. 5 adopted 27 June 1981, entered into force 21 October 1986, Article 23

16. Galtung, John (1964). "An Editorial", Journal of Peace Research.

17. Peace, Peacebuilding, Peacemaking' (2012), in Berghof Glossary on Conflict Transformation, 20 Notions for Theory and Practice, Berlin: Berghof Foundation, page 59.

28. As ASEAN operates on the strict principles of sovereignty and non- interference, there is no human rights mechanism for accountability within the region where peace within borders are threatened, and particularly where neighbouring States are impacted. Without such a mechanism, the right to peace in Article 38 would merely be 'illusory' and 'ineffective'.

## E. The function of the Right to Peace

29. Article 38 states that its purpose is to build on the other rights in the AHRD. It is viewed as an enabler of other rights. These other rights include civil and political rights, and economic, social and cultural rights. Operationalising the right to peace therefore must not encroach on the ambit of the other rights in the AHRD. Rather it must support the same.

30. This function is a logical one as the right to peace is much too wide to operate as a right in and of itself. Its meaning becomes more rooted when read together with the other rights in the AHRD, as all rights in the Declaration seem to be indivisible, inter-linked and inter-connected.

31. Without therefore an agreed common approach or interpretation on how other rights in the AHRD are to be interpreted, it would be virtually impossible to interpret the right to peace; as the right to peace is predicated on other rights.

## F. The method of achieving the function of the Right to Peace

32. Fundamental rights, in general, can be considered in terms of its horizontal effect (i.e. between the State and its citizens) or its vertical effect (i.e. between entities of equal position; for example, between States, between citizens or between private entities).

33. The right to peace can arguably have both a horizontal, and a vertical, effect.

34. Unfortunately, Article 38 of the AHRD envisages that the right to peace only operates as between ASEAN Member States, i.e. it is to have a State-to- State horizontal effect. This can be seen from the final line of Article 38 where the duty-holders tasked with ensuring the respect for, and protection, of the right to peace are ASEAN Member States. States are required to achieve the right to peace through regional friendship and cooperation:

*ASEAN Member States should continue to enhance friendship and cooperation in the furtherance of peace, harmony and stability in the region.*

35. Issues of, among others, territorial integrity, political independence and international peace, security and justice become considerations in operationalising this right.

36. In guiding its conduct, ASEAN Member States should refer to the following international declarations on the right to peace:

- a. The Declaration on the Right to Peace adopted by the UN Human Rights Council.<sup>18</sup>
- b. The Luarca Declaration on the Human Right to Peace.<sup>19</sup>
- c. The Santiago Declaration on the Human Right to Peace.<sup>20</sup>
- d. The Nagoya Declaration on the Human Right to Peace.<sup>21</sup>

18. Human Rights Council, Declaration on the Right to Peace, UN Doc. A/HRC/32/L.18, 24 June 2016, Annex.

19. La Declaración de Luarca sobre el Derecho Humano a la Paz, 30 October 2006.

20. Santiago Declaration on the Human Right to Peace, 10 December 2010, Annex.

21. Nagoya Declaration on the Human Right to Peace – Nagoya (Japan), 3 December 2011.

37. Given that Article 38 of the AHRD suggests that every person and the peoples of ASEAN have the right to enjoy peace, it is arguable that both individuals and groups of people may invoke this right. But in practice how would anyone be able to do this? Perhaps only through their governments in the diplomatic ASEAN framework of inter-State relations. Or does Article 38 allow individuals or communities to directly hold ASEAN Member States accountable for failing to ensure the right to peace in the region? And would the assertion of the more specific rights underlying the right to peace such as the right to life, food, health, expression etc. be more helpful than the generic right to peace? These questions must be resolved by going back to a discussion on 'first principles' without which Article 38 would only be worth its text on paper.

## Conclusion and Recommendations

38. This report is not meant to provide an exhaustive definition of Article 38 of the AHRD given that its normative content is still a work in progress.
39. In closing this report, it is recommended that the ASEAN Intergovernmental Commission on Human Rights (AICHR):
  - a. Collaborates with the ASEAN institute for Peace and Reconciliation (AIPR) to adopt a common ASEAN declaration or document to interpret Article 38 of the AHRD, and elaborate its meaning.
  - b. Adopts a common position and/or approach to interpret, and elaborate on, the other rights in the AHRD. This would enable ASEAN to fully operationalise the right to peace in Article 38 of the AHRD.

*Dated this 11th day of March 2018*

## MYANMAR

# Myanmar Report on Right to Peace

### 1. Overview/Introduction

To understand clearly Myanmar's efforts to bestow peace for its people, and its successes and failures, one needs to go back seven decades into the country's past. On 4 January 1948, Myanmar (then officially known as the Union of Burma) regained its independence from colonial power the United Kingdom. As soon as Burma became independent, it lost its peace. The country found itself battling against multiple insurgencies: first against the Communists, joined by communist renegade elements from the Army, and its leftist allies (People's Volunteer Organisation or PVO); then against the Karen KNU (then known as KNDO), one of the major ethnic groups that constituted the Union. There were two communist parties – the white flag (pro-Moscow) communist party and the red flag (pro-Peking) communist party – fighting the Government. It was ironic in that the party in power, the Anti-Fascist People's Freedom League (AFPFL), was left of center, its most senior leaders being prominent Socialists. Also, the main official opposition group in Parliament, the National United Front (NUF), was leftist.

The communists and the KNU were each fighting separately against the central Government. It was a desperate time for the Government, confronting two rebellions at the same time, one ideological and the other ethnic. Very soon, the central AFPFL Government found itself fighting against a plethora of insurgents who, each for its own reason, refused to recognise the 1947 Constitution. The situation was very confusing, brother fighting against brother, former comrades in the long struggle for independence squaring off against each other, communists and socialists at each other's throats. It was a very ugly situation.

In the early stages of the insurgency, most of the countryside and some major towns, including Mandalay, the ancient royal capital, and the former British summer capital Pyin-Oo-Lwin, briefly fell into the hands of the Karen insurgents. However, the national Army gradually gained the upper hand, enabling the Government to stabilize the situation throughout the whole country.

The ruling AFPFL Party split into two factions in 1958, leading to a political crisis. A caretaker government headed by General Ne Win administered the country from October 1958 to April 1960. It held elections in February 1960, won by U Nu's faction of the AFPFL which formed a government. In August 1961, the Government declared Buddhism, the religion of over 80 per cent of the people, as the state religion – a fulfillment of one of U Nu's campaign promises.

Although it reflected the reality of the religious composition of the country, it was a bad move as far as ethnic groups like the Karens, Kachins, etc. the majority of whom were Christians, were concerned. Even though the Government tried to make amends by subsequently adopting a freedom of religion bill, the damage was done and it alienated non-Buddhists.

Over the years, the AFPFL Government made efforts to negotiate with insurgent groups and restore peace to the country, without achieving any notable success. The differences were simply too great and the mistrusts too deep. In 1962, just as Parliament began discussions on a new federal system of government, the Army staged a coup d'état, putting an end to the endeavor. Subsequent peace efforts by the military Revolutionary Council Government also failed to bear fruit.

In 1974, the military rule morphed into authoritarian socialism, under a new socialist constitution. A nationwide uprising by the people in 1988 ended it. A bloody crackdown on protesters and another period of direct military rule followed.

Free elections held by the military Government in 1990 resulted in a landslide win for the National League for Democracy (NLD) party. However, the transfer of power to the elected representatives failed to take place. Instead, under the auspices of the military government, a new Constitution was drawn up, the third for the country since regaining independence from the British. Although the NLD Party took part in the exercise at first, it later walked out when it became apparent that it would have no voice and its participation would not make any difference to the final outcome. The new Constitution was adopted in 2008 by a nationwide referendum. Elections were held in 2010, won by the USDP (Union Solidarity and Development Party) formed by the military. The NLD party boycotted the elections. However, two years later, after political negotiations between the two sides, the NLD took part in the 2012 mid-term elections. It showed that negotiations could provide a win-win situation for both the Government and the opposition: the former needed legitimacy and international recognition and the latter needed to come out of the political wilderness into mainstream politics. The NLD swept the seats contested (25 out of 26). NLD leader Daw Aung San Suu Kyi became a Member of Parliament. This significant political development represented a change in the confrontational relations between the leaders of the Army and NLD. The two sides had found a political compromise and it opened the way for an eventual return to civilian politics.

In 2015, the second elections under the 2008 Constitution were held. The NLD again won a landslide victory, just like it did in the pre-2008 Constitution elections of 1990. This time there was a peaceful transfer of power in April 2011 and the NLD formed the Government which is presently in power.

Over the decades, the armed conflict also evolved. The number of ethnic armed groups mushroomed, especially after the parliamentary democracy set up after Independence was

overthrown by the 1962 military coup. They vary in size and shape, each with its distinctive language, culture, affiliations and allegiance. Almost all the ethnic groups that constituted the Union rebelled against the Central Government but were not successful in overthrowing the latter, achieving greater autonomy or breaking away from the country. Neither have the successive Governments been successful in militarily defeating the ethnic armed organisations, except for the two Communist parties which, for all practical purposes, are now defunct.

What the ethnic people wanted was, and still is, national equality and self-administration (with a basic constitution for each state). What the Governments were looking for was first of all to preserve the Union and develop the economy. The failure on the part of both was to resolve political problems peacefully without resorting to armed force.

The resulting situation is a stalemate, an ordeal that continues to this day but one that the previous and present governments have been diligently trying, each in its own way, to put an end to, and bring back peace and prosperity to the people.

There is also the quite recent problem of inter-ethnic conflict, such as between the Mon and Karens, the Shans and Palaungs, over territorial issues. Though it cannot be described as a big problem, it has, nevertheless, resulted in small skirmishes between EAOs, though limited to the areas adjoining the territories of the ethnic groups concerned. The official political/administrative areas of the states and autonomous regions are set but over the years, the ethnic people living in these areas are becoming increasingly mixed, resulting in areas in which more than one ethnic group reside and try to control. However, these problems could be resolved when overall peace is achieved in the country.

Thus, the two urgent political imperatives in order to have lasting internal peace are: establishment of a true democracy and a federal system. They are interlinked. One is not viable without the other.

## 2. Constitutional provisions and/or administration structures that contribute to right to peace

In Myanmar, the State guarantees a right to peace for its people. This becomes clear if one looks at the relevant provisions in the present 2008 Constitution. The other two previous constitutions, i.e. the 1947 and the 1974 constitutions, mention peace only in the conduct of foreign policy and relations with other countries.

### 1947 Constitution

In the country's first constitution adopted in 1947, Article 212 in Chapter XII affirms the country's "devotion to the ideal of peace and friendly cooperation amongst nations founded on international justice and morality".

### 1974 Constitution

The Preamble of the 1974 Constitution, a constitution setting up a one-party Socialist state, stated a "resolve to strive for world peace and friendly relations among nations".

This is reiterated in Article 26 under Chapter 2 Basic Principles, which stated that the State, by consistently practicing an independent foreign policy, looks forward to world peace and friendly relations among countries.

### 2008 Constitution

The present 2008 Constitution explicitly mentions peace for the national people, and, like the previous two constitutions, it also refers to a peaceful foreign policy.

In the preamble of the Constitution, the people declare that they "shall stalwartly strive for further burgeoning the eternal principles, namely justice, liberty, equality and perpetuation of peace and prosperity of the National people".

The Preamble also declares, with regard to foreign relations, to uphold the principles of peaceful co-existence

among nations with a view to having world peace and friendly relations among nations.

These principles are further elaborated and affirmed in Chapter 1 Basic Principles of the Union:

→ Art. 21(c)

In this article, every citizen's responsibility for "public peace and tranquility and prevalence of law and order" is clearly stated.

→ Art. 41

This article, referring to foreign relations, declares that the Union "practices independent, active and non-aligned foreign policy aimed at world peace and friendly relations with nations and upholds the principles of peaceful co-existence among nations".

The Right to Peace is a legal right but the country is still struggling to make it a sacred one. As can be seen above, the legal basis is there, the provisions on peace are there but, in practice, their full application faces hurdles, especially in parts of the country where the ethnic groups reside. The main political actors have resorted to the use of force to settle political differences, and, as a result, conflicts broke out in the land and continues to this day. Now it is up to politicians to restore peace to the land and enable the people to fully enjoy this Right and the fruits it could bear.

Ethnic nationals in Myanmar live in the hills, plains, delta and coastal areas. Due to the different geographical locations, the language, culture and literature of each also differ. The Government and the ethnic nationals are now striving together for national reconciliation and peace.

Another milestone in the march towards the right to peace is the Law on Protection of Ethnic Rights enacted in February 2015, to obtain full constitutional rights for the ethnic people. With the enactment of this law, ethnic

nationals in the ethnic regions can freely obtain their full rights. Rules are being drawn up. Once the rules are also enacted, more can be done to promote ethnic literature and culture.

As per this law, a *Ministry of Ethnic Affairs* has been formed to effectively and speedily implement socio-economic development that includes language, literature, arts, culture, tradition, religion, historical heritage, peace and constitutional rights of ethnic nationals. The Ministry is composed of the Union Minister's office, the Ethnic Literature and Culture Department, and the Ethnic Rights Department, with a total of 314 officers and staff. Offices in the States and Regions were opened in Mawlamyine, Mon State; Monywa, Sagaing Region; Sittway, Rakhine State; Myitkyina, Kachin State; Loikaw, Kayah State; Mandalay, Mandalay Region; Haka, Chin State; and Magway, Magway Region.

In coordination with the Ministry of Education, 5,161 ethnic youths were employed as Teaching Assistants so that ethnic children can be educated through their own language, resulting in job opportunities for ethnic youths. The two ministries jointly conduct the teaching of ethnic literature and languages in basic education schools during summer holidays. Together with the Ministry of Health and Sports, the Ministry assisted and cooperated in translating into ethnic languages, information about Japanese Encephalitis vaccination campaign, H5N1 bird flu information posters, pamphlets and standard health facts booklets.

In response to proposals submitted by ethnic national villages on electrification, the Ministry coordinated with the Department of Rural Development of the Ministry of Agriculture, Livestock and Irrigation, to install solarpower electrical systems in villages that are more than 10 miles away from the National Electrification Plan (NEP). According to this plan, 43 villages in Yangon and Ayeyawady regions will have solar power electrical systems installed in fiscal years 2017-18 and 2018-19.

Work was assigned to the Ministry of Construction to build 80x60 feet re-enforcedconcrete two-story office buildings

in Kayin, Kayah and Mon states, as well as in Bago and Ayeyawady regions, in fiscal year 2017-18. The building constructed in Mawlamyine in Mon State was opened on 19 march 2018, in commemoration of the 44th Anniversary of Mon State Day. Buildings in the other states and regions will soon be opened. The Ministry also assisted and supported the application of literature and culture groups in states and regions to the Ministry of Home Affairs to form literature and culture committees.

As its name implies, the Ethnic Literature and Culture Department has as its aim, the strengthening of the national spirit and developing the socio-economic situation of the ethnic nationals by maintaining and raising ethnic literature and culture. During the two year period of the present Government, poems, articles, books, video records of ethnic national literature, language, culture and historical relics were collected and kept at the Department's library. A book on eight ethnic national languages was published within the Department. Offices were opened in Mon state, Kayin State, Sagaing Region, Rakhine State, Kachin State, Kayah State, Mandalay Region, Bago Region, Ayeyawady Region, Taninthayi Region, Chin State and Magway Region in fiscal years 2016-17 and 2017-18. The Law on Protection of Ethnic Rights had been published and distributed in 44 ethnic languages. Health related journals published by the Ministry of Health and Sports, notices and posters published by UNICEF were also being translated into ethnic national languages. Pamphlets describing the history, location, distinguished places, traditional festivals, dances, natural resources, traditional food, etc. of eight main ethnic nationals and 32 sub-groups are being published in Myanmar-English languages. Work is under way to do the same for the remaining sub-groups. The traditional costumes and apparel of the eight main ethnic nationals, their tools and utensils, musical instruments, etc. are displayed in the Ministry's exhibitions.

The aim of the *Ethnic Rights Protection Department* is to obtain the full rights of the ethnic nationals. This would be done without affecting the country's security, rule of law, morality of the people and enacted laws. Disagreements between ethnic nationals will also be coordinated and resolved.



Five offices were opened in the states and regions in fiscal year 2017-18. Staff were appointed for liaising with ethnic national organisations. At the same time, systematic arrangements are being made to work together with more ethnic organisations. Requirements of the ethnic nationals are being fulfilled. As stated above, Rules on Protection of Ethnic Rights will soon be enacted and, based on it, the rights of the ethnic nationals will be further protected.

### 3. Specific economic, political or social policies and programs that enhance or contribute to the right to peace (particularly positive peace)

The election manifesto of NLD, the present ruling party, promised as its first item, to “hold political dialogue based on the Panglong spirit in order to address the roots of internal armed conflict” – referring to the pre-independence Panglong Conference, convened by General Aung San (the father of Daw Aung San Suu Kyi) in 1947. Daw Aung San Suu Kyi had indicated that achieving peace would be a top priority for her government.

Newly elected Myanmar President U Win Myint made a policy declaration, following his taking of the Oath of Office in March 2018, that he would strive to implement the following priority goals of the Union Government:

1. Rule of law and improvement of the socio-economic life of the people;
2. National reconciliation and internal peace;
3. Amendment of the Constitution to provide foundation for building a democratic federal republic.

On the Second Anniversary of her NLD Government, State Counsellor Daw Aung San Suu Kyi, in her speech to the people, exhorted them on the need to have mutual understanding and mutual respect as the basic foundation to bring to an end, the armed conflicts that have existed for many years among the ethnic nationalities.

She urged the people, especially the youth, to assist and support the peace efforts of the Union Government.

## 4. Main peace actors

The following are some of the civil society groups whose activities support peace in the country:

### Forum on Sustainable Development of Ethnic Nationals

The forum took place in Naypyitaw in January 2018. Economic development, peace and ethnic national media, and sharing of ethnic national resources were discussed. 28 points were identified. The outcome was the establishment, a few months later in March 2018, of the Ethnic Entrepreneurs Association in the Republic of the Union of Myanmar Federation of Chambers of Commerce and Industry in Yangon.

### Pyi Daung Su Institute for Peace and Dialogue

(The word pyi daung su means ‘union’ in the Myanmar language).

The Institute was founded in 2013 with the aim of building a just, democratic and pluralistic society in Myanmar. Its purpose is to provide research and documentation support to all stakeholders involved in the peace process and political transition in Myanmar.

### Alliance for Gender Inclusion in the Peace Process (AGIPP)

AGIPP is a Myanmar civil society alliance formed by national organisations and networks working on women's rights, gender justice and peace and security processes. AGIPP has two central goals: (1) to increase the number of women substantively participating in the peace process, including negotiations and implementation arrangements; and ((2) to ensure gender perspectives and priorities are included across the agenda of peace talks, agreements and implementation strategies. Formed in August 2014,

the founding members include: the Gender and Development Institute (GDI), Gender Equality Network (GEN), Kachin State Women's Network (KSWN), Mon Women's Network (MWN), Nyein (Shalom) Foundation, Women's League of Burma (WLB), Women's Organisation Network (WON), and Women and Peace Action Network (Shan State).

