

## HUMANITARIAN LAW AND ASEAN: ANALYZING REGIONAL COMMITMENT AND HUMANITARIAN RESPONSE MECHANISMS IN SOUTHEAST ASIA

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Received: 20-02-2024

Revised: 29-02-2025

Approved: 27-03-2025

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### ABSTRACT

This paper analyzes the significance and role of the Association of Southeast Asian Nations (ASEAN) within the domain of International Humanitarian Law (IHL) in Southeast Asia. In particular, in a region often susceptible to natural disasters, internal conflicts, and humanitarian crises, the work of ASEAN to promote the prescriptions of IHL is increasingly essential. Using a qualitative doctrinal legal research methodology, the paper analyzes ASEAN's legal tools (e.g., AADMER), institutional framework (e.g., the AHA Centre), and engagement with international humanitarian actors. From primary legal sources, scholarly literature, and case studies—the Rohingya crisis, regional pandemic response—the paper examines ASEAN's adherence to IHL norms. Despite institutional advances in areas like disaster management, the research discovers that the norms of non-interference, lack of binding enforcement mechanisms, and differential commitment of state actors are major challenges to ASEAN's effectiveness. The paper, in a concluding section, provides suggestions on how compliance with IHL can be improved, including through law reform, expanding the mandates of relevant ASEAN institutions, and increased cooperation with international humanitarian actors.

**Keywords:** ASEAN, International Humanitarian Law (IHL), Human Rights, Regional Cooperation, AICHR, AHA Centre, Armed Conflict

### INTRODUCTION

International humanitarian law is a set of rules which seek, for humanitarian reasons, to limit the effects of armed conflict. It protects persons who are not or are no longer participating in the hostilities and restricts the means and methods of warfare. International humanitarian law is also known as the law of war or the law of armed conflict. International humanitarian law is part of international law, which is the body of rules governing relations between States. International law is contained in agreements between States – treaties or conventions –, in customary rules, which consist of State practice considered by them as legally binding, and in general principles. International humanitarian law applies to armed conflicts. It does not regulate whether a State may actually use force; this is governed by an important, but distinct, part of international law set out in the United Nations Charter. (ICRC, 2024)

While traditionally applied through a state-centric lens, increasing scholarly attention has emphasized the rising role of regional organizations in interpreting, promoting, and implementing IHL in localized contexts (de Guttry et al., 2012; Tan, 2014). This is echoed in newer scholarship, which underlines the growing complexity of humanitarian emergencies and the importance of regionalization in international legal enforcement (Rhoads, 2021; Kirgis, 2023). Scholars like Bohland and Pak (2022) have said that regional organizations are best suited to make a valuable contribution to humanitarian diplomacy, more especially where international organizations are constrained politically or operationally.

In Southeast Asia, ASEAN is the anchor of coordination of peace, stability, and development among its members. ASEAN's engagement with humanitarian issues—and its application of IHL—has been sporadic and often controversial. The region has experienced a number of humanitarian crises, including the 2004 tsunami, Typhoon Haiyan (2013), the Rohingya crisis, and the COVID-19 pandemic. Whereas such crises have tended to have ASEAN's response criticized as being reactive, limited in scale, and constrained by its constituting principles, notably non-interference (Haacke, 2003; Emmers, 2009; Caballero-Anthony, 2022).

Current research reveals that ASEAN humanitarian mechanisms, such as the AHA Centre, demonstrate technical effectiveness amid natural disasters, yet remain under-resourced to address conflict-based crises or rights-based humanitarian crises (Chin, 2017; IFRC, 2020; OCHA, 2020; UNHCR, 2023). In addition, there have been newer criticisms regarding ASEAN's limited engagement with civil society and lack of legal accountability, which call for reimagining its institutional structure to promote greater adherence to universal humanitarian standards (Alvarez & Tiwari, 2023).

The objective of this paper is to critically evaluate ASEAN's role in promoting and enforcing International Humanitarian Law. It considers the relevant legal instruments and institutional frameworks, evaluates the strengths and weaknesses of its humanitarian interventions, and explores possibilities for increased adherence to international standards. In doing so, it not only considers the regional complexities of the Rohingya refugee crisis but also addresses ongoing debates on regionalism, humanitarian governance, and legal integration.

This is a theme especially relevant to ASEAN's vision of being a "people-oriented, people-centered" community, an ideal embedded in its Charter and socio-political constructs (ASEAN, 2009, 2015). For ASEAN to progress in its ambitions to be an actor of renown globally, it must reconcile the tensions between political doctrine and humanitarian exigencies. This paper adopts the position that bridging these lacunae is both achievable and requisite—though it will require sweeping legal, institutional, and political transformation.

### **Statement of the Problem**

Although International Humanitarian Law (IHL) is increasingly important for global governance, its promotion and implementation at regional levels are still incomplete. ASEAN or the Association of Southeast Asian Nations has been working towards the identification and implementation of regional cooperation mechanisms and frameworks that are relevant to addressing humanitarian challenges in Southeast Asia. Yet, the organization's response to humanitarian crises involving armed conflict, displacement, and violations of law and human rights has often been below minimum international requirements and legal obligations (Tan, 2014; ICJ, 2012).

