

# Focus

## Asia-Pacific



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### Editorial

#### Owning UDHR

Two words in the Universal Declaration of Human Rights are worth emphasizing: "all peoples." The declaration is meant to be a "common standard of achievement for all peoples."

It is highly possible that many "peoples" have been working hard to achieve the goals of the declaration without knowing the document. They faced barriers, some deliberately laid before them, to deprive them of their rights or the rights of others they assist.

Having this common standard not only in promoting human rights but also in protecting and realizing them requires a sense of ownership of the Universal Declaration of Human Rights. This declaration has to be recognized by "all peoples" on their own initiative and to their own satisfaction.

This echoes what Eleanor Roosevelt once said, human rights must have meaning in "small places" where "peoples" can enjoy their rights, or suffer from their violation and abuse.

The 75th anniversary celebration of the Universal Declaration of Human Rights, or any celebration of the declaration for that matter, is best appreciated when undertaken in "small places" of the "peoples."

# Celebrating the Universal Declaration of Human Rights

Jefferson R. Plantilla

The adoption in 1948 of the Universal Declaration of Human Rights, the first ever declaration on human rights, is feted annually as a milestone in the history of the United Nations (UN). But in order to make such celebration meaningful, it has to be relevant to the realities of people on the ground.

## Celebrating UDHR in the Midst of Turmoil

The 75th anniversary of the UDHR was celebrated in the context of continuing human rights violations by state forces as well as human rights abuses by non-state entities. This has been the case since 1948 till the present. Despite the unfortunate situation, the UDHR is seen as a significant weapon in the fight for human rights.

In a country suffering from renewed armed confrontation between ethnic minority armies and the Myanmar military, people still recognized the importance of celebrating the UDHR.

The celebration was held in several places in Myanmar as one report states:<sup>1</sup>

Despite grave danger and persecution, countless brave individuals and communities within Myanmar have

persisted in peaceful and defiant protests and continue raising awareness on human rights. On Human Rights Day, the protest of a young group that rallied in Launglon Township, Tanintharyi Region, held a sign saying, "Our rights, our future, the end of all dictatorships." Likewise, in Monywa Township, Sagaing Region, where a massacre recently occurred, a local youth charity group, Anyar Pyit Taing Htaung Laymyar, marched to commemorate Human Rights Day and stated, "We have lost the inherent human rights due to the group of military juntas. We are no longer able to walk freely down the streets of our own city like before.

We are losing our rights to live."

Another account states:<sup>2</sup>

On 10 December, students, LGBT groups and locals from Launglon Township, Tanintharyi Region, marched to protest against the junta and raise awareness on human rights, carrying a banner that read "Our rights, our future, the end of all dictatorships."

In Jordan, Queen Rania posted a video in her official Instagram account where she commented: "75 years since the Universal Declaration of Human Rights yet the denial of Palestinian human rights goes on." She added: "Humanity cannot be applied selectively."<sup>3</sup>



Protest on 10 December 2023. Photo by Democracy Movement Strike Committee - Dawei District, Myanmar.

## Community Celebration

With “LGBTQI community... being left behind,” APCOM<sup>4</sup> in commemorating the 75th anniversary of the UDHR ran a mini campaign (#MyRightsEveryday) that highlighted thirty community members across the Asia-Pacific region in inspiring and empowering LGBTQI+ people in the “community to stand up for their rights everyday.” Cam ASEAN Youth's Future had its celebration through song compositions with the theme “Water does not discriminate against gender,” about LGBTQI people who were not able to use natural resources especially the river.<sup>5</sup> It also featured in its newsletter “some stories from three of our LGBTQI communit[ies] operating in some of the most difficult situations and circumstances - Afghanistan, Myanmar and Pakistan, [and also] community generated stories from Bangladesh.”<sup>6</sup>

## Asians and the UDHR

The celebration of the 75th anniversary of the UDHR provides an opportunity for recalling the contribution of Asians in the drafting of the declaration and in enriching it with wisdom from Asia.

The Secretary General (Bharat Lal) of the National Human Rights Commission of India posted on Linked a message on Human Rights Day that highlighted the role played by Indian representatives in the UN committee drafting the UDHR:<sup>7</sup>

In the drafting of this document, two Indians

namely Hansa Mehta and Laxmi Menon introduced ‘gender equality’ and ‘non-discriminatory’ clauses, respectively. This reflects Indian ethos.

The China Society for Human Rights Studies held a seminar to commemorate the 75th anniversary of the UDHR. The seminar participants cited the role of the Chinese representative in the UN committee drafting the UDHR:<sup>8</sup>

Based on the Confucian concept of *ren* (benevolence), Zhang Pengchun (1892-1957), who served as vice-chairman of the United Nations Commission on Human Rights, introduced the term *liangxin* (conscience) in the first article of the declaration.

A seminar participant stressed the significance of contribution from people of diverse cultures:<sup>9</sup>

Lu Guangjin, a professor at Jilin University's School of Law, said, “An absence of contributors from diverse cultural and civilizational backgrounds, and a lack of inclusive coexistence between different cultures and civilizations would have made the birth of the declaration impossible.”

A symposium organized by the University of the Philippines (UP) and the Philippine Department of Foreign Affairs on 10 December 2023 had the theme “Extending the Horizons of Human Rights” and was planned to “showcase the contributions of ... Filipinos in international human rights

treaties and mechanisms, particularly those in the United Nations.”<sup>10</sup> During the symposium, speakers cited the role of Carlos P. Romulo<sup>11</sup> in the drafting of the UDHR.<sup>12</sup> Bertrand Ramcharan spoke in the symposium about Romulo and the need to know his contribution in the drafting of the declaration.