## 5. Peace education and public awareness of peace issues

State Counsellor Daw Aung San Suu Kyi held Peace Talks with local people in different locations across the country. The purpose of these talks, as the State Counsellor said "is to inspire and motivate people to think of how to spread peace in their community, for everyone to wonder what role each could play and to contribute to this end, this thinking is the start towards unity and peace".

The State Counsellor explained to the local people about the on-going peace process, the reason why peace is critical to the country's future, why peace and sustainable development are inseparable, why education and development are the basic foundations for peace. For the local people, the talks gives an opportunity to present their views, make comments and ask questions.

The latest peace talk with the people took place in the town of Myaungmya in the Ayarwaddy Region (situated at the mouth of the Ayarwaddy River). The talks were attended also by Union Ministers, Deputy Ministers, State/Region Chief Ministers, Hluttaw (Parliament) members, regional government ministers, civil servants, civil society organisations, town elders, political party members, students, youth and members of the public.

The State Counsellor also held peace discussion round tables with ethnic youth. These are free exchange of views and ideas on issues related to peace. So far, four such discussions have been held, in the capital Nay-pyitaw; in Loikaw, capital of Kayah State; Panlong, the town where the famous Panlong Conference was held in 1947, in southern Shan State; and Wundwin, a town in Mandalay Region.

## 6. Conflict resolution and peaceful settlement of disputes

### The current journey towards peace

The Government of President U Thein Sein came to power in 2010 and in August 2011 offered to hold peace talks with the ethnic armed organisations. It was the first overture of peace talks by the Government formed under the 2008 Constitution. The new journey towards peace had begun.

### Nationwide Ceasefire Agreement (NCA)

In November 2013, the Government, the Myanmar Armed Forces (Tatmadaw) and an alliance of 16 EAOs began talks on signing a NCA. The idea was to first halt the hostilities and then hold a political dialogue. However, in 2014, the NCA negotiations stalled over disagreements about a clause related to disarmament, demobilization and reintegration (DDR), as well as over security sector reform (SSR). Then, fighting broke out between the Tatmadaw and the MNDA. Talks stalled again over the issue of inclusivity, namely which ethnic groups were eligible to sign the agreement. After 22 months of intense negotiations, the NCA was signed in October 2015 by the Government, the Tatmadaw and 8 EAOs. A joint legislative session ratified the NCA on 8 December 2015, giving it legal status.

2 more EAOs signed on in February 2018 (under the new NLD Government).

Finalization of the NCA was only the first step in a long, difficult process needed to reach a comprehensive peace agreement. Nevertheless, the NCA is an important building block, a first step in Myanmar's quest for internal peace. It is the door through which all EAOs must pass for full participation in a political dialogue. Its importance, therefore, cannot be underestimated.

The new NLD Government which took office in March 2016, made internal peace and reconciliation one of its national priorities. It announced a new peace architecture on 31 May 2016, with three sets of structures:

- The NCA-mandated JMC and UPDJC (see below), the latter now chaired by the State Counsellor and with party membership limited to those that won seats in the last elections;
- A committee to transform the previous government's Myanmar Peace Centre into a National Reconciliation and Peace Centre (NRPC)(see below). This new center, launched on 11 July 2017, is headed by the State Counsellor. Under it is a new Peace Commission, chaired by Dr Tin Myo Win, newly-designated chief peace negotiator;
- A Panglong-21 preparatory committee also chaired by Dr Tin Myo Win and sub-committees to liaise respectively with NCA-signatories and non-signatories.

### *Text of the NCA*

The NCA document is 20 pages long, with 7 chapters and 33 clauses. Its 120 or so different points provide a framework for Myanmar's peace process \_ from ceasefire monitoring and verification to political dialogue aimed at creating a lasting peace through federalism.

The text of the Agreement starts out with a preamble containing a pledge aimed at achieving lasting peace based on the principles of equality and dignity. It includes a commitment to working collaboratively, transparently and accountability towards the goal of peace.

The first chapter sets out the basic principles. All sides agree on union, rather secession, and respecting sovereignty. Other key principles include a commitment to peaceful dialogue rather than war; inclusiveness and recognition of diversity; and the establishment of pledges toward federalism rooted in multi-party democracy.

The second chapter focuses on the aims and objectives of the Agreement, including the long-awaited political dialogue process and a ceasefire monitoring mechanism. It also emphasizes that the Agreement should be signed by all the groups that are part of the peace process.

The third chapter deals directly with ceasefire issues. It talks about joint ceasefire monitoring mechanisms, troop relocations, freedom of movement without weapons for troops, freedom of movement for civilians, protection of civilians, and humanitarian assistance.

The section on civilian protection has 20 subheadings ranging from refraining from establishing military bases at social, religious, health or education buildings to the protection of women and children in armed conflict.

The fourth chapter includes an agreement to draw up codes of conduct once the deal has been signed, which is a crucial step for strengthening ceasefires. Without these codes of conduct and the joint ceasefire monitoring, it would be impossible to maintain an effective armistice.

The fifth chapter focuses on political guarantees and holding talks. It sets down the key steps (the so-called Road Map) for moving towards peace, starting with the NCA, followed by the development of the Framework for Political Dialogue (FPD) which is the basis on which the talks will be implemented. One of the provisions of this chapter is on the ratification of political and peace agreements by the nation's Parliament or Hluttaw as it is known officially.

The deadlines for this chapter are ambitious. For example, the Framework for Political Dialogue (FPD) must be jointly developed within 60 days of the signing of the NCA, and the dialogue must commence within 90 days. (In order to make the deadline feasible, informal consultations on a FPD, the basis for future political negotiations, began in parallel with ceasefire negotiations. The FPD, including the mandate, agenda, working methods and proportions of representatives to be

included in the dialogue, was finalized (on 15 December 2015) within 60 days of the signing of the NCA. The UPC formally commencing the political dialogue was held within 90 days.)

The sixth chapter is about transitional arrangements and future plans. One of the most important agreements is the suspension of the Unlawful Association Act for all signatories to the agreement, which has been a thorn in the side of the peacemaking efforts.

Chapter 7 – the final chapter – deals with the official languages, the validity, and the signing of the agreement.

### *NCA mechanism*

Two committees set out in the NCA were established to take the process forward: the Union Peace Dialogue Joint Committee (UPDJC) for political dialogue and the Joint Monitoring Committee (JMC) for military and ceasefire matters.

#### **UPDJC** (Union Peace Dialogue Joint Committee)

The UPDJC is the steering committee for the political dialogue process. It was responsible for developing the FPD and organizing the first UPC mentioned above. It has **48** members with **16** representatives each from Government (including representatives of members of parliament and the Tatmadaw), NCA-signatory EAOs and political parties. It was formed quickly to meet the NCA's strict guidelines for political dialogue.

**JMC** (Joint Ceasefire Monitoring Committee), as its name implies, is responsible for ceasefire monitoring and implementation, functioning at union, state and local levels. The union-level JMC-U has 26 members – 10 from the Government, 10 from ethnic armed groups, and 6 civilians nominated equally by each side. Its activities are guided by a 23-page Terms of Reference. Civilians select their own monitors at the local level, accredited by state-level JMC-S. Civil society organisations conduct training for local members. So far, two local JMC-Ls have been formed, one in Lin Khay, southern

Shan State and the other in Myeik, Thanintharyi Region. Five State-level JMC-S have also been formed, in Shan, Mon, and Karen States, and Bago and Thanintharyi Regions. More state and local JMCs will be formed as the peace process progresses. The JMC-U holds yearly meetings.

To some, the NCA looks more like a political document than a ceasefire text. This may partly explain the reason why it is taking so long for all the non-signatory EAOs to become a party to it. But the reason why some EAOs have not signed the NCA is a lack of trust on both sides, even though almost everyone desires peace and the fighting to end. Some, like the KIA and UWSA think that the parties should go directly to political talks without first signing the NCA; according to them, if the political problems are resolved, there would be no more reason to fight.

However, there would still remain to be resolved the difficult problems concerning the composition of the federal army, disbandment of armed groups and their possible integration into the military, sharing of revenue and natural resources, etc. which would require compromises on the part of all parties. These difficult issues were deferred from the NCA to the political dialogue, as were some technical military issues on ceasefire monitoring and code of conduct. The NCA is thus neither a classic ceasefire agreement – many military issues, such as force separation, demarcation and verification, are vague, not included or need further agreement to come into force – nor a full political agreement, as it references many political issues but defers detailed discussion.

Discussions with would-be signatories to the NCA continue. The Peace Commission and KNPP met in the last week of April 2018. At the end of the two-day talks, a three-point joint statement was issued in which the KNPP expressed its commitment to sign the NCA as soon as possible. Some issues, mainly military, still need to be thrashed out.

Talks with the SSPP/SSA took place at the beginning of May 2018. The SSPP/SSA was formerly part of the UNFC but left the grouping to join the Northern Alliance. It has already signed bilateral ceasefires with the Government at the Union

and state levels. UWSA and NDAA are reportedly also discussing with the Government to sign the NCA. UWSA's stand is that although it does not/never opposes the NCA, some points in the NCA still need to be discussed. This group has also publicly stated that it supported the State Counselor's efforts for peace.

All these positive developments augur well for the holding of political discussions, leading to a lasting peace.

- The NCA-mandated JMC and UPDJC (see below), the latter now chaired by the State Counsellor and with party membership limited to those that won seats in the last elections;

### Union Peace Conference - 21st Century Panglong

The NCA is to be followed by a "political dialogue", consisting of a Union Peace Conference (UPC) to reach a comprehensive peace agreement that would be "the basis for amending, repealing and adding provisions to the constitution and laws, in line with agreed procedures" – that is, through the legislature – along with armed group disarmament and security sector reform.

The UPC is, therefore, the main discussion and decision-making forum for political dialogue. The Framework for Political Dialogue (FPD – see above fifth chapter of text of NCA Agreement) requires UPCs to be held every four months. The first UPC was held in January 2016 in Naypyitaw. The topics discussed are indicative of the issues that the nation faces and the reasons for the lack of peace for the last 70 years of independence: federalism, sharing of natural resources, social issues, the economy and security (meaning disbanding of individual ethnic armed groups, composition of the federal army, etc.). No binding decisions were taken at the first UPC, due to the impending transition from U Thein Sein's USDP (Union Solidarity and Development Party) Government to Daw Aung San Suu Kyi's NLD (National League for Democracy) Government. However, four proposals were agreed to at the first UPC;

- to conduct the next round of political dialogue as soon as possible
- to achieve 30% women's participation in future conferences
- to acknowledge those who made the NCA and political dialogue possible
- to complete the political dialogue process in three to five years

The second UPC was held in August 2017, this time under the NLD Government. Its name was changed to **Union Peace Conference - 21st Century Panglong**. (The conference takes its name from the original Panglong Conference in 1947 which culminated in the signing of the famous Panglong Agreement on 12 February 1947. This cleared the way for Shan, Kachin and Chin ethnic areas (administered separately from mainland Burma by the British) to join an independent Burma in return for promises of full autonomy in internal administration and an equal share in national wealth. Uniting the mainland and frontier ethnic areas, it prevented the ethnic regions from being left behind under colonial rule.)

The importance of the second UPC-TPC conference was its broad inclusion of EAOs. All of them participated except for four groups: AA, TNLA, MNDAA and NSCN-Khaphlang.

Agreement was reached on 37 points for incorporation in the union agreement. The participants signed the first part of the agreement. But political matters concerning the rights of the States such as self-determination still need further negotiations. A decision was also made to hold the UPC every six months (still yet to be implemented).

*The Third Union Peace Conference – 21st Century Panglong Conference* will discuss, inter alia, inclusion of ethnic groups left over, and, self-administration in a federal union. The conference was postponed from February-beginning of March to end April 2018, due to RCSS and ALP national political discussions being held up. The PPST, the negotiating arm of ethnic NCA signatories, declared that work on various steps of the political dialogue should be completed (in accordance with NCA chapter 5) before holding the Third Panglong Conference. The Conference is once again

re-scheduled to be held at the end of May 2018 but would most likely be postponed once again as attention is focused on the fighting that has broken out in some areas: between the Tatmadaw and the KIA in the north (Tanaing, Pharkant area) and with the KNLA in the south (Papon area).

### **NRPC (National Reconciliation and Peace Centre)**

The Centre was formed by Presidential decree in October 2012 to help the government negotiate with the EAOs. It was conceived to provide a one-stop service for negotiations, logistics, technical advice, security, peace building, outreach and all other elements necessary to the peace process. A semi-government body staffed mainly by non-government experts, it acts as the secretariat of the peace process. Formerly known as the Myanmar Peace Center (MPC), the name was changed to NRPC in 2016, after the new NLD Government came to power.

Under the NRPC is a Peace Commission and a PTC preparatory committee and sub-committees to liaise respectively with NCA-signatories and non-signatories.

### **Ethnic national political talks**

These are assemblies that each ethnic group holds with its own ethnic people, in its own state (except the Kachins who have not yet signed the NCA). The discussions are a preparation to participate in the UPC. The groups are meant to explain their goals, policies, their experiences in the peace process, and, their stand on various issues, strategies and future course of action. It is a sort of reporting back to, and consultation with, the constituents to win their support and a mandate to represent them. On the part of the local people, it affords them the chance to understand the actions of the EAOs and make comments, present their views, make suggestions and proposals for discussion at the UPDJC. It is a democratic process. If the UPC is a union level political undertaking, then these ethnic internal discussions are local level political talks.

Recently, these talks have also run into some difficulties. The Karen, Chin, Mon and Pa-O EAOs have successfully held these talks. But the Shan (RCSS), Rakhine (ALP) and Karen (KNU in another area) have not yet been able to proceed with the talks. The Tatmadaw is accused of trying to limit the number of people attending the talks. Urgent discussions between the parties concerned successfully resolved the problem. As a result, the Mon national political discussion took place very recently in the first half of May 2018, in the town of Ye in Mon State. The event was also attended by high level representatives of NRPC, PC, UPDJC, JMC, Mon State Government and Parliament, and observers.

Now, the process for holding such talks is to report back to the people at the talks the discussions and agreed points of the UPDJC meetings. The suggestions and proposals (both agreed and disagreed) from the talks will then be submitted to the next meeting of the UPDJC, and from there to the NPC-TPC.

### **Bilateral treaties that promote peace**

(In the present report, bilateral treaties refer only to internal bilateral agreements, i.e. the bilateral ceasefire agreements concluded between the Government and EAOs since the adoption of the 2008 Constitution.)

#### *Bilateral ceasefires*

In November 2011, the first major ceasefire was signed with RCSS-SSA, followed by one with the KNU in January 2012. By August 2013, a total of 14 bilateral ceasefires between the Government and EAOs had been signed.

These ceasefire agreements, temporary in nature and geographically limited, were meant to be followed up with resolution of the political problems that were the underlying causes of the conflicts between the central government and the ethnic groups.

The process step is to move from the bilateral to a nationwide ceasefire, from ceasefires to political agreements, finally leading to lasting peace for the nation in the form of a democratic federal state.

## Bibliography

1. Constitution of the Republic of the Union of Myanmar (2008), Printing and Publishing Enterprise, Ministry of Information, 2015
2. Constitution of the Socialist Republic of the Union of Burma (1974) (in Myanmar language), Printing and Publishing Enterprise, Ministry of Information, 1991
3. Pathway to Peace: An Insider's Account of the Peace Process by Aung Naing Oo, Mizzima Media Group, 2016
4. A History of Burma by Maung Htin Aung, Columbia University Press, 1967
5. Strong Soldiers, Failed Revolution: the State and Military in Burma, 1962-88 by Yoshihiro Nakanishi, NUS Press, Singapore, 2013
6. 1958-1962 Myanmar Politics (Part 1) by U San Nyein and Dr. Daw Myint Kyi (in Myanmar language), Printing and Publishing Enterprise, Ministry of Information, 1991
7. Realizing Peace in Myanmar by Paul Keenan, EBO background paper no. 4/17
8. The State in Myanmar by Robert H. Taylor, NUS press, Singapore, 2009
9. Myanmar Peace Process: Getting to a Political Dialogue, ICG Briefing No.149/Asia, October 2016
10. Global New Light of Myanmar, English language daily newspaper published by Myanmar Information Ministry, issues of various dates in 2017 and 2018
11. The Standard Time Daily, privately owned Myanmar language daily newspaper, issues of various dates in 2017 and 2018
12. 7 Day Daily, privately owned Myanmar language daily newspaper, issues of various dates in 2017 and 2018

## PHILIPPINES

# The Philippines' Journey in Advancing Human Rights and Peace: Lessons for Advocacy of the Right to Peace in ASEAN

Severo S. Catura, National Focal Point, ASEAN Study on the Right to Peace (June 2017)

### Introduction: Terrains of Conflict

Like most Southeast Asian countries, the Philippines has had its share of colonizers. For more than three centuries, the country was under the colonial rule of Spain. The name Philippines itself is a reminder of this period, being taken from the name of Spain's King Philip II.

Later on, it would go through the difficulties of two world wars, which saw the coming of the Americans and the Japanese. The Americans would take over from Spain and lord it over the country as a Commonwealth. The Japanese would invade and occupy the country for almost two years during the Second World War, only to be driven away by the returning Americans.

Political transitions marked the rule of administrations under the Philippine Republic after the Second World War. Martial Law was declared in 1972 by President Marcos, ending in 1986 with the so-called People Power Revolution that deposed the strongman.

Alongside these political events were the on-going armed conflicts that defined the peace landscape of Philippine society in almost the entirety of the last century.

The **first** is the local Communist movement which takes its roots in the agrarian unrest of the 1920s. Starting out as the *Partido Komunista ng Pilipinas* (PKP), the Communist movement survived the Japanese occupation. The PKP, by sheer factionalism, went on to evolve into the present Communist

Party of the Philippines (CPP) with its armed component, the New People's Army (NPA) which the CPP wishes to project as under an umbrella organisation called the National Democratic Front (NDF).

In the '80s, however, party differences led to the formation of breakaway groups in the CPP-NPA. One such group is the Cordillera People's Liberation Army (CPLA) which operates in the Cordillera region up North, composed of tribal members from the Kalinga Province and whose claims relate to issues on ancestral domain, as well as demands for autonomy.

Another breakaway group is the *Rebolusyonaryong Partido ng Mangagawa- Pilipinas*/Revolutionary Proletarian Army/Alex Bongcayao Brigade (RPM-P/RPA-ABB), which is based in the Negros provinces in the Visayas. This group severed its ties from the NPA in the early '90s, a direct offshoot of the debate between the Reaffirmists and Rejectionists on their so-called basic principles of the party objectives.

Despite the schism, the CPP-NPA-NDF combine remains the longest running dissident organisation to this day, with the largest armed component, and operates in almost all parts of the country. It is also the longest running Communist insurgency in the whole of Asia.

The **second** of these conflict situations is the Muslim separatist movement in Southern Philippines.



The separatist movement is being pursued at present by the Moro Islamic Liberation Front (MILF). However, this group is a splinter of the Moro National Liberation Front (MNLF) which first made the call in the early '70s for the secession of the Mindanao-Sulu- Palawan Region.

Differences within the ranks of the MNLF due to the shift in objectives from secessionism to autonomy led to the break-away in 1977 of a group that initially called itself the "New MNLF" and which later became the Moro Islamic Liberation Front (MILF) in 1984 and continues its armed struggle to this day.