The tailored response of ASEAN is precluded by the founding principles of ASEAN: non-interference, respect for sovereignty, and consensus decision-making, which collectively inhibit constructive action to humanitarian crises occurring within member states (Haacke, 2003; Chongkittavorn, 2019). Although there are legal documents that express commitment to cooperation such as the ASEAN Charter and the ASEAN Agreement on Disaster Management and Emergency Response (AADMER), these mechanisms contain

little in terms of mandatory enforcement or accountability (ASEAN, 2005; ASEAN, 2008). As a result, responses to crises such as the Rohingya refugee disaster in Myanmar or the internal disturbances in southern Thailand and the Philippines have typically been reactive, non-confrontational, and diplomatically prudent.(ASEAN., 2007)

A further concern is that ASEAN institutional arrangements do not correspond with the non-compliance with IHL norms. It is important to note that while international law has addressed the need to afford protection to the civilian population, accountability in times of conflict, and the non-discriminatory nature of humanitarian assistance (Refnote: International Red Cross 2020), the ASEAN mechanisms per se are operational within the political framework where diplomacy is prioritized over justice and neutrality is sought in lieu of being responsible (Emmers, 2009). Moreover, despite ASEAN's technical capacity for disaster response established through entities like the AHA Centre, engagement with rights-based humanitarian concerns—e.g, forced migration, ethnic persecution, and armed conflict—are yet to be adequately developed (ASEAN Coordinating Centre for Humanitarian Assistance, n.d.).

Such a gap between ASEAN's political culture and international humanitarian expectations poses a fundamental challenge to the future of the region. To truly promote and protect IHL, however, ASEAN must address its structural and normative limitations, such as legal ambiguity, limited institutional mandates, and patchy political will among members.

### **Research Objectives**

Therefore, this study will examine and critically review the role of the Association of Southeast Asian Nations (ASEAN) in the domains of International Humanitarian Law (IHL) in the Southeast Asian region. Specifically, it aims to:

1. Collect and review legal and institutional frameworks of ASEAN that govern humanitarian response and international humanitarian law, including relevant treaties, declarations, and regional agreements (ASEAN, 2005; ASEAN, 2008).
2. Assess the effectiveness of ASEAN's humanitarian mechanisms (such as the ASEAN Coordinating Centre for Humanitarian Assistance (AHA Centre), ASEAN response to disasters such as natural disasters and conflict-induced emergencies (AHA Centre, n.d.; IFRC, 2020).
3. Identify the factors that hinder ASEAN from preventing the integration of relevant IHL principles, particularly in matters of state responsibility, internal conflict, and large-scale violations of human rights (Chin, 2017; ICJ, 2012).
4. Explore the scope of ASEAN's engagement with the UN, the International Committee of the Red Cross (ICRC), and civil society actors in stirring IHL compliance in the region (OCHA, 2020; ICRC, 2020).
5. Functional recommendations: practical, legal, and regulatory recommendations aimed at improving ASEAN's capacity to promote and implement international humanitarian law through legal reforms, institutional development, and normative evolution.

Approaching these objectives, the research aspires to enrich an expanding academic and policy dialogue on regional approaches to humanitarian governance, as well as delineate ASEAN's potential in serving as a proactive humanitarian actor for the 21st century.

## **Research Questions**

To help inform the inquiry on ASEAN's role in advancing International Humanitarian Law (IHL), the study is organized around the following key research questions:

1. What is ASEAN's legal and institutional mechanism to prevent humanitarian crises with compliance to International Humanitarian Law? (ASEAN, 2005; ASEAN, 2008; AHA Centre, n.d.)
2. How effective are ASEAN's existing frameworks, particularly AADMER and the AHA Centre, in responding to humanitarian crises resulting from both natural disasters and armed conflict? (IFRC, 2020; Tan, 2014)
3. Much of the lack of alignment and enforcement revolves around legal, political, and structural challenges within ASEAN that curtail its ability or willingness to comply with IHL principles, and to enforce humanitarian norms. (Chongkittavorn, 2019; Haacke, 2003)
4. How does ASEAN engage in relations with international humanitarian actors, and what is the role of external partnerships in shaping the responses in the humanitarian field of the region? OCHA (2020); ICRC (2020); UNHCR (2020)
5. What would reinforce IHL implementation by the organization and the region in the future and prepare ASEAN for a best-timed response to future humanitarian crises? (De Guttery et al., 2012; Chin, 2017)

These questions constitute the analytical thread of this paper; a structure from which to judge the normative ideals versus the realities of the ways ASEAN interacts with the field of international humanitarian law.

## **Significance of the Study**

For both academic and practical reasons relating to the regional humanitarian governance context and the emerging development of ASEAN as a guardian of international legal norms, this study matters.

## **Regional Relevance**

Southeast Asia is a disaster-risk hotspot and one of the most politically diverse regions; it is constantly inundated with natural and complex humanitarian challenges, from forced migration and internal armed conflicts to grave human rights violations (IFRC, 2020; UNHCR, 2020). How ASEAN has reacted to these challenges reveals much about the extent to which the region can maintain humanitarian norms in light of political sensitivities and institutional limitations.

## **Academic Contribution**

Although ASEAN cooperation on political and economic issues has generated an impressive literature, one can find much less scholarly work applying legal analysis to ASEAN and International Humanitarian Law (Tan, 2014; de Guttery et al., 2012). This study contributes to this long-needed gap closure by studying the IHL promotion on a regional level and assessing how ASEAN mechanisms stack up against other global legal standards.

### **Policy Implications**

The results of this study may be grounded for policy reform in the ASEAN member states and ASEAN framework. More specifically, by exposing the paper's weaknesses and problem areas, it could contribute to initiatives aimed at strengthening ASEAN's institutional and legal capacity to respond to humanitarian crises (consistent with international standards), with implications for humanitarian law (Chin, 2017; ICJ, 2012).

### **Global Legal Integration**

ASEAN's shifting attitudes toward international humanitarian law are a microcosm for how regional organizations can — or can't — internalize the global legal command. Such an approach brings lessons for the rest of the Global South, whose regional bodies wrestle with the paradoxes of sovereignty, non-interference, and human rights enforcement (Emmers, 2009; Haacke, 2003).