The Institute of Lebanese Thought, in partnership with the Department of English and Translation within the Faculty of Humanities at Notre Dame University-Louaize (NDU), organized a lecture on the life and lasting legacy of Charles Malik. Tony Nasrallah, PhD, the curator of the Charles Malik Archive at NDU delivered the lecture on the topic “Charles Malik and his Legacy at NDU.”<sup>13</sup> The university has been organizing annual events to celebrate the anniversary of the UDHR with a focus on the legacy of Charles Malik.

## Broadening Areas of Concern

Emerging issues were also emphasized in celebrating the 75th anniversary of the UDHR. The members of the Asia-Pacific Forum of National Human Rights Institutions note in their Delhi Declaration (September 2023) the “emerging human rights issues and challenges especially in the area of Information and Communication Technologies (ICT), Artificial Intelligence, business, healthcare, climate change, natural and human-made disasters and offences taking place across borders.”<sup>14</sup> The Delhi Declaration states that the member institutions are recalling and renewing their

"commitment to the Universal Declaration of Human Rights (UDHR), on the 75th anniversary of its adoption by the General Assembly states."

In relation to Sustainable Development Goals (SDGs), they "reaffirm that the goal of a peaceful, inclusive and developed society is interrelated and mutually reinforced by the protection and promotion of rights envisaged in the UDHR and codified by various international instruments." They devoted a whole section on "Climate Change and Human Rights" in the Delhi Declaration.

The Freedom of Expression Conference (FreeXP.con) VII Declaration entitled "Youth action for promoting and defending freedom of expression in Southeast Asia," states:<sup>15</sup>

In commemoration of International Human Rights Week and the 75th anniversary of the Universal Declaration of Human Rights (UDHR@75) culminating on 10 December 2023, we unite with a commitment to collectively foster an environment where youth can flourish, express themselves freely, and actively contribute to the advancement and safeguarding of human rights.

One non-governmental organization stressed the universality of the UDHR through this message:<sup>16</sup>

Let's decolonize our field so that the UDHR can truly be

'universal': for everyone - everywhere. Let's be in charge and let's collectively heal together.

### Celebrating for Meaning

Honoring the adoption in 1948 of the UDHR is important in promoting human rights. But this seventy-five-year-old document has to be meaningful in the current situation of people and society in order to ensure effective rights promotion. Thus, UDHR celebrations became occasions for renewing efforts to address issues that people suffer from including the never-ending discrimination, continuing violence, and persistent deprivations and poverty.

But honoring the UDHR should also be a celebration of the protection and realization of human rights, especially for those who have been left behind.

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### Endnotes

- 1 [Weekly Highlights] New Human Rights Narrative by Myanmar's People, Progressive Voice, December 18, 2023.
- 2 Democracy Movement Strike Committee-Dawei, December 10, 2023, [www.facebook.com/photo/?fbid=668694552119438&set=pcb.668682115454015](https://www.facebook.com/photo/?fbid=668694552119438&set=pcb.668682115454015).
- 3 Queen Rania on Human Rights Universal Declaration: Denial of Palestinian human rights goes on, Jordan News Agency,

[https://petra.gov.jo/Include/InnerPage.jsp?ID=55327&lang=en&name=en\\_news](https://petra.gov.jo/Include/InnerPage.jsp?ID=55327&lang=en&name=en_news).

- 4 Profile of APCOM:  
APCOM has a primary focus on HIV because it is a key health issue for gay men and other men who have sex with men in the region. APCOM also addresses other related health issues for our communities such as sexual health, mental health and drug use.  
APCOM also focuses on improving relevant human and legal rights across the region as discrimination, stigma, criminalisation and exclusion impact on the health outcomes of the communities we serve.  
APCOM, [www.apcom.org/about/](http://www.apcom.org/about/).
- 5 For a video of the Cam ASEAN Youth's Future celebration, visit <https://fb.watch/pdRYAgEzjY/?mibextid=2JQ9oc>.
- 6 75th Anniversary of Universal Declaration of Human Rights: Human Rights Day 2023, APCOM, [www.apcom.org/75th-anniversary-universal-declaration-human-rights-2023/](http://www.apcom.org/75th-anniversary-universal-declaration-human-rights-2023/).
- 7 Bharat Lal, [www.linkedin.com/in/bharat-lal-9b672877/recent-activity/all/](https://www.linkedin.com/in/bharat-lal-9b672877/recent-activity/all/).
- 8 Yao Yuxin, China lauded for contribution to human rights cause, *China Daily*, 5 December 2023, [www.chinadailyhk.com/article/364869?showpdf=true](http://www.chinadailyhk.com/article/364869?showpdf=true).
- 9 Ibid.
- 10 UP Media and Public Relations Office, Extending the Horizons of Human Rights: Philippines and the UDHR, University of the Philippines, November 30, 2023, <https://up.edu.ph/extending-the-horizons-of-human-rights-philippines-and-the-udhr/?fbclid=IwAR3-2fYcBp312eLEjdB-LmdBiC1ZqnqP5iht75nURVvLiNuBbpSKL0cfmBl>.

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# The National Human Rights Commission of Korea and the Efforts of Civil Society to Secure Its Independence\*

Heisoo Shin

This year marks the 30th anniversary of the Paris Principles on the Status of the National Human Rights Institutions. The Paris Principles set out the main criteria that a national human rights institution (NHRI) is required to meet - establishment by law, a broad mandate, independence, pluralism and adequate resources. Meeting these criteria in the process of establishing such an institution in Korea and afterwards maintaining it especially in preventing it from being under government control were a struggle.