The end of the Marcos regime after the People Power Revolution of 1986 ushered a **third** form of conflict situation – military rebellion – initiated by rebels from the ranks of the armed forces which became known as the Extreme Right.

The first group of military rebels was the triumvirate of the Rebolusyonaryong Alyansang Makabayan (RAM, formerly the Reform the Armed Forces Movement), the Soldiers of the Filipino People (SFP) and the Young Officers Union (YOU). While not as large as the Communist and secessionist movements, this Rightist group almost toppled the Aquino administration in a series of coup attempts which resulted in the death of several military and police personnel.

The second group was called *Alyansang Tapat sa Sam-bayanan* (ALTAS) composed of military officials loyal to former President Marcos. The main objective of the ALTAS was to lobby for the return of the former president's body, as well as the granting of a hero's burial for him.

The issues concerning the military rebels were resolved

during the administration of President Fidel Ramos in the mid-1990s through negotiations, and the granting of amnesty to many of them.

**Finally**, terrorism has brought about a more brutish form of conflict situation in the Philippines, perpetuated by armed groups with very little political, ideological, or religious motivations whatsoever. Recent Intelligence reports reveal that the Philippines, specifically Mindanao or Southern Philippines, has become the operating ground of 23 terrorist groups that are linked to the Islamic State of Iraq and Syria (ISIS).<sup>1</sup>

The predominant purpose of terrorist groups is to make profit out of their nefarious activities, such as kidnappings-for-ransom; and to sow fear on innocent civilians through hostage-taking, assassinations, bombings, and the beheading of hostages. The manner the conflict situation is being perpetuated by these groups has tremendously affected the country's socio-economic and political environment, as well as the country's image in the international community as an unsafe destination for investments and tourism.

## **Emergence of Normative Frameworks on Human Rights and Peace**

These historical experiences of the Philippines have spurred the deepening of discourse on two important issues – human rights and peace. Over time, the advocacy for a culture of respect for human rights and the attainment of just and lasting peace has become part of the governance agenda of all administrations that held office after the People Power Revolution of 1986, embedded in normative and institutional frameworks.

1. These groups are as follows: Abu Sayyaf Group (Basilan faction), Abu Sayyaf (Sulu faction), Bangsamoro Islamic Maute Group, Ansar Dawiah Fi Filibbin, Rajah Solaiman Islamic Movement, Al Harakatul Islamiyah Battalion, Jama'at Ansar Khilafa, Ansharul Khilafah Philippines Battalion, Bangsamoro Justice Movement, Khilafah Islamiya Mindanao, Abu Sayyaf Group (Sulu faction), Syuful Khilafa Fi Luzon, Ma'rakah Al-Ansar Battalion, Dawla Islamiyyah Cotabato, Dawlat Al Islamiyah Waliyatul Masrik, Ansar Al-Shariyah Battalion, Jamaah al-Tawhid wal Jihad Philippines, Abu Dujanah Battalion, Abu Khubayn Battalion, Jundallah Battalion, Abu Sadr Battalion, Jamaah Al Muhajirin wal Anshor, and Balik-Islam Group.

## On Human Rights

The 1987 Philippine Constitution that came about after the 1986 transition incorporated a vast array of human rights as part of its salient general provisions.

Civil and political rights are embodied in Article III on the Bill of Rights of the Constitution. On the other hand, economic, social and cultural rights are recognised in several Articles: Article XII on National Economy and Patrimony; Article XIII on Social Justice and Human Rights including Labor, Agrarian and Natural Resources Reform, Urban Land Reform and Housing, Health, Women and Rights of People's Organisation; Article XIV on Education, Science and Technology, Arts, Culture and Sports; and Article XV on the Family. Article II on Declaration of Principles and State Policies likewise expresses the Philippines' commitment to guarantee the full respect of human rights.

And to further impress human rights as the underlying governing standards, no less than the Constitution created the Commission on Human Rights (CHR) as the State's independent human rights institution following the Paris Principles. While the CHR is mandated to ensure compliance by the entire State of its obligations under the core international human rights treaties, there is a Presidential Human Rights Committee under the Office of the President of the Philippines that is mandated to ensure that all Executive bodies implement the appropriate programs that will ensure the State's compliance of these treaties.

The Philippines is also a State party to the eight core international human rights treaties<sup>2</sup> it has ratified in the last 69 years, or after being the first State to sign the Universal Declaration of Human Rights in 1948. Under Article III, Section 2 of the Constitution, the Philippines "adopts the generally accepted

principles of international law as part of the law of the land." In the same manner, all treaties and agreements entered into by the Philippines form part of the laws of the land.

Over the years, the Philippines' human rights record has withstood scrutiny. The Philippines has allowed itself to be subjected to the regular reviews under the United Nations (UN) treaty body system of the UN Office of the High Commissioner on Human Rights, including the Universal Periodic Reviews in 2008, 2012, and 2017. And only as deemed necessary and helpful in its human rights advocacy work, the Philippines has allowed visits of UN Special Rapporteurs and UN Committee Working Groups to the country.

With its continuing membership in the United Nations Human Rights Council, the Philippines has maintained a significant lead role in human rights advocacy in the Southeast Asian region.

## On Peace and the Peace Process

The armed conflicts that have marred the peace in the country have been the object of the Philippines' comprehensive peace process. For clarity, the term "peace process" is defined as an institutional response of the Government consisting of general directions and specific measures to attain peace based on proper understanding and appreciation of the root causes of armed conflict and social unrest. The peace process efforts are anchored on three underlying principles, as follows:

**First**, a comprehensive peace process should be community-based, reflecting the sentiments, values and principles important to all Filipinos. Thus, it shall be defined not by the government alone, nor by the different contending groups only, but by all Filipinos as one community.

2. These international human rights treaties, and the corresponding dates of ratification are the International Covenant on Civil and Political Rights (23 October 1986); International Covenant on Economic, Social and Cultural Rights (7 June 1974); International Convention on the Elimination of All Forms of Racial Discrimination (15 September 1967); International Convention on the Elimination of All Forms of Discrimination against Women (5 August 1981); Convention on the Rights of the Child (21 August 1990); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (30 April 1986); International Convention on the Protection of the Rights of All Migrant Workers and their Families (13 November 1993); and International Convention on the Rights of Persons with Disabilities (15 April 2008).

**Second**, a comprehensive peace process aims to forge a new social compact for a just, equitable, humane and pluralistic society. It seeks to establish a genuinely pluralistic society, where all individuals and groups are free to engage in peaceful competition for predominance of their political programs without fear, through the exercise of rights and liberties guaranteed by the Constitution, and where they may compete for political power through an electoral system that is free, fair and honest.

And **third**, a comprehensive peace process seeks a principled and peaceful resolution to the internal armed conflicts, with neither blame nor surrender, but with dignity for all concerned.

On the other hand, the components of the comprehensive peace process comprise the processes known as the "Six Paths to Peace". These component processes are interrelated and not mutually exclusive, and must therefore be pursued simultaneously in a coordinated and integrated fashion. They run the range of peace-making and conflict resolution to peacebuilding and conflict management, and include, but may not be limited to, the following:

#### Peacemaking and conflict resolution paths:

1. **PEACEFUL, NEGOTIATED SETTLEMENT WITH THE DIFFERENT REBEL GROUPS.** This component involves the conduct of face-to-face negotiations to reach peaceful settlement with the different rebel groups. It also involves the effective implementation of peace agreements.
2. **PROGRAMS FOR RECONCILIATION, REINTEGRATION INTO MAINSTREAM SOCIETY AND REHABILITATION.** This component includes programs to address the Legal status and security of former rebels, as well as community-based assistance programs to address the economic, social and psychological rehabilitation needs of former rebels, demobilized combatants and civilian victims of the internal armed conflicts.

3. **ADDRESSING CONCERNS ARISING FROM CONTINUING ARMED HOSTILITIES.** This component involves the strict implementation of laws and policy guidelines, and the institution of programs to ensure the protection of non-combatants and reduce the impact of the armed conflict on communities found in conflict areas

#### Peacebuilding and conflict management paths:

4. **PURSUIT OF SOCIAL, ECONOMIC AND POLITICAL REFORMS.** This component involves the vigorous implementation of various policies, reforms, programs and projects aimed at addressing the root causes of internal armed conflicts and social unrest. This may require administrative action, new legislation or even constitutional amendments.
5. **CONSENSUS-BUILDING AND EMPOWERMENT FOR PEACE.** This component includes continuing consultations on both national and local levels to build consensus for a peace agenda and process, and the mobilization and facilitation of people's participation in the peace process.
6. **BUILDING AND NURTURING A CLIMATE CONDUCTIVE TO PEACE.** This component includes peace advocacy and peace education programs, and the implementation of various confidence-building measures.

These principles and the component paths to peace were the results of nationwide consultations held in 1991-92 in 71 provinces to identify what exactly are the root causes of conflict and what the people and communities thought are the courses of action needed to bring about just and lasting peace. The consultative process also promoted people's participation in the formulation of an agenda for peace. More importantly, an identified peace constituency consisting of non-government and civil society organisations and sectoral groups surfaced, found a formal venue for expression, and was institutionalized in the comprehensive peace process agenda.

But the realization of what these threats are, in turn, focused on the root causes that impact the State's primary obligation to address the human rights of its citizens. It has appeared thus that the State's failure to fully comply with its human rights obligations is at the roots of the State of unease. And if one has to back-track, these obligations are already embedded in the country's fundamental law, its Constitution, that defines what these obligations are as earlier discussed.

### The Quest for Peace in the Context of Human Rights

As a matter of course, therefore, the Philippines' quest for peace can and should be contextualized as a fulfillment of the rights as provided for in the Constitution, which leads to shifting the paradigm that the quest for peace must include the State's advancement of its obligation as duty-bearer to promote, protect, and fulfill the human rights of its citizens, both those who are directly and indirectly affected by the threats to peace brought about by the armed conflicts.

From a human rights lens, peace, or more specifically the quest for peace, may be appreciated in the manner that the State effectively fulfills its obligations under the human rights treaties to which it is a signatory. After all, embodied, both implicitly and explicitly, in all these treaties is the principle that the compliance of these human rights is a sure foundation to establishing and sustaining a just and peaceful society.

### Structural implementing mechanisms

Along this track, the Philippines ensures its compliance to the treaties to which it is a State party by way of relevant mechanisms and instruments (policies, programs) that ensure that such a compliance is made. Under the supervision of the Presidential Human Rights Committee, the State's treaty compliance is assigned to specific lead agencies.

To fulfill their roles, each lead agency uses as a basis for monitoring a human rights plan. The Philippine Human Rights Plan is anchored on principles defined under the 1993 Vienna

Declaration and Program of Action, i.e., treaty-driven, sector-specific, rights-based, nationally and inclusively owned, and cognizant of key governance tracks as priority issues for action. The second plan ended last year, and the third is being drafted under the current administration of President Rodrigo Roa Duterte.

A few of these mechanisms that highlight how the State implements the treaties to which it is a State party are as follows:

The Department of Justice (DOJ), in the implementation of the International Covenant on Civil and Political Rights (ICCPR), chairs an inter-agency committee to address cases of extra-judicial killings, enforced disappearances, torture, and other violations to the right to life and liberty, or the movement and resolution of these cases, thereby addressing allegations of impunity. The Anti-Torture Act of 2009 and the Anti-Enforced or Involuntary Disappearance Act of 2012 complement this mechanism. The Department of Justice likewise implements its Access to Justice Program that prioritizes the poor who seek justice.

Under the current administration of President Duterte, these mechanisms were further strengthened by the work of the Presidential Task Force on Media Security, created pursuant to the first Administrative Order issued by the President in October last year to ensure the protection and safety of media practitioners.

The Department of the Interior and Local Government (DILG), in the implementation of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), leads the Philippine OPCAT Working Group which has been crucial in pushing for the ratification of the Optional Protocol to the CAT and, at the moment, for the establishment of the National Preventive Mechanism as required under the said instrument. The DILG also actively monitors the State's implementation of the CAT through the implementation of the Anti-Torture Law of 2009 by the agencies concerned, such as the police and penal system authorities.

The National Economic and Development Authority (NEDA), on the other hand, which handles the International Covenant on Economic, Social and Cultural Rights (ICESCR), monitors the implementation of the Philippine Development Plan that operationalizes key strategies to further draw the vast majority of Filipinos into the economic and social mainstream, while focusing on a human rights-based approach in development planning.

The Philippine Commission on Women (PCW), which handles the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), anchors its efforts on the Magna Carta on Women and its various programs on Gender and Development. Along this route, the State has advanced legislations, policies and programs, guidelines and tools, to address continuing cases of gender-related violence, and to promote the gender and development agenda.

There is also the Philippine National Action Plan on Women, Peace and Security, the first of its kind in Asia, that implements UN Security Council Resolutions No. 1325 and 1820, holding States, institutions, and individuals accountable for ensuring women's full participation in resolving conflict and post-conflict situations, and for recognizing, sustaining, and expanding women's role in peace-building processes.

On matters involving the rights of children under the Convention on the Rights of the Child (CRC) which is handled by the Department of Social Welfare and Development (DSWD) and the Council for the Welfare of Children (CWC), the National Plan of Action for Children is set in place. There is likewise the Inter-Agency Committee on Children in Armed Conflict (IAC-CIAC) which implements the Monitoring, Reporting and Response System on Grave Child Rights Violations (MRRS-GCRV), and chaired by the Council for the Welfare of Children. And insofar as indigenous peoples' rights are concerned,

the work of the National Commission on Indigenous Peoples (NCIP) as focal agency for the International Convention on the Elimination of Racial Discrimination (ICERD) is anchored on the effective implementation of the Indigenous Peoples Rights Act (IPRA), long considered a milestone in promoting and protecting indigenous peoples' rights in the Philippines.

As regards monitoring the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), the Department of Labor and Employment (DOLE) anchors its undertaking to, among others, the Magna Carta for Migrant Workers as it is implemented by various offices. Furthermore, we have bilateral agreements with countries of destination to ensure better protection of Filipinos working overseas.

Finally, in the implementation of the Convention on the Rights of Persons with Disability which is monitored by the National Council for Disability Affairs (NCDA), we have the Magna Carta for Persons with Disability as pursued by the council's eight sub-committees that are focused on such sectoral concerns as accessibility, employment, social services, health, education, and others.

The gains that the Philippines has had so far under these mechanisms are all part of a work in progress. And it shall be pursued further under the administration of President Duterte as we move for the gradual mainstreaming of human rights in our system of public governance, wherein all State instrumentalities, from the national and down to the local levels, shall be made fully aware and knowledgeable of their obligation as protectors of human rights, and not simply of their role as civil service institutions, ever cognizant of the positive impact of human rights promotion and protection in national development.

In his July 2016 State of the Nation address, President Duterte said:

“There can never be real, tangible and felt development without making our people feel secure and it is our duty to uplift the people’s welfare.

With this, my administration shall be sensitive to the State’s obligations to promote, and protect, fulfill the human rights of our citizens, especially the poor, the marginalized and the vulnerable, and social justice will be pursued, even as the rule of law shall at all times prevail.

My administration shall implement a human-rights approach to development and governance, as we improve our people’s welfare in the areas of health, education, adequate food and housing, environmental preservation, and respect for culture.

Human rights must work to uplift human dignity.”

These pronouncements have become doubly significant as the Philippines vigorously pursues its campaign against the lingering threats to its peace and order and development today, namely: corruption, criminality, and most especially, the scourge of illegal drugs.

### Inclusive participation

The State fully recognises sustainable inclusive people participation in ensuring effective compliance with all its human rights obligations. The State encourages the participation of all stakeholders, not only of all government agencies concerned, but of NGOs and CSOs, sectoral groups, in policy formulation and program implementation, and in the monitoring and evaluation as well. The different mechanisms that showcase the State’s compliance system have wide avenues for participation by NGOs and CSOs.

The guidelines governing the inter-agency committee on EJK, ED, torture, and other grave violations of the right to life, specifically provide for the development and support

for programs that will enhance and strengthen relations of the committee and its member- agencies with domestic and international stakeholders, all geared toward the movement and resolution of cases and addressing impunity.

Insofar as complying with the ICESCR is concerned, the NEDA has, for a long time, made use of the Social Development Committee (SDC) to allow NGOs and CSOs to participate in policy formulation that impact social development, such as education, manpower, health and nutrition, population and family planning, housing, human settlements, and the delivery of other social services.

On the other hand, the Memorandum of Agreement among members of the Inter- Agency Committee on Children in Armed Conflict (IAC-CIAC) for the Monitoring, Reporting and Response System on Grave Child Rights Violations (MRRS-GCRV Team) include provisions for these same concerned agencies to ensure participation of the private/ business sector, NGOs, CSOs, church based organisations and private volunteer organisations with services for children.

To this day, the Philippine OPCAT Working Group remains a relevant multi- stakeholder mechanism composed of government agencies, NGOs and CSOs, as well as the Commission on Human Rights.

To implement the ICERD, as well as the IPRA, the NCIP utilizes the Indigenous Peoples’ Participation Framework to ensure the full and meaningful participation of IPs in the State’s entire development cycle, ever focused on the promotion and protection of their rights.

The PCW uses its network of women sectors to strengthen the State’s implementation of the CEDAW. The structure of the Commission itself which includes CSO and NGO representatives is clearly reflective of this multi-stakeholder inclusiveness.

The DOLE actively spearheads the Tripartite Industrial Peace Council under the Bureau of Labor Relations as a consultative mechanism on labor issues involving State instrumentalities, employer organisations, and employee or labor groups.

Finally, the NCDA relies on a strong multi-stakeholder network within its various sub-committees that cover areas on accessibility, employment and livelihood, social services, information and communication, education, and advocacy.

Indeed, as the State puts this much value in the multi-sectoral and multi-stakeholder interventions that come with its human rights obligations, so does it advance the cause of peace and the people's right to the fruits of peace as well.

### Lessons for ASEAN

From the Philippine experience, it is worthy to note some aspects in the quest for peace ever conscious of a human rights approach to its realization.

**First**, recognise that indeed peace is a human right that the State is obligated to pursue and take responsibility for as the duty bearer of rights, and which its citizens have every right to be entitled to as claim-holder of such a right.

**Second**, accept that peace is not simply about the absence of armed conflict, for armed conflicts are but manifestations of the gaps in the State's governance that has led to the dissatisfaction among the governed. And a major reason for this dissatisfaction is the State's shortcomings in implementing the political, social and economic reforms necessary to satisfy its population. In the end, the political, social and economic conflicts that are at the roots of the armed conflict tend to be just as evil, if not more horrific, as the conflicts that bespeak of direct killings arising from armed conflicts.

**Third**, appreciate the various international treaties that the State has signed thus far as material to the quest and achievement of peace as these instruments are clearly focused on addressing the prevailing social, economic, cultural, and political conflicts that are deemed the continuing causes of the lack of peace, or the unstable situation of peace.

**Fourth**, design and set-up the State's governance structures for human rights compliance as foundations for to advance the right to peace. And resources that are necessary for running these institutions' relevant programs must be provided to ensure the progressive realization of program targets.

**Fifth**, ensure that the work process allows for inclusivity even as the State shall remain the main proponent in the work for peace as a matter of obligation. The State must be able to identify and encourage the various stakeholders or key players both in government and out of it, and specially representatives from the people – the organisations and sectors – to actively participate in the process.

