

Human Rights in the Asia-Pacific Region

Towards institution building

Edited by

Hitoshi Nasu and Ben Saul



Routledge Research in Human Rights Law

Human Rights in the Asia-Pacific Region

Towards institution building

**Edited by Hitoshi Nasu
and Ben Saul**



First published 2011
by Routledge
2 Park Square, Milton Park, Abingdon, Oxon, OX14 4RN

Simultaneously published in the USA and Canada
by Routledge
711 Third Avenue, New York, NY 10017

Routledge is an imprint of the Taylor & Francis Group, an informa business

© 2011 editorial matter and selection: Hitoshi Nasu and Ben Saul,
individual chapters: the contributors.

The right of Hitoshi Nasu and Ben Saul to be identified as the authors of
the editorial material, and of the authors for their individual chapters, has
been asserted in accordance with sections 77 and 78 of the Copyright,
Designs and Patents Act 1988.

All rights reserved. No part of this book may be reprinted or reproduced
or utilised in any form or by any electronic, mechanical, or other means,
now known or hereafter invented, including photocopying and recording,
or in any information storage or retrieval system, without permission in
writing from the publishers.

Trademark notice: Product or corporate names may be trademarks or
registered trademarks, and are used only for identification and
explanation without intent to infringe.

British Library Cataloguing in Publication Data

A catalogue record for this book is available from the British Library

Library of Congress Cataloguing in Publication Data

Human rights in the Asia-Pacific region : towards institution building /
[edited by] Hitoshi Nasu, Ben Saul.

p. cm. — (Routledge research in human rights law)

ISBN 978-0-415-60254-9 (hardback)

1. Human rights—Asia. 2. Human rights—Pacific Area. 3. National
human rights institutions—Asia. 4. National human rights institutions—
Pacific Area. I. Nasu, Hitoshi. II. Saul, Ben.

KM572.H86 2011

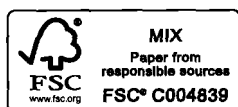
341.4'8095--dc22

2011003142

ISBN13: 978-0-415-60254-9 (hbk)

ISBN13: 978-0-203-81572-4 (ebk)

Typeset in Baskerville
by Keystroke, Station Road, Codsall, Wolverhampton



Printed and bound in Great Britain by
CPI Antony Rowe, Chippenham, Wiltshire

Acknowledgements

This book originated at the International Conference on Human Rights in the Asia-Pacific Region: Towards Institution Building on 27–28 November 2009 held at the Faculty of Law, The University of Sydney. The Conference was jointly hosted by the Australian Network for Japanese Law <<http://sydney.edu.au/law/anjel/>>, the Sydney Centre for International Law at Sydney Law School <<http://sydney.edu.au/law/scil/>> and the Centre for Asian and Pacific Law at the University of Sydney <<http://sydney.edu.au/law/caplus/>>, in partnership with the Australian Human Rights Centre at the Faculty of Law, The University of New South Wales <<http://www.ahrcentre.org/>>. Generous financial support was provided for the Conference by Japan Foundation Global Program for Intellectual Exchange Conferences and by the Sydney Law School. We are grateful to those institutions for supporting the initiative which led to this book.

We also thank the Sydney Centre for International Law for its support in the production of this book, particularly the Centre's Administrator, Amber Colhoun; its Student Editors (Fayzan Bakhtiar, Melanie Brown, Jesse Buckingham, Martin Bernhaut, Jennifer Chen, Corey Karaka, Nikila Kaushik, Greg Mikkelsen, Patrick Weller and Chadwick Wong); and its Interns (Emily Christie, Emma Hunt, Nithya Ramesh and Andrew Yeoum). Ben Saul especially thanks his research assistant, Naomi Hart, for her meticulous work. Finally, we thank the anonymous referees of this book for their insights and suggestions.