The demand to establish an NHRI in Korea was raised first by the civil society in 1993. Many Korean human rights lawyers and civil society organization (CSO) leaders, who were preparing to attend the 1993 World Conference on Human Rights in Vienna, proposed to the government to establish such an institution. After many decades of harsh military dictatorship, Korea was finally enjoying a hard-won democracy, full of hope for a society where human rights should and would be respected and protected. The momentum was ripe during the presidential election in December 1997. The front-runner Kim Dae Jung promised to establish an NHRI if he would be elected as

President. It took four more years to finally establish the institution in 2001, but had only a certain level of independence.

In September 1998, the newly inaugurated government announced the draft "Human Rights Law." The bill though was deeply disturbing: The status of the National Human Rights Commission was envisaged as a "special legal entity" under the control of the Ministry of Justice (MoJ). In the composition of NHRCK, out of a total of eleven Commissioners, four ex-officio members would be the deputy ministers of relevant ministries and the rest seven members would be appointed by the President upon the recommendations of MoJ. It was a betrayal of the essential prerequisite of an independent NHRI. This bill was then speedily approved by the Cabinet in March 1999 and sent to the National Assembly in following month (April) for its enactment.

The civil society had to move quickly and decisively. Already, about thirty CSOs had formed a Joint Action Committee to promote the establishment of NHRI. In response to the MoJ's bill, this Committee was re-organized in April 1999, its membership was expanded to include as many as seventy CSOs, and was renamed Joint

Counter-Measure Committee to demand that the government establish a "proper NHRI." To block the government-proposed bill, thirty-four human rights leaders started fasting in front of Myeongdong Cathedral, a symbolic place that functioned as the center of democracy movement.

The Joint Counter-Measure Committee held so many emergency meetings to strategize how to deal with the changing political situations and the evolving versions of the bill, which kept getting revised while the negotiations in the parliament and between the political parties and the government were going on. The civil society also invited an expert from Australia and had public discussions at an open forum.

All these serious efforts paid off. In April 2001, the National Human Rights Commission Act was passed, with one hundred thirty-seven votes in favor, one hundred thirty-three votes against it and three abstentions. It was established as a state organ, without being under the power of any of the Executive, Legislative or Judicial institutions. The National Human Rights Commission Act, in its Article 3, paragraph 2, provides that the Commission shall "independently perform

tasks within its authority.” Ideally, the Commission would be best if established as an independent organ by constitutional amendment, which was not possible. Therefore, the next best way was to establish it by legislation.

Finally, on 25 November 2001, the National Human Rights Commission of the Republic of Korea (NHRCK) was established. The NHRCK can function independently, and the decisions are to be made by eleven Commissioners – four standing (full-time) and seven non-standing members. They are selected through three different routes: The National Assembly elects four Commissioners (including two standing members); the President of the Republic of Korea appoints another four Commissioners (including the NHRCK President and one standing member); and the Chief Justice of the Supreme Court recommends the remaining three Commissioners. The Commissioners serve for three years and may be reappointed only once. In accordance with the demands of women’s organizations, more than four Commissioners should be female, which later was revised to “a specific gender should not exceed” six Commissioners. These are unique features of the NHRCK, concluded after a series of negotiations. In other countries, the composition and terms of office of the Commissioners and how they are elected/appointed vary a great deal.

During its early days, the NHRCK enjoyed a very high social reputation and respect. The NHRCK’s first President was

a well-known and very respected human rights lawyer who fought against the dictatorship. On the NHRCK’s opening day, people lined up in front of its Counselling Center to register their complaints as the first cases.

In the course of twenty years, the NHRCK’s staff was increased from one hundred eighty to two hundred forty eight, but the number of personnel has been strictly under the control of the Ministry of the Interior and Safety (MoIS). Likewise, the NHRCK does not have autonomy in its budget allocation, which is controlled by the Ministry of Economy and Finance (MoEF). In 2021, the NHRCK tried to amend the National Finance Act, so that the NHRCK’s status could be elevated from a “central government agency” to an “independent institution” similar to the status of the National Election Commission. The National Finance Act prescribes that the government (i.e., MoEF) should respect the opinion of (and when financial adjustment is required, consult with) the head of the “independent institution.” The NHRCK’s attempt, however, failed, due to opposition from the government. Therefore, the budget and personnel are still under the tight control of MoEF and MoIS respectively.

Thus far, there have been three big occasions that the independent functioning of the NHRCK was put under risk. The first moment of danger was in January 2008 when the government switched hands from the progressives to the conservatives. The Presidential

Transition Committee announced that the new government would change its structure, and the NHRCK would be put directly under President Lee Myung-bak. At that time, I was serving as a non-standing member of the NHRCK. I happened to be in Geneva, attending the regular session of the United Nations Committee on the Elimination of Discrimination against Women (CEDAW). I alerted the Office of the United Nations High Commissioner for Human Rights (OHCHR). I requested the OHCHR to swiftly react to this attempt to undermine the independence of the NHRCK. Then High Commissioner Louise Arbour sent a letter of serious concern to the Transition Committee, which was widely reported by the media. Together with warnings and worries from the international human rights community, it helped to stop the government attempt.