Caution must be observed, however, in extending inclusivity beyond the State given the dynamics and challenges of dealing squarely with global institutions, as well as other States, that find self-assuring value in their presence not only in the country, but in the region as well. Insofar as the Philippines is concerned, it deals with the European Union and other UN-attached bodies; the Organisation of Islamic Conference; third party/ observer States; and nations whose presence in the area defines global power shifts. And the Philippines' engagements with these States and international institutions remain very much tied to the peace process and human rights advocacy.

**Sixth**, inspire the work for peace with a higher mission to advance a culture of peace and human rights – to establish peace and human rights are ways of life; to acknowledge that without them, human potentials and opportunities can never be fully developed; and that peace and human rights are necessary for people and communities to live with dignity.

Finally, **seventh**, pursue the advocacy for a culture of peace anchored on human rights along the strength of an informed constituency. As such, educating for peace and human rights must be a priority step. An ASEAN peace and human rights campaign which offers so much potential in pushing for innovative approaches for generating adherents is highly proposed.

Peace and human rights education may dwell on progressive discourses. For instance, while there is tendency to focus on legal rights as that which dominates the definition of the right to peace, there is value to advance the right to peace along a more synergistic and symbiotic application of sacred right as against legal rights.

For too long has this part of the world been looking at the West as a benchmark in pushing human rights and peace principles according to their own terms; it is time for the Southeast Asian peoples to establish a niche wherein

they are driven by the spirituality that defines Asia and the Asian peoples. In its myriad churches, temples, and Islamic mosques lay the region's wealth of religious and spiritual history and teachings. Make use of the teachings of Christianity, Islam, Buddhism, Hinduism that advance peace and, in the context of human rights, our people's inherent right to claim it. Push the right to peace along the capacity of Southeast Asia to work for peace in a spiritual manner – it should be made to further refine and define the ASEAN way.



## SINGAPORE

## The Right to Peace: the Singapore Experience

*Alan Chong, 3 April 2017*

1. As a founder of the Association of Southeast Asian Nations (ASEAN), Singapore has played an important role in developing ASEAN as a body for peace, dialogue and development in the region. On human rights, ASEAN's approach is phrased in a balanced formula expressed in paragraphs 2.2 to 2.5 of the Terms of Reference for the ASEAN Intergovernmental Commission on Human Rights:
  - 2.2. Respect for international human rights principles, including universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms, as well as impartiality, objectivity, non-selectivity, non-discrimination and avoidance of double standards and politicisation.
  - 2.3 Recognition that the primary responsibility to promote and protect human rights and fundamental freedoms rests with each Member State;
  - 2.4 Pursuance of a constructive and non-confrontational approach and cooperation to enhance promotion and protection of human rights, and
  - 2.5 Adoption of an evolutionary approach that would contribute to the development of human rights norms and standards in ASEAN.
2. Within this context, the Singaporean experience of the Right to Peace can be encapsulated in the idea of development. Individuals ought not to be threatening their fellow men and women if their minds are focussed on a common endeavour to better their lives collectively. Human rights are also outcome-based.

The substance of human rights is best guaranteed when it is manifested in actual constitutional and legal guarantees of rights to speech and legal adjudication when those rights conflict with those enjoyed by others. Just as important, Singapore actively supports home ownership and access to a fair opportunity for earning a reliable income under progressive public policies. This is also made possible by a government that practises a governing philosophy dedicated to learning from partisan confrontations and putting in place socially inclusive policies within a multicultural context.

3. In the Singapore context, we find it impractical to articulate the right to peace as a standalone aspiration. It is embedded within the following dimensions of a comprehensive set of policies designed to safeguard the safety and dignity of the human person.
  - a. multiracial equality of space and dignity;
  - b. the dignity of living in a physical home;
  - c. security of economic upliftment in tandem with national economic growth; and
  - d. peace through meritocracy.
4. *Multiracial equality* of space and dignity is construed as the ability to exercise one's self-identified or collectively associated identity defined in terms of language, culture, religion, food and dress. This is spatial in terms of the equality of access to public holidays for reasons of worship or the equivalent in terms of holding physical properties for the explicit purpose of practising one's way of life defined racially. The dignity of the person and his or her self-identified racial identity is integrally achieved through the individual's enjoyment of the space available to express that very identity.

5. *Dignity of living in a physical home* is expressed in the fundamental longing of the human being to possess a roof over his or her head. This physical ownership of a living space protects one from the physical elements. This space in turn delivers the next level of happiness understood in terms of organizing one's private space according to one's right to self-expression in terms of speech, physical decoration and acquisition of leisure facilities according to one's will.
6. *Security of economic upliftment* in tandem with national economic growth addresses the critical foundation of a human being's material needs. Material needs are never abstract. They are the basis for reinforcing the meaning of family and the guarantee of social and occupational mobility. With the physiological needs secured, human beings can contemplate the philosophical goals of life without the fear of disruption.
7. *Peace through meritocracy* is associated with the overall idea of social and occupational mobility as a marker of individual self-fulfilment over time. When a human being attains a sense of progressively adding experience to a career, and enjoying respect from peers in society, he or she achieves a level of contentment within the context of his or her self-identified society. Meritocracy is therefore about reconciling personal achievement within society.
8. These four dimensions of the safety and dignity of the human person are derivative of certain historical traumas and developmental experiences in the context of 50 years of development in Singapore. The next four sections will proceed to illustrate this.

### **Multiracial Equality of Space and Dignity as Derivative of Learning from the Maria Hertogh Riots (1950), the Prophet Mohammed Riots (1964) and the Little India Riot (2013)**

9. The Maria Hertogh Riots broke out in December 1950 amidst a context of colonial neglect of race relations in the prelude to decolonization following the Second

World War in Asia. As a leading scholarly work has summarized it, an essentially private, non-religious and temporary child caretaking arrangement had been politicized by the prevailing currents of racial and religious antagonism. It is known that Maria Huberdina Bertha Hertogh was born in Java on 24 March 1937, literally on the eve of the Japanese invasion of the Dutch East Indies. Her father, Adrianus Hertogh, had arrived in Java in the late 1920s in the service of the Royal Netherlands East Indies Army and subsequently got married to Adeline Hunter, a Eurasian of Scottish descent. Both Adrianus and Adeline were Roman Catholic by birth. They accordingly baptized Maria as a Catholic in April 1937 (Aljunied 2009, 15-16). When Adrianus was captured by the Japanese forces, he was separated from his family. By that time, Adrianus and Adeline had brought up five young children in their family. Sensing the difficulties of caring single-handedly for all five, Adeline sent Maria Hertogh to be cared for 'by one of her mother's friends named Che Aminah binte Mohamed, who was a Muslim of the Shafi'i school of jurisprudence.' (Aljunied 2009, 16) Unlike most Malay Muslim women of her time, she was well educated, well-travelled and conversant in Dutch, English and Malay. A large number of social, ethical and ethnic faultlines could have been ignited over this issue. Indeed, after the war, Maria Hertogh's biological parents requested the return of their daughter from Che Aminah. The latter had in the course of the war converted her to Islam and regarded her as a foster child. Thus, when the Dutch government sought to ascertain the legal status of Maria Hertogh on her biological parents' behalf, Che Aminah felt that she had been lured into a legal battle that could unbind her ties to Maria Hertogh. (Aljunied 2009, 16) The outcome of this legal battle triggered the large scale riots of 11-13 December 1950.

10. Historian Syed Muhammed Khairudin Aljunied recounted the serious ramifications of the legal judgment in graphic detail: 'On 11 December 1950, the court rejected an application for a stay of execution

of the judgement which had been filed by Che Aminah and Mansoor Adabi [Maria Hertogh's Muslim husband under Islamic rites]. The first major riot in post-war Singapore began that day outside the High Court. Violence escalated after shots fired by Henry L. Velge, a Eurasian Volunteer Police Officer, wounded two Malays. Sporadic attacks developed quickly into widespread incidents of arson, robbery, murder and other forms of brutality, directed mainly at Europeans and Eurasians...When examined closely, the targets of the rioters were not only Europeans and Eurasians, but also Muslims who were perceived as siding or collaborating with the colonial state. Women and children were generally left unharmed, which points to the fact that the rioters were not necessarily mindless and irrational but were sure of their prey. Bottles of water, beer and oil were also looted from vehicles that came into contact with the rioters. In one of these incidents, a funeral hearse driven by Kasmin bin Bakri was damaged due to stone and bottle throwing. A Malay soldier, who was standing near the Sultan Mosque during the riots, had to fire several shots from his revolvers to ward off his assailants. About 260 passengers from various ethnic backgrounds were ordered by rioters to alight from a commercial bus before the vehicle was set on fire. Sharing the predicament of Europeans who were driving their vehicles in the riot areas, H.J.A. Guttridge's van was stopped by 100 rioters near Syed Alwi Road. He was forced out of his vehicle and attacked with sticks. His lifeless body was discovered two days later in a canal. By 10 o'clock on the night of 11 December, the riots had died down, only to resume at 8 o'clock the next morning.' (Aljunied 2009, 20-21)

11. It was quite evident that the custody battle was a vehicle for much larger antagonisms between colonial authorities and their Asian subject populations, and between Malays and Europeans, with the Eurasians lumped with the latter. Moreover, it was ostensibly a battle between Islam and Catholic Christianity. The British and Japanese authorities had built the social foundations of their empires upon racial divisions. The British manipulated a literal division of labour amongst

the indigenous Malays, the migrant Chinese and the various migrant ethnicities from South Asia. Each was encouraged to specialize in particular dimensions of the colonial economy. The Chinese shared finance with the South Asians. The South Asians were tasked to supply the bulk of plantation labour, manual workers for public works and some factory labour as well. The Chinese were encouraged to dominate the retail industry, the middlemen functions, banking, education as well as the urban factory labour force. The Malay population were cynically assigned the role of a population to be protected by British policy since they were regarded as less economically vigorous than the other two races. British policy preferred them for the roles of street level administrators, policemen, drivers, fishermen, and servants. The Japanese politicized this state of latent inter-racial polarization during their Occupation of Singapore by singling out the local Chinese for imprisonment, servitude and torture on the basis that they were the extended enemies of their military campaign in China. The Japanese authorities in wartime Syonan-To [the Japanese substitute for 'Singapore'] fanned the nascent Indian nationalism by encouraging South Asians to join or support the Japanese equipped Indian National Army led by Subhash Chandra Bose. The Malays were encouraged to substitute for the Chinese and South Asians in matters of civil administration across the island. Amongst the Malays, anti-colonial sentiment was also easily joined to the increasing role of Islam as a vehicle for opposing British rule when it resumed after 1945. When the British-run courts in Singapore removed Maria Hertogh from Che Aminah's care, it was regarded as an act of disrespect towards Islam and the dignity of Malays as Muslims. The arson, robbery and acts of murder directed at Europeans and Eurasians were therefore simultaneous acts of racial vendettas as much as they were violent expressions of anger against colonial injustice. Unsurprisingly, the British tried assuaging Malay Muslim concerns in the aftermath of the Maria Hertogh riots by supporting commemorations of Pakistani anti-colonial heroes; supporting Malay films with pro-Islamic themes;

banning imported films and magazines distorting the Qu'ran; and generously offering to fund and upgrade Malay Muslim education from the equivalent of primary to secondary levels in the Madrasahs (religious schools). (Aljunied 2009, 93-119) All these reactions suggest that the British colonial government had paid insufficient attention to building social peace through upholding multiracial equality and space.

12. Unfortunately, the British failed to consolidate race relations. By July 1964, another racial riot broke out on the occasion of the commemoration of Prophet Mohammed's birthday. It is worth quoting historian Albert Lau's account of how the absence of a psychological ballast of trust allowed anonymous persons to provoke racial passions to conflagration pitch: 'By 1.30pm, the participants for the procession had started gathering in contingents. An estimated 20,000 Malays and Muslims and members of some 73 organisations, including political parties and other Muslim associations, in Singapore had assembled for the annual celebrations. But this year, something was different: amongst the thousands gathered some were out for trouble. Inflammatory leaflets, issued by a group calling itself *Pertobohan Perjuangan Kebangsaan Melayu Singapura*, had been distributed among the crowds at the Padang.' (Lau 1998, 162) These incitements to racist violence bear testimony to the need to contextualize the right to peace as part of a comprehensive social contract to manage relations between ethnic majorities and minorities.
13. As Singapore enters the 2000s, racial tensions may increasingly emerge from a large transient population of expatriate workers. The influx of large numbers of foreign workers from India and China annually into Singapore over the past decade, numbering in the tens of thousands at their height, have strained the ability of local managers and police to cope with a transient population that shares very divergent perceptions of law and order. These divergences also coincided with

the foreign workers' very different ethnic backgrounds. This situation ironically recalled the very similar situation confronted by the British colonial authorities: should the transients be integrated into local society, and if so, how? This was a key finding of the Committee of Inquiry's report on the riot, and this in turn suggests Singapore's lack of preparedness for hosting global flows of human traffic landing on its shores. The landing of foreigners would be sure to arouse sentiments of social stratification, especially if cultural empathy is not built up early on.<sup>1</sup> In tandem, the foreigners will be introducing their own cultural baggage in dealing with Singaporeans, and vice versa. The public perception of good and bad foreigners compels both the ordinary Singaporean and his government to resort to sanitizing global flows. Consequently, problems at the interface between the local and the foreigner will lead Singaporeans to evaluate the risks arising from intense interconnectedness with the outside world. Incidentally, the position of foreigners in the workforce needs to be viewed in the context of Singapore's total population of 5,469,700 persons, of which 3,870,700 are formally citizens and 'permanent residents.' (Department of Statistics 2014) This statistic therefore counts 1,599,000 as foreigners on full work permit status. Some sections of Singaporean public opinion might further delineate 'permanent residents' as long staying foreign labour hankering after full citizenship. This category of 'PRs' adds another 527,700 persons to the list of 'non-citizenry'. In a simplistic snapshot, one might therefore conclude that two out of every five persons living in Singapore for work, or maintain a home here, are technically unintegrated as formal citizens.

14. According to news reports, the Little India riot broke out on 8 December 2013 when a South Asian construction worker, Sakthivel Kumaravelu, was fatally run over by the bus that was supposed to have transported him and his co-workers home to their

1. This section is adapted from the author's own recent publication. (Chong 2015)

dormitories after a night out in an entertainment nightspot around Serangoon Road popular with South Asian workers. This area was dubbed 'Little India' long before the arrival of South Asian expatriates given its exceptionally high concentration of restaurants, shops and residences catering to the tastes and lifestyles of citizens and non-citizens of South Asian origin. Interestingly, there was a class dimension to the fracas. The majority of the 400 South Asian workers involved in the riot were overwhelmingly from the construction industry and categorized as hailing from lower skilled and rural backgrounds in their countries of origin. The Committee of Inquiry report duly phrased it as a problem of foreigner-produced crime with a nod towards labour globalization:

This accident occurred in Little India on a Sunday evening. This was a time in the week when tens of thousands of South Asian workers, mostly from Tamil Nadu [province in India], would usually go to shop, eat, socialise, and run errands in the area. The accident occurred near a bus boarding open area, where hundreds of workers were waiting to catch a bus back to their dormitories. The rioters were male foreign workers primarily from the construction industry. Not a single citizen of Singapore was involved in the riot. (COI 2014, 6)

15. The riot lasted two hours and the immediate response from the Singapore Police Force (SPF) was analysed as weak and underpowered in the face of rioting by 400 persons. Although the initial police personnel, in tandem with Singapore Civil Defence Force (SCDF) members, rescued the bus driver and the workers' timekeeper from the trapped vehicle, and also removed the body of Sakthivel Kumaravelu from the scene, the rioters returned in force and started attacking the SPF and SCDF personnel. Some 23 police cars, police motorcycles, ambulances and other vehicles were torched in the ensuing violence. Furthermore, 37 SPF officers, 12 SCDF officers, 5 private

security officers from Certis CISC0, and 8 members of the Singaporean public were injured in the rioting. (COI 2014, 6) It appeared as if the rioters held the police and SCDF personnel responsible for their co-worker's death and were assumed to be shielding the 'culprits', and potentially covering up the matter. It was only when troops from the SPF's Special Operations Command, trained in riot control, had arrived on the scene that the rioters dispersed for good. Interestingly, the Committee of Inquiry decided that three factors explained the riot: a crowd intoxicated by intense consumption of alcohol; the misperception that the early police and SCDF responders were protecting the culprits instead of attending to the victim; and that the rioters were acting out a premeditated sense of 'street justice'. (A. Lee 2014) These varied findings meshed with the initial range of Singaporean public reactions to the riot, some of which bordered on the xenophobic or criticisms of the country's openness to global flows. (COI 2014, 7)

16. Following in the train of the earlier case illustrations, the Committee of Inquiry both sanitized the social dangers provoked by transnational labour flows into Singapore and attempted to assuage Singaporean fears about foreigners working in Singapore fomenting civil violence according to the 'traditions' and 'politics' of their countries of origin. In this regard, paragraphs 119-123 of the Committee's report bear unmistakable hallmarks of deliquescent (in)security and therefore merit quotation in full:
  119. Following a review of scientific literature on crowd psychology in addition to all of the available evidence, the [Behavioural Analysis] Group [convened by Dr Majeed Khader, Senior Consultant Psychologist at the Home Team Behavioural Sciences Centre, at the request of the COI Investigation Team] postulated the following view in their report:

*"The Behavioural Analysis Group is of the view that the Little India incident was fuelled by a misperception on the part of the foreign workers who may have felt that the situation on the day (loss of a fellow countryman), and the ensuing events that occurred was indicative that the responding authorities were against them. The events of the night had violated their expectations that the responding agencies ought to be fair and to respond to the deceased first rather than to the locals.*

*...Certain members of the crowd could have had erroneous misperceptions, since the responding forces did in fact extricate the deceased before attending to the locals. In addition, the responding forces did not use unreasonable force, did not fire any shots, and did not injure any workers."*

120. Another factor which the Group identified as contributing to the riot was a desire for "street justice" or "retributive justice" on the part of the rioters:

*"Street justice involves punishment meted out by members of the public to people who are perceived as 'wrong doers' (even though this may not actually be true)... In many countries and especially in rural and suburban settings, there is a 'retaliatory ethic' and a sense of the need for retribution for 'wrongdoing'.*

*...*

*Sometimes, victims may feel that street hustles cannot be formally taken to legal authorities... The idea then is to 'teach a lesson' to the adversary directly by taking the law into their own hands and attacking the perpetrator(s)."*

121. This argument is supported by the testimony which the COI heard from individuals who lived

for many years or grew up in India. One of the witnesses, who was born and raised in India, testified at the public hearing of the "law of the underdog" in India:

*"I venture to say my personal opinion, having known workers all my life here, as back in India and also knowing the way things – or the mob effect in India, back in India. Back in college I was not directly party to a riot but I was caught in a riot several times while in college or while in public places when I lived in India.*

*My personal feeling is that the riot on that night, that unfortunate incident that happened that night was purely a mob reaction to a sudden death that occurred. So there is this huge wave of sympathy towards a fellow brother or a comrade, and whether the other people know him or don't know him or whether the reason what went wrong, it becomes immaterial and then there is this mob angst that comes up and that's the reaction that showed up over the night.*

I do not think or do not feel that it was premeditated or planned or is a result of any worker inequality or injustice or suffering of that sort.