### **Nexus of Youth, Peace, and Security**

Attuned to the growing roles played by youth, civil society, and grassroots movements in humanitarian advocacy across Southeast Asia, this study may be of particular relevance to the next generations of legal practitioners, policymakers, and peacebuilders in the region (UN Youth Strategy, 2018).

In short, while being of critical importance for the region itself, this research also has significant implications of both theoretical and practical relevance as it adds important dimensions to our understanding of causes and consequences regarding promotion (or inhibition) of international humanitarian law within the context of international regional organizations, and Southeast Asia, in particular.

## **LITERATURE REVIEW**

### **The Single Biggest Lesson You Should Learn About International Humanitarian Law (IHL)**

#### **Implementation**

International Humanitarian Law (IHL) is a main type of international law that relates to the conduct of hostilities and the protection of those who are not or who are no longer taking part in armed conflicts. Based on the 1949 Geneva Conventions and their Additional Protocols, IHL is made up of fundamental principles of distinction, proportionality, necessity, and humanity (ICRC, 2020, 2021)

IHL has always been drawn as a crucial means of decreasing the barbarism of war and balancing military needs with humanitarian concerns (Henckaerts & Doswald-Beck, 2005). The global authority of IHL norms is closely connected to the extent of their implementation and political will at the regional level (Fleck, 2013). Moreover, Kolb & Hyde (2008), in their critical analysis of IHL, argue that for IHL to have any effect, it is not only necessary to have codified IHL but that it be promoted by institutions that can enforce compliance.

Although the international architecture is strong, the practice of IHL is uneven in the real world, especially in regions experiencing internal strife and with authoritarian leaders. Sassòli (2019) argues that compliance gaps exist primarily in non-international armed

conflict situations, which is common in Southeast Asia. Hence, regional institutions like ASEAN are critical arbiters, if not engines, in reconciling such norms with local realities.

### **ASEAN and Regional Legalism in Southeast Asia**

ASEAN was established in 1967 and was mainly known for its promotion of regional peace, economic integration, and political non-interference. Its legal architecture—most notably, the ASEAN Charter, adopted in 2008—has been a step toward formalizing a rules-based regional order (ASEAN, 2008). Throughout its history, ASEAN has been widely criticized for its “soft institutionalism” and its ineptitude in enforcing human rights and humanitarian law mechanisms (Chongkittavorn, 2019; Haacke, 2003).

ASEAN's legal frameworks—such as the ASEAN Human Rights Declaration (AHRD)—continue to be ambiguous and non-binding, which reflects the region's desire to balance international requirements and domestic sovereignty (Tan, 2014). ASEAN's leading decision-making process of consensus and quiet diplomacy results in inactivity when conflict prevention is needed (Emmers, 2009), as seen with the displacement of the Rohingya.

ASEAN has emerged as the most cohesive platform for sharing knowledge and technology across Southeast Asia, although its scope is limited by the expressions of humanitarian cooperation and national sovereignty found in CHARMs and other treaties. An example of a regional binding commitment to humanitarian response is the ASEAN Agreement on Disaster Management and Emergency Response (AADMER), signed in 2005 (ASEAN, 2005). AADMER is partially in line with the principles of IHL as stated by IFRC (2020), but does not provide for conflict-related emergencies or accountability measures.

As Mahmood (2018) elaborates, internal normative consensus has played a less significant role compared to external pressures and international donor support shaping the development of ASEAN legalism. De Guttry et al. specialize in subjects—diplomatic, political, economic, fiscal—until they become comprehensive legal actors enforcing humanitarian law for regional members (2012).

### **Alignment between ASEAN's Humanitarian Mechanisms and IHL**

ASEAN's principal instrument for humanitarian coordination is the ASEAN Coordinating Centre for Humanitarian Assistance on Disaster Management (AHA Centre). The AHA Centre was created under the AADMER framework in 2011 to assist regional disaster response, information exchange, and capacity-building (AHA Centre, n.d.). Though useful in coordinating responses to typhoons, earthquakes, and other natural disasters, its utility in armed conflict or displacement crises is capped.

As per Chin (2017), the AHA Centre's activities fall under a constrained humanitarian space that does not include conflict-related emergencies unless such activities are welcomed by the affected state. While preserving state sovereignty, this is a very limited mandate for ASEAN to intervene in any IHL-relevant crisis like the Rohingya case and the Marawi siege in the Philippines (ICJ, 2012). The tension between ASEAN's even-handed disaster preparedness and its failure to respond to politically sensitive humanitarian emergencies highlights the organization's structural limitations.

ASEAN's humanitarian response mechanism has been criticized by OCHA (2020) and UNHCR (2020) as being heavily dependent upon partnerships with the UN and international NGOs. However, while technical capacity strengthening and the establishment

of (often bilateral) networks and alliances between these institutions may yield some benefits, they do not appear directly related to improved compliance/noncompliance with IHL and the treatment of civilians in war.

According to the International Federation of Red Cross and Red Crescent Societies (IFRC), despite many ASEAN countries making strides in disaster law, none of these nations have integrated applicable International Humanitarian Law (IHL) obligations into comprehensive domestic law (IFRC, 2020), particularly with respect to civilians and prisoners of war. This gap between domestic and regional preparedness for humanitarian emergencies poses a challenge to IHL adherence across all levels.

### **Political and Legal Resistance to IHL in ASEAN**

Perhaps the key obstacle in the advocacy for International Humanitarian Law (IHL) in ASEAN is the continuing policy of non-interference in internal affairs in the region. This principle, enshrined in the ASEAN Charter (ASEAN, 2008;(AICHR, 2020)), has frequently hindered the bloc's ability to respond collectively or even make statements together regarding internal humanitarian crises within its member states (Haacke, 2003; Chongkittavorn, 2019).