The Lee government, however, was determined to weaken the power of NHRCK. In the following year the second crisis came. The Board of Audit and Inspection released the results of inspection, announcing that the NHRCK needed to reorganize its system to be more efficient. In April 2009, forty-four personnel of NHRCK were dismissed, which was equal to 21.2 percent of the total number of personnel. In addition, the organizational structure was reduced to almost half. Under this situation, the NHRCK’s President submitted his resignation four months earlier than the expiration of his term.

An additional blow resulted in a long-term crisis to the NHRCK.

President Lee appointed a non-human rights person as the NHRCK's new head. The civil society and human rights organizations protested this appointment and stopped to cooperate with the NHRCK. Three NHRCK Commissioners resigned in November 2010. In 2011, the NHRCK did not renew the employment contract of a leader of its employees' trade union. Eleven staff members who protested were sanctioned. Despite all the turmoil, the NHRCK's President was reappointed in August 2012 for his second term. For six years, the NHRCK did not function properly. The accreditation of NHRCK by the Global Alliance of National Human Rights Institutions (GANHRI) was withheld three times. NHRCK regained its "A status" back only in 2016.

The NHRCK is not a judicial organ. Only when it is perceived by the public as an independent institution, can it function properly. Only when the NHRCK earns and enjoys the respect would its policy recommendations and decisions on complaints become authoritative, and the relevant stakeholders would respect and implement them.

In the early days of its existence, half of the complaints submitted to the NHRCK came from prisons and detention centers. Easy accessibility and dedication of the staff members made the NHRCK a reliable national institution that people

could trust and turn to for help. Currently with its five regional offices established across Korea, the NHRCK received 10,573 cases in 2022. Still the highest number of complaints on alleged human rights violations comes from the prisons, constituting about 20 percent of the total number of complaints, followed by complaints against the prosecutors, as well as the protective facilities where many people are institutionalized. The NHRCK issues policy recommendations frequently; in 2022 it issued thirty-three resolutions with an acceptance rate of 86.9 percent. All policy recommendations and other documents are uploaded to the NHRCK's website, [www.humanrights.go.kr](http://www.humanrights.go.kr).

Though enjoying an "A" status, the NHRCK has a long way to go until it satisfies all the criteria of the Paris Principles. Continued efforts by the Korean society will shorten the way towards a truly independent NHRCK.

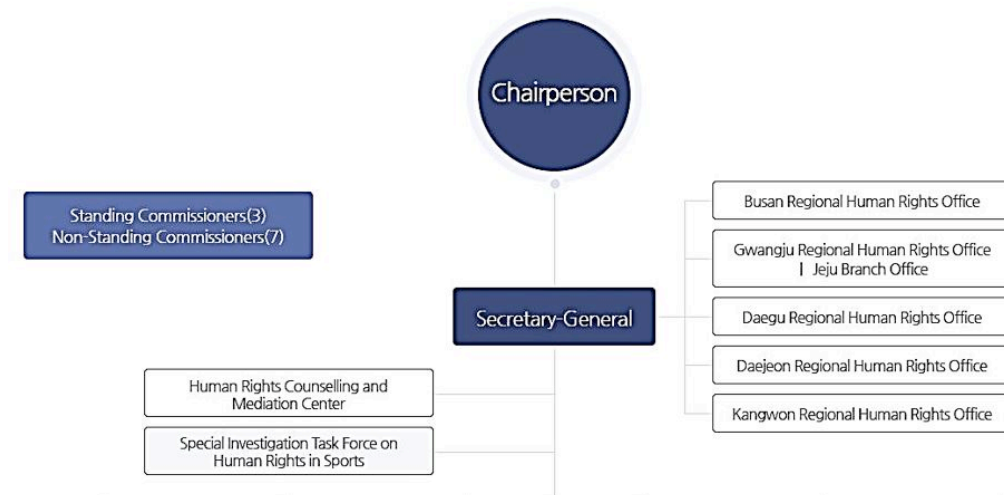
It will be a dream-come-true situation if an independent NHRI would be established in

Japan. Together with Korean NHRI, the Japanese NHRI can make efforts to promote and protect human rights in Asia, where there is yet no regional human rights mechanism.

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\* This is an edited version of the speech delivered during the International Symposium Commemorating the 8th Anniversary of the adoption of SDGs – To Establish a National Human Rights Institution in Japan and implement international human rights standards! held in Osaka city, Japan on 10 September 2023.



NHRCK organizational structure (NHRCK website, January 2024)

# Call to Establish an NHRI and to Implement International Human Rights Standards in Japan

Rimyong Park

On 10 September 2023, HURIGHTS OSAKA together with SDGs Japan and the Kansai NGO Council co-hosted in Osaka city an International Symposium Commemorating the 8th Anniversary of Adoption of SDGs. It had the theme: “Establish National Human Rights Institution in Japan and Implement International Human Rights Standards!” The International Symposium was attended by approximately one hundred seventy participants including those who joined online.

## Keynote Speeches

The symposium started with two keynote speeches by Seigo Fujiwara, a lawyer and vice-chairperson of the Japan Federation of Bar Associations' Committee for the Realization of a National Human Rights Institution, and Shin Heisoo, a former Commissioner of the National Human Rights Commission of the Republic of Korea (NHRCK) and the current Chairperson of the Board of Directors of the Korean Center for United Nations Human Rights Policy.