*...*

*It can happen in any political rally, it can happen in any college gathering. It could happen in a street where - in a street culture in India, a pedestrian crossing the road wrongly, if hit by a scooter the mob would attack the scooter. If the scooter is in the wrong lane or direction and hit by a car, the mob would attack the car. If the car is hit by a bus, the mob would attack the bus. It goes by this hierarchy. So it is the law of the underdog, what the common man in the street perceives."*

122. Another witness, an Indian citizen now living in Singapore, gave testimony to the COI after the conclusion of the public hearing. In his view, clashing with the police was a sub-culture or counter-culture among some working class men in Tamil Nadu:

*"They feel heroism is to disobey the law enforcers. When they see anybody else, police or any authority, in our place, whenever... They directly will feel if you are not obeying the law, you are considered a hero."*

123. The COI's view is that some of the workers at the scene that night could have carried elements of such cultural psychology with them, which had a part to play in the riot... (COI 2014, 39-41)

Indeed, the conclusion a Singaporean citizen might draw immediately from this is that globalization has introduced elements of hitherto distant mediated dangers – items familiar in the televised content of Channel News Asia's Asian insights or National Geographic documentaries – into Singapore's neighbourhoods. Globalization is no longer abstract – it is a serious 'inner globalization' that has securitized a new front for protecting the Singaporean national identity. The government's response to the Committee's report went even further to assure Singaporeans of the possibilities of taming the wilder dimensions of foreign labour in Singapore. The Minister for Manpower, Tan Chuan-jin drew the curtain on the high standards of hygiene, comfort and recreational facilities in privately run foreign worker dormitories where most foreign construction workers live, and drew attention to the fact that the vast majority of foreign workers in Singapore were content with their living conditions and the legal and social frameworks that supported their stay here. (Ng 2014) The Minister understandably warned against speculating about unruly attitudes amongst foreign workers in Singapore and pledged to increase the number of dedicated recreation centres for foreign

workers. Deputy Prime Minister and Home Affairs Minister, Teo Chee Hean promised to install more security cameras in Little India, ramp up police recruitment, improve police command, control and communications systems, and work closely with businesses and 'community stakeholders' to dissipate crowds at strategic traffic junctions in the area. (Salleh 2014) It ought to be noted that the palliative measures announced in the aftermath of the Little India riot amount to the simultaneous need to clean up global labour flows into Singapore and to systematically police them with a mixture of rational legal protections and the softer blandishments of comfortable dormitories and recreational facilities.

17. These three prominent riots in Singapore's 50 years of independent existence reveals that multiracial equality of space and dignity is the more relevant appraisal of the concrete implementation of a somewhat abstract right to peace. Peace in a multiracial society, integrated into global flows of labour and ideas, requires a calibrated balancing act. Every ethnic group ought to both perceive and exercise a comfortable measure of social and physical space on a relatively crowded island state. The ability to enjoy these two forms of space generates a palpable sense of dignity on the part of the racial groups, as well as on the part of those administering the social contract, that is, the Singaporean government and its formal citizens. The allowance of space accordingly means respect for each race's legitimate right to coexist with others, practising very different cultures, as well as a commensurate respect for these other cultures' right to believe in their respective forms of collective and received wisdom. This is an ideal often easier to articulate than to practise, and Singapore cannot be said to have implemented the perfect formula. But at a bare minimum, multiracial equality of space and dignity must mean the banishing of violence as a means to adjudicate differences between races and cultures.

## The Dignity of Living in a Physical Home: Singapore's Public Housing Programme

18. As we have stated earlier, the dignity of living in a physical home is expressed in the fundamental longing of the human being to possess a roof over his or her head. This physical ownership of a living space protects one from the physical elements. This space in turn delivers the next level of happiness understood in terms of organizing one's private space according to one's right to self-expression in terms of speech, physical decoration and acquisition of leisure facilities according to one's will. This is perhaps a concerted refinement of what ancient Greek philosopher Aristotle articulated in terms of what he sketched as an ideal family and its home. In this regard, it is logical to surmise that an increasing number of homeowners in a population will correspondingly diminish the urge of the 'have-nots' to seek violent redistribution of property. High ownership rates in Singapore have thus contributed to the overall peace within the nation-state.
19. The Housing and Development Board, which is Singapore's only public housing statutory board subordinated under the Ministry of National Development, declares its value proposition as an 'organisation with people committed to fulfilling aspirations for homes and communities all are proud of.' Correspondingly, its mission is described as providing 'affordable homes of quality and value' and developing over time 'vibrant and sustainable towns' and 'the building of active and cohesive communities'. (HDB 2015a) In this regard, the mission of the HDB is clearly fusing the task of physically constructing high rise public housing while also attaining a social purpose of sustaining its residents' voluntary attachment to their homes. As of 2015, 80% of Singapore's population lives in HDB flats and nearly 90% of them own their own flats. (HDB 2015a, HDB 2015b) It is also worth noting that the entrenchment of home ownership amongst Singaporeans did not come about overnight. It was made possible through a very rigorous programme of housing construction. The HDB website proudly

proclaims this historical achievement:

HDB was set up on 1 February 1960, during a housing crisis. At that time, many were living in unhygienic slums and crowded squatter settlements. Only 9 percent of Singaporeans lived in government flats.

Taking over from its predecessor, the Singapore Improvement Trust, HDB was tasked with solving the nation's housing crisis. HDB built 21,000 flats in less than three years. By 1965, it had built 54,000 flats and within 10 years of its formation, had the housing problem licked. Today, more than 80% of Singapore's resident population live in HDB flats. (HDB 2015b)

The point about this narrative is not simply to repeat the official line as a substitute for a rational explanation of how Singapore's population has enjoyed peace through home ownership. It is to suggest that housing issues, like so many other economic matters arising from the modernization of a developing nation, is the key to social tranquillity, or its reverse, disaffection leading to violence wished by the 'have-nots' against the 'haves'.

20. Historians have uncovered the fact that when the British began their colonization of the island of Singapura, the latter quickly realized that housing policies had to strike compromises between conflicting factors ranging from geography, to climate, to racial preference, to security against attacks, to physical security against attacks, with due attention paid to affordability and simplicity of construction. (Teo and Savage 1991, 318) The Malay attap hut with its raised flooring, eaves, horizontal hinges, and thatched roofs was a primary mirror of racial indigeneity. When the Chinese and Indians emigrated into Singapore, they adopted concrete shophouse designs with sizable windows and airwells. They too, very quickly, imitated the Malay design of raising their floors to enable ventilation from below so as to cool the residents within while also affording them protection from flooding and animal predators. With the arrival



of the Europeans, came the 'arch and veranda' design. (Teo and Savage 1991, 318-320) Not every Malay resident, nor every one of the newcomers could afford attap huts or concrete houses immediately. The mass of the poor adapted themselves to improvised self-constructed housing as best as their means and scavenging could afford. The architectural variations, preferences for racial congregations and class distinctions, despite a common colonial overlord, made for a politically combustible situation from the early nineteenth into the mid twentieth century. Indeed, one reason that contributed to the earlier mentioned riots was the spatial segregation of the main races on the island. Spatial segregation by race could not practically guarantee physiological and psychological security. In fact, it could breed exclusionist attitudes and chauvinism. Meanwhile, the widening chasm amongst rich and poor grew tremendously under both British and Japanese colonialisms, making the poor, homeless and displaced segments ripe for communist recruitment after World War Two. By the 1920s, the British finally awoke to the need to produce public housing for their Asian subjects in Singapore and created the Singapore Improvement Trust (SIT) in 1927. SIT was tardy in its progress and managed only to erect some 6,000 units of new public housing before the Japanese invaded Singapore. After the Japanese were defeated, SIT managed only to build an additional 20,907 units of apartment-style public housing between 1947 and 1959. It is no surprise that these periods coincided with large-scale public disaffection evidenced by communist-inspired strikes, riots and demonstration marches against colonialism and social injustice. The record of the SIT stands in stark contrast to the HDB's record of building 54,000 flats within a decade between 1960 and 1965. (HDB 2015b) By the late 1970s, with Singapore's political scene mostly strike-free, most Singaporeans could look forward to the prospect of completely owning their own homes as long as they worked and saved continuously throughout their productive adult lives. From the vantage point of 2015, this stakeholding climate of citizenship was facilitated in no small part by the generous housing mortgage scheme linked to the compulsory workers' savings

fund known as the Central Provident Fund (CPF). The social temptations to violence among the citizenry were snuffed out in no small measure by an 80% HDB home ownership rate, without even counting private home ownership.

## Security of Economic Upliftment in tandem with National Economic Growth

21. *Security of economic upliftment in tandem with national economic growth* addresses the critical foundation of a human being's material needs. Material needs are never abstract. They are the basis for reinforcing the meaning of family and the guarantee of social and occupational mobility. With the physiological needs secured, human beings can contemplate the philosophical goals of life without the fear of disruption. Leaving aside the segment of the transient population fomenting the earlier mentioned 'Little India Riot' of 2013, Singapore's citizen and non-citizen population is mostly at peace. Deputy Prime Minister and Finance Minister Tharman Shanmugaratnam reiterated the economic bases of social peace in Singapore in his speech to Parliament in February 2015:

B.16 This Budget is focused on building Singapore's future. We must reach our **next frontier as an economy**, with firms driven by innovation, and higher incomes coming from **deep skills and expertise** in every job. We must ensure a society that is **fair and just**, where everyone has a chance to move up and do well regardless of where they start. And we must complement a culture of personal effort and responsibility with stronger collective responsibility, especially for our elderly.

B.17 To achieve this vision, the Budget takes major steps in four areas:

- a. First, we will invest in the skills of the future, and **empower every individual** to learn and develop throughout life. We must become a meritocracy of skills, not a hierarchy of grades earned early in life.

A society where people keep learning and pushing their potential, and are valued for their contributions at each stage of life.

- b. Second, we will continue to restructure our economy, and support the next generation of business successes by promoting **innovation** and **internationalisation**.
- c. Third, we will invest in **economic and social infrastructure for the future**, to create new competitive strengths, a highly liveable home for Singaporeans, and quality healthcare.
- d. Fourth, we will **strengthen assurance in retirement**, complementing the Pioneer Generation Package and other social policy shifts in recent years. We will also enhance **support for our middle-income families**. (Shanmugaratnam 2015)

Under the ostensible influence of economics, peace is articulated in Singapore as an indispensable by-product of an inclusive wealth generating social system. Citizens and non-citizens ought to be equipped with skills to start out in a modern economy. Consequently, in order to sustain one's employability within the same industry or another, one must be psychologically prepared to continuously upgrade one's skills throughout one's working adult life. The government of Singapore accepts that the price of social mobility in a national economy completely integrated with the global one requires the mindset of pushing each citizen's potential forward, with the government assisting in upholding a framework of 'meritocracy of skills'. While 'innovation' and 'internationalisation' are buzzwords borrowed from the lexicon of shrewd business planning, the idea of social welfare provision and official gratitude for the working population's past contributions are primary keys to enhancing the social peace in Singapore across time. In this regard, the basic momentum of Singapore's economic policies that have been set in motion by its

first finance minister, Goh Keng Swee, deserves a quick recollection as Singapore's economic formula for social peace: 'We in Singapore believe in hard work. We believe that enterprise should be rewarded and not penalized. We believe that we must adjust ourselves to changing situations...Finally, we believe in self-reliance...These are human qualities that have helped to transform an island-swamp into a thriving metropolis.'<sup>2</sup>

## Peace through Meritocracy

22. *Peace through meritocracy* is associated with the overall idea of social and occupational mobility as a marker of individual self-fulfilment over time. When a human being attains a sense of progressively adding experience to a career, and enjoying respect from peers in society, he or she achieves a level of contentment within the context of his or her self-identified society. Meritocracy is therefore about reconciling personal achievement within society. Singapore has seen its share of millionaires in business. It has also seen sportsmen of the likes of Quah Kim Song (football), Mardan Mamat (golf), Shanti Nair (athletics) and Joseph Schooling (swimming). Sports is in fact a great equalizer of achievement within a multi-ethnic society. There are also unnamed numbers of top scorers across primary and secondary schools and junior colleges who have also excelled in improving their life prospects through strong educational qualifications. Delving further into the armed forces, there are also many personalities of excellence who have demonstrated technical proficiency or have gone beyond the call of duty to save lives during moments of tragedy at home and abroad. Even artists and advertising executives enjoy space on national television and social media for their achievements. Belatedly, the culture of charity is catching on in both corporate and personal spheres in Singapore, and here too, one can find individuals at the pinnacle of their achievement.

2. Speech by Dr Goh Keng Swee, Minister for Finance, at the Chinese Chamber of Commerce, 15 March 1969, quoted in (Chew 2012, 5).

23. This is a good reflection of the multiple avenues of success one can find within Singapore, notwithstanding the ever present dangers of inter-racial tensions lying beneath the surface of social peace. In fact, it is these multiple possibilities of success that counter the atavistic temptations that threaten the body politic. The fundamental need to be recognised as a worthy human being is the nub of gaining satisfaction in maintaining one's allegiance to a social contract between a state and its citizens. Increasingly, meritocracy must also be embedded in the social contract between a state and its contributing transient population. Globalization meshes with domestic peace insofar where talent is valued and accorded due recognition. Singapore is likely to face pressures in this regard when it comes to sustaining a large intake of foreign talent to keep its interface with the global economy efficient and engaged. This applies as much to the imported scientist in an R&D laboratory as it is to the semi-skilled construction worker building Singapore's mass rapid transit lines.
24. In short, the Singapore experience with the right to peace is located contextually within multiple variations of the traditional social contract between citizens and the state. Moreover, the right to peace is completely relational. Individuals can only be at peace only if they are comfortable with and respected by their host society. Both society and the individual must ideally reciprocate positively on an emotional level.

## Works Cited

- Aljunied, Syed Muhammad Khairudin. *Colonialism, Violence and Muslims in Southeast Asia: The Maria Hertogh Controversy and its Aftermath*. Abingdon: Routledge, 2009.
- Chew, Emrys. "Goh Keng Swee: Heroic Public Servant and History-Maker of Modern Singapore." In *Goh Keng Swee: A Legacy of Public Service*, edited by Emrys Chew and Chong Guan Kwa, 1-44. Singapore: World Scientific Publishing Company, 2012.
- Chong, Alan. "Deliquescent Security Threats: Singapore in the Era of Hyper-Globalisation." In *Perspectives on the Security of Singapore: The First 50 Years*, edited by Barry Desker and Cheng Guan Ang, 45-64. Singapore: World Scientific Publishing Company, 2015.
- COI. "Ministry of Home Affairs, Singapore." Report of the Committee of Inquiry into the Little India Riot on 8 December 2013. Ministry of Home Affairs, Singapore. 2014. <http://www.mha.gov.sg/Data/Files/file/Little%20India%20Riot%20COI%20report%20-%202014-06-27.pdf> (accessed March 20, 2015).
- Department of Statistics. *Population and Land Area*. 2014. <http://www.singstat.gov.sg/statistics/latest-data#4> (accessed March 20, 2015).

HDB. "Housing and Development Board, Singapore." HDB History. 2015b. <http://www.hdb.gov.sg/fi10/fi10320p.nsf/w/AboutUsHDBHistory?OpenDocument> (accessed September 18, 2015).

—. "Housing and Development Board, Singapore." Values and Mission. 2015a. <http://www.hdb.gov.sg/fi10/fi10320p.nsf/w/AboutUsVisionMission?OpenDocument> (accessed September 18, 2015).

Lau, Albert. *A Moment of Anguish: Singapore in Malaysia and the Politics of Disengagement*. Singapore: Times Academic Press, 1998.

Lee, Amanda. "Main Spark of Little India Riot was Accident: Inquiry Panel." *Today* (Singapore). July 1, 2014. <http://www.todayonline.com/singapore/main-spark-little-india-riot-was-accident-inquiry-panel> (accessed March 20, 2015).

Ng, Jing Yng. "Little India Riot: More self-contained dorms for foreign workers." *Today* (Singapore). July 7, 2014. <http://www.todayonline.com/singapore/>

little-india-riot-more-self-contained-dorms-foreign-workers (accessed January 20, 2014).

Salleh, Nur Asyiqin Mohamad. "Little India Riot: Government accepts all 8 recommendations from the COI." *The Straits Times* (Singapore). July 7, 2014. <http://www.straitstimes.com/the-big-story/little-india-riot-two-months/story/little-india-riot-government-accepts-all-8-recommen> (accessed January 20, 2015).

Shanmugaratnam, Tharman. *Building Our Future, Strengthening Social Security*. Budget 2015. Speech by Finance Minister Tharman Shanmugaratnam. February 23, 2015. [http://www.singaporebudget.gov.sg/budget\\_2015/pb.aspx#sl](http://www.singaporebudget.gov.sg/budget_2015/pb.aspx#sl) (accessed September 18, 2015).

Teo, Siew-Eng, and Victor R. Savage. "Singapore Landscape: A Historical Overview of Housing Image." In *A History of Singapore*, edited by Ernest C.T. Chew and Edwin Lee, 312-338. Singapore: Oxford University Press, 1991.

## THAILAND

# Thematic Report on the Right to Peace in Thailand

*Eakpant Pindavanija and Ratawit Ouaprachanon*

## Introduction

This thematic report was prepared in 2019, which accounted for the overall situation of Thailand 5 – year – period under the military ruling government after the coup d'etat in Thailand in May 2014. One of the major reasons for seizing the power from an elected government was to establish peace in Thai Society after more than a decade long political conflict and polarization. The military coup d'etat was named “National Council for Peace and Order” (NCPO), which signifies the intention of the military to bring back peace and order to the society. Apart from the decade long political conflict and uncertainty, Thailand has been facing the socio-cultural and ethnic violence conflict in the three southernmost provinces of the country since 2004. This violent conflict costs the lives of more than 7,000 people and affects numerous victims.

This report will refer back to the situation of rights to peace in Thailand prior to the seize of power from NCPO and analyze the overall environment that could be nurturing rights to peace in this country. Furthermore, it will analyze how the intervention from NCPO in order to make peace has affected Thai society as a whole.

According to The United Nations General Assembly resolution 34/11, the General Assembly adopted the Declaration on the Right of Peoples to Peace which proclaims that “the peoples of our planet have a sacred right to peace”, as well as ASEAN Human Rights Declaration, Article 38 of the AHRD provides that “every person and the peoples of ASEAN have the right to enjoy peace within an ASEAN framework of security and stability, neutrality and freedom such as the rights set forth in this declaration can be fully realized. To this end ASEAN Member States should continue to enhance friendship and cooperation in the furtherance of peace, harmony and stability in the region.” Thailand has been trying to comply

with these international resolutions and commitments by establishing several institutions regarding human rights protection and peacebuilding, however there are many factors that become the barriers to prevent Thailand from achieving its goals.

This report takes into account three main theoretical frames namely the negative and positive peace in which it classifies several types of violence that occur in Thai society and how they involve in the attitude of people towards violence. Secondly, it bases on the normative and theoretical foundation of human rights by looking into the rights that are required for people in order to live freely in a secured society, being able to participate in political, and economic activities without fear, and accessing the resources equally. Finally, it focuses on the philosophy of peace, that explores the philosophical thinking of people in the society, and how they perceive and practice rights to peace in their everyday life.