ASEAN, for instance, was criticized during the Rohingya crisis in Myanmar for its silence and lack of concrete action. As ICJ (2012) notes, the bloc did not raise international legal norms, nor did it pressure Myanmar to fulfill its international legal obligations, citing sovereignty as an explanation. Likewise, Tan (2014) notes that ASEAN's preference for quiet diplomacy renders it ill-equipped to remedy IHL violations in real time.

Moreover, unlike the European or Inter-American systems, there is no regional court or other enforcement mechanism in ASEAN that has jurisdiction over IHL or human rights violations. This creates a legal vacuum that hinders states' accountability for violations of humanitarian law in the region (Sassòli, 2019; (Fleck, 2013)The AICHR, created by law in 2009, also lacks any substantial investigative powers or legal mandate (Mahmood, 2018).

The asymmetrical nature of the political regimes of Southeast Asia, ranging from constitutional monarchies to authoritarian states, leads to a fragmented legal culture that makes consensus on the norms of humanitarianism challenging to prevail in the region (Emmers, 2009). De Guttry et al. state that without binding enforcement tools and strong regional political will, ASEAN's promotion of IHL risks being little more than rhetorical (Donnelly et al., 2012).

### **Emerging Opportunities and Prospects**

Although there are structural and normative barriers to ASEAN's association with humanitarian issues, there are also emerging opportunities for ASEAN to play a greater role in advancing International Humanitarian Law (IHL) in the region.

ASEAN's growing engagement with international organizations is one notable area in which this is the case. Capacity-building and technical assistance, especially in the facilitation of IHL principles into domestic laws, have been done through partnerships with the International Committee of the Red Cross (ICRC), UN OCHA, and UNHCR (ICRC, 2020); UNHCR, 2020). These partnerships also provide openings for institutional learning and norm diffusion throughout member states.

Furthermore, the increasing regional consciousness around humanitarian principles—especially from the perspective of civil society actors and academic institutions—provides for a bottom-up demand for heightened ASEAN accountability (UN Youth Strategy, 2018). The emergence of youth movements, digital advocacy, and transnational networks demanding the protection of human rights and humanitarian principles is gradually challenging ASEAN’s conservative approach to sovereignty and non-interference (OCHA, 2020).

Advances in technology and frameworks for data sharing, meanwhile, provide ASEAN with an additional opportunity to strengthen early-warning systems, improve humanitarian logistics, and build cross-border coordination — all of which are essential to both natural disasters and conflict-related emergencies ((AHA Centre, n.d.); IFRC, 2020).

Finally, the rising momentum of climate change-related disasters, which frequently intersect with social conflict and displacement, is nudging ASEAN toward wider humanitarian cooperation. Scholars such as Chin (2017) and Sassòli (2019) suggest that such crises could galvanize reform in ASEAN institutions and serve to complement the institution as a more dynamic humanitarian actor.

In short, although ASEAN’s involvement in IHL is constrained by longstanding political culture and structural shortcomings, its developing regional role, expanding partnerships with other international and regional organizations, and growing engagement with civil society can realistically engender stronger humanitarian efforts in the coming years.

## **METHODOLOGY**

A qualitative doctrinal legal research method is employed in this study, in which secondary and primary sources of law are analyzed to obtain an understanding of ASEAN’s role in International Humanitarian Law (IHL) promotion. The methodology addresses the legal-normative character of the subject and draws on existing legal instruments, treaties, declarations, relevant case law, as well as scholarly interpretations.

### **Research Design**

It is also analytical and exploratory. It also takes a critical look at the institutional frameworks that ASEAN operates under, having set standards based on the norms of international humanitarian law—such as the ASEAN Charter, the ASEAN Human Rights Declaration, the AADMER framework, and the AHA Centre activities. We aim at assessing these frameworks’ ways in which they foster and inhibit the promotion and use of IHL.

### **Data Collection**

This research relies on reliable and academic sources from two main categories:

#### **Primary Sources:**

These sources comprise, amongst others, international treaties (e.g., the Geneva Conventions), regional agreements (e.g., AADMER), ASEAN’s official declarations, and reports of the ICRC, the UNHCR, and the AHA Centre.

#### **Secondary Sources:**

These consist of research papers, published articles, policy papers, lecture notes, academic books, and institutional reports by leading authorities on international law, Southeast Asian legal studies, and humanitarian governance. Data collection was biased in