Citing the End of Mission Statement issued on 4 August 2023 by the United Nations Working Group on Business and Human Rights, Mr. Fujiwara

stated that an independent National Human Rights Institution (NHRI) that would provide human rights remedies, policy recommendations, and human right education is needed in order to protect the human rights of those vulnerable to human rights violations. He said that although judicial remedies were available, Japanese courts were reluctant to apply international human rights law and relied only on domestic laws (hate speech acts, for example, have no appropriate penalty under the law). Also, he cited the difficulty of detainees in an immigration detention facility to seek remedy for human rights violations (such as medical

neglect) because of financial costs and complicated procedures (such as preparing complaints). He said an NHRI would play a pivotal role in obtaining remedies for human rights violations through prompt investigation and issuance of recommendations in accordance with the international human rights standards as well as provide guidance and education to prevent recurrence of such human rights violations.

Mr. Fujiwara also noted the repeated recommendation to Japan on the establishment of an NHRI by human rights treaty bodies (such as those of the International Convention on the Elimination of All Forms of



Heisoo Shin (middle) and Seigo Fujiwara (right) giving keynote speeches



Racial Discrimination, the Convention against Torture, and the Convention on the Elimination of All Forms of Discrimination Against Women) as well as the Universal Periodic Review of the United Nations Human Rights Council. Concluding his speech, Mr. Fujiwara exhorted the members of civil society, non-governmental organizations (NGOs) and others working on human rights issues in different fields to unite and expand the movement in order to change the government's reluctant attitude and realize the establishment of an NHRI in Japan.

In her speech, Ms. Shin talked about the process of establishing the NHRCK in 2001, the struggles in securing its independence, and its value and advantage. She discussed the efforts of the Korean civil society in pressuring the Korean government to support the establishment of an independent and effective NHRI. The campaign eventually succeeded with the enactment of the National Human Rights Commission Act in 2001. But the NHRCK suffered from several crises affecting its independence, such as reduction of financial and human resources and having a Chairperson who did not have any expertise on human rights. Nevertheless, Ms. Shin credited the NHRCK for having easy accessibility for the public, dedicated staff members and efficient service.

### Session on Issues

A session on several issues followed the two keynote



Speakers: Tomoko Morimoto, Yumiko Horie, Sadamu Takahashi

speeches with four speakers from civil society organizations working on human rights.

On human rights of sexual minorities, Tomoko Morimoto (a lawyer-member of the Kansai legal team for “Marriage for All Japan” Lawsuit) reported on five court petitions on same-sex marriage filed in different parts of Japan.<sup>1</sup> She said that four courts ruled that refusing to recognize same-sex marriage was unconstitutional (and only the Osaka District Court ruled otherwise). The decisions of the five courts had been appealed to the High Court. She mentioned the long delay in getting court decisions, with one petitioner dying of illness while waiting for a court decision on a petition filed in 2019. She said that an NHRI would be able to investigate and take immediate action on human rights issues and give hope to the parties involved. She also expressed her hope that with an NHRI, the society's perception of sexual minorities would improve for the better by educating and enlightening the people.

On the rights of the child, Yumiko Horie (Director of Advocacy Department, Save the Children Japan) acknowledged that the enforcement of the Basic Act on the Child and the Act for the Establishment of the Children and Families Agency starting on 1 April 2023 was a welcomed first step toward protecting child rights. That being said, she pointed out the challenge of having an independent Commissioner for Children with mandates to monitor, investigate and provide recommendations on the status of child rights. She also said that the establishment of an independent child rights protection body and/or an NHRI had been repeatedly recommended by the United Nations Committee on the Rights of the Child.

Ms. Horie noted the inclusion in the report of the external investigation panel of Johnny and Associates on the need to prevent the recurrence of sexual abuse in the Johnny and Associates case. The report mentions the UN Guiding Principles on Business and

Human Rights.<sup>2</sup> She stressed the necessity of promoting the need for an NHRI that would protect the rights of vulnerable people and for them to obtain remedies and corrective measures quickly and without financial cost.

On Buraku discrimination, Sadamu Takahashi (General Secretary, Osaka Federation of Buraku Liberation League) mentioned the Act on the Promotion of the Elimination of Buraku Discrimination enacted in 2016. Though he acknowledged the practical significance of the phrase “elimination of Buraku discrimination,” Mr. Takahashi stressed the need for a comprehensive human rights system beyond a law that did not provide specific regulations or penalties on acts of Buraku discrimination, and to criticize the Japanese government's consistently passive attitude towards legal restrictions and appropriate remedies against discrimination. In 2016, the Tokyo High Court ruled in favor of a petition to stop a publisher called “Jigensha/Tottori Loop” from republishing the *National Buraku Survey*, a compilation of information on the location of places where Buraku people lived, their names, the number of households, their population, occupations and living conditions, as a violation of the “right not to be discriminated against.” Making the best use of the Tokyo High Court decision, Mr. Takahashi expressed his determination to fight for the enactment of a comprehensive human rights relief system including establishment of an NHRI and an anti-discrimination law through



Natsuki Yasuda speaking via video message

activities in solidarity with other marginalized groups.

Natsuki Yasuda (a photojournalist and Vice President of “Dialogue for People”), in a video message, raised a question on whether or not the human rights of diverse people were truly protected in Japanese society, even though the word “diversity” had been commonly heard in Japan. Ms. Yasuda pointed out the problem of the system that allowed the detention of non-Japanese in immigration detention facilities without judicial intervention and the power of immigration authorities to make arbitrary decisions without any limitation on time, despite the fact that such detention deprived people of their physical freedom. She recalled her own experience of being the target of hate speech and seeking redress in court, which was costly in terms of money, time, and effort. Since many people were unable to seek judicial relief for human rights violations, she saw an urgent need to establish an NHRI that could respond and address such human rights violations quickly.