Hitoshi Nasu, Canberra

Ben Saul, Sydney

October 2010

Abbreviations

| | |
|--------|----------------------------------------------------------------------------------------------------------------|
| ACJ | Advisory Council of Jurists of the Asia Pacific Forum of National Human Rights Institutions |
| ACMW | ASEAN Committee on the Implementation of the Declaration on the Rights of Migrant Workers |
| ACW | ASEAN Committee on Women |
| ACWC | ASEAN Commission of the Promotion and Protection of the Rights of Women and Children |
| AICHR | ASEAN Intergovernmental Commission on Human Rights |
| ALMM | ASEAN Labour Ministerial Meeting |
| AMM | ASEAN Ministerial Meeting |
| ANNI | Asian Network of National Institutions for the Promotion and Protection of Human Rights |
| APEC | Asia Pacific Economic Cooperation |
| APF | Asia Pacific Forum of National Human Rights Institutions |
| APT | Association for the Prevention of Torture |
| ARF | ASEAN Regional Forum |
| ASEAN | Association of Southeast Asian Nations |
| AU | African Union |
| CAT | Convention against Torture |
| CEDAW | Convention on the Elimination of All Forms of Discrimination against Women |
| CERD | Committee on the Elimination of Racial Discrimination |
| CPRD | Convention on the Rights of Persons with Disabilities |
| CRC | Convention on the Rights of the Child |
| CSO | Civil society organizations |
| ECHR | European Convention on Human Rights |
| ICC | International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights |
| ICCPR | International Covenant on Civil and Political Rights |
| ICERD | International Convention on the Elimination of Racial Discrimination |
| ICESCR | International Covenant on Economic, Social and Cultural Rights |
| ICJ | International Court of Justice |

| | |
|--------|---------------------------------------------------------------------------------|
| ICRC | International Committee of the Red Cross |
| ICRMW | International Convention on the Protection of the Rights of All Migrant Workers |
| IDP | Internally displaced persons |
| ILO | International Labor Organization |
| IOM | International Organization for Migration |
| MNC | Multinational corporation |
| NGO | Non-governmental organization |
| NHRI | National Human Rights Institution |
| NPM | National preventive mechanism |
| OAS | Organization of American States |
| OAU | Organization for African Unity |
| OHCHR | Office of the High Commissioner for Human Rights |
| OPCAT | Optional Protocol to the Convention against Torture |
| OSCE | Organization for Security and Cooperation in Europe |
| PIF | Pacific Islands Forum |
| SAARC | South Asian Association for Regional Cooperation |
| SAR | Special Administrative Region |
| SCO | Shanghai Cooperation Organization |
| SLOM | ASEAN Senior Labour Officials Meetings |
| TF-AMW | Task Force – ASEAN Migrant Workers |
| UDHR | Universal Declaration on Human Rights |
| UN | United Nations |
| UNDP | United Nations Development Program |
| UNIFEM | United Nations Development Fund for Women |
| UPR | Universal Periodic Review |
| VAP | Vientiane Action Plan |

Treaties and other international instruments

Treaties

African Charter on Human and Peoples' Rights, opened for signature 27 June 1981, 1520 UNTS 217 (entered into force 21 October 1986)

African Charter on the Rights and Welfare of the Child, opened for signature 11 July 1990, OAU Doc. CAB/LEG/24.9/49 (1990) (entered into force 29 November 1999).

American Convention on Human Rights, opened for signature 22 November 1968, 1144 UNTS 123 (entered into force 18 July 1978).

Arab Charter on Human Rights, opened for signature on 22 May 2004, *International Human Rights Reports*, 12, 2005, 893 (entered into force 15 March 2008).

Charter of the Association of Southeast Asian Nations, opened for signature 20 November 2007 (entered into force 15 December 2008), available at <<http://www.aseansec.org/21069.pdf>> ('ASEAN Charter').

Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted 10 December 1984, 1465 UNTS 85 (entered into force 26 June 1987) ('CAT').

Convention for the Protection of Human Rights and Fundamental Freedoms, opened for signature 4 November 1950, CETS No. 5 (entered into force 3 September 1953) ('ECHR').

Convention on the Elimination of All Forms of Discrimination against Women, adopted 18 December 1979, opened for signature 1 March 1980, 1249 UNTS 13 (entered into force 3 September 1981).

Convention on the Rights of Persons with Disabilities, adopted 13 December 2006, GA Res. 61/106 (2007), opened for signature 30 March 2007 (entered into force 3 May 2008) ('CPRD').

Convention on the Rights of the Child, adopted 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990).

Convention Relating to the Status of Refugees, opened for signature 28 July 1951, 189 UNTS 150 (entered into force 22 April 1954).

