
State of Art: Theories and Methods of Studying the ASEAN Intergovernmental Commission on Human Rights & Human Rights in Southeast Asia

William J. Jones

Mahidol International University

“One man getting excited about something certainly is not enough the Secretariat from now on will be a networked Secretariat, meaning reaching out, roping in and working with anybody who is willing to work in order to make this region one unified, dynamic, relevant organization called the Association of Southeast Asian Nations”- Surin Pitsuwan

Abstract: *Since the end of the Cold War, studies of regionalism in Southeast Asia have flourished in line with the ever widening of regional initiatives of ASEAN, ranging in scope from regional and extra-regional security, trade, politics and human rights mechanisms. With the widening and apparent deepening of ASEAN integration more theoretically focused studies have been increasingly undertaken. While each theory and method has its merits and assists researchers and students to understand better the nature of ASEAN integration, one is often left with unsolved puzzles, unsolvable by macro level theory. The purpose of this paper is to provide a broad review of prior theoretical works pertaining to ASEAN along with their methodologies, outline the major theories which have been applied to studying ASEAN underlining inherent strengths and weaknesses of current approaches to studying AICHR and human rights regime evolution in ASEAN. Secondly, the paper advances a novel form of current study in international relations research of regime complexity and anchors the methodology in existing research of human rights in ASEAN while providing a methodology of variable testing that can empirically account for historical development and future trajectories.*

Keywords: *AICHR, Human Rights Southeast Asia, Human Rights Research*

1. Introduction

The Association of Southeast Asian Nations [hereafter ASEAN] was officially formed in 1967 with the signing of the ASEAN Declaration, better known as the Bangkok Declaration (Acharya 2001, 47, ASEAN Secretariat, Fry 2008, 13, Khong and Nesadurai 2007, 40, Severino 2008a, 1, Severino 2008b, 61, Weatherbee 2009, 1). ASEAN celebrated 45 years of existence and evolution in 2007, amidst the celebratory atmosphere ASEAN inaugurated its crowning achievement; The ASEAN Charter (HILJ 2008). The charter led to much commentary regarding what had actually been achieved with pragmatist voicing concerns that the charter only achieved status quo preservation by formalizing the “ASEAN Way” into a consolidated legal treaty (Arnold 2007, Desker 2008, Pelkmans 2009, 14, Pongsudhirak 2009, Sukma 2008). ASEAN’s optimist however voiced that the charter while modest in its reform characteristics provided a platform for regional integration situated on a rules-based trajectory and indicative of a document designed for future alteration (Asciutti 2010, Leviter 2010, 196, Caballero-Anthony 2007, Chalermphanupap 2010, Pitsuwan 2008, Severino 2008a, 109). With the signing and ratification of the ASEAN Charter in

2008 and the willingness of ASEAN Member States to commit to forming a regional human rights commission a change was signaled to the world that ASEAN was evolving beyond its Cold War architecture. At the 15th ASEAN Summit in October 2009 ASEAN Member States inaugurated the forming of the ASEAN Intergovernmental Commission on Human Rights (AICHR, 2021). Many scholars have attempted to explain and study to process of human rights evolution and eventual institutionalization. This paper attempts to provide an overview of the state of art as it pertains to studies of human rights in Southeast Asia and ASEAN in particular. The purpose of the paper is twofold; to provide an overview of the field, theories and methods used to study human rights in Southeast Asia and ASEAN and to locate gaps in the literature in order to frame the author's argument for an alternative theoretical model.

2. Poststructuralism: Constructivism & Mimetics

Constructivism falls into the sociological field of international relations derived from Karl Deutsch who argues that a security community is the successful management of conflict, in other words making war unthinkable among its members (Deutsch 1988: 276). This is built out of complex interactions of members within institutions who share similar socio-cultural norms, values and ideas/ideologies which confluence through persistent engagement. Transactionalism is the process of social interaction that seeks to break the chain of the so-called security dilemma towards sustainable peace (Deutsch 1961). Amitav Acharya who has posited that ASEAN is nascent security community that's central focus is to build a burgeoning identity in Southeast Asia promoting peace, stability and regional autonomy (Acharya 1997, 2000, 2005, 2014). Derived from this analysis is the supposed success of ASEAN in exporting its internal norms and socializing external actors within the context of its newer members as well as states engaging with ASEAN (Ba 2005, Busse 1999, Stubbs 2008).

Within the context of human rights in ASEAN there are a couple of lines of inquiry that stand out; constructivist and rationalist. The first strain, constructivist authors argue that the process of building a human rights regime in ASEAN stems from two primary sources; external pressure to mimic western states and internally the need to make ASEAN credible on the world stage and prevent intervention into regional and domestic affairs of western powers on human rights grounds. Katsumata (2009) takes a minimalist mimetics approach in arguing that regional human rights mechanism is part and parcel inclusive of regional elite's contestation over political reform agendas and can be seen a shield to block western sanctions while paying lip service to human rights. Davies (2013) goes further with the acculturation/mimetic argument when interrogating the Vientiane Action Plan as a regional signal to the world. These approaches have a similar methodological underpinning which to consider two units of analysis, which are the international and regional level of engagement. Secondly, the method is elite top down driven from member states but negotiated at the regional and international level whereby norms are localized and take on 'ASEAN' dominant principles of sovereignty and non-intervention which override a human rights based principled approach of bottom up protection of individuals and groups from state power. The overarching argument is that the production of human rights mechanism and process involved is largely a political project to ensure legitimacy for ASEAN as an organization and member states as constituent parts. There are two main sources of information which are expert interviews with Working Group and HLTP experts and participants. Vagueness in the methodology stems from the inconclusive notion of regional 'credibility' and how different member states have different

positions and perspectives of ‘national interests’ which are operationalized on the regional to international level.