## Challenges and Initiatives in the Past

The result of “Black May” in 1992 led to the attempt to amend the 1991 constitution in order to promote democracy in Thailand. With the recognition of many academics, politicians, civil society, democratic activists, peace and human rights activists movement to put the pressure on the government for making democratic reform by redraft the constitution. The 1997 could be called the most significant and stepping stone in the history of Thai democracy. Its major features that relevance to Human Rights are as follows; 1) Recognition of several basic rights such as rights to education, rights to traditional, community rights, and rights to people assembly (To protest), 2) Establishment of constitutional organisations such as Constitutional Court, Administrative Court, Ombudsman, National Counter Corruption, and National Human Rights Commission etc., and

3) Decentralization and reform of the local governmental structure, that allows the establishment of Provincial Administrative Organisation, and Sub-district Administrative Organisation (Tambon). (Thailand's 1997 Constitution) There three factors are very important to promote "Rights to Peace" in which it enhances the human rights institutions, and many other check and balance independent constitutional organisations. The role of the Human Rights Commission of Thailand was very outstanding in terms of developing human rights recognition for the general public, and promoting human rights in order to make peaceful coexistence in Thai society. The recognition of several rights in this constitution also enhance the collective learning of the general public of their rights. Many of those who were affected by human rights violations could have the legitimate tools to fight for their lives, and better living. Finally, the decentralization of local governance bodies allows Thais to elect their community leaders by themselves. It also aims to relocate administrative roles from central government to local government. Even though the intention was to promote the rights to govern by the locals, and assuming that the local government would be able to address the local problems and solve them effectively, there have been complaints that the local governments seem to be as corrupt as the other kinds of administration. This issue is still an ongoing debate up until now whether decentralization will be beneficial to local people. Especially, with the current military led government, the discourse over the inefficiency of the local government and yet the ideology of decentralization as a whole. It is still the role of human rights and peace academics and practitioners to promote the value of decentralization along with the fundamentals of public and political rights and that would lead to the reduction of structural violence.

Unfortunately, the 1997 Constitution that marked the much improvement of Thai democracy was terminated after the military seized power from the elected government in 2006. The 2007 Constitution of Thailand was drafted along with some principles regarding rights and peace along with 1997 constitution. However, because the constitution was

drafted and activated during the military ruled government that makes it lack of trust and confidential. There are some contents that could lead to the lack of trust on this constitution such as the increasing roles of juridical power, the process and means to select/elect the senate (From fully elected to half elected and half selected). It might not be totally the substance of the contents of the constitution, but it was the mentality and lack of people participation in the drafting process that makes the constitution become a factor to the political conflict after it has been active for some few years. And the 2007 Constitution had the same fortune as same as many of other Thai constitutions terminated by the 2014 military coup d'état.

The 2014 Interim Constitution was active between 2014 – 2017. The session 44 of this interim constitution has been the most outstanding critique, since it allows the NCPO to exercise their absolute power constitutionally. Even though, after the 2017 Constitution has been enacted, its transitional provision still allows NCPO to exercise their power under this session 44 up until the new cabinet assumes their office. In practice there have been more than 200 NCPO's orders issued under session 44 of this interim constitution, and most of them will be active long after the dissolution of NCPO. (iLaw, 2017).

### **Major Violent Conflict: Past, Present and the Future of the "Right to Peace" in a Deeply Divided Society**

This paper summarizes several aspects that have been involved in the socio-cultural of human rights and peace by examining the conflict situation and address the possible peaceful solution that have been or might be implemented in order to make the transition to post-conflict stage.

The major challenges of Thailand's "Right to Peace" could come from the political conflict that has been increasingly expanding its scope and degree of violence. A large number of people have been affected by the consequences of the violence conflict situations. Even when the military leaders

staged the coup d'état in May 2014, they claimed that utilizing force to stop the confrontation among the conflicted parties was needed. However, it does not mean that the political conflict has been eased. It might not have been portrayed in the public, but the results of devastation from the violence situations remain the wounds for so many people who have been affected by the violence incidents. In addition, the excessive utilization of military and security forces in order to maintain peace and stability by the military government has made the situation worsen. The political conflict still remains and reverses to the stage of the latent conflict, and is nurtured by anger, hatred, hostility, and fear, and it is ready to explode when the situation is allowed. The attempt of making the reconciliation by the National Council for Peace and Order (NCPO) which was formed after the May 22, 2014 coup d'état seems not to be clear as far as the conflicted parties have not been promptly identified before making its strategy. Children, women, disabled persons or divides, obstructs or restricts them from participating in any political, economic, scientific, socio-cultural or family activity, on the basis of their gender or disability (National Assembly, 2017b).

Apart from the Thai political conflict, this paper also relates the issues of social healing and transitional justice from the violence in the southernmost provinces of Thailand. The violence conflict in the southernmost provinces of Thailand over the past thirteen years has been going on, while the numbers of casualties have been increasing over the time, while the situation is not improving. With the high numbers of casualties and the protracted violence conflict going on, the numbers of people who have been affected by the situation is rising. It could be found that the process of social healing is still needed, and many of the victims from the violence are still waiting for the proper healing mechanism. Thus, the lessons learned from the situations in the southernmost provinces of Thailand are incorporated in analyzing the overall reconciliation mechanisms and process.

According to John Paul Lederach (2005), to make a conflict transformation it requires a great attempt to deal with what had happened in the past, because in the violence conflict

situation there are numbers of people who get affected from the incidents, and mostly have wounds physically, and psychologically. This kind of wound pulls people back from their capability to move forward. That means the capability to move forward is one of the major paths towards reconciliation. To pursue reconciliation, we need to overcome the pain from these wounds, and encourage people to move forward. However, to overcome the pain is certainly not forgetting, but it has to pass through the proper healing process, thus the victims could heal themselves and willingly forgive.

Looking back into several violence incidents since 2006, the number of casualties is enormous, hundreds of people have been killed, and thousands have been injured. It creates a widespread trauma in both individual levels as well as in the society level. Trauma that might be considered as the consequences to the victims does not limit itself to the personal level, because in most of the incidents that people have lost their loved ones, it ignites the pain to the family as well as to the others who share the pain collectively. This could be counted for individual and collective trauma. It is very important to address that understanding the factors that prevails the pain from the trauma could lead us to know how to make a proper social healing mechanism. This paper also emphasizes the relationships between the trauma and social healing by trying to identify the elements that make the trauma become collective, and how the social healing functions in easing the pain from such trauma. The mentioned trauma from the casualty is significantly the evidence of the cause of creating the wound, however the trauma is not limited only from the consequences that caused by the casualty, but also from the non-physical pain from the abuse of all forms, including the abuse of power and misconduct of the authorities. Several people who perceive that they have been treated badly, and human rights violations during the time of conflict have been inflicted the pain from their feeling of injustice.

Pain and trauma that are inflicted for victims, their relatives and friends came from the wound that is called "primary

wound". While the studies of social healing also focus on the "secondary wound" that creates the shared feelings of anger, hatred, hostility, and fear among the sympathizers as well as the enemies (opponents) and vis-à-vis. This secondary wound seems to play a greater role in spreading anger, hatred, hostility, and fear as the collective value that brings about protracted conflict. Furthermore, such collective value is used to justify rights, and wrongs in the perception of people that leads to sustaining the polarization among the conflicted parties. The human rights violation has not stopped and repeatedly abused by the authorities make a strong sense of injustice. Fact finding by an independent and acceptable truth commission is recommended as a tool to ease such polarizing collective value, but it has been denied by some groups that it could lead to retraumatizing. Many people prefer to let it go, and encourage people to forget the past.

As it is mentioned earlier, another concern is that the attempt to deal with trauma has always been questioned, whether it is for the sake of healing or it is mindless retraumatizing the victims. We take this consideration into account and try to look for the justification of the social trauma healings from the success and failure in the other places, and try to minimize the effects from retraumatization. Priscilla B. Hayner (2011) quoted Horacio Verbisky "Why reopen the wound that has closed? [...] Because they were badly closed. First you have to cure the infection, or they will be reopened themselves."

In a protracted social conflict as same as the political violence situation in Thailand in the past decade, it needs to consider that identifying the victims and perpetrators is very difficult but very important, because there are sequences and consequences of several incidents that make people identify themselves as the victims, while pointing out to the opponents as the perpetrators. The process of identifying the victims and perpetrators might be involving the process of

fact finding mechanism that makes truth for justice. However, the mentioned process is not an easy process, because the consciousness and the reality for the perception of truth could be varied. Thus, understanding the epistemological ground of violence conflict is the essence of understanding the truth of trauma.

The sense of justice is not relevant to revenge. It might be an obsessive way of thinking for a victim to see clearly the perpetrators, and knowing the stories of how their loved ones have been killed or injured, but not necessarily condemn the perpetrators' death in revenge. However, it is too difficult to generalize people's perceptions and feelings, thus the social healing process is needed in order to ensure that justice prevails but does not convey hatred through revenge. The most important thing for this process may encourage people to get over their anger, hatred, hostility, and fear. Even though, under the current circumstances that Thailand is under junta government, the truth is unspeakable, and people remain or are forced to be silent, but it is needed that our society is prepared for the systematic truth and reconciliation process.

Leading to the reconciliation, the current government has repeatedly promoted the idea of "Thailand: Moving Forward". It has been initially addressed by the nationwide obligatory broadcasting television show called "Dern Nar Prated Thai", calling for the united Thais, and moving forward a more prosperous Thailand in the future. Several victims and people who have been affected by the results began to question their existence, and how the past wounds could be concerned. Without making it clear how to heal the past, it might be difficult to have mutual understanding of the present, and seeing the shared value for the future is almost impossible. Thus, social healing is a key to reconciliation. However, the government has not done much in order to proceed to the systematic mechanism of reconciliation.



## Current Human Rights policies and legislation with respect to peace

In general, human rights of Thai citizens are guaranteed by the provisions of the recent 2017 Constitution. According to the Section 4 of the Constitution, “human dignity, rights, liberties and equality of people shall be protected” and there are 24 sections in Chapter III “Rights and Liberties of Thai People” to guarantee rights of the people such as right to life, freedom of movement, rights in judicial process, right to occupations, freedom of expression and press, and right to association. Nonetheless, the exercise of rights and liberties is restricted and conditioned by state security and public order.

The national policy on human rights in Thailand has been guided by the National Human Rights Plans. At the present, the 4th National Human Rights Plan (2019 – 2023) provides the frameworks and implementation of human rights promotion and protection with the goal of “a society that promotes rights, freedoms, and equality, taking into consideration human dignity, with a view to attaining a peaceful and contented society.”

Among 11 human rights dimensions and 15 target groups, the National Human Rights Plan includes the dimension on politics, governance and security which outlines the policy recommendations on raising public awareness on human rights and promoting public participation as well as the dimension on community and cultural rights which outlines proposals on building measures for dialogue and negotiation between citizens and state regarding development projects and creating measure for peaceful coexistence among people with different religions.

On 21 November 2017, the Thai government also announced “Human Rights” as a “National Agenda for Thailand in 2018 and 2019 as a part of Thailand 4.0 Policy and the 20-year Strategic Plan. Guided by the goal of National Human Rights Plan,

the policy paper titled National Agenda: Human rights for mobilizing “Thailand 4.0” Policy for sustainable development provides the framework for mainstreaming human rights into government policy such as public awareness raising on human rights principles, creating a culture of respect and protection of human rights, transforming negative attitudes of government officials on human rights, and strengthening multi-stakeholders network for promotion and protection of human rights (Department of Rights and Liberties Protection, 2017).

According to the 20-year National Strategic Plan (2018 – 2037), the aspect of peace is included in the national strategy on security which primarily focuses on the negative peace. In relation to peace, the national strategy on security outlines safety, security and peaceful co-existence in multicultural society for the Southern Border Provinces as well as maintaining peace and security at the ASEAN and regional level (Government of Thailand, 2018, pp. 15-18). In addition, the strategy on “building opportunities and social equality,” the government proposes the strategic plan to reduce inequality and promote social justice, particularly among marginalized populations that implies positive peace (Government of Thailand, 2018, pp. 44-51). In addition, the National Reform Plan on Politics highlights the issues of peace, non-violence and human rights, especially peace and human rights education by incorporating in the reform agenda No. 1 “building culture of democracy and public participation” and reform agenda No. 2 “mechanisms on peaceful conflict resolution and unity of Thai society” of the plan (Office of the Prime Minister, 2018, pp. 9 - 34). However, these strategic plans and reform plan of the government remain to be seen on how real implementation would impact to both positive and negative peace since Thailand is ranked as the fourth highest income inequality country by Gini index according to the Global Wealth Report 2018 (Credit Suisse, 2018) and political conflict at national level as well as violent conflict in the Deep South have not been resolved yet.

## Peace Education and Education for Peace: Raising Awareness of “Right to Peace”

Peace education and peace studies has developed in Thailand's universities since late 1980s. One of the earliest initiatives on peace education at university level dated back in 1986 when the Faculty of Education, Chulalongkorn University held an international conference on “Peace Studies and Conflict Resolution.” The Peace Information Center was established at Thammasat University in 1988 and the Institute of Dispute Resolution was founded at Khon Kaen University in 1995 as academic resource centers on peace and non-violence (Poonyarat, 2016). The first Master Degree in Human Rights studies, and the first Ph.d. in Human Rights and Peace Studies were introduced in Thailand in 1998, and 2004 respectively by the Project of Establishment the Institute of Human Rights and Development, now known as Institute of Human Rights and Peace Studies, Mahidol University.

In response to the outbreak of violence in the Deep South of Thailand since 2004, Thai government approved the 29 November 2005 Cabinet Resolution on promoting universities to establish centers for nonviolence or peace studies or to include the courses on peace and nonviolence into higher education curricula as a mechanism for conflict resolution and mediation in the society (The Secretariat of Cabinet, 2005). This saw the establishment of centers for peace education in three leading academic institutions during that period namely the Research Center for Peace Building (presently known as Institute of Human Rights and Peace Studies) at Mahidol University, Center for Peace and Conflict Studies (or Rotary Peace Center) at Chulalongkorn University, and Peace Studies Institute at Prince of Songkhla University as well as academic programs on peace studies such as MA in Integrated Conflict Management at Valai-Alongkorn Rajabhat University, MA in Conflict and Peace Studies at Prince of Songkhla University and PhD in Peacebuilding at Institute of Culture, Religion and Peace, Payab University in order to respond to the violent situation and promote non-violent conflict resolution and reconciliation (Poonyarat,

2016, pp. 5-9). Since then, peace studies programs as well as courses on peace and human rights have been promoted in several universities in the country.

Nevertheless, the academic programs on peace and human rights studies in Thailand's universities have faced a difficult challenge over the past several years since five degree programs have been closed or suspended during 2014 – 2018 due to low enrollment and lack of market job opportunity while there are only nine degree-programs on human rights and peace offered in five universities. On the contrary, there is an increasing trend of courses on peace and human rights being provided in Thailand's universities, especially in law, political science and social science programs. According to the mapping of human rights and peace education in Thailand, the number of universities providing courses related to peace or human rights has increased from 30 universities in 2013 to 70 universities with more than 200 courses in 2018. The contents and topics of these courses on human rights and peace studies are more diverse covering the issues such as human rights law, human rights in justice process, fundamental rights, human rights and human security, community right, peace study, conflict management/resolution, seminar on violence and nonviolence and seminar on genocide.

In addition to academic programs and courses, some academic institutions offer peace and human rights education for professionals, practitioners and government staff. King Prajadhipok Institute (KPI), the think tank of parliament, provides several certificate courses for professionals across sectors in Thai society on peace and human rights such as Advance Certificate Course on Promotion of Peaceful Society; Basic Concepts of Conflict Management in Public Policy; Certificate Course on Promotion of Peaceful Society in Deep South of Thailand; Certificate Course on Human Rights for Senior-level Executives. The Rotary Peace Center at Chulalongkorn University also offers a 3-month Rotary Peace Fellowship Certificate Program which is an international program for professionals across the world to learn about emerging issues on peace and conflict.

During the past five years, the National Human Rights Commission of Thailand (NHRCT) has involved with several academic institutions in promoting human rights education through establishment of six regional Centers for Human Rights Studies and Coordination including 1) Northern regional center at Faculty of Law, Chiang Mai University; 2) Northeastern Regional center at Faculty of Law, Khon Kaen University; 3) Eastern Regional center at Faculty of Political Science and Law, Burapha University; 4) Western Regional Center at Faculty of Humanities and Social Science, Petchaburi Rajabhat University; 5) Southern Regional center at Faculty of Law, Surat Thani Rajabhat University; and 6) Southern Border Provinces Regional center at Faculty of Political Science, PSU Pattani Campus as well as creating MoU collaboration with more than 50 universities around the country.

Furthermore, there is an increase in knowledge and information dissemination on concepts of peace and human rights due to online learning platforms and engagement of civil society organisations. There are several Youtube channels such as Textbooks Project (funded by the Social Sciences and Humanities Textbooks Foundation), Library NHRCT (by National Human Rights Commission of Thailand), Thai Civic Education (an independent network aiming to create the Thai Model of Democratic Citizenship Education), Amnesty Thailand which have provided knowledge as well as debates relating to human rights, and South Deep. Interestingly, during the period of 2014-2018, there are more than 70 short films about human rights made by school and university students as part of their course assignments uploaded on Youtube. In the same fashion, around 24 short films about peace and conflict studies during the same period. One of interesting short-film projects is the "Friendly Quarrel" Project supported by Sirindhorn Anthropological Center (SAC) for

selected 10 short-films produced by local students in the Deep South provinces which demonstrate values of multiculturalism and peaceful co-existence. This could infer that the issues of human rights have been more articulated in school and the Thai students to some extent are encouraged to present their understanding of human rights to the public by using the new communication technologies.

Likewise, there has been extensive involvement in human rights and peace education by several civil society organisations. Amnesty International Thailand has run the project on human rights education with more than 40 universities and schools and established 11 human rights clubs in educational institutions. Internet Law Reform Dialogue (iLaw), which has worked on freedom of expression, civil and political rights and internet censorship, also provided some human rights training for law and media students as well as other youths during the period of military rule. Since 2006, Thai Volunteer Service (TVS) has also organised the Human Rights Volunteer Program, a one-year fellowship program supporting more than 200 young graduates especially in law schools to learn human rights courses and be trained as volunteers in human rights organisations. This program has resulted in the forming of the Human Rights Lawyer Network, and subsequently the Human Rights Lawyer Association. In addition, the Sirindhorn Anthropological Center has developed the training program and produced manuals on "Cultural Skills" to promote peaceful co-existence within a multi-cultural society (Sirisakdamkoeng, 2009; Tangseefah, 2018). Book Re:public in Chiang Mai has also organised the "Human Right, Human Wrong" project, a series of workshops for young artists and art students to learn about human rights and social issues in order to develop into an Art Exhibition since 2017 (Prachatai, 26 September 2017).