Cultural Charter for Africa, opened for signature 5 July 1976 (entered into force 19 September 1990).

- European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, adopted 26 November 1987, ETS No. 126 (entered into force 1 February 1989).
- European Convention on the Legal Status of Migrant Workers, opened for signature 24 November 1977, CETS No. 93 (entered into force 1 May 1983).
- European Framework Convention on the Protection of National Minorities, opened for signature 1 February 1995, CETS No. 157 (entered into force 1 February 1998).
- European Social Charter, opened for signature 18 October 1961, CETS No. 35 (entered into force 26 February 1965).
- Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949, opened for signature 12 August 1949, 75 UNTS 31 (entered into force 21 October 1950).
- Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of August 12, 1949, opened for signature 12 August 1949, 75 UNTS 85 (entered into force 21 October 1950).
- Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949, opened for signature 12 August 1949, 75 UNTS 135 (entered into force 21 October 1950).
- Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949, opened for signature 12 August 1949, 75 UNTS 287 (entered into force 21 October 1950).
- Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities, opened for signature 6 August 1999, AG/Res. 1068 (XXIX-O/99) (entered into force 14 September 2001).
- Inter-American Convention on the Forced Disappearance of Persons, opened for signature 9 June 1994, 33 ILM 1529 (entered into force 28 March 1996).
- Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, opened for signature 9 June 1994, 33 ILM 1534 (entered into force 5 March 1995).
- Inter-American Convention to Prevent and Punish Torture, opened for signature 9 December 1985, OAS Treaty Series No. 67 (entered into force 28 February 1987).
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted 18 December 1990, 2220 UNTS 3 (entered into force 1 July 2003).
- International Covenant on Civil and Political Rights, opened for signature 19 December 1966, 999 UNTS 171 (entered into force 23 March 1976) ('ICCPR').
- International Covenant on Economic, Social and Cultural Rights, opened for signature 19 December 1966, 993 UNTS 3 (entered into force 3 January 1976) ('ICESCR').
- International Convention for the Protection of All Persons from Enforced Disappearances, adopted 12 January 2007, GA Res. 61/177 (2007) (not yet in force).

- International Convention on the Elimination of All Forms of Racial Discrimination, opened for signature 7 March 1966, 660 UNTS 195 (entered into force 4 January 1969).
- Migrant Workers (Supplementary Provisions) Convention, opened for signature 24 June 1945, ILO C143 (entered into force 9 December 1978).
- Migration for Employment Convention, opened for signature 1 July 1949, ILO C097 (entered into force 22 January 1952).
- OAU Convention Governing Specific Aspects of Refugee Problems in Africa, opened for signature 10 September 1969, 1001 UNTS 45 (entered into force 20 June 1974).
- Optional Protocol to the Convention Against Torture, opened for signature 4 February 2003, 2375 UNTS 237 (entered into force 22 June 2006) ('OPCAT').
- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, adopted 6 October 1999, 2131 UNTS 83 (entered into force 22 December 2000).
- Optional Protocol to the Convention on the Rights of Persons with Disabilities, adopted 13 December 2006, GA Res. 61/106 (2006), opened for signature 30 March 2007 (entered into force 3 May 2008).
- Optional Protocol to the International Covenant on Civil and Political Rights, opened for signature 19 December 1966, 999 UNTS 171 (entered into force 23 March 1976).
- Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, adopted 10 December 2008, GA Res. 63/117 (2009), opened for signature 24 September 2009 (not yet in force).
- Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts, opened for signature 8 June 1977 1125 UNTS 3 (entered into force 7 December 1978).
- Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts, opened for signature, 12 December 1977, 1125 UNTS 609 (entered into force 7 December 1978).
- SAARC Convention on Combating and Prevention of Trafficking in Women and Children for Prostitution, adopted 5 January 2002, available at: <<http://www.saarc-sec.org/userfiles/conv-traffiking.pdf>>.
- SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia, adopted 5 January 2002, available at: <<http://www.saarc-sec.org/userfiles/conv-children.pdf>>.
- Statute of the Council of Europe, adopted 5 May 1949, ETS No. 1 (entered into force 3 August 1949).
- Vienna Convention on the Law of Treaties, opened for signature 23 May 1969, 1155 UNTS 331 (entered into force 27 January 1980)

Other international instruments

Bangkok Declaration on Irregular Migration, adopted at the International Symposium on Migration, held in Bangkok, 21–23 April 1999, available at: <<http://www.smc.org.ph/rights/bangkok.htm>> ('1999 Bangkok Declaration')

Cha-Am Hua Hin Declaration on the Intergovernmental Commission on Human Rights, adopted by the ASEAN Heads of State and Governments at the 15th ASEAN Summit in Thailand, 23 October 2009.