Wang (2015) takes the line of argument and emphasizes the top down approach of agency in regime establishment and suggest a strong emphasis on bottom up approach in order to further entrench the regime which will allow for further institutionalization. The author then suggests a framework to promote the development of AICHR through material inducements and norm building. The author argues that AICHR itself can push for norm evolution through demanding engagement of CSOs, promoting and publishing best practices, review state reports, fact finding among others that are within the bounds of a ‘soft approach’ which engenders little costs on state sovereignty. The author then moves towards mid and long term approaches such as producing thematic papers and pushing for reporting. The author looks at four mechanisms for substantial evolution to take place. Engagement with CSOs, strengthening NHRIs, engaging with other regional mechanisms such as ACWC and international engagement. There are strong counter arguments over the degree to which a civil society track of engagement can have any meaningful impact outside of engagement by AICHR representatives in an indirect manner (Aguirrea, and Pietropaolib 2012, Asplund 2014, Gerard 2013, Gerard 2014a, Gerard 2014b). The lack of engagement is located with member states hostility to CSOs during the establishment as well as the post establishment stages.

The ideational method is largely located in agency specific focus as the unit of analysis with the general argument of mimicry and regime sovereignty as being the motivations for substantive based actions regarding human rights. The strength of this is in opportunity portion of the argument along with the agency centered approach of top down decisions leading to regime type. However, the primary drawback of this approach is in lack of reasoning concerning depth of internalization of human rights norms. In other words, how to measure in any meaningful sense the degree of obligation of each member state regarding resistance or acceptance of human rights norms.

3. Rationalism, Democratization and Regime Design

The rationalist explanation would argue that the establishment of regional human rights bodies can be explained through the lens of material coercion and inducements, or simply put cost-benefit using carrots and sticks. Powerful states from inside and outside of a region use methods of power including condemnations and sanctions to coerce or trade and financial benefits as well as open diplomatic support to induce states to accept and comply with internationally recognized and accepted human rights norms of conduct. States which are the primary advocates of compliance recognized human rights norms have previously internalized human rights norms and have been socialized. After which, they use their position of influence in the international system to push their human rights agenda as part and parcel their foreign policies which seek to externalize the dominant domestic ideology. The method of inducement is referred to as policy linkage whereby diplomatic recognition and engagement to financial and trade relations are linked to human rights practices of external actors and partners. This is done in order to increase the opportunity cost of compliance and non-compliance with human rights behavior and standards as a method and means of foreign policy (Moravcsik, 2000).

Manea (2008, 2009) argues that interregional interactions between the EU and ASEAN via the ASEM led to the building and transfer of normative interaction with ever-present threats of sanction due to Myanmar’s intransigence. This process over the course of years within the phase correlating

post Asian financial crisis led to ASEAN member states needing to find legitimacy and credibility in western circles but also the connection of trade and economics to human rights. The process of norm diffusion is seen through the ASEAN People's Forum and inclusion of CSO's into the dialogue process. Manea's methodology partially within the field of political economy and international politics. Namely, ASEAN front line states in the post Asian financial crisis period were in the process of political and economic reform and needed access to external markets in the EU and US to bolster their economies. The tradeoff was inclusion of human rights into the ASEAN regional blueprint of regional integration. However, a certain degree of norm transfer from the top down was achieved due to increased institutionalization of bi-regional relations. A bottom up approach is seen by Dosch (2008) and Rüländ (2013) who consider CSO advocacy and political space within the context of domestic democratization reform efforts as being sufficiently powerful enough to embody a regional mechanism for human rights. More informed and nuanced works within the acculturation school are Ryu and Ortuoste (2014) and Munro (2011). The former considers the development of AICHR within the context of regional democratization, in particular they focus the unit of analysis at the regional level instead of the international and domestic. The arguments are that there is insufficient pressure from the USA and EU to alter entrenched state practice and see the regional level as being structured by domestic democratization of the Philippines, Thailand, Indonesia and Malaysia. This is taken in the larger context of allowing regional and national particularities in exchange for stability via the narrative of good governance and prosperity. As such the human rights regime is but part and parcel of the larger regional framework to keep ASEAN relevant in its engagement with the international community. This is taken in the larger context of allowing regional and national particularities in exchange for stability via the narrative of good governance and prosperity. As such the human rights regime is part of the larger regional framework to keep ASEAN relevant in its engagement with the international community.

Munro (2011) argues acculturation but with a more sophisticated methodology. Munro begins by accentuating the role of elite agency seen through the High Level Panel as embodying the drive through sheer force of political will and respected leadership as allowing for the establishment of AICHR. Next, in terms of regime design he points towards universal membership of the organization, the ToR as being sufficiently vague enough to decipher that the underlying meaning of the ToR is not what it says but in fact, what is not said as being allowable. As such there are really no boundaries for individual member states to pursue their human rights agenda at the regional level. The methodology is firmly rooted in elite participation and agency embodied in the political will of eminent persons and member state leaders. Secondly, Munro makes the important distinction between acculturation and norm internalization. Acculturation is understood as signaling without having the necessary follow through of sacrificing sovereignty costs. Whereas, norm internationalization is understood as the actor following through beyond signaling to the allowance of being bound and having sovereignty costs imposed but also allowing for domestic enforcement at some general and consistent level. The strength of these two arguments are that they point towards member states as the primary unit of analysis and the political leadership of member states as the primary referents. However, with the acculturation analysis regime design is cogent but relying on democratization as a thesis given the current democratic backsliding of ASEAN states is dubious to say the least. Secondly, the fact that there are two Marxist Leninist states and an absolute monarchy adds to the question of regime vagueness as being the opposite of Munro's argument. Put simply, if vagueness meant that there were limited boundaries to member state action in AICHR then why has nothing of note been done from the evolutionary approach? This is further