*Rimyong Park is a program staff of HURIGHTS OSAKA*

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## Endnotes

- 1 Currently, the court decisions in the five lawsuits are pending appeal in Tokyo High Court, Sapporo High Court, Nagoya High Court, Osaka High Court and Fukuoka High Court respectively.
- 2 Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework, [www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinessshr\\_en.pdf](http://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinessshr_en.pdf).



# The 12th Asia Pro Bono Conference and Cross-Border Pro Bono for Migrant Workers

Henry S. Rojas

The 12th Asia Pro Bono Conference (12APBC) was held this year at the Waterfront Hotel in Cebu city, Philippines on 1-3 December 2023.

Held annually since 2012, the APBC brings together<sup>1</sup>

various legal service providers, including academics, law students, lawyers, pro bono professionals, policymakers, civil society, and non-profit representatives, from all over the world. The APBC&A2JX's [Asia Pro Bono Conference (APBC) and Access to Justice Exchange (A2JX)] primary aim is to create and promote dialogue on the various ways pro bono initiatives can strengthen

access to justice in Asia and globally. The APBC&A2JX is an exciting mix of keynote speeches, panel discussions, poster presentations and interactive workshop sessions.

With the theme "The Evolution of Empowering Pro Bono and Access to Justice," the three-day 12APBC showcased more than thirty-five inter-active sessions/presentations on best practices in pro bono work in various fields and sectors of society. The 12APBC was attended by more than four hundred in-person and virtual participants from thirty countries.

In his live online keynote speech during the opening ceremony, Philippine Supreme Court Chief Justice Alexander G.

Gesmundo emphasized the significant role of pro bono lawyering in filling up the large gaps in access to justice and legal aid. Chief Justice Gesmundo also presented an overview of the Philippine Supreme Court's Strategic Plan for Judicial Innovations 2022-2027 (SPJI), the reform agenda being implemented in the Philippine judiciary and legal profession.

## Pro Bono for Migrant Workers

One of the most attended presentations of the 12APBC was the workshop jointly sponsored by the Migrant Forum in Asia (MFA) and by the Lawyers Beyond Borders Philippines (LBB Philippines) entitled "Pro Bono Cross Border



12th Asia Pro Bono Conference held at Waterfront Hotel in Cebu City, Philippines on 1 - 3 December 2023.

## Litigation for Migrant Workers' Cases: Issues and Challenges."

In this session, representatives from the national bar associations of Malaysia, Indonesia, the Philippines and South Korea made separate presentations on the issues and challenges faced by pro bono lawyers/Bar councils in handling and coordinating cross-border litigation of migrant workers cases (involving issues such as forced labor, wage theft, and social protection) in the countries of origin and in the countries of destination. This session also provided an avenue to discuss their capacities and constraints in providing the legal services, pro bono or otherwise, and how they could strengthen their cross-border collaboration in litigating cases involving migrant workers.

The first presenter in this session was Dato' Sri M. Ramachelvam, Co-Chairperson of the Migrants, Refugees and Immigration Affairs Committee of the Bar Council of Malaysia. He identified the following effective practices that Bar Associations have adopted to handle cross-border cases: (a) collaboration between national bar associations through their pro bono programs (e. g., the Integrated Bar of the Philippines [IBP] and PERADI of Indonesia); (b) liaising with pro bono lawyers through regional networks (e. g., Lawyers Beyond Borders [LBB] and ASEAN Bar Coalition on Migration [ABACOM]); (c) close collaboration with Migrant Forum in Asia (MFA); (d) utilization of non-judicial mechanisms such as mediation,

arbitration, and negotiation, both private and court-mandated; (e) utilization of business grievance mechanisms such as remediation, counselling, negotiation and compensation; and (f) utilization of industry remedial mechanisms such as the Responsible Business Alliance, Fair Labour Association, and the Roundtable on Sustainable Palm Oil.

Dato' Sri M. Ramachelvam also discussed the challenges encountered in their pro bono work, such as: (a) non-availability of legal assistance to migrant workers in the country of destination; (b) long period of time to resolve cases in the existing legal and administrative systems; (c) no right to stay and to work pending resolution of the case, thus leading to deportation while cases are ongoing; (d) vulnerable status of undocumented workers; (e) difficulties in accessing courts and administrative tribunals; (f) lack of information on legal rights and options available; (g) lack of financial resources; (h) language barrier; (i) fear of

retaliation by employers; (j) xenophobia and discrimination against migrant workers; and (k) no equality in social protection for migrant workers.

In order to address the challenges encountered, Dato' Sri M. Ramachelvam recommended the following:

- Governments should adopt the ILO General Principles and Operational Guidelines on Fair Recruitment into their policies;
- Migrant workers should be allowed to transfer employment pending resolution of the labor dispute or case; and to allow migrant workers to continue with new employment after the resolution of the case;
- Remove unilateral rights of employers to terminate migrant workers without approval of relevant government officials overseeing migrant workers;
- Extend the government legal aid schemes to migrant workers for civil, labor and criminal cases; and



MFA-LBB Philippines workshop entitled "Pro Bono Cross Border Litigation for Migrant Workers' Cases: Issues and Challenges"



- Governments should ensure that migrant workers have access to grievance and dispute resolution mechanisms while in the country of destination and also in cases where the migrant workers have already returned to their countries of origin.