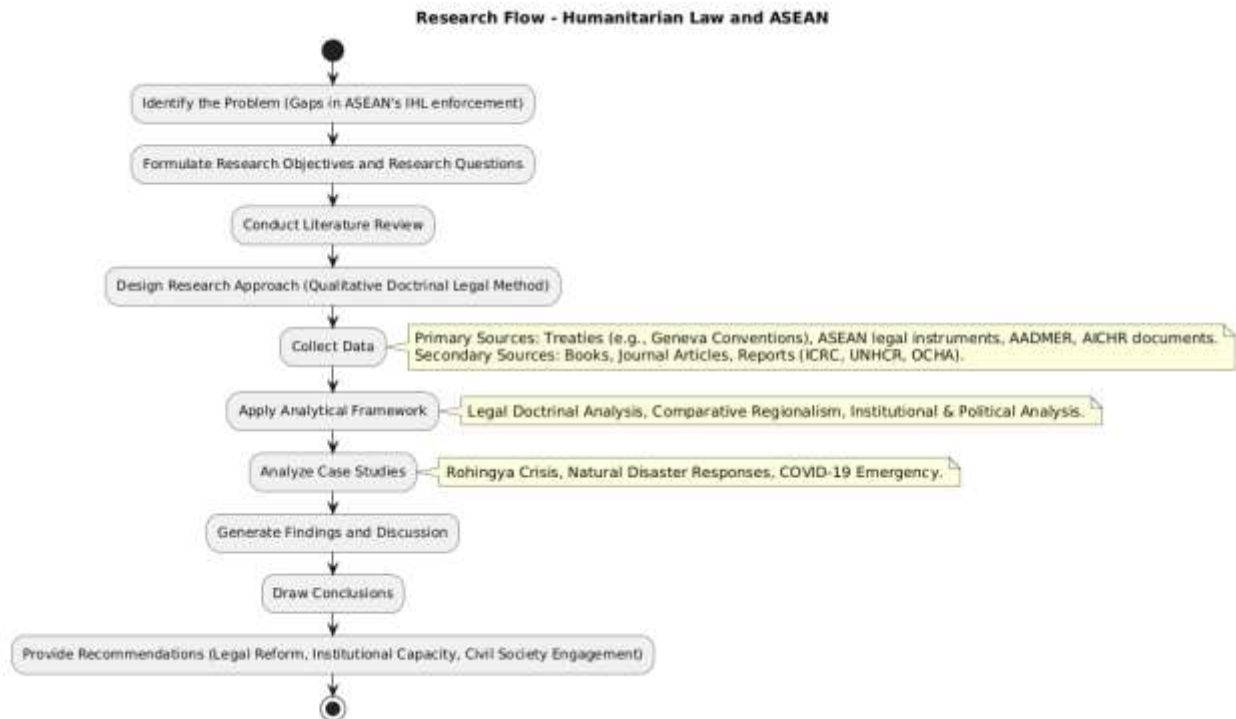
favor of academics with substantial credibility in International Humanitarian Law (IHL) and ASEAN— (Henckaerts & Doswald-Beck, 2005; Tan, 2014; Fleck, 2013).

### Analytical Framework

The following analytical tools are applied in the study:

- 1. Legal Doctrinal Analysis:**  
Assesses the substance and connotation of legal instruments and ASEAN policy frameworks.
- 2. Comparative Regionalism:**  
Comparative analysis of ASEAN and other regional entities (e.g., the EU or AU) to analyze the strengths and weaknesses of these bodies in the promotion of IHL.
- 3. Institutional and Political Analysis:**  
Examines the role played by ASEAN's structure and political culture in its ability to make progress on IHL fundamentals.

### Research Process Flow Chart:



### Research Process Flow Chart Explanation:

The research begins by establishing the gap in ASEAN's engagement with International Humanitarian Law (IHL), particularly its poor enforcement mechanisms and inadequate response to humanitarian emergencies. In answer to this, the research aims to define clear objectives and research questions that address ASEAN's legal frameworks, institutional mechanisms, and regional cooperation.

The study is based on the literature that underlies the research, and a qualitative doctrinal legal research approach is adopted. The evidence is drawn from primary sources

(e.g., treaties, law documents, and ASEAN declarations) and secondary sources, including published scholarly literature and institutional reports.

The research follows a different route regarding ASEAN's role in the progression towards IHL by utilizing a combination of legal doctrinal interpretation, comparative regionalism, and institutional-political analysis. The findings are contextualized through case studies focusing on the Rohingya crisis, responses to natural disasters, and the COVID-19 pandemic.

In the concluding section, it discusses the important findings and how to conclude, as well as provides practical recommendations to strengthen ASEAN's legal and institutional basis to comply with international humanitarian norms through the research process.

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### **Scope and Limitations**

The study then focuses on ASEAN as an institution and not on individual member states, though state behavior is included when necessary. These include a lack of binding enforcement mechanisms and limited access to internal deliberative processes within ASEAN, which restricts the ability to make full assessments of the degree to which ASEAN engages with IHL.

## **ANALYSIS AND DISCUSSION**

### **The Symbolism or Substance: An ASEAN Engagement with IHL**

ASEAN's engagement on humanitarian law is largely symbolic rather than substantive, hemmed in by its founding institutional norms and leading practices for consensus and non-interference. While documents like the ASEAN Human Rights Declaration (2012) gesture toward international legal standards, they do not even attempt to legally enforce obligations to IHL.

The ASEAN Intergovernmental Commission on Human Rights (AICHR) reflects this tension. Although its mandate does extend to the promotion of human rights, it does not

have investigatory powers or enforcement authority to decisively respond to humanitarian crises (Tan, 2014; Mahmood, 2018). AICHR's underwhelming role during the Rohingya crisis illustrates its failure to respond to possible IHL violations even in times of acute displacement and violence (ICJ, 2012).

The AADMER framework, via which the AHA Centre operates, is the most legally binding and enforceable regional commitment within ASEAN's humanitarian portfolio. But it is adapted for natural disasters instead of armed conflict or state-led violence (IFRC, 2020). This is a very limited scope that severely reduces its potential to react to contexts in which IHL is most urgently required.

Moreover, ASEAN's unwillingness to set up its own regional human rights tribunal (such as those found in Europe or Africa) strengthens the view that the organization prioritizes the national sovereignty of its member states over legal accountability (Fleck, 2013; De Guttery et al., 2012).

These trends suggest that ASEAN's normative frameworks activate IHL rhetoric rather than invoke concretized institutionalization. Such diplomatic niceties may appease sensitivities but undermine the bloc's credibility in defending humanitarian norms.

### **The political culture of the region and the fragmentation of the law**

One significant challenge to ASEAN's advancement of International Humanitarian Law (IHL) is its deeply rooted political culture of non-interference and the legal fragmentation between its member states. The so-called "ASEAN Way" emphasizes moving toward consensus, mutual respect for sovereignty, and quiet, behind-the-scenes diplomacy—principles that have historically facilitated the lack of collective legal or political action during tumultuous times, especially humanitarian crises (Haacke, 2003; Chongkittavorn, 2019).