supported by research of Munro (2009) which tested the democratization argument and shown simply that a majority of ASEAN states are simply not democracies nor are they on the positivist trajectory of democratization anymore. The strength of this line of argument is that it is a powerful tool for locating regime transition points by considering the domestic member state level of analysis as the primary focus. Secondly, there is a clear distinction between regime formation and regime evolution. The former is the period of time in which ‘norm entrepreneurs’ which include regional elites, CSOs and eminent persons can influence the regime type. However, once the regime is formed these influence can be sidelined as the political leadership at any given point of member states is the focus of how the regime will develop, evolve, devolve or ossify.

4. Regimes and Empirical Methods

Regime analysis emerged in the 1980’s as a sub strain of international relations theory attempting to explain increased cooperation in specific issue areas. With relation to AICHR Hara (2019) argues that AICHR can be understood through the lens of an evolving regime of conduct. He draws on Donnelly’s original work which argues that regimes of coordinated cooperation in issue areas can be understood through a four step analytical process which are; declaratory, promotional, implementation and enforcement (Donnelly 1986, 604-605). Hara (2019) argues that AICHR is currently in the promotional stage of regime development as it has engaged in some promotional activities. His methodology draws upon AICHR press statements and media coverage which is highly descriptive in nature and does include some very important attributes. Hara (2019) work in terms of focusing only on promotional activities is echoed by Phan (2019) who’s work is purely descriptive in nature but draws on ASEAN, EU and AICHR press releases to highlight intergovernmental and high level cross national interagency training and 2nd/3rd generation human rights mainstreaming as being indicative of AICHR being a regional conduit building substantial change in the region. Namely, were the AICHR activates universal in member state engagement and where these activities AICHR determined or member state driven and then which member state? This is important in the ASEAN and AICHR context as the issue of Business and Human Rights which AICHR has engaged in since 2016 is essentially a Singaporean driven initiative (Human Rights Resources Centre (2016).

Collins (2019) utilizes the ‘spiral model’ developed by Risse and Sikkink (1999) in order to analyze and situate AICHR as an institution in relation to ASEAN member states and with regard to empirical behavior of AICHR representatives and activities and explain the disjuncture with member state behavior in relation to regression of human rights in the region. The spiral model consists of five (5) stages which indicate the level of socialization that states are engaging, internalizing and behaving regarding human rights norms. The stages are ‘repression’ to ‘rule-consistent behavior’, via ‘denial’ of human rights violations, ‘tactical concessions’, and ‘prescriptive status’ (Risse and Sikkink 1999, 17-18). Collins uses a nuanced approach that situates AICHR within ASEAN and AICHR’s ToR and relies on interviews with former AICHR representatives, primary ASEAN documentation and AICHR activities which are supported by interview evidence. Collins finds AICHR is a subsidiary of ASEAN norms and principles that can and does exercise independence but from the perspective of individual and highly respected representatives which do exercise agency with regard to thematic reports as well as AICHR activities and unofficial engagement with CSO’s and activists. He finds that AICHR is not perceived as the primary human rights umbrella within ASEAN but there exists friction with other

ASEAN human rights sectoral bodies, namely the ACWC and ACMW. Secondly, he finds that AICHR has been successful as an intergovernmental body which acts in a quasi-independent manner always buttressed by consensus and by-in largely through supportive activities and finding common ground on multidimensional issues as evidenced by Vietnam's by-in concerning disabilities as framed within the context of education and access (Collins 2019, 383). Lastly, Collins argues that AICHR is within the fourth (4th) stage of the human rights spiral but not necessarily on a linear path to the fifth (5th) largely due to member state regression in their human rights behavior as evidenced by the Philippines under Duterte and Thailand since at least 2009 up to present and an array of other problematic behavior such as disappearances of activists and extrajudicial killings. While this work can be put into the constructivist school of thought the degree sophistication and relation to Donnelly's previous model demonstrates clear important distinctions which need to be made with current literature and methodology.

Jetschke (2015, 2019) has advanced a new track of inquiry into regional human rights mechanism establishment and motivations behind member state positions. The method is somewhat novel as Jetschke attempts to demonstrate why ASEAN member states namely, Thailand and Malaysia reversed course in contravention of ASEAN principles of sovereignty and non-intervention to support the ASEAN Charter and establishment of AICHR in 2007 and 2008 respectively. The author uses congruence analysis and process tracing which in a simpler form is using descriptive empirical evidence and then placing this in time sequence framework allows for motive and opportunity to be established. The author uses human rights commitment (ASEAN Charter, AICHR) as the dependent variable and (forced) migration flows as the independent variable to explain AICHR. The author finds that repression in Myanmar in 2007 which externalized costs onto Thailand and Malaysia in the form of mass refugee flows was enough pressure to respond in a regional manner to deal with a problem that hitherto was intransigent against western great power pressure and ASEAN 'constructive engagement'. The author clearly establishes a linkage to foundation of AICHR but leaves the question of regime design and a lack of regional accountability lacking. This does not detract from the work as it out of the scope of the article.