The second presenter was Atty. Myline Urmenita-Palisoc, the over-all Deputy Director of the National Center for Legal Aid (NCLA) of the Integrated Bar of the Philippines (IBP). She discussed the nature and mandate of the IBP as the mandatory and official organization of all Filipino lawyers. While the IBP has 85,117 roster members, it has only 1,473 lawyers, or merely 1.7 percent of the total number of lawyers, who are doing volunteer or pro bono legal services.

Atty. Urmenita-Palisoc enumerated the challenges encountered from the perspective of a country of origin as follows: (a) legal complexities of migrant workers' cases which involve laws of different jurisdictions; (b) language barrier; (c) logistical challenges; (d) employer power dynamics; (e) recognition of foreign legal credentials; (f) lack of awareness on the part of the migrant workers on the rights and remedies available to them; and (g) inconsistent immigration and labor policies in many countries.

She stressed that advocacy for systemic legal reforms is needed in order to protect the rights of migrant workers.



Presenters at the MFA-LBB Philippines workshop (from left to right): Atty. Henry S. Rojas, Dato' Sri M. Ramachelvam, Advocate Nirmala Many, Sumitha Shaanthinni Kishna, MFA Chairperson, Atty. Myline Urmenita-Palisoc.

The third speaker of the session was Advocate Nirmala Many, Secretary of the Pro Bono Center of the Indonesian Bar Association (PERADI) National Board (2017-2020). Advocate Many discussed the legal framework of pro bono under Indonesian laws.

She also presented the on-going initiatives of PERADI on cross-border litigation and referral such as: (a) collaboration through Memoranda of Understanding (MoUs) with the International Organization for Migration (IOM) and Lembaga Bantuan Hukum - Jakarta; (b) communications with the Ministry of Foreign Affairs regarding standard labor contract that Indonesian embassies/consulates in the countries of destination could refer to; and (c) effective consultations with the Migrant Workers Protection Board.

The key initiatives being proposed by Advocate Many include: (a) the establishment of

a Migrant Worker Task Force and Lawyers Beyond Borders Indonesia; (b) effective collaboration with United Nations Agencies, non-governmental organizations, Bar Associations, governments and law enforcers; and (c) more effective collaboration with regional and international organizations such as the Lawyers Beyond Borders and ABACOM.

The final speaker was Atty. Pillkyu Hwang, the Chair of the Committee on International Human Rights of the Korean Bar Association and Executive Director of the Transnational Human Rights Institute at Gonggam Human Rights Law Foundation. He made an online presentation on the pro bono legal assistance being extended by the Korean Bar Association to migrant workers, especially the seasonal farm workers, in South Korea.

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# Human Rights in 2023

Jefferson R. Plantilla

HURIGHTS OSAKA regularly receives updates on human rights situation in several countries and a subregion in Asia. The updates are received via e-mail from Dalit Media Watch on the situation of Dalits in India, Pakistan Press Foundation on the state of the Pakistani media and journalists, ODHIKAR on the situation in Bangladesh, MSM-Asia on news about the LGBTI community in Asia, and the Gulf Centre for Human Rights on the situation of human rights defenders in West Asia (including Iran).

These institutions and programs compile information from members in different Asian countries or in a country (India, Pakistan, Bangladesh) and also from mainstream media to raise awareness on what have been happening to people and their human rights.

The Gulf Centre for Human Rights sent information on some cases of journalists in Lebanon who were subjected to abuses and violations during 2023:<sup>1</sup>

- The crew of "Lebanon and the World" website, including its editor-in-chief journalist Sarah Hammoud and photographer André Garabed, were beaten by Lebanese Army members while covering a protest (26/5);
- The Cybercrime and Intellectual Property Bureau

detained activist Tarek Abu Saleh after questioning him over a social media post criticizing MP Faisal Karamah (24/1);

- Journalist Mohamad Awad was interrogated over a post related to violence against women (10/1);
- The Criminal Investigations Division summoned Mohammad Nimr, editor-in-chief of GrandLB website (Lubnan Al-Kabir), following a complaint filed by the Presidency of the Republic regarding news posted on the website. However, he refused to present himself at the Division (11/3);
- *Beirut Today* correspondent Hanin Haidar was detained by security members of Bint Jbeil Municipality while carrying out her journalistic duties (25/4);
- The Central Criminal Investigations Division summoned journalist Nidal Al-Sabaa on Tuesday, 27 September 2022, following a "libel and slander" complaint submitted by Nader Al-Hariri. Al-Sabaa was questioned at the Palace of Justice in Beirut on Monday, 3 October 2022, over two tweets. The first mentioned "a secret visit by Al-Hariri and his mother, former MP Bahia Al-Hariri, to the State of Qatar; and the second referred to "ships

and communications 'chemistry' between Al-Hariri and MP Gebran Bassil."

Similarly, ODHIKAR's 2023 annual report includes cases such as the following:<sup>2</sup>

- According to data collected by Odhikar in 2023, a total of 52 people were allegedly disappeared after being picked up by members of law enforcement agencies. During this period, 25 people were disappeared by the Detective Branch [DB] of the Police, nine by the police, six by the Rapid Action Battalion [RAB] and five by the Criminal Investigation Department (CID) of the Police, and seven by other law enforcement agencies. Among the 52 disappeared persons, 51 have surfaced alive and the whereabouts of one person remains unknown;
- In 2023, 24 people are alleged to have been victims of extrajudicial killings. Among them, one was a Rohingya refugee. Among the 24 persons killed extrajudicially, four were killed in "crossfire/encounters/gunfights", eight persons were tortured to death, 11 were shot to death, and one was beaten to death during this period. It is also alleged that among

the deceased, three were killed by the RAB, 16 by the police, two by the DB Police, and three by the BGB [Border Guard Bangladesh];

- In 2023, a total of 128 persons reportedly died in prisons. Among them, 121 persons died due to “illness”, two allegedly committed “suicide” and the cause of death of five inmates were not mentioned.