This culture prevents ASEAN from making a stand or intervening in the internal affairs of its members, even in clear cases of alleged war crimes or crimes against humanity. ASEAN's responses to Myanmar's military operations in Rakhine State, widely condemned as ethnic cleansing, were weak, and its humanitarian interventions were delayed (ICJ, 2012; UNHCR, 2020).

Compounding this challenge is the asymmetry of legal systems across ASEAN member states. Despite this progress, the international community faces challenges such as psychocultural reactions toward the rejection of an IHL framework, as the Philippines and Indonesia have ratified critical IHL instruments into domestic law (ICRC, 2024), whilst they continue to resist (politically or ideologically) the adoption of such norms (Henckaerts & Doswald-Beck, 2005).

This differentiation results in undermining the region's collective capacity to promote and implement IHL. Without a common legal standard or enforcement tool, regional layers are limited in terms of scope and commonality (Sassòli, 2019). ASEAN's preference for voluntary compliance instead of binding obligations is another indication of the bloc's political conservatism (Tan, 2014).

Furthermore, the lack of legal accountability mechanisms — such as a regional court or arbitration body — allows states to face no consequences for breaking IHL principles. This discrepancy undermines public confidence and reduces the credibility of the regional

mechanism among humanitarian stakeholders and civil society (Mahmood, 2018; Fleck, 2013).

To conclude, the political and legal construct of ASEAN — though crucial for maintaining regional stability — is nowhere near prepared to satisfy modern humanitarian governance.

### **Civil Society, Youth Movements, and the Evolution of Regional Norms**

In spite of institutional limitations, civil society and youth engagement have become significant narratives reshaping humanitarian values and ASEAN's normative terrain. Non-governmental organizations, student networks, and advocacy coalitions are increasingly vocal in demanding greater adherence to international humanitarian norms throughout Southeast Asia (UN Youth Strategy, 2018).

Civil society actors have been fundamental in many countries, including Indonesia, the Philippines, and Thailand, in monitoring human rights abuses, raising awareness about IHL, and pressuring governments to uphold their international obligations (Chin, 2017). These work in partnership with lay global actors such as the ICRC and Amnesty International (which operates in international law) to connect local activism to the international level (ICRC, 2024)

Such engagement has even been recognized by ASEAN institutions themselves. Initiatives such as the ASEAN Youth Volunteer Programme (AYVP) and the ASEAN Foundation have created programs for enhancing humanitarian leadership, digital campaigning, and peace education among youths (OCHA, 2020). Such platforms not only risk the dissolution of those who are true humanitarians but also help young people to bring humanitarianism and legal awareness into their campaigns so as to promote long-term normative change.

In addition, social media and digital communication tools have enabled activists to overcome national borders and amplify calls for humanitarian intervention. The use of online platforms has become important to disseminate information, document abuses, and mobilize public opinion, functions that tend to be frequently avoided by ASEAN's traditional institutions due to political sensitivities (UNHCR, 2020).

This evolution is an attestation of what legal theorists have described as "norm entrepreneurship"—the process by which non-state actors shape the evolution of international norms through advocacy, education, and transnational cooperation (Sassòli, 2019). In the ASEAN context, civil society and youth movements are instrumental agents to translate humanitarian law into concrete principles and embryonic regional norms.

While they cannot substitute for formal institutions, these actors complement ASEAN's efforts, filling accountability gaps, especially when official mechanisms are unwilling to act. Increased engagement opens up an optimistic horizon in the humanitarian orientation of ASEAN while providing a bottom-up pathway toward legal harmonization and improved IHL compliance.

### **The Prospects for Systemic Reform of Institutions and Regional Gaslit Accountability**

Consequently, in view of ASEAN's constraints and normative changes, there is both a need and an opportunity to reform and improve accountability on the promotion of International Humanitarian Law (IHL), albeit an intricate process.

A possible pathway is to broaden the scope of the AADMER framework beyond natural disasters to incorporate man-made humanitarian crises, including armed conflicts or forced displacement. Although the current legal mandate of the AHA Centre is limited, its infrastructure, logistics expertise, and growing range of partnerships with international agencies place it within reach of becoming a regional humanitarian actor (IFRC, 2020; AHA Centre, n.d.). Amending AADMER with consensus by ASEAN can also offer a regional legal basis for an expansive humanitarian response.

A further key reform is bolstering AICHR's mandate by ensuring it has investigatory and reporting powers similar to those of established regional human rights mechanisms in Europe and Africa. This will need to be addressed at the level of revision of AICHR's ToR, politically sensitive yet increasingly sought-after reform (Tan, 2014; Mahmood, 2018) by scholars and organizations of civil society.

Regional peer review mechanisms can also add to accountability. ASEAN may as well construct a monitoring framework based on the Universal Periodic Review (UPR) of the UN Human Rights Council, whereby states assess each other's compliance with international humanitarian law (IHL) through a system of structured reporting and dialogue. An approach that preserves ASEAN's emphasis on consultation and facilitates greater transparency and norm adherence would serve ASEAN well (Fleck, 2013).

Additionally, IHL and human rights education should be integrated into regional training curricula for diplomats, military officers, and humanitarian workers within ASEAN. Institutionalizing legal education and integrating ASEAN's academic networks and policy institutes, e.g., the ASEAN University Network, builds long-term normative integration (Henckaerts & Doswald-Beck, 2005; Sassòli, 2019).

Finally, ASEAN's strategic leverage vis-à-vis new external partners such as the ICRC, UNHCR, or OCHA could be used to strengthen the demand for such institutional reforms. These actors bring technical expertise, funding, and legitimacy that ASEAN could leverage to strengthen its humanitarian architecture.