5. Regime Complexity: A Paradigm of Studying Human Rights in ASEAN

The proposed theoretical model to be applied in order to describe, analyze and explain structural path dependence and agency centered actor behavior in the establishment of AICHR as well as subsequent member state and AICHR behavior is regime complexity theory. Regime complexity emerges from earlier literature of the 1970s-1990s which attempt to explain increased international cooperation by non-state and transnational actors Keohane and Nye (1977), issue linked cooperation Haas (1980), third world dependency Krasner (1981), liberalism and technological development Ruggie (1982), issue based resource management Young (1989) to more theoretically sophisticated models of conflict management based on power and knowledge relations Hasenclever, Mayer and Volker Rittberger (1996), Rittberger, and Zürn (1991). The central feature of these different strains of early regime theory is the explaining international cooperation in specific issue areas. Where they differ is the explanatory framework for arriving at conclusions. Regime theory draws on meta international relations theories of realism (power centered explanations), liberal/rationalist (value-based cost-benefit analysis) and cognitive or constructivist (idea and identity centered) to arrive at their respective conclusions. These theories are adequate for explaining and accounting for establishment of single-issue regimes but lack the explanatory

power in accounting for the multiplicity of state based institutional regime membership which explains linear change in regime form and state behavior over time.

Regime complexes or regime complexity theory emerges out of the earlier strains of classic regime theory in the 2010's attempting to analyze the dense and sometimes overlapping issues and competencies across different issue area regimes by analyzing linkages and causality of behavior within regimes as well as regime transformation or change. Lake (2009) has argued that international regimes make authority claims around issue areas and the nature of authority is one of hierarchy. Hierarchy is understood to encompass power relations and legal authority to rule over issues and regimes. The central feature of regime complexity theory is the argument that international regimes lack a consistent and coherent hierarchy which is instead supplanted by horizontally configured international order of competing, rivalled, parallel, overlapping or complementary. This central feature allows for analysis of regimes dynamics and change over time by analyzing complex interactions within and among regimes.

Universal membership as being a pillar of AICHR is interesting with regard to other ASEAN community led initiatives such as economic cooperation where ASEAN due the slow speed and take up of regional economic initiatives began using the ASEAN Minus X formula of integration in 2002. This formula puts forth the principle that in some sub sections of regional economic integration such as services two ASEAN member states can proceed with integration efforts of liberalization and other countries can begin when they are ready. This formula created a two-track integration within ASEAN allowing more developed and ambitious member states to proceed with greater integration while not being hamstrung by lowest common denominator dynamics. The question of why choose universal membership is an interesting puzzle and answered by Thompson and Verdier (2014) who find that regime design around lateralism concerning membership is determinative around two factors the transaction costs and member surplus. They find that when transaction costs (in this case sovereignty) member surplus would be low. The fact that human rights engender such a high sovereignty costs and intrusion into statecraft is indicative how ASEAN member states view the level of transaction costs surrounding this delicate subject. By inclusion of all members regardless of their perceived or real commitment to human rights the membership is universal in scope.

