

# **ASIA-PACIFIC YEARBOOK OF INTERNATIONAL HUMANITARIAN LAW**

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## FOREWORD

This maiden issue of the *Asia-Pacific Yearbook of International Humanitarian Law* (APYIHL) is a project of the University of the Philippines Law Center Institute of International Legal Studies (UP-IILS) made possible by the support of the International Committee of the Red Cross (ICRC).

International Humanitarian Law (IHL) scholars from the region proposed this project in a meeting in Kuala Lumpur, Malaysia convened by the Regional Delegation of the ICRC in 2005.

The APYIHL primarily seeks to provide a venue for scholarly studies and research in the field of IHL, as well as be the primary source of up-to-date information/reference materials and cutting-edge views on IHL as experienced, taught, and developed in the Asia-Pacific region.

APYIHL seeks to reach the following audience:

- ⊕ *Professionals* working in the field of international humanitarian law in the Asia-Pacific, primarily, and elsewhere secondarily, including:
  - Academic staff;
  - National public officials involved in policy-making related to IHL;
  - UN and other intergovernmental organization officials;
  - Staff at donor agencies;
  - Diplomats engaged in negotiations on IHL;
  - Practitioners of IHL; and
  - NGOs and NGO workers in the field of IHL.
- ⊕ *Students* within law and social sciences interested in IHL.
- ⊕ *Journalists* and *information officers* dealing with IHL.

As we go to press, a terrible conflict is raging in another part of the world that has not known peace since time immemorial; and once again, the conflict only underscores the importance of the observance of international humanitarian law by the warring parties.

Our own Asia-Pacific region is a melting pot of cultures and traditions that has seen, and is still seeing, its own share of conflicts.

The APYIHL seeks to contribute to the dissemination of IHL in the region in this light.

This inaugural issue of the APYIHL confronts the complex realities borne by 9/11, such as the intersections and divergence between the so-called global war on terrorism, civil liberties, and international humanitarian law.

There is a legitimate concern over the seeming willingness of many States in the region to gloss over issues of civil liberties in their effort to join the anti-terrorist bandwagon. Such a “bandwagon effect” has serious implications as well on States’ compliance to the imperatives of international humanitarian law.

The articles by S.A. Farrar and Michael Head address the nuances of these intersections. The development of international law in Malaysia, which has an important bearing on the application of international humanitarian law in the country, is taken up in Abdul Ghafur Hamid’s article. The paper of Hikmahanto Juwana discusses the important international law concept of superior responsibility as applied in Indonesia. Jean-Marie Henckaerts does an important study on customary international humanitarian law that will be of interest to specialists and students alike.

H. Harry L. Roque, Jr. discusses the criminal nature of the recruitment of child soldiers under international humanitarian law. Jörg Menzel’s discussion on the “mixed” criminal tribunal set up in Cambodia to try leaders of the Khmer Rouge accused of various crimes committed against the populace of the conflict-torn country could be of special interest also to scholars and IHL advocates.

Soliman M. Santos, Jr. of the Philippines and Young Sok Kim of South Korea address developments in international humanitarian law in their respective country reports. Umesh Kadam of the ICRC reports on important dissemination activities of the Red Cross in the Asia-Pacific region in the year 2005. Meanwhile, Hon. Judge San-Hyun Song of the International Criminal Court addresses the important role that the media play in the promotion of the international campaign against impunity. Also, Professor Jaturon Thirawat of Thailand’s Thammasat University discusses in his paper the many stumbling blocks to his country’s ratification of the

Rome Statute, concluding that Thailand needs more time to adequately address these concerns.

We also included in this issue various pieces of legislation in the region passed or proposed to address the issue of terrorism. This is the first attempt to collate such laws and we hope this could be a convenient reference tool for researchers on the subject of terrorism. We also hoped that the compilation is a benchmark that would make it easier for advocates of human rights and humanitarian law to ensure that all such laws passed in the region comply with existing norms of international law.

We intend to include more countries in succeeding issues of the APYIHL. We welcome contributions from students, scholars, and practitioners in our effort to develop and strengthen a *civitas maxima*—that community of nations with a common concern not to provide impunity to crimes of war and crimes against humanity and a commitment to prosecute the violators of these reprehensible crimes that strike at the root of what it means to be a civilization of humanity.

To borrow from the language of the Philippine Supreme Court’s Justice Perfecto in *Yamashita v. Styer* (G.R. No. L-129, December 19, 1945) a landmark case on atrocities committed during the second World War, “our goal is to contribute in whatever way to the arousing of a deep-rooted universal conviction that law must be supreme and that justice should be equally administered to each and every member of humanity.”

PROF. H. HARRY L. ROQUE, JR.  
Editor in Chief