Final Declaration of the Regional Meeting for Asia of the World Conference on Human Rights, UN Doc. A/CONF.157/ARSM/8-A/CONF.157/PC/59 (1993) ('1993 Bangkok Declaration')

Kuala Lumpur Declaration on the Establishment of the ASEAN Charter, adopted 12 December 2005, available at: <<http://www.aseansec.org/18030.htm>>.

Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights, GA Res. 48/134 (1993) ('Paris Principles')

Terms of Reference of ASEAN Intergovernmental Commission on Human Rights, adopted in 2009, available at: <<http://www.aseansec.org/DOC-TOR-AHRB.pdf>>.

Universal Declaration of Human Rights, GA Res. 217A (III) (1948).

Vienna Declaration and Programme of Action: Report of the World Conference on Human Rights, UN Doc. A/CONF.157/23 (1993).

Vientiane Action Programme (VAP) 2004–10, adopted at Vientiane, Lao PDR, 30 November 2004, available at: <<http://www.aseansec.org/VAP-10th%20ASEAN%20Summit.pdf>>.

Notes on contributors

Editors

Hitoshi Nasu is a lecturer at the ANU College of Law, the Australian National University, teaching international law, international security law, international humanitarian law, migration law and military operations law in the ANU College of Law military law program. He is also a deputy director of the Australian Network for Japanese Law (ANJeL). He holds Bachelor and Masters degrees in political science from Aoyama Gakuin University and a Masters degree and a PhD in law from the University of Sydney. He is the author of *International Law on Peacekeeping: A Study of Article 40 of the UN Charter* (Martinus Nijhoff, 2009).

Ben Saul is an Associate Professor and Co-Director of the Sydney Centre for International Law at the University of Sydney, and a barrister. He has published five books, 50 book chapters or journal articles and 150 other publications, and delivered over 150 scholarly seminars and other public presentations. Ben has taught law at Oxford, Sydney, UNSW, and in China, India and Cambodia, and conducted training programmes for Iraq, Kuwait, Algeria, Laos, Nepal, Bhutan, Korea and the Philippines. He has been involved in human rights cases in South Africa, Peru, Bangladesh, Indonesia, Israel, Macedonia, Fiji and the United States (including Guantanamo Bay), including before the International Criminal Tribunal for the Former Yugoslavia, the UN Human Rights Committee and the Inter-American Court of Human Rights. Ben is a member of the International Law Association's Committee for the Compensation of Victims of Armed Conflict and President of the Refugee Advice and Casework Service. He has a doctorate in law from Oxford University, and honours degrees in Arts and Law from the University of Sydney.

Other contributors

Nisuke Ando is Emeritus Professor of Law at Kyoto University and the Director of Kyoto Human Rights Research Institute. He was formerly Professor of Law at Doshisha University (1998–2006), Kyoto University (1990–98), and Kobe University (1981–90). He is also a member of the Permanent Court of

Arbitration, a judge of the IMF Administrative Tribunal, and a *membre titulaire* of the *Institut de droit international*. He served as a member of the UN Human Rights Committee from 1987 until 2006 and as President of the Committee in 1993–94. His major publications include *Surrender, Occupation, and Private Property in International Law* (Oxford University Press, 1991); *Japan and International Law – Past, Present & Future* (Kluwer Law International, 1999); and *Towards Implementing Universal Human Rights* (Martinus Nijhoff, 2004).