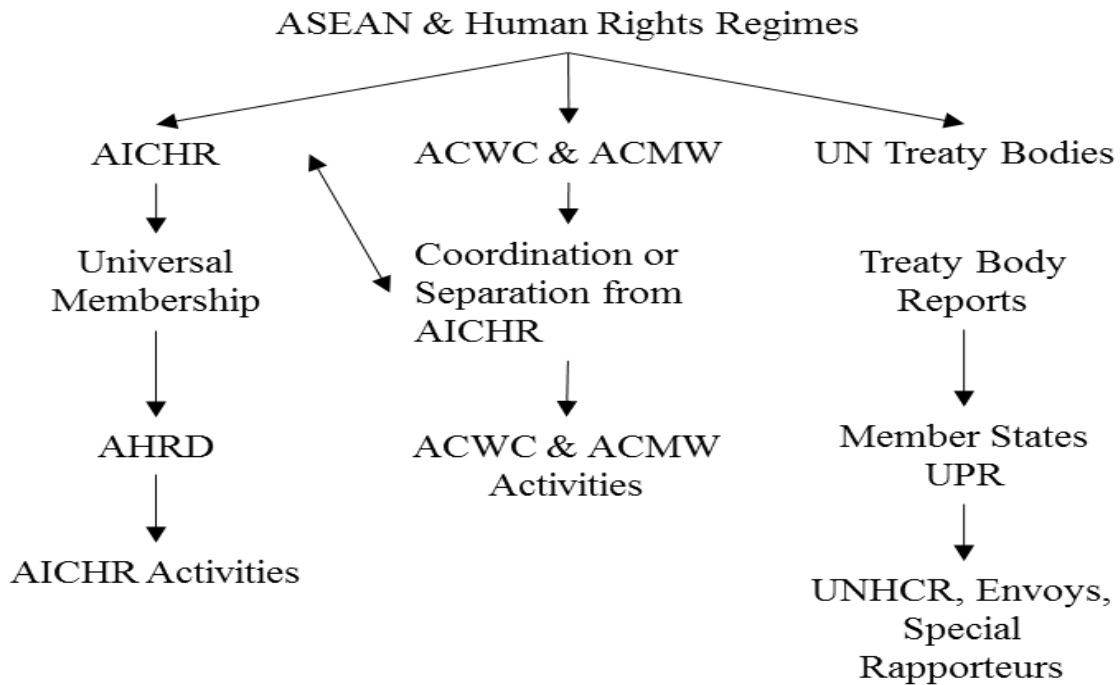
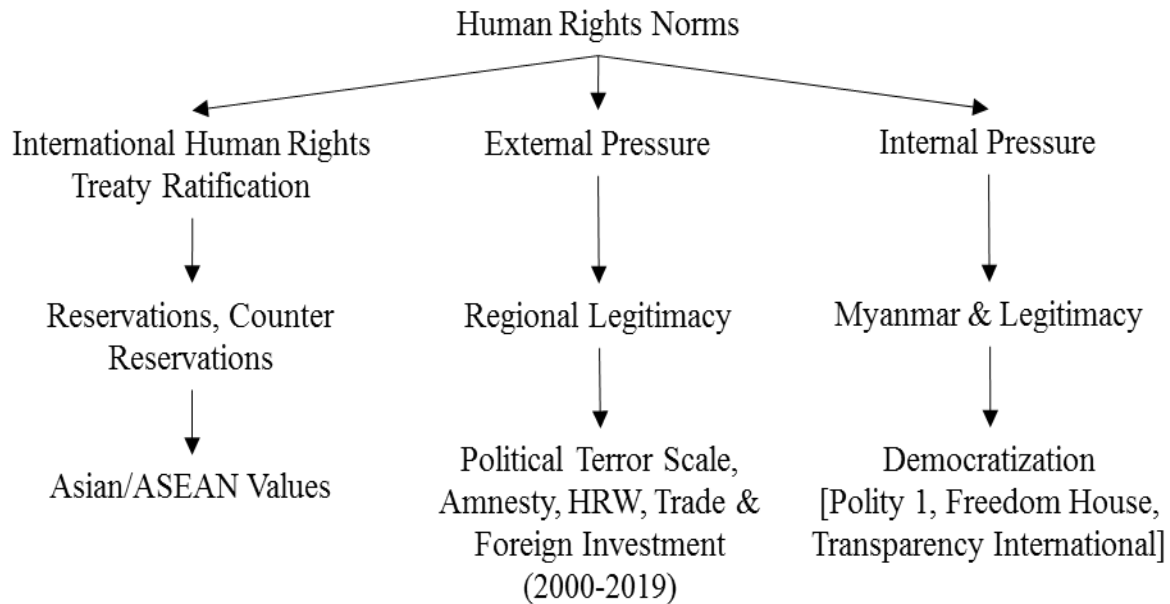
Regime complexes are defined as “an array of partially overlapping and nonhierarchical institutions governing a particular issue-area” (Raustiala and Victor, 2004: 279). Regime complexes are argued to show great degrees of legal inconsistencies due to the fact there is a lack of coordination ever overlapping rules and as such many display a divergence between institutional outcomes and state behavior within regimes. Gehring and Faude (2014) argue that regime complexes develop relatively stable interinstitutional divisions of labor with the added caveat of being path dependent (Zelli and van Asselt 2013). Once regimes are established the tendency is for status quo biases or preexisting conditional understandings to be generally displayed (Oberthür and Stokke 2011). Regime complex theorist have identified three primary strategies that states engage in to satisfy their interests; these are switching processes to parallel institutions (forum shopping), shifting regulation and different aspects of authority over an issue area from one regime to another (regime shifting) or undermining a regime by creating rules which are contradictory to other regimes (strategic inconsistency; Raustiala and Victor 2004; Alter and Meunier 2009).

Raustiala and Victor (2004) in their study of regimes of plant genetic resources added considerably in that they found there to multiple overlapping regimes governing partial areas of plant genetic resources. Critically, they addressed the legal inconsistencies between international regimes and domestic regimes of where legality was inconsistent and the formation of new monetized property rights to be indicative of a bottom-up flexible evolutionary approach which is state based and state led. Important to this study is formation of new regimes of governance where rules are negotiated and led through interest's articulation of states but adaptive to international governance from a state actor centered approach.

Rabitz (2018) argues that interinstitutional stability is not necessarily viable in all circumstances but that regimes are subject to institutionally incremental change due to two factors. The variables Rabitz identifies is "the existence of 'critical' actors that cannot effectively be excluded from cooperation because of their contribution to international public goods and/or negative externalities that would result from their exclusion; and those actors' pursuit of conservative policy objectives relative to the institutional status quo" (Rabitz 2018: 301). He argues that this provides a constraint on reformist actors and their agendas across institutions leading to a regime complex and cooperation outside of the complex. Due to these constraints change occurs by 'institutional layering', understood as a situation where "original institutions are left in place, but new elements are added alongside the old system" (Thelen 2009: 484).