These updates provide information on specific cases with names of people (victims and violators/abusers), places and the circumstances involved. They also present a pattern of violation by state authorities, which indicates regular occurrence of the incidents.

Jefferson R. Plantilla is a researcher in HURIGHTS OSAKA.

For further information, please  
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## Endnotes

- 1 Journalists in Lebanon... Freedoms Violated by Security Summonses, Gulf Centre for Human Rights, 20 December 2023, [www.gc4hr.org/journalists-in-lebanon-freedoms-violated-by-security-summonses/](http://www.gc4hr.org/journalists-in-lebanon-freedoms-violated-by-security-summonses/).
- 2 Annual Human Rights Report 2023, ODHAKAR , 4 January 2024, pages 23, 27 and 29.

## Celebrating the Universal Declaration of Human Rights

(Continued from page 4)

- 11 “Carlos Romulo (Philippines, 1901 - 1985) was Head of the Philippine delegation to the San Francisco Conference in 1945. He was President of the fourth session of the General Assembly (1949-50) and later served as President of the Security Council on four different occasions when the Philippines was elected to the Council.” Interview with General Carlos P. Romulo / by William Powell and Rebecca Akao, United Nations Digital Library, <https://digitallibrary.un.org/record/474241>.

- 12 75th Anniversary of the Universal Declaration of Human Rights, TVUP, [www.youtube.com/watch?v=oiHzm786P4s](https://www.youtube.com/watch?v=oiHzm786P4s).
- 13 In celebration of the 75th anniversary of the Universal Declaration of Human Rights (UDHR), [www.instagram.com/p / C z q b G U w M A t U / ?img\\_index=1](https://www.instagram.com/p/Czq b G U w M A t U / ?img_index=1);  
Celebrating Charles Malik: An Insightful Lecture on His Enduring Legacy, 9 November 2023, [www.ndu.edu.lb/news-and-events/events/announcements/celebrating-charles-malik-an-insightful-lecture-on-his-enduring-legacy](https://www.ndu.edu.lb/news-and-events/events/announcements/celebrating-charles-malik-an-insightful-lecture-on-his-enduring-legacy).
- 14 Delhi Declaration, Twenty Eighth Annual General Meeting of the Asia-Pacific Forum Of National Human Rights Institutions, 20-21 September

2023, New Delhi, India, [https://nhrc.nic.in/sites/default/files/Delhi\\_Declaration.pdf](https://nhrc.nic.in/sites/default/files/Delhi_Declaration.pdf).

- 15 Freedom of Expression Conference (FreeXP.con), <https://hronlineph.com/2023/12/05/freedom-of-expression-conference-freeexp-con-vii-declaration/>.
- 16 Manushya Foundation # WeAreManushyan , [www.linkedin.com/search/results/content/?keywords=UDHR%2075&sid=nw\\*&update=urn%3AAl%3Afs\\_updateV2%3A\(ur%3Ali%3Aactivity%3A7139655633632501760%2CBLENDED\\_SEARCH\\_FEED%2CEMPTY%2CDEFAULT%2Cfalse](http://www.linkedin.com/search/results/content/?keywords=UDHR%2075&sid=nw*&update=urn%3AAl%3Afs_updateV2%3A(ur%3Ali%3Aactivity%3A7139655633632501760%2CBLENDED_SEARCH_FEED%2CEMPTY%2CDEFAULT%2Cfalse)

## The 12th Asia Pro Bono Conference

(Continued from page 13)

Atty. Henry S. Rojas of LBB Philippines and Ms. Abigail Guevarra, Program Assistant of MFA, moderated the session presentations.

*Henry S. Rojas is the President of Lawyers Beyond Borders Philippines.*

*For further information, please contact Henry S. Rojas at [lbbphilippines\\_2015@hotmail.com](mailto:lbbphilippines_2015@hotmail.com).*

## Endnotes

- 1 See [www.probonoconference.org/conference-reports/](http://www.probonoconference.org/conference-reports/).
- 2 ILO General Principles and Operational Guidelines on Fair Recruitment, text available at [www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---migrant/documents/publication/wcms\\_703485.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_703485.pdf).

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# HURIGHTS OSAKA Calendar

The 13th volume of *Human Rights Education in Asia-Pacific* is now half-way towards its completion. A variety of issues and initiatives are discussed in the articles in this volume. As always, articles from Asia and the Pacific are being sought for inclusion in this publication.

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**HURIGHTS OSAKA**, inspired by the Charter of the United Nations and the Universal Declaration of Human Rights, formally opened in December 1994. It has the following aims: 1) to engender popular understanding in Osaka of the international human rights standards; 2) to support international exchange between Osaka and countries in Asia-Pacific through collection and dissemination of information and materials on human rights; and 3) to promote human rights in Asia-Pacific in cooperation with national and regional institutions and civil society organizations as well as the United Nations. In order to achieve these goals, HURIGHTS OSAKA has activities such as Information Handling, Research and Study, Education and Training, Publications, and Consultancy Services.

**FOCUS Asia-Pacific** is designed to highlight significant issues and activities relating to human rights in the Asia-Pacific. Relevant information and articles can be sent to HURIGHTS OSAKA for inclusion in the next editions of the newsletter.

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