Irene Baghoomians is a lecturer at the University of Sydney Law School and teaches international law, international human rights law and international human rights advocacy. For over a decade, she has worked in the areas of public interest and human rights litigation, policy and research. She graduated from Sydney Law School in 1994 and has worked at the Australian Law Reform Commission, the Department of the Prime Minister and Cabinet, and prior to her departure for New York was a legal policy adviser at the Race Discrimination Unit of the Australian Human Rights Commission (1998–2000). In New York, she studied for an LL.M. at Columbia University Law School (2000–01), was designated as a human rights fellow and upon graduation was granted a second human rights fellowship which she spent at the Centre for Constitutional Rights (CCR) – a non-profit legal and educational organization dedicated to protecting and advancing the rights enshrined in the US Constitution and the UDHR. At CCR, she worked on human rights cases litigated under the Alien Torts Claims Act and civil rights statutes including Guantanamo Bay detainee cases until her return to Australia in 2004.

Surya Deva is an Associate Professor and LL.B. Programme Leader at the School of Law, City University of Hong Kong. He holds BA (Hons), LL.B. and LL.M. degrees from the University of Delhi and a PhD from the University of Sydney, and has taught previously at the Faculty of Law, University of Delhi and at the National Law Institute University, Bhopal. His primary research interests lie in Corporate Social Responsibility, Indo-Chinese Constitutional Law, International Human Rights, Globalization and Sustainable Development. He recently prepared a report entitled ‘Corporate Abuse and Human Rights: Access to Justice in the People’s Republic of China’ for the International Commission of Jurists. Surya is member of a research team that has been awarded a competitive grant by the Norwegian Research Council on ‘Sustainable Companies: How to Make Companies Contribute Effectively to Mitigate Climate Change?’. He is also the Faculty Editor of the *City University of Hong Kong Law Review*.

Andrea Durbach is an Associate Professor and Director of the Australian Human Rights Centre at the Faculty of Law, University of New South Wales. She was educated in South Africa where she practised as a political trial lawyer and human rights advocate before moving to Sydney in 1989. After working for a large Sydney law firm, she joined the Public Interest Advocacy Centre, an independent litigation and policy institute, as Head of Legal Practice and subsequently Director, for 13 years. Andrea has held a number of appointments

including part-time commissioner of the NSW Law Reform Commission, part-time member of the Administrative Decisions Tribunal, secretary of the Human Rights Council of Australia and board member of the Diplomacy Training Program. She is currently a member of the board of the NSW Legal Aid Commission, the editorial board of the *Australian Journal of Human Rights*, and member of the Advisory Council of Jurists of the Asia-Pacific Forum of National Human Rights Institutions (APF). Her research focuses on access to justice and public interest litigation; the implementation of economic, social and cultural rights; reparations and the Stolen Generations; and the role and impact of national human rights institutions in the Asia-Pacific region (the subject of a three-year Australian Research Council funded project with the APF).

Naomi Hart is a final year Arts/Law student at the University of Sydney, having undertaken Honours and received the Medal for History. She has been an intern for the Sydney Centre for International Law, where her research focused on compensation to the Stolen Generations, peacekeeping in the Pacific and constitution-writing in Nepal. She is currently undertaking a placement at the Australian Human Rights Commission, having previously worked at Redfern Legal Centre and the Women's Domestic Violence Court Assistance Scheme. She has contributed to the *Australian Year Book of International Law*, *Australian Journal of Human Rights*, *Australasian Journal of American Studies* and *Indigenous Law Bulletin*. She is currently on the editorial committee of *Sydney Law Review* and is Research Assistant to Dr Ben Saul.

Susan Kneebone is a Professor of Law and Deputy Director of the Castan Centre for Human Rights Law at the Faculty of Law, Monash University, Victoria, Australia. She teaches Forced Migration and Human Rights, International Refugee Law and Practice, and Citizenship and Migration Law. She has organized several conferences and workshops on these issues, made submissions to public enquiries and frequently handles media enquiries. She is the author of many articles on these issues and editor of several books, including *Refugees, Asylum Seekers, and the Rule of Law: Comparative Perspectives* (Cambridge University Press, 2009); *New Regionalism and Asylum Seekers: Challenges Ahead* (Berghahn, 2007 – with F Rawlings-Sanaei); and *The Refugees Convention 50 Years On: Globalisation and International Law* (Ashgate, 2003). She is also a Chief Investigator on two Australian Research Council projects: *Delivering Effective Protection to Victims and Prevention of Human Trafficking in the Greater Mekong Sub-Region* with Dr Sallie Yea as a Senior Research Associate; and *Law, Governance and Regulation of Intra-regional Labour Migration in South East Asia: An Agenda for Protection and Development*.