I propose to use regime complexity theory to analyze the arguments demonstrated for the creation of AICHR within the context of human rights institutionalization in Southeast Asia and extend the analysis to encompass the actions and behavior of AICHR since its establishment. The purpose of the theoretical model is to evaluate and explain why the AICHR is structured as it is as well explain why it has operated as it has since its establishment. Regime complexity allows for the unification of units of analysis. In this case the domestic level of human rights treaty ratification and the international level of the fragmented international human rights regime to which all ASEAN member states are party to varying degrees. The theory allows for explanation of why the regional level of analysis was created and how interaction among the three different units of analysis display different member state strategies to interact with the global human rights regime. There are no assumptions which are derivative of meta international relations theories but instead the positions, interests and behavior of actors are analyzed within a grounded empirical base which does not presuppose any actor behavior but instead analyzes from the position of inter-regime interactions which are subject to external pressure, internal pressure, agency influence, reputational factors as well as power and ideas that explain current behavior and offer a replicable model for linear analysis. Regime complexity is a viable tool for understanding how different actors interact from a domestic to international level as well as the constraints within the regional level. Furthermore, the ability of actors to exercise different degrees of agency in pursuing independent agendas will show the trajectory of AICHR in terms what rights and their normative expression may be settling within ASEAN due to the regional regime of AICHR which is somewhat separated from the domestic level of legal duties. By considering what activities AICHR has engaged in and which actors are taking the lead or participating will demonstrate what kinds of types of rights AICHR is advancing within the context of member state fragmentation and lack of universal norm acceptance. The degree to which structural barriers and agency independence should demonstrate the regime evolution points or lack thereof.

Conceptual Framework & Variable Measurement



The conceptual framework attempts to explain why AICHR was established and why it has performed as it has since its establishment. The primary assumption that there is no mutually understood or accepted norms of human rights acceptance or practice among ASEAN member states. The first conceptual framework seeks to answer why AICHR was established which can be deduced from the already prevailing literature. The second portion leads off by mapping the human rights regime in ASEAN and among its member states in terms of actor behavior. The two central

units of analysis are domestic and international level which account for the establishment of AICHR with the subsequent regional level of analysis, AICHR, being subjected to constraints after establishment by the prior two levels, domestic and international. Tracking and evaluating performance historically to present and accounting for change in actor/member state behavior which will account for AICHR activities and performance will be theoretically understood, explained and analyzed by utilizing Regime Complexity Theory.

The independent variables informing AICHR, hence its performance are human rights norms or normativity within and among ASEAN members. The prevailing literature is consensus bound along three (3) indices which are the prevalence of cultural differentiation of human rights, external pressure of regional legitimacy and internal pressure of the problem of Myanmar. Differing value sets are empirically expressed through Asian/ASEAN Values which can be deduced by considering international human rights treaty ratification behavior, treaty reservations, reference to internationally recognized 'universal' norms. External pressure of western countries through the lens of member state practice towards human rights by using the Political Terror scale, reports from Amnesty and HRW as well as shifts in trade and investment over a linear period. Internal pressure regarding the problem of Myanmar and regional democratization among some member states can be measured through indices such as Polity 1, Freedom House Rankings and Transparency indices over a linear timeframe.

The measuring of these independent variables over a linear period from 2000-2020 should provide the context for understanding dependent variables of AICHR, ACWC/ACMW and member state behavior at the international level within the United Nations Treaty Bodies and associated other bodies within the UN system. Independent variables will demonstrate and answer the question of why the regional human rights body was established and account for ASEAN member state behavior at the domestic and international levels.

6. Conclusion

This paper has attempted to broadly review the prevailing literature surrounding human rights regime development and AICHR from a theoretical and methodological perspective. While not inclusive nor exhaustive of all studies within the field, major schools of thought and their primary methodologies have been reflected upon while highlighting some new and insightful strains of inquiry which have been recently applied. Secondly, the author has advanced a new and heretofore unused theoretical model of regime complexity that is inclusive of previous research findings on AICHR development and attempts to advance an alternative paradigm for studying AICHR development as well as centering the field of study in empirics that allow for continual study moving forward in the future.

Bibliography

- Acharya, A. (1997). 'Ideas, Identity, and Institution-building: From the 'ASEAN Way' to the 'Asia-Pacific Way'?'. *Pacific Review*, 10 (3),319-346.
- Acharya, A., 2014. *Constructing a security community in Southeast Asia*. 3rd ed. New York: Routledge.
- Acharya, Amitav. (2002) Regionalism and the Emerging World Order: Sovereignty, Autonomy, Identity. In Breslin, Shaun, Christopher W. Hughes, Nicola Phillips and Ben Rosamond (eds.) *New Regionalisms in the Global Political Economy*. London: Routledge.
- Acharya, A. (2005). 'Do Norms and Identity Matter? Community and Power in Southeast Asia's Regional Order'. *Pacific Review*, 18 (1),95-118.
- Acharya, A. (2009). 'Arguing about ASEAN: What do we Disagree About?', *Cambridge Review of International Affairs*, 22(3),493-499.
- Aguirrea, D. and Pietropaolib, I., (2012). 'Human Rights Protection the ASEAN Way: Non-Intervention and the Newest Regional Human Rights System', *International Human Rights Law Review*, 1(2), 276–311.
- Alter, K. J., & Meunier, S. (2009). The Politics of International Regime Complexity. *Perspectives on Politics*, 7(1), 13–24.
- Arnold, Wayne. "Historic ASEAN charter reveals divisions." *New York Times*, November 20, 2007.
- ASEAN Resources
- AICHR. 2021. *AICHR – ASEAN Intergovernmental Commission on Human Rights*. Accessed 8 April 2021. <https://aichr.org/about-aichr-2/>
- "The ASEAN Declaration August 8, 1967." Accessed April4, 2021. <http://www.asean.org/news/item/the-asean-declaration-bangkok-declaration>.
- "The ASEAN Charter." Accessed March 21, 2021. <http://www.asean.org/archive/publications/ASEAN-Charter.pdf>.
- Asciutti, E. (2010). 'The ASEAN Charter An Analysis'. *Perspectives on Federalism* 2(1),44-66.
- Asplund, A., (2014). 'ASEAN Intergovernmental Commission on Human Rights: civil society organizations' limited influence on ASEAN'. *Journal of Asian Public Policy*, 7(2),191-199.
- Ba, A., (2005). 'On norms, rule breaking, and security communities: a constructivist response'. *International Relations of the Asia-Pacific*, 5(2),255-266.
- Busse, N. (1999). 'Constructivism and Southeast Asian Security'. *Pacific Review*, 12(1),39-60.
- Caballero-Anthony, M., (2008). 'The Asean Charter: An Opportunity Missed or One that Cannot Be Missed?'. *Southeast Asian Affairs*, 2008(1),71-85.
- Chalermphanupap, Termsak. 2010. "Life in ASEAN After the Entry into Force of the ASEAN Charter: Implications and Follow-ups". In *ASEAN: Life after the Charter*, by Tiwari, Sivakent. 45-65. Singapore: Institute of Southeast Asian Studies.