## Online Education and Engagement of NHRCT and Civil Society

Apart from the traditional school teaching, the alternative learning channels such as online platforms have become more available. The technology has increasingly been applied to disseminate the concept of human rights and peace studies. The most popular and easily accessible platform is Youtube. There are several Youtube channels such as Textbooks Project (funded by the Social Sciences and Humanities Textbooks Foundation), Library NHRCT (by National Human Rights Commission of Thailand), Thai Civic Education (an independent network aiming to create the Thai Model of Democratic Citizenship Education), Amnesty Thailand which have provided, for example; knowledge as well as debates relating to human rights, and South Deep Outlook which offers short documentary on multicultural community in the Southern of Thailand. Interestingly, during the period of 5 years (2014-2018), there are more than 70 short films about human rights made by school and university students as part of their course assignments uploaded on Youtube, compared to just less than 10 videos before 2013. In the same fashion, around 24 short films about peace and conflict studies during the same period, while none has been found before 2013. One of interesting short-film projects is the "Friendly Quarrel" Project supported by Sirindhorn Anthropological Center (SAC) for selected 10 short-films produced by local students in the Deep South provinces. These films demonstrate values of multiculturalism and peaceful co-existence. This could infer that the issues of human rights have been more articulated in school and the Thai students to some extent are encouraged to present their understanding of human rights to the public by using the new communication technologies.

Furthermore, there have been extensive engagements on human rights and peace education with academic institutions at both university and school levels by various civil society organisations and the National Human Rights

Commission. Apart from establishment of six Centers for Human Rights Studies and Coordination in different regions, NHRCT has built up collaboration with 50 universities around the country to promote human rights and to address human rights violation issues. In 2018, NHRCT also signed Memorandum of Understandings with several major universities such as Faculty of Law at Chulalongkorn University, Faculty of Law at Thammasat University, Institute of Human Rights and Peace Studies at Mahidol University, NIDA and others to develop a comprehensive strategy for human rights education and promotion among academic institutions.

Likewise, there have been a variety of involvement on human rights and peace education by several civil society organisations. Amnesty International Thailand has run the project on human rights education with more than 40 universities and schools and established 11 human rights clubs in educational institutions. Internet Law Reform Dialogue (iLaw), which has worked on freedom of expression, civil and political rights and internet censorship, also provided some human rights training for law and media students as well as other youths during the period of military rule. Since 2006, Thai Volunteer Service (TVS) has also organised the Human Rights Volunteer Program, a one-year fellowship program supporting more than 200 young graduates especially in law schools to learn human rights courses and be trained as volunteers in human rights organisations. This program has resulted in the forming of the Human Rights Lawyer Network, and subsequently the Human Rights Lawyer Association. In addition, the Sirindhorn Anthropological Center has developed the training program and produced manuals on "Cultural Skills" to promote peaceful co-existence within a multi-cultural society (Tangseefah, 2018; Sirisakdamkoeng, 2009). Book Re:public in Chiang Mai has also organised the "Human Right, Human Wrong" project, a series of workshops for young artists and art students to learn about human rights and social issues in order to develop into an Art Exhibition since 2017 (Prachatai, 26 September 2017).

## Partners in Building Peace, and Protecting Rights: Way Forward

Thailand as a part of ASEAN and international community has ratified several treaties along with the other ASEAN members, and commits with the international community. From the information from Human Rights in ASEAN (2019) Thailand has been committed to the following issues:

Thailand is a signatory to the Rome Statute and party eight of nine international human rights treaties, namely, the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and its Optional Protocol, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Rights of the Child (CRC) and its three Optional Protocols, and the Convention on the Rights of Persons with Disabilities (CRPD). Thailand is a signatory to the International Convention for the Protection of All Persons from Enforced Disappearance (CPED). (Human Rights in ASEAN, 2019)

Apart from these commitments to ensure the respect and promotion of human rights, that is based on the principle of proceeding to a peaceful society, Thailand has its governmental mechanisms to promote Human Rights in the country as follows:

Other national institutions relevant to the promotion and the protection of human rights and rule of law include the Office of the National Anti-Corruption Commission, the Office of the Ombudsman Thailand, the Law Reform Commission, the Parliamentary Committee on Justice and Human Rights, the Parliamentary Committee on Vulnerable Groups Affairs, the Constitutional

Court of the Kingdom of Thailand, and the Office of the Election Commission of Thailand. There are also several bodies within the Senate including the Committee on Good Governance; Committee on Human Rights, Rights and Liberties and Consumer Protection; Committee on Justice and Police Affairs; Committee on Political Development and Public Participation. (Human Rights in ASEAN, 2019)

Thailand's commitment to promote and protect human rights, and establish peace seem to be very clear in good terms. However, the evidence shows that it still faces a lot of challenges ahead. Making the recognition of "Rights to Peace" could not stand alone neither by the governmental sector nor civil society organisation. Public awareness and people's participation could be the key to building a "Culture of Human Rights," and a "Culture of Peace" that people do not perceive human rights and peace alienated from their everyday life. The experience of Thailand that passes through the political turmoil over ten years, while facing violence conflict of socio-cultural confrontation in the deep-south exposes the two edges of human rights and peace in this country. The attempt to establish the notion and institution is somewhere in the air, while the abuse of human rights and destroying the country's own capacity of building peace is still going on.

The past five years (2014 – 2019), Thailand has been under the military government. There are many improvements on the recognition of rights, for example rights of the LGBTIQ, rights of the disabled, and the rights of several ethnic minority groups, etc. On another hand, the human rights academics, activists, and practitioners have been under threat by enforcing several special laws and orders issued by the NCPO, and the government. Strategic lawsuit against public participation (SLAPP) has been one of the frequent abuse of rights and creates violence. The number of cases that people are convicted/arrested with lese majesté law, security law, and violation of NCPO's orders and regulations

are often used to limit freedom of expression, and public opinion. Many of those who are facing the charges on the mentioned laws, orders, and regulations have limited access to the rights to fair trial, since some of them have to appeal to the military court instead of civil court. Even though early 2019 the new cases have been redirected to the civil court, but during 2014 – mid 2018, there were more than 1,700 civilians facing trial in military court, and up until now there are more than 200 cases remaining under trial. (iLaw, 2018) (Sae Chua, 2016) The contradiction between the intention to promote human rights and peace, while exercising extraordinary power against the public mark the uncertainty of sustaining the promotion and protection of rights, and building peace in Thai society.

Thailand held the first general election after almost five years under the military ruled regime on March 24, 2019. It was the hope that the country would be returned to democracy. However, the number of election irregularities brought the public with questions, and destroyed trust in the electoral system and process. Political rights, freedom of expression, and people participation in politic have been under recession for years, and this recession occurs in a deeply divided society, thus election could be the tool to make peaceful solution to the protracted conflict, but it turns out that this election might become another factor that will contribute of further conflict in this country.

Regarding the issue in the deep south of Thailand, the peace talk process was interrupted for some time, by changing the team of representatives. The initiation of the strategic policy for peace talk was made by the Prime Minister Order 230/2557 (Nov 26, 14), 92/2558 (Mar 26, 15), 259/2558 (Sep 21, 15, and 288/2561 (Nov 5, 18) mainly to set up "Steering Committee for Peace Dialogue", and "Area-based Inter-agency Coordination Work Groups" in order to synthesize the information and opinion to drive the peace dialogue, including appointing members to the committees. There is so significant development of the peace dialogue so far. However, the report of Human Rights Watch (2018), and Cross Cultural Foundation (2018) found that the human rights violation has

been going on and many of human rights activists are still facing threat from confronting authorities.

## Conclusion

Thailand is equipped with human resources, financial support, knowledge, legal mechanisms, partners, and institutions that could establish and promote "Rights to Peace" in the country. However, the cultural value especially in respecting equality, human rights, human dignity, and democracy is still at risk of devaluation by the authoritarian environment in the country. Without understanding that the violation of human rights is violence, the lack of freedom is violence, the unequal distribution of resources is violence, people could not move on to recognise the "Rights to Peace" and the culture for human rights and peace. "Rights to Peace" could be a precious ideology that is untouchable because it might not exist in reality. Respecting the rule of law, freedom, identities, and democracy will be the means to make social platforms for diverse people with different ideas and political views for exchanging, and looking for a way to live in a resilient society.

## Bibliography

"CONSTITUTION OF THE KINGDOM OF THAILAND (INTERIM), B.E. 2557" (2014) in The Government Gazette, Vol. 131, Part 55 Kor, Page 1, 22 July B.E. 2557.

"CONSTITUTION OF THE KINGDOM OF THAILAND, B.E. 2540" (1997) in The Government Gazette, Vol. 114, Part 55 Kor, Page 1, 11 October B.E. 2540.

"CONSTITUTION OF THE KINGDOM OF THAILAND, B.E. 2550" (2007) in The Government Gazette, Vol. 124, Part 47 Kor, Page 1, 24 August B.E. 2550.

"CONSTITUTION OF THE KINGDOM OF THAILAND, B.E. 2560" (2017) in The Government Gazette, Vol. 134, Part 40 Kor, Page 1, 6 April B.E. 2560.

Beck, A. T. (1999). *Prisoners of hate: The cognitive basis of anger, hostility, and violence*. HarperCollins Publishers.

Cozolino, L. (2010). *The neuroscience of psychotherapy: Healing the social brain* (2nd Edition). WW Norton & Company.

Daly, E., & Sarkin, J. (2007). *Reconciliation in divided societies: Finding common ground*. University of Pennsylvania Press.

Department of Rights and Liberties Protection, Ministry of Justice. (2018). *The draft of Thailand's 4rd National Human Rights Plan (2019 – 2023)* (in Thai). retrieved from [http://www.rlpd.go.th/rlpdnew/images/rlpd\\_16/plan/plan4edit.pdf](http://www.rlpd.go.th/rlpdnew/images/rlpd_16/plan/plan4edit.pdf).

Department of Rights and Liberties Protection, Ministry of Justice. (2017). *National Agenda: Human rights for mobilizing "Thailand 4.0" Policy for sustainable development* (in Thai). retrieved from [http://www.rlpd.go.th/rlpdnew/images/rlpd\\_10/2561/Book4.pdf](http://www.rlpd.go.th/rlpdnew/images/rlpd_10/2561/Book4.pdf).

Dozier, R. W. (2003). *Why we hate: Understanding, curbing, and eliminating hate in ourselves and our world*. McGraw-Hill Professional.

Galtung, J. (2012). *Peace by peaceful means: Peace and conflict, development and civilization*. Sage.

Goodhart, M. (Ed.). (2016). *Human rights: politics and practice*. Oxford university press.

Hayner, P. (2011). *Unspeakable Truths: Transitional Justice and the Challenges of Truth Commissions*. Auflage, New York, NY.

Lederach, J. P. (2005). *The moral imagination: The art and soul of building peace*. Oxford University Press.

Lederach, J. P. (2013). *Building peace: Sustainable reconciliation in divided societies* (10th printing). Washington DC, 4.

Lederach, J. P., & Lederach, A. J. (2010). *When blood and bones cry out. Journeys through the Soundscape of Healing & Reconciliation*.

Miall, H., et al (2015). *The Contemporary Conflict Resolution Reader*. Polity Press.

Office of the Prime Minister. (2018). *National reform plan on politics* (in Thai), retrieved from [http://www.ratchakitcha.soc.go.th/DATA/PDF/2561/A/024\\_1/1.PDF](http://www.ratchakitcha.soc.go.th/DATA/PDF/2561/A/024_1/1.PDF).

Ouaprachanon, R., Huayhongthong, P. & Kaewjullakarn, S. (forthcoming). "Thailand" in *Remapping and analysis of human rights and peace and conflict education in ASEAN/ South East Asia*.

Philpott, D. (2012). *Just and unjust peace: An ethic of political reconciliation*. Oxford University Press.

Pindavanija, E., et al (2017) "Social Healing Factors and Process that Lead to Reconciliation and Forgiveness: The Studies of Thailand Socio-political Violence Conflict over a Decade" Panel Papers: Conflict Transformation across Socio-political Divides. 13th International Conference on Thai Studies "Globalized Thailand?" Connectivity, Conflict, and Conundrums of Thai Studies. 15-18 July 2017, Chiang Mai, Thailand.

Poonyarat, C. (2016). "Exploring landscape of knowledge on peace studies and training on non-violence in Thai society" in Satha-anand, C. Ed., *Nonviolence Space Thailand Future: Knowledge, Secret, Memory* (in Thai). Bangkok: Protestista.

Prachatai. (26 September 2017). "Human Rai (Right), Human Wrong: When arts can speak the unspeakable directly (in Thai), retrieved from <https://prachatai.com/journal/2017/09/73412>.

Ramsbotham, O., Miall, H., & Woodhouse, T. (2015). Contemporary conflict resolution (reprinted). Polity.

Sharaom.A. (ed.), Sae Shua. B. (2016). Human Rights Outlook in Southeast Asia : 2014-2015. Strengthening Human Rights and Peace Research and Education in ASEAN/ Southeast Asia.

Sirisakdamkoeng, P. (2009). Cultural Skills: Manual for Friendly Quarrel in the Deep South (in Thai). Bangkok: Sirindhorn Anthropological Center.

Tangseefah, D. (2018). Light, Water and Ear of Rice: Cultural Skills for Being Others (in Thai). Bangkok: Sirindhorn Anthropological Center.

The Secretariat of Cabinet. (2005). Cabinet Resolution on 29 November 2005: Reporting of seminar on "New government and conflict management in society" (in Thai), retrieved from <http://www.cabinet.soc.go.th>.

## Website

Amnesty International Thailand, retrieved from <https://www.amnesty.or.th/en/> (Last visited May 6, 2019).

Cross Cultural Foundation (CrCF), retrieved from <https://voicefromthais.wordpress.com/> (Last Visited May 6, 2019). Human Rights in ASEAN (Online platform), retrieved from <https://humanrightsinasean.info/thailand/rule-law-human-rights.html> (Last visited May 8, 2019).

Freedom of Expression Documentation Center by iLaw, retrieved from <https://freedom.ilaw.or.th/en> (Last visited May 6, 2019).



## VIET NAM

## The Right to Peace: The Viet Nam Experience

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On 19 December 2016, the plenary of the United Nations General Assembly (UNGA) in New York ratified the Declaration on the Right to Peace by a majority of its member states. The right to peace is the fulfillment of United Nations' 3 pillars: Peace and Security-Human Rights-Development "Everyone has the right to enjoy peace such that all human rights are promoted and protected and development is fully realized".

The right to peace can be understood through its two components: the maintenance of peace in both inter and intra state, in accordance with the UN Charter and, handle conflict creatively and nonviolently by peaceful means, engage in poverty eradication programs, freedom of religion and belief, ensuring equal rights among ethnic groups. The right to peace needs to be implemented in an equality and non discrimination way, by sustainable measures.

This study analyzes the implementation of human right to peace in Viet Nam through the following: culture of peace and programs supporting a culture of peace, human rights policies and legislation with respect to peace, peace education, peace initiatives and main challenges, poverty eradication programs, freedom of religion and belief, ensuring equal rights among ethnic groups, conflict resolution and pacific settlement of disputes, international cooperation and main peace actors.

Viet Nam was elected to the United Nations Human Rights Council (UNHRC), the 2014-2016 tenure, on November 12 with 184 approval votes out of 193, the highest among 14 countries elected to the 47-member council this time. Viet Nam's bid to join the Human Rights Council has its roots in

the consistent policy of the Party and State on ensuring the stable and peaceful environment, protecting and promoting human rights and actively participating in international cooperation in this field.

### 1. Culture of peace

A culture of human rights is a precondition to achieve a state of peace in any country of the world. Being a victim of many aggressive wars—the most serious violation of human rights, Viet Nam, more than anyone else, understands the value of the right to peace. The Viet Nameese had to make enormous sacrifices in the persistent struggle against foreign aggression to gain national peace, independence and freedom.

President Ho Chi Minh, the founder of a new Viet Nam, during his life, always cherished an aspiration: "I have only a desire, an utmost desire that our country is fully independent, our people are fully free, our compatriots all have enough food and access to education". His wish also reflects the aspiration of the Viet Nameese people for the essential values of human rights to peace and has stood as guiding principles for the State of Viet Nam.

It is Viet Nam's ultimate goal to build "a strong country with wealthy people in an equal, democratic and civilized society" for the benefit of the people. By promoting the culture of peace, Viet Nam ensures for every citizen the respect for all human rights, equality between women and men, sustainable economic and social development, democratic participation, free flow of information and knowledge...

## 2. Human rights policies and legislation with respect to peace

In pursuit of the policy to promote human right to peace, the State of Viet Nam has been building and improving the legal system to ensure that human rights are fully respected and exercised. Human rights, stipulated in the Constitution and legislation, are protected by law and complied with by the entire society. The adoption of the 2013 Constitution by the National Assembly after receiving millions of public inputs, with 36 provisions in the Chapter II exclusively dedicated to human rights and the rights and obligations of Viet Nameese citizens, is obviously a step forward toward the rule-of-law state and institutionalized human rights in conformity with the international norms and standards on human rights. Human rights regulations are considered the key content in the 2013 Constitution which came into force on January 1st, 2014. Chapter II of the Constitution lists all civil, political, and cultural human rights which have been mentioned in international conventions on human rights. It also mentions the rights of vulnerable groups, old people, women, and children. The Constitution matches international law and political stances on human rights. For the first time, the Constitution stipulates the rights to live and to enjoy cultural values, freedom to choose a language for communication, and to live in a healthy environment. The Constitution not only defines citizen rights and obligations but also human rights in the Socialist Republic of Viet Nam. It shows that the 2013 Constitution has inherited and developed many contents on human rights from previous Constitutions and matches international human rights conventions to which Viet Nam is a signatory. Besides confirming basic human rights, the Constitution also contains regulations to tightly control activities that hamper human rights. Activities restricting the right to live, the right to protect personal information, and other rights must be regulated by legal documents.

Human rights as stipulated in the Constitution have continuously been concretized in Viet Nameese legal normative documents. Since 1986 alone, Viet Nam has promulgated 13,000 legal documents of all sorts, including over 40 codes

and laws, over 120 ordinances, approximately 850 documents of the Government and over 3,000 regulatory documents by Ministries and agencies. In 2004 alone, the National Assembly debated and approved 13 laws and 8 ordinances in different fields.<sup>2</sup>

Thus, the Constitution and laws of Viet Nam have fully reflected all the fundamental and universal human rights pronounced in the 1948 Universal Declaration of Human Rights and in other UN conventions on human rights.

Legislative, administrative and judicial reforms continue to be high on the agenda with a view to further strengthening human rights in laws, regulations and practice, including the right to oversee the implementation of laws, access to information, etc. These clearly show tremendous progress and efforts made by the State of Viet Nam in respecting and protecting human rights to peace, stability, security in non discrimination way, by sustainable measures.

## 3. Peace education

Education itself is a human right and an indispensable tool for recognizing other human rights. Education plays an essential role for people to respect dignity, encourages people to participate in numerous economic, social and political activities, protects vulnerable people in society, enhances the capacity of women, protects children from sexual exploitation and promotes human rights.

In Viet Nam, there are different forms of education on right to peace: popularize about peace, educate about legal regulation on human rights and peace, educate about the history of peace protection, organise contests on the understanding of the law on human rights; publishing judgment bookcases, that reflect the efforts of different state agencies in ensuring human rights,... Peace education is promoted through the application of the law; incorporating the peace education on human rights to peace with the organisation of traditional festivals ...