While considerable political resistance and concerns over sovereignty impede progress, the shifting ground of this humanitarian environment and the pressures from both internal and external normative forces suggest that if ASEAN is to emerge as an effective humanitarian actor in the twenty-first century, reforming its response remains not only possible but desperately needed.

## **CONCLUSION AND RECOMMENDATIONS**

### **Conclusion**

ASEAN's role in promoting and implementing International Humanitarian Law (IHL) comes with commendable accomplishments but also challenges that need to be addressed. As Southeast Asia faces a range of long-running and often intersecting humanitarian crises—fueled by environmental vulnerability as a result of climate change, transnational displacement, and internal armed conflict—the calls for a coherent, proactive regional humanitarian framework rooted in International Humanitarian Law (IHL) have never been stronger.

The study points out that ASEAN's efforts to institutionalize humanitarian response through existing mechanisms like the ASEAN Agreement on Disaster Management and Emergency Response (AADMER) and the ASEAN Coordinating Centre for Humanitarian

Assistance (AHA Centre) are commendable, but gaps also remain, where humanitarian protection within the framework of IHL remains a task to be accomplished, as the previous mechanisms remain primarily focused on disaster relief as opposed to humanitarian protection. ASEAN's responsiveness to complex humanitarian situations is significantly limited by its non-binding obligations for conflict-related emergencies, lack of enforcement authority to act quickly, and the prevailing norm of non-interference.

Furthermore, while ASEAN's existing legal instruments and institutional mechanisms are generally aligned in symbolism with humanitarian ideals, there have been few enforcement deliverables in terms of interventions in situations of egregious human rights violations or that violate the law of armed conflicts (LOAC) or International Humanitarian Law (IHL). Indeed, bodies such as the ASEAN Intergovernmental Commission on Human Rights (AICHR) still operate on a very limited mandate without investigatory powers and legal authority to ensure accountability.

It nonetheless identifies a new set of opportunities for ASEAN to rebrand itself as a more credible humanitarian actor. A practical understanding of the aforementioned issues, coupled with regional engagement with international humanitarian actors, such as the ICRC, UNHCR, and OCHA, to further promote civic engagement and increase youth voices, will lay the groundwork for building a new ASEAN humanitarian agenda from the ground up. In their greater integration into ASEAN's institutional DNA, such alliances would create capacity-building, law harmonization, and norm generation.

Should ASEAN pursue its vision of becoming a "people-oriented, people-centered" community, it will have to go beyond rhetoric and make structural adjustments consonant with the moral demands of International Humanitarian Law. These include reimagining the roles of its existing institutions, reaffirming legal obligations, consolidating civil society, and fostering greater regional solidarity.

In conclusion, ASEAN stands at a crossroads where it can either maintain a traditional, state-centric concept of sovereignty or move towards an enlightened, humanitarian-based regionalism. The capacity to bridge this divide will either seal or destroy the organization's credibility and value in addressing the humanitarian concerns of the 21st century.

## Recommendations

### 1. **Extend the Scope of the AADMER and AHA Centre**

Expand the legal framework of AADMER to cover humanitarian crises stemming from armed conflict and violence, so that the AHA Centre can coordinate relief and monitoring efforts beyond the realm of natural disasters.

### 2. **Investigatory Power to AICHR**

AICHR must revise its checkbook. Following up on the agenda of the promotion of the respect for human rights in Asia, reforming the ToR of AICHR includes fact-finding and public reporting functions. This would contribute to enhancing ASEAN's role in promoting IHL and responding to gross human rights violations.

### 3. **This mechanism should be designed to promote adherence to IHL.**

Establish a regional reporting and evaluation mechanism whereby ASEAN member states voluntarily report against their IHL commitments and progress, modeled on the UN UPR system.

4. **Mainstreaming and Institutionalization of IHL Education and Training**  
Engage with the ASEAN University Network, law faculties, and defense colleges to help integrate IHL into legal and security curricula. This would ensure long-term capacity building as well as norm diffusion.
5. **Enhance Interaction with International Humanitarian Actors**  
Enhance interaction with the ICRC, UNHCR, and OCHA to access their technical expertise, funding, and logistical support in order to enable humanitarian activities and legal growth.
6. **Enable Youth and Civil Society to Engage in Policymaking**  
ASEAN should institutionalize platforms for input from youth and NGOs to inform policy dialogue, programmatic design, and IHL monitoring at national and regional levels.
7. **Promoting the ratification and implementation of IHL instruments**  
Encourage all ASEAN members to ratify and implement the Geneva Conventions and Additional Protocols and to integrate them into their domestic legal systems.

Through institutional reforms, greater connectivity with civil society, and a renewed commitment to humanitarian norms, not only can ASEAN reframe its role from bystander to dynamic promoter of International Humanitarian Law, it can further both regional stability and the global system.