Sarah McCosker is a Principal Legal Officer in the Office of International Law at the Commonwealth Attorney-General's Department, where she works in the International Security and Human Rights Branch as head of the International Human Rights Section. Her fields of specialization in international law include international dispute settlement, international human rights law and humanitarian law. She has Honours degrees in Arts and Law from the University of

Queensland, and two Masters degrees and a doctorate from the University of Oxford. Her doctorate was on 'Law and Diplomacy in International Dispute Settlement'. At Oxford she taught public international law to undergraduate students and to diplomats on the Oxford Foreign Service Programme, and was Assistant Dean of Brasenose College. She also served as Associate Editor and then Editor of the *Oxford University Commonwealth Law Journal*, and coordinated Oxford Pro Bono Publico, Oxford's group undertaking pro bono public interest law work. She also previously worked in London at the Law Commission for England and Wales.

Jacqueline Mowbray is a lecturer in the Faculty of Law at the University of Sydney. She also teaches on the European Regional Masters in Democracy and Human Rights at the Universities of Sarajevo and Bologna. Her research focuses primarily on international law and legal theory, with a particular emphasis on international human rights law. In particular, she has published on issues concerning economic, social and cultural rights, including rights to food and language. Jacqueline is a graduate of the Universities of Queensland (BA/LLB (Hons)), Melbourne (LLM) and Cambridge (LLM (Hons)), and in 2008, she completed her PhD at the University of Cambridge, using the theoretical framework of Pierre Bourdieu to examine questions of international law and language policy. She is admitted to legal practice in Victoria and in England and Wales, and is presently an academic barrister at the New South Wales Bar.

Wim Muller is a researcher and PhD candidate at the European University Institute in Florence, Italy. After studying history and law at Leiden University in the Netherlands, he worked for the Dutch section of the International Commission of Jurists, lectured in public international law at the universities of Leiden and Amsterdam, and served as counsel for Bosnia and Herzegovina in its cases before the International Court of Justice. He was a senior researcher at the Human Rights Centre of the University of Essex in a project aimed at combating torture in the People's Republic of China before moving to Florence, where he is now working on a doctoral thesis on the impact of the rise of China on public international law, in particular the law on the protection of individuals. He was formerly a member of the editorial board of the *Leiden Journal of International Law* and is currently Editor-in-Chief of the *European Journal of Legal Studies*.

Irene Pietropaoli works in Bangkok as a consultant for the legal programme of End Child Prostitution, Child Pornography and Trafficking in Children for Commercial Purposes (ECPAT) International. Previously she worked as a human rights lawyer, with a focus on women and children issues for a number of NGOs and international organizations in Lao PDR, Nepal, Costa Rica, Bolivia and Spain. She has a LLM in International Human Rights Law from the Irish Centre for Human Rights, National University of Ireland and a JD from the University La Sapienza of Rome. She has published several journal articles on gender and human rights issues.

Catherine Renshaw is a Research Fellow in the Faculty of Law, The University of New South Wales. Since 2008, she has been the director of a three-year project based in the Faculty: 'Building Human Rights in the Region through Horizontal Transnational Networks: the Role of the Asia Pacific Forum of National Human Rights Institutions'. Catherine has degrees in Arts and Law from the Universities of Sydney and New South Wales and a Masters of Law from the University of Sydney. She is admitted to practice as a solicitor in the Supreme Court of New South Wales and the High Court of Australia and has worked in private practice at Allen, Allen and Hemsley and Sparke Helmore Solicitors, as well as in the Civil Law Section of the Legal Aid Commission of New South Wales, where she specialized in anti-discrimination law. From 2003 until 2007 she held a lecturing position at the University of Newcastle.

Shigeki Sakamoto is a member of the UN Human Rights Council Advisory Committee and Professor of International Law at the Graduate School of Law, Kobe University. He is also a member of the International Committee on 'Non-State Actor' in the International Law Association and an editor of the *Japanese Year Book of International Law*. Formally he served as the President of the Japanese Association of International Human Rights Law. He has been writing widely in the area of international human rights law. His recent publications in human rights law include *Introduction to International Human Rights Law* (Shinzansha, 2008); *International Human Rights and Constitution* (Shinzansha, 2007); and *International Instruments on Human Rights* (3rd edn, Toshindo, 2005).