2. The Ministry of Foreign Affairs of the Socialist Republic of Viet Nam, "Achievements in Protecting and Promoting Human Rights in Viet Nam", August 20, 2005.

Anyway, Viet Nam does not have a separate program on peace education. The inter-ministerial cooperation mechanism for universal education on peace throughout the country is not enough. Except for human rights majors in law universities, Viet Nam does not have a program on human rights of peace from elementary level to the higher levels. Viet Nam does not have enough lectures on human rights. Textbooks and documents in this field are in shortage.

#### 4. Peace initiatives and main challenges

Viet Nam has a wide range of international, regional and national initiatives on human rights to peace.

Viet Nam is the co-sponsorship of a resolution on climate change and children's rights, and a series of events relating to vulnerable groups, from the way to create an enabling working environment for disabled people to ensuring the rights of people working at sea, and enhancing education in combating trafficking of women and girls. All these initiatives are Viet Nam's efforts for a better planet for everyone. Viet Nam and other ASEAN members are building a people-centered ASEAN Community, making the bloc a region of peace, stability, development and cooperation.<sup>3</sup>

Viet Nam has proven its resilience and resourcefulness by successfully weathering the economic hardship in the global context and maintaining positive progress in socio-economic development, poverty reduction and environmental protection.

With the unified and concerted efforts of the government, the people, civil society and development partners, Viet Nam is a genuine developmental success story, especially in the field of poverty reduction and economic performance. Quality healthcare at health facilities and preventive medical care, and epidemic disease control have all improved noticeably. Strong efforts in renovating and reforming the education system at basic and advanced levels have helped enhance the quality of teaching and learning. Public infrastructure

has witnessed spectacular growth, and this transformation has been a pivotal driver of economic growth and social development. Viet Nam has achieved a number of the MDG targets such as: (i) eradicate extreme poverty and hunger; (ii) achieve universal primary education and (iii) promote gender equality. And the country has achieved positive progress in health-related indicators such as reducing the maternal and child mortality ratios. The country also achieved its target on malaria and tuberculosis control as well as combating the HIV/AIDS prevalence rate. Viet Nam is on the way towards reaching targets in universal access to reproductive health services, improving maternal health. In recent years, notwithstanding the domestic economic difficulties partly due to the global economic and financial context, Viet Nam has not cut down any social security programs but also enhances its social welfare policies in order to improve the life of the people, particularly women, children, ethnic minorities, people in remote and disadvantaged areas.

Viet Nam ranks 3<sup>rd</sup> among the 10 countries that will suffer the most serious consequences of climate change. Efforts have also been made to assist people in areas affected by natural disasters, as well as to build long-term measures to preserve environmental sustainability. Viet Nam has undertaken several measures to cope with climate change including implementation of the National Strategy on Climate Change. Despite being a developing nation with shortages of resources, Viet Nam pledged to cut 8% of its greenhouse gas emissions by 2030 - 25%. Viet Nam will contribute \$1 million to the Green Climate Fund for the 2016-2020 period. Viet Nam touched on climate change response in the Mekong Delta. Activities to cope with climate change underway. Over the years, Viet Namese sectors and organisations have responded to the National Strategy on Climate Change to ensure food and energy security, and water resources, reduce poverty, promote gender equality and social security, and protect natural resources. In this strategy, top priority is given to mitigating the effects of climate change on agricultural production,

3. Deputy Foreign Minister Ha Kim Ngoc, speech at the 34th session of the United Nations Human Rights Council (UNHRC) in Geneva, Switzerland, on February 28. <http://m.english.vietnamnet.vn/fms/government/173610/official-highlights-viet-nam-s-contributions-to-global-human-rights-initiatives.html>

especially rice production in the Mekong Delta. Viet Nam plans to take advantage of opportunities created by climate change to promote socio-economic development and join international efforts to cope with climate change. The country has put in place several development plans, built disaster-resistant complexes, and worked out solutions to cope with natural disasters.<sup>4</sup>

*Achievement in socio-economic progress has also been accompanied by substantial challenges:* an economic slow-down, added to by bad debt from commercial banks and the inefficient operation of state-owned companies, Viet Nam continues to encounter many difficulties due to slower economic growth, bad debt and increasing public debt. The rate of poverty reduction also slowed down and its incidence in remote and mountainous areas remains very high. Multidimensional poverty has become more apparent during urbanization and migration processes. Inequality in income and socio-economic development between different geographic and ethnic groups is also still significant. In addition, the impact of climate change illustrated by the escalating frequency of extreme weather events as well as a rising sea level has increasingly impacted the community generally in risk prone areas, and hence also the livelihoods of the poor. These problems pose huge challenges for Viet Nam in its effort to boost economic growth and ensure sustainable social development.

## 5. Poverty eradication programs

### *Some notable achievements*

Viet Nam is among the best-performing nations on poverty reduction. Among the eight MDGs, Viet Nam achieved impressive results in eradicating extreme poverty and hunger, surpassing the target set out in MDG. The country achieved this MDG target before the deadline. During 1993 to 2008, expenditure based poverty fell from 58.1 percent

to 14.5 percent, lifting millions people out of poverty. In the next period, the poverty rate using the national poverty line 2011-2015, declined from 14.2 percent in 2010 to 8.4 percent in 2014.<sup>5</sup>

Poor people and families have been supported to develop production. They have had access to health services, education, vocational training, legal assistance, housing and clean water. In especially difficult communes, investment has been made in building essential infrastructure. Preferential credit policy has been extended from poor households to near-poor households and households which have just escaped poverty. Attention has been given to healthcare for the poor, especially policies to support poor people acquiring health insurance cards and free medical care for poor people and people with difficulties. Policies on assistance to the poor in education, training and vocational training have boosted the proportion of poor children going to school at the right age, and increased the percentage of poor people receiving vocational training. Policies on housing, land, agricultural land, water, electricity subsidies, and legal aid have helped stabilize their lives, create jobs and raise incomes for the poor.

### *Some restrictions and causes*

Besides outstanding achievements, limitations remain in hunger eradication and poverty alleviation: The national poverty line is generally low and does not meet the minimum standards of living and slow to be adjusted; Some policies support heavy subsidies, creating the psychology of waiting for and relying on support from the State, and failing to encourage poor people to strive to get out of poverty; Results of poverty reduction are not sustainable; disparities between regions and population groups have not been narrowed. Currently poverty concentrates mainly in the northern mountainous region, the high districts of the central coastal region and the Central Highlands.

4. Vufo NGO resource centre "Viet Nam Joins International Efforts to Cope with Climate Change" <http://www.ngocentre.org.vn/news/Viet-Nam-joins-international-efforts-cope-climate-change>

5. United Nations in Viet Nam, "Viet Nam & the MDGs", <http://www.un.org.vn/en/what-we-do-mainmenu-203/mdgs/viet-nam-and-mdgs-mainmenu-49.html>

## Solutions

Promoting achievements and overcoming above-mentioned shortcomings and constraints, efforts must be made to realize following solutions: accelerate economic reforms, creating momentum for growth to generate resources for rapid and sustainable poverty reduction, and reduction of the increasing gap between regions and target groups; strengthen proactive measures to support the poor through active labor market policy (credit loans, vocational training, employment connections for poor households with labor force); ensure resources and increase medium-term investment resources of the State for policies and programs on poverty reduction, give attention to policies that prioritize allocation, rational and effective use of resources, and ensure effective integration of policies and resources; continue to study and readjust policy on preferential credit for poor households, and near-poor households in line with characteristics of regions, fields of production, businesses of households, adjust loan amounts, interest rates, loan terms to be consistent with policies on extension of agriculture, industry, forestry, fishery and transfer of science and technology, build and replicate the model of poverty reduction in association with local communities in the localities; Give priority to investment in infrastructure and development, improve human resources' quality to ethnic minority regions, poor districts and poor communes, security communes, border communes, especially difficult communes and villages, coastal areas and islands; focus on solving the problem of land-less ethnic minority households, allocate cultivable land to or assist at least 80% of poor ethnic minority and poor households in especially difficult communes and villages who lack cultivable land to change their jobs, provide vocational training, generate jobs, and increase income for ethnic minority households who have not been provided with cultivable land; Maintain policies to assist students of poor families, and near-poor households, heighten the percentage of students going to school at the right ages in disadvantaged areas, especially difficult regions, build more boarding and semi-boarding schools for ethnic minority pupils in suitable scales, renovate and improve the

efficiency of students selection, nomination, training and use; ensure at least 90% of near-poor households participating in health insurance schemes, 70% of communes meeting the national criteria on health, over 90% of the commune health stations eligible to medical examination and treatment with health insurance, adjust the investment structure for health care and health insurance to facilitate access to health services, health care for the poor and near-poor people...

## 6. Freedom of religion and belief

The State of Viet Nam recognises religion and belief as a legitimate spiritual need of people. It is Viet Nam's consistent policy to respect and ensure the freedom of people to follow or not to follow any religion or belief. This right is stipulated in Viet Nam's Constitutions. Article 24 of the 2013 stated that: "1. Everyone has the right to freedom of belief and religion, and has the right to follow or not to follow any religion. All religions are equal before the law". Besides, the freedom of religion and belief has also been written in other legal documents of the State.

In Viet Nam, there are around 20 million followers of different religions and 80 per cent of the population has belief. Viet Nam considers religion and belief a legitimate need of the people and has made continuous efforts to create better conditions for religious and belief activities. As of 2008, there are 12 major religions in Viet Nam, of which Buddhism, Catholicism and Protestantism have the largest numbers of followers. Religious activities, particularly major annual festivities, are organised solemnly with the participation of hundreds of thousands followers. The United Nations Day of Vesak 2008 was successfully held in Hanoi with the participation of over 4,000 Buddhist dignitaries, monks and nuns, 2,000 of who came from 74 countries and territories around the world. Places of worship are frequently renovated while new places are built. Training activities for religious dignitaries, monks and nuns are regularly organised and expanded. Many are sent abroad, including the United States, France, Italy and India, for further studies. Religious organisations in Viet Nam

actively participate in many cultural, social, healthcare and humanitarian activities, contributing to the country's development. International relations of Viet Nameese religious organisations are continuously expanded, with religious leaders participating in many international fora, dialogues among religions and faiths and exchanges of views on religious beliefs and rules at important fora like ASEM and ASEAN.<sup>6</sup> Religions in Viet Nam have taken steps to expand their external relations. The Viet Nam Catholic Church has relations with the Universal Catholic Church and is under the leadership of the Vatican. The Viet Nam Buddhist Church also has close relations with the World Buddhist Church and Buddhist organisations in Cambodia, Thailand and China etc. The State creates favorable conditions for religious organisations and practitioners to conduct international exchanges and studies. Religious education has been expanded. Many followers and dignitaries have been trained in the US, France, Italy and India, etc.

## 7. Ensuring equal rights among ethnic groups

Viet Nam has 54 ethnic groups of which 53 ethnic minorities live mainly in mountainous areas, especially the North West, Central Highlands and the South West, making up 13.8% of the total population. The Viet Nameese State attaches special importance to the policy of ensuring equal rights of all ethnic groups and considers it as a decisive factor for the country's sustainable development. The policy is implemented in all political, economic, cultural and social areas and incorporated into the law of Viet Nam.<sup>7</sup>

It is stated in Article 5 of the 2013 Constitution that: the Socialist Republic of Viet Nam is the unified nation of all nationalities living on the territory of Viet Nam; All nationalities are equal, solidary, mutually respect and assist in their developments; all acts of national discrimination and division are strictly forbidden; The State implements a policy of comprehensive development, and provides conditions for the

national minorities to promote their internal abilities and to develop together with the nation (Article 5). Such provisions have been institutionalized and specified in various laws.

The proportion of ethnic minority deputies to People's Councils at all levels is also relatively high. The figures are much higher in mountainous and ethnic regions. The number of ethnic minority staff in localities is on the rise.

In reality, the Viet Nameese State always pays attention to and creates favorable conditions for ethnic minority people to improve their spiritual and material life, and help them exercise the equal rights, step by step narrow the development gap toward the national level.

The Viet Nameese Government has approved programs on socio-economic development in ethnic minority areas. The socio-economic situation in ethnic minority and mountainous regions has improved remarkably. The number of poor households went down dramatically. Food security in ethnic minority areas has been increasingly ensured, and in general terms there is no existing hunger household. The infrastructure has been developed rapidly. Almost all ethnic minority areas now have a traffic network from provincial centers to districts and communes.

The economic structure of these regions has been shifting dramatically, with the proportion of agriculture and forestry falling sharply and trade and services going up. New policies on agricultural and forestry development, land and forest allocation for ethnic minorities, and application of advanced techniques in production of plant varieties and animal breeds, combined with investment in irrigation, have contributed to constant increase in food production. The policy to assist ethnic minority people in their settlement for a better life has also yielded important results. Regarding health care, all districts have health care centers and about

6. Viet Nam's National report of the Socialist Republic of Viet Nam Under the Universal periodic review of the United Nations Human rights council, 2009 [http://lib.ohchr.org/HRBodies/UPR/Documents/Session5/VN/A\\_HRC\\_WG6\\_5\\_VNM\\_1\\_E.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session5/VN/A_HRC_WG6_5_VNM_1_E.pdf)

7. The Ministry of Foreign Affairs of the Socialist Republic of Viet Nam, "Achievements in Protecting and Promoting Human Rights in Viet Nam", August 20, 2005.

93.5% of the communes in the mountainous and ethnic minority areas have health care stations (as compared with 90% at national level). The primary and secondary education system has rapidly developed in ethnic minority areas and teaching in ethnic languages is included in the curricula in these areas. Cultural and information services are now more accessible to ethnic groups. The State of Viet Nam always respects, maintains and promotes cultural traditions, preserves tangible as well as intangible cultural heritages of each ethnic group. Viet Nam attaches importance to the collection, preservation, publication and promotion of their unique cultural heritages. Radio and television programs have been improved qualitatively and quantitatively. Most ethnic minority groups have their own beliefs.

Nevertheless, ethnic groups are still facing difficulties in the social and economic fields mainly due to objective reasons such as geographical conditions and low starting points in terms of development level.

## 8. International cooperation

As part of the foreign policy aiming to serve its major objective of comprehensive integration, Viet Nam has been engaging in human rights dialogue and cooperation with international partners. Viet Nam is committed to working with the international community to build a world which will be more secure, more prosperous and more just for everyone. Through international cooperation, Viet Nam is acquiring an increasingly active role in and contributing greatly to the building of values of human rights in general on the regional and global scale, which is in line with its external relation orientations of becoming an active and responsible member in the process of shaping common regulations and standards.

Joining international treaties and realizing commitments on human rights are one of the key tasks Viet Nam has set, with a view to meeting basic and universal standards on human rights and incorporating globally-recognised regulations

into Viet Nam's human rights laws in a way that suits the country's specific situation. Viet Nam has joined seven out of nine essential international treaties on human rights. In particular, the country was the second in the world and the first in Asia to become a member of the Convention on the Rights of the Child. Viet Nam ratified the Convention on the Rights of Persons with Disabilities and the Convention against Torture. The country also participated in 20 conventions on labour rights initiated by the International Labour Organisation (ILO), including five out of eight core conventions, which shows its high commitment despite the socio-economic difficulties.<sup>8</sup>

Viet Nam's efforts are not only shown in the number of international human rights conventions to which it is a member but also the high sense of responsibility for enforcing them, including integrating the conventions' content into domestic laws, raising public awareness of their contents on the mass media and school curricula, and seriously fulfilling compulsory obligations to build and submit national reports. The country has submitted a total of 16 reports to the Committees on human rights conventions. Viet Nam first deployed the UN Human Rights Council's universal periodic review (UPR) mechanism in May 2009 and accepted 96 out of 123 recommendations. During the second UPR in February 2014, Viet Nam accepted 181 out of 227 recommendations, which is a high rate of acceptance of recommendations. Viet Nam increase collaboration and consultations to ensure the efficiency of enforcing conventions and UPR recommendations, pay more attention to improving the pace and quality of national reports, consider the possibility of building a data archive on human rights and improve the training of human resource for the field, including introducing competent Viet Namease nationals to join Committees on human rights conventions. Viet Nam's membership in the Human Rights Council for the term 2014-2016 reflects not only the appreciation and confidence from the United Nations members for Viet Nam but this is also a precious opportunity for Viet Nam to learn good practices and experience from the international community for the cause of Doi Moi and the promotion and

8. Deputy Foreign Minister Ha Kim Ngoc, speech at the 34th session of the United Nations Human Rights Council (UNHRC) in Geneva, Switzerland, on February 28. <http://m.english.vietnamnet.vn/fms/government/173610/official-highlights-viet-nam-s-contributions-to-global-human-rights-initiatives.html>

protection of human rights in the country. Having experienced devastation and loss through wars, Viet Nam joined the UN's peacekeeping operations from 2015. This is Viet Nam's efforts to contribute to world stability and peace.

Within the region, together with ASEAN member countries, Viet Nam has made positive contributions to the establishment of the ASEAN Inter-Governmental Commission on Human Rights, the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children and the ASEAN Human Rights Declaration.

Viet Nam is currently engaged in official human rights dialogue mechanism with five partners, including the US, the European Union, Switzerland, Norway and Australia, not to mention other unofficial relevant channels.

## 9. Main peace actors

Peace is just not a right but a duty as well which is imposed on states and individuals to act in the favor of wider societal interests. Peace involves equitable, participatory and stable political institutions that guarantee diversity and minimal standards of well-being and protection for the vulnerable.

Article 3 of the Constitution 2013 regulates that: "The State shall guarantee and promote the People's right to mastery; recognise, respect, protect and guarantee human rights and citizens' rights; and pursue the goal of a prosperous people and a strong, democratic, equitable and civilized country, in which all people enjoy an abundant, free and happy life and are given conditions for their comprehensive development." The State gains legitimacy through the legal national and international standards and instituted the fundamental requirements for state powers and responsibilities according to international human rights law. The current realities of

international integration and theoretical ideological renewal have made the Party and State more deeply aware of many inalienable values, including human rights that every nation and its peoples have the right to enjoy and the responsibility to protect and develop.

Viet Nam's CSOs are instrumental in promoting human rights, with certain characteristics. First, CSOs basically focus on disadvantaged groups, such as children, disabled persons, minority people. Economic, cultural, and social rights are fronts that CSOs are doing well. Second, CSOs are expanding themselves to civil and political rights, with the understanding that all rights are integral, that if a civil or political right is not protected, other rights shall be compromised as well. Third, local CSOs increase their communication with international human rights institutions, such as the United Nations. For example, during Viet Nam's 2014 UPR process before the Human Rights Council, many local organisations submitted their independent report to the Human Rights Council on the human rights situation in Viet Nam. Within the ASEAN region, many local NGOs keep their communication with this institution and other country's NGOs.

*In conclusion*, Viet Nam's efforts in ensuring peace, security, human rights and development have been v and praised by many international organisations, countries and partners. The people are always viewed as both the goal and driving force of the cause of all national economic and social policies, so that every citizen can enjoy the fruits of development and human rights in all aspects, including human right to peace. The right to peace has been implemented in an equal and non-discriminatory way by sustainable measures. Viet Nam has made greater contributions to global human rights initiatives in dealing with human rights issues and global challenges and in helping to ensure peace and security in the region and the world.