## REFERENCES

- AHA Centre, n. d. (n.d.). *AHA Centre. (n.d.). About the AHA Centre*. Retrieved April 8, 2025, from <https://ahacentre.org/about-us/>
- AICHR. (2020). *ASEAN Intergovernmental Commission on Human Rights (AICHR). (2020). Five-Year Work Plan 2021–2025*. . <https://aichr.org>
- ASEAN. (2007). *ASEAN. (2007). ASEAN Charter*. <https://asean.org/wp-content/uploads/images/archive/publications/ASEAN-Charter.pdf>
- ASEAN. (2009). *ASEAN. (2009). ASEAN Political-Security Community Blueprint*. <https://asean.org/wp-content/uploads/2012/05/2.-April-2009-APSC-Blueprint.pdf>
- ASEAN. (2015). *ASEAN Integration Report 2015*. <https://asean.org/asean-integration-report-2015/>
- Bellamy, A. J., & Williams, P. D. (2005). The Responsibility to Protect and the Crisis in Darfur. *Security Dialogue*, 36(1), 27–47. <https://doi.org/10.1177/0967010605054649>
- Caballero-Anthony, M. (2008). Non-Traditional Security and Multilateralism in Asia: Reshaping the Contours of Regional Security Architecture? In *International Relations of Asia* (pp. 273–290). Rowman & Littlefield. <https://rowman.com/ISBN/9780742555334>
- Chin, J. (2017). Civil Society and the Promotion of Human Rights in Southeast Asia. *Southeast Asian Affairs*, 2017(1), 71–84. <https://muse.jhu.edu/article/654063>

- Davies, M. (2013). *Human Rights in ASEAN: Setting Sail or Treading Water?* Edward Elgar Publishing.  
<https://doi.org/10.4337/9781781953648>
- Emmers, R. (2005). Regional Hegemonies and the Exercise of Power in Southeast Asia: A Study of Indonesia and Vietnam. *Asian Survey*, 45(4), 645–665.  
<https://doi.org/10.1525/as.2005.45.4.645>
- Fleck. (2013). The Handbook of International Humanitarian Law (3rd ed.). *Oxford University Press*. <https://www.pbookshop.com/the-handbook-of-international-humanitarian-law-3rd-edition-9780199658800.html>
- Goh, G. (2003). The ‘ASEAN Way’: Non-Intervention and ASEAN’s Role in Conflict Management. *Stanford Journal of East Asian Affairs*, 3(1), 113–118.  
<https://ceas.stanford.edu/sites/default/files/documents/Goh.pdf>
- Henckaerts, J.-M., & Doswald-Beck, L. (2005). *Customary International Humanitarian Law (Vols. I and II)*. Cambridge University Press.  
<https://www.icrc.org/en/doc/assets/files/other/customary-international-humanitarian-law-i-icrc-eng.pdf>
- Huxley, T. (2000). ASEAN and Regional Peacekeeping in East Timor. *The Pacific Review*, 13(3), 365–385.  
<https://doi.org/10.1080/09512740050147814>
- ICRC. (2019). *ASEAN and International Humanitarian Law: Emerging Trends and Legal Cooperation*.  
<https://www.icrc.org/en/document/asean-and-ihl>
- ICJ. (2012). *ICJ Annual Report 2012*. <https://www.icj.org/resource/icj-annual-report-2012-now-online/>
- ICRC. (2020). *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts*. [https://www.icrc.org/sites/default/files/media\\_file/2024-10/4810\\_002\\_CH%203.pdf](https://www.icrc.org/sites/default/files/media_file/2024-10/4810_002_CH%203.pdf)
- ICRC. (2021). *International Committee of the Red Cross (ICRC). (2021). What is International Humanitarian Law?* <https://www.icrc.org/en/document/what-international-humanitarian-law>
- ICRC. (2024). *ADVISORY SERVICE What is International Humanitarian Law?*
- Mahmood, M. (2018). The ASEAN Way and the Rule of Law. *Asian Journal of International Law*, 8(2), 329–354.  
<https://doi.org/10.1017/S204425131700023X>
- Nasu, H. (2009). Humanitarian Protection in East Asia: Trends and Prospects. *The Pacific Review*, 22(4), 421–443.  
<https://doi.org/10.1080/09512740903143042>
- OCHA. (2020). *Asia and the Pacific: Regional Humanitarian Snapshot*. <https://reliefweb.int/report/world/asia-and-pacific-regional-humanitarian-snapshot-january-2020>

- Ramcharan, B. G. (2002). ASEAN and Human Rights: The Long Road Ahead. *Human Rights Quarterly*, 24(2), 523–547.  
<https://doi.org/10.1353/hrq.2002.0024>
- Sassòli, M. (2019). *International Humanitarian Law: Rules, Controversies, and Solutions to Problems Arising in Warfare*. Edward Elgar Publishing.  
<https://doi.org/10.4337/9781786438553>
- Severino, R. (2006). *Southeast Asia in Search of an ASEAN Community*. ISEAS Publishing.  
<https://bookshop.iseas.edu.sg/publication/1624>
- Snyder, J. (2011). Realism, Failed States, and Humanitarian Intervention. *International Studies Quarterly*, 55(2), 304–326.  
<https://doi.org/10.1111/j.1468-2478.2011.00648.x>
- Sukma, R. (2011). Indonesia's Foreign Policy and the Dilemma of Regional Order. *Southeast Asian Affairs*, 2011, 29–38.  
<https://www.jstor.org/stable/27913337>
- Tan, E. K. (2014). ASEAN and the Human Rights Discourse in Southeast Asia. *Human Rights Quarterly*, 36(3), 687–703.  
<https://doi.org/10.1353/hrq.2014.0041>
- Thio, L. A. (1999). Implementing Human Rights in ASEAN Countries: 'Promises to Keep and Miles to Go Before I Sleep'. *Yale Human Rights & Development Law Journal*, 2, 1–86.  
<https://digitalcommons.law.yale.edu/yhrdlj/vol2/iss1/1>
- UNHCR. (2020). *Rohingya Emergency*.  
<https://www.unhcr.org/rohingya-emergency.html>
- United Nations Youth Strategy. (2018). *Youth 2030: Working with and for Young People*.  
<https://www.un.org/youthenvoy/youth-un/>
- Welsh, B. (2013). ASEAN and Human Rights: Normative Patterns and Regional Dynamics. *Contemporary Southeast Asia*, 35(3), 385–409.  
<https://doi.org/10.1355/cs35-3e>