- Chesterman, Simon. 2010. "Does ASEAN Exist? The Association of Southeast Asian Nations as an International Legal Person." In *ASEAN Life After the Charter*, edited by Sivakent Tiwari, 18-42. Singapore: Institute of Southeast Asian Studies Press.
- Collins, A., (2019). 'From commitment to compliance: ASEAN's human rights regression?'. *The Pacific Review*, 32(3), 365-394.
- Davies, M., (2013). 'Explaining the Vientiane Action Programme: ASEAN and the institutionalisation of human rights'. *The Pacific Review*, 26(4),385-406.
- Desker, Barry. "Is the ASEAN Charter Necessary?." Singapore: S. Rajaratnam School of International Studies, July 17 2008.
- Digest.(2008). "ASEAN Charter Approved in Bangkok." *Harvard International Law Journal*
- Donnelly, J., (1986). 'International human rights: a regime analysis'. *International Organization*, 40(3),599-642.
- Dosch, J., (2008). 'ASEAN's reluctant liberal turn and the thorny road to democracy promotion'. *The Pacific Review*, 21(4),527-545.
- Ear, Sophal. (2009) The Political Economy of Aid and Regime Legitimacy in Cambodia. In Joakim Öjendal and Mona Lilja (eds.), *Beyond Democracy in Cambodia: Political Reconstruction in a Post-conflict Society*. Copenhagen, Denmark: NIAS Press.
- Efinger, Manfred and Michael Zürn. (1990) Explaining Conflict Management in East-West Relations: A Quantitative Test of Problem-Structural Typologies. In Volker Rittberger (ed.) *International Regimes in East - West Politics*, London: Pinter.
- Fry, G., 2008. *The Association of Southeast Asian Nations*. New York: Chelsea House.
- Gehring, T., &Faude, B. (2014). A theory of emerging order within institutional complexes: How competition among regulatory international institutions leads to institutional adaptation and division of labor. *The Review of International Organizations*, 9(4), 471–498.
- Gerard, K., (2013). 'From the ASEAN People's Assembly to the ASEAN Civil Society Conference: the boundaries of civil society advocacy'. *Contemporary Politics*, 19(4),411-426.
- Gerard, K., (2014a). 'ASEAN and civil society activities in 'created spaces': the limits of liberty'. *The Pacific Review*, 27(2),265-287.
- Gerard, K., 2014b. *ASEAN's engagement of civil society*. New York: Palgrave Macmillan.
- Haas, E. B. (1980). Why Collaborate? Issue-Linkage and International Regimes. *World Politics*, 32(3), 357–405.
- Hasenclever, A., Mayer, P., &Rittberger, V. (1996). Interests, Power, Knowledge: The Study of International Regimes. *Mershon International Studies Review*, 40(2), 177-228.
- Hasenclever, Andreas, Peter Mayer and Volker Rittberger. (1997) *Theories of International Regimes*. Cambridge: Cambridge University Press.
- Hara, A., (2019). 'The struggle to uphold a regional human rights regime: the winding role of ASEAN Intergovernmental Commission on Human Rights (AICHR)'. *Revista Brasileira de Política Internacional*, 62(1).