Ivan Shearer is Emeritus Professor of Law at the University of Sydney. He is also Adjunct Professor of Law at the University of South Australia, Adelaide. He was formerly Challis Professor of International Law at the University of Sydney 1993–2003, and Professor of Law at the University of New South Wales 1975–92. He has served as a visiting professor at the United States Naval War College, and at Indiana University, Bloomington. From 2001 until 2008 he was a Member of the UN Human Rights Committee and Vice-President, 2007–08. Professor Shearer has served as a judge ad hoc in the International Tribunal for the Law of the Sea on two occasions, and as an arbitrator under Annex VII of the United Nations Convention on the Law of the Sea in three cases. He is a former president of the International Law Association, Australian Branch. His principal research interests are the law of the sea, international law and the use of force, international criminal law, international humanitarian law and human rights.

Tan Hsien-Li is the Asian Society of International Law Research Fellow at the Faculty of Law, National University of Singapore. Her first book, *The ASEAN Inter-Governmental Commission on Human Rights: Institutionalising Human Rights in Southeast Asia*, is forthcoming from Cambridge University Press. From 2007 to 2008, Hsien-Li was an APIC Ushiba Memorial ASEAN Fellow researching Japan's human security foreign policy and its impact on Southeast Asia. She is also the NUS representative to the ASEAN Universities Network-Human

Rights Education Network (AUN-HREN) and a key member of the NGO Singapore Working Group for the Establishment of an ASEAN Human Rights Mechanism (MARUAH). Hsien-Li's research interests are public international law, human rights, humanitarian law, peace and development and non-traditional security studies in East Asia.

Mimi Zou is a Research Fellow at the Netherlands School of Human Rights Research. She is the project coordinator of a research partnership with the Chinese Academy of Social Sciences Institute of International Law and Shandong University Human Rights Research Centre. She also teaches undergraduate and postgraduate classes in international human rights law and comparative constitutional law at Utrecht University. Prior to this role, Mimi has had extensive experience working in China and the Asia-Pacific as a lawyer and legal consultant for a number of law firms and international organizations. She holds first class honours degrees in law, economics and social science from the University of Sydney. She is currently a BCL/MPhil candidate at the University of Oxford.

Tom Zwart is Professor of Human Rights at the Faculty of Law, Economics and Governance of Utrecht University. He is also Director of the Netherlands School of Human Rights Research, which was established by five leading Dutch universities and consists of around 200 researchers from diverse disciplines. He specializes in human rights protection and promotion in Asia and Africa, the relationship between international criminal law and local peace and justice initiatives, and human rights and traditional values. He has been a visiting scholar at numerous law schools around the world including Cambridge, Sciences-Po, Tsinghua, Chinese People's Public Security University, Sydney, Melbourne and the Australian National University. He has advised national and international governmental bodies on human rights, including the EU, the Council of Europe and the UN Human Rights Council. Prior to taking up his position at Utrecht, he served as Head of the European and Legal Affairs Department of the Dutch Home Office, and as senior counsel to the Dutch Deputy Prime Minister.

Contents

| | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|------|
| <i>Acknowledgements</i> | ix |
| <i>Abbreviations</i> | xi |
| <i>Treaties and other international instruments</i> | xiii |
| <i>Notes on contributors</i> | xvii |
| | |
| Introduction: regional integration and human rights monitoring institution | 1 |
| HITOSHI NASU | |
| | |
| PART I | |
| International institutions | 15 |
| | |
| 1. The engagement of Asia-Pacific states with the UN Human Rights Committee: reporting and individual petitions | 17 |
| IVAN SHEARER AND NAOMI HART | |
| | |
| 2. Human rights monitoring institutions and multiculturalism | 37 |
| NISUKE ANDO | |
| | |
| 3. Challenges to a human rights mechanism in the Asia-Pacific region: the experience of the Universal Periodic Review of the UN Human Rights Council | 49 |
| SHIGEKI SAKAMOTO | |