- Human Rights Resource Centre, 2016. *AICHR Conducts Seminar on Promoting CSR and Human Rights in ASEAN – Human Rights Resource Centre*. [online] Hrrca.org. Available at: <<https://hrrca.org/aichr-conducts-seminar-on-promoting-csr-and-human-rights-in-asean/>> [Accessed 4 April 2021].
- Jetschke, A. (2015). ‘Why Create a Regional Human Rights Regime? the ASEAN Intergovernmental Commission for Human Rights’. In edited by T. Börzel and V. van Huellen *Governance Transfer by Regional Organizations*, New York: Palgrave MacMillan. 107–124.
- Jetschke, A., (2019). ‘Does forced migration increase regional human rights commitment? The cases of Malaysia and Thailand in ASEAN’. *Asia Pacific Business Review*, 25(5),705-728.
- Keohane, N. R. O. (1977). *Power and Interdependence: World Politics in Transition* (7th ed.). Little, Brown, and Company.
- Krasner, S. D. (1981). Transforming International Regimes: What the Third World Wants and Why. *International Studies Quarterly*, 25(1), 119-148.
- Katzenstein, Peter J. (2002). Regionalism and Asia. In Breslin, Shaun, Christopher W. Hughes, Nicola Phillips and Ben Rosamond (eds.) *New Regionalisms in the Global Political Economy*. London: Routledge.
- Katsumata, H., (2009). ‘ASEAN and human rights: resisting Western pressure or emulating the West?’. *The Pacific Review*, 22(5),619-637.
- Khong, F. Y. and Nesadurai, H. E. S. 2007. “Hanging Together, Institutional Design, and Cooperation in Southeast Asia: AFTA and the ARF.” In *Crafting Cooperation Regional International Institutions in Comparative Perspective*, edited by Amitav Acharya and Alastair Iain Johnston, 32-82. Cambridge: Cambridge University Press.
- Lebow, Richard N. (2005). ‘Reason, Emotion and Cooperation’, *International Politics*, 42 (3), 283-313.
- Leviter, L. (2010). ‘The ASEAN Charter: ASEAN Failure or Member Failure?’. *NYU Journal of International Law and Politics*, 43(1), 159-210.
- Manea, M., (2008). ‘Human rights and the interregional dialogue between Asia and Europe: ASEAN–EU relations and ASEM’. *The Pacific Review*, 21(3),369-396.
- Manea, M., 2009. How and Why Interaction Matters. *Cooperation and Conflict*, 44(1),27-49.
- Moravcsik, A., (2000). ‘The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe’. *International Organization*, 54(2),217-252.
- Munro, J., (2009). ‘Why States Create International Human Rights Mechanisms: The Asean Intergovernmental Commission on Human Rights and Democratic Lock-In Theory’. *Asia-Pacific Journal on Human Rights and the Law*, 10(1),1-26.
- Munro, J., (2011). ‘The relationship between the origins and regime design of the ASEAN Intergovernmental Commission on Human Rights (AICHR)’. *The International Journal of Human Rights*, 15(8),1185-1214.
- Oberthür, Sebastian and Olav S. Stokke, (2011) ‘Conclusions: Decentralized Interplay Management in an Evolving Interinstitutional Order’, in Oberthür, Sebastian and Olav S.

- Stokke, eds. *Managing Institutional Complexity. Regime Interplay and Global Environmental Change*, 313–342, Massachusetts: MIT Press.
- Pelkmans, Jacques. “*The ASEAN Economic Community: Dilemma’s of a shallow trading club.*” Brugge: United Nations University - Comparative Regional Integration Studies Working Paper W-2009/5, 2009.
- Phan, H., (2019). ‘Promotional versus protective design: the case of the Asean intergovernmental commission on human rights’. *The International Journal of Human Rights*, 23(6),915-937.
- Pongsudhirak, Thitinan. “ASEAN’s problematic search for relevance.” *Bangkok Post*, March 6, 2009.
- Pitsuwan, Surin. “Surin: Charter Is Key For ASEAN Revitalization.” Speech, Bangkok, January 24, 2008.
- Rabitz, F. (2018). Regime complexes, critical actors and institutional layering. *Journal of International Relations and Development*, 21(2), 300–321.
- Raustiala, K., & Victor, D. G. (2004). The Regime Complex for Plant Genetic Resources. *International Organization*, 58(2), 277–309.
- Rittberger, V., & Zürn, M. (1991). Rittberger, V. and Zürn, M. Regime Theory: Findings from the Study of “East-West Regimes”. *Cooperation and Conflict*, XXVI, 1991, 165–183. *Cooperation and Conflict*, 26(4), 165–183.
- Risse, T. and Sikkink, K. (1999). “The socialization of international human rights norms into domestic practices: “Introduction,” in Risse, T., Ropp, S. C. and Sikkink, K.(eds.) *The Power of Human Rights International Norms and Domestic Change*, UK, Cambridge University Press, 1-38.
- Rüland, J., (2013). ‘Constructing Regionalism Domestically: Local Actors and Foreign Policymaking in Newly Democratized Indonesia’. *Foreign Policy Analysis*, 10(2),181-201.
- Ruggie, J. G. (1982). International regimes, transactions, and change: embedded liberalism in the postwar economic order. *International Organization*, 36(2), 379–415.
- Ryu, Y. and Ortuoste, M., (2014). ‘Democratization, regional integration, and human rights: the case of the ASEAN intergovernmental commission on human rights’. *The Pacific Review*, 27(3),357-382.
- Severino, R. C. 2008a. *ASEAN*. Singapore: Institute of Southeast Asian Studies,
- Severino, R., (2008b). ‘Asean at Forty: A Balance Sheet’. *Southeast Asian Affairs*, (1),61-70.
- Stubbs, R., (2008). ‘The ASEAN alternative? Ideas, institutions and the challenge to ‘global’ governance’. *The Pacific Review*, 21(4),451-468.
- Sukma, Rizal. “To be responsible, Indonesia should not ratify ASEAN Charter.” *Jakarta Post*, July 22, 2008.
- Thompson, A., & Verdier, D. (2013). Multilateralism, Bilateralism, and Regime Design. *International Studies Quarterly*, 58(1), 15–28.
- Weatherbee, D. E. 2009.*International Relations in Southeast Asia: The Struggle for Autonomy*. Maryland: Rowman & Littlefield.

State of Art: Theories and Methods of Studying the ASEAN Intergovernmental Commission on Human Rights & Human Rights in Southeast Asia

- Wang, Y. X., (2015). 'Contextualizing Universal Human Rights: An Integrated Human Rights Framework for ASEAN'. *Duke Journal of Comparative & International Law*, 25(3),385-426.
- Zelli, F., & van Asselt, H. (2013). Introduction: The Institutional Fragmentation of Global Environmental Governance: Causes, Consequences, and Responses. *Global Environmental Politics*, 13(3), 1–13.

