



# Revisiting Southeast Asian Regionalism



FOCUS on the  
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# Revisiting Southeast Asian Regionalism

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# Building Community

## *The Search for Alternative Regionalism in Southeast Asia*

JENINA JOY CHAVEZ

When the Association of Southeast Asian Nations (ASEAN) was formed in 1967, the original members did not have an *a priori* vision of what they wanted the Association to be. It would take another 30 years before the vision of an ASEAN Community<sup>1</sup> would emerge. ASEAN members are now preparing to flesh this out in an ASEAN Charter<sup>2</sup>.

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<sup>1</sup>ASEAN Leaders, “ASEAN Vision 2020”, (Jakarta: ASEAN Secretariat, 1997).

<sup>2</sup>An Eminent Persons Group (EPG) on the ASEAN Charter was formed in December 2005 to draft recommendations on the content of the Charter. The Solidarity for Asian People’s Advocacy (SAPA) Working Group on ASEAN made three submissions to the EPG in April, June and November 2006. In coordination with SAPA WG on ASEAN partners, seven national consultative processes on the Charter and on general issues of engagement with ASEAN were also held between September and November 2006. The complete set of submissions is included in this volume.

The ASEAN Charter has drawn a lot of interest among civil society and social movements who see the process as an opportunity to bring to the regional arena aspects of their advocacy that are regional in nature. Throughout 2006, many civil society groups expressed their aspirations for regionalism by submitting inputs to the Charter. Despite limited engagement with ASEAN in the past, the submissions were put together with relative ease because they are based on existing local, national and global advocacy.

It remains to be seen to what extent civil society input will be included in the Charter. ASEAN has largely been inaccessible to civil society, and is not known for initiatives that directly target broad sections of the ASEAN population. Many groups therefore question the value of engaging the ASEAN Charter process, or ASEAN itself.

The skepticism with ASEAN, however, is not generalized to the idea of regionalism and regional integration. Outside of Southeast Asia, there are many attempts at regional cooperation and integration. Recent examples from South America suggest that it may be possible to have “an integration of, and for, the peoples”.<sup>3</sup> This idea of alternative regionalism provides the motivation to engage ASEAN. Civil society’s approach to ASEAN should be the same as their approach to their government, because they lay as much claim to what it does in ASEAN as in their country. With ASEAN, two major weaknesses provide the starting point for engagement. First, ASEAN has failed to identify a clear vision to guide regional integration. Second, ASEAN has also failed to act appreciably on issues requiring regional response. Addressing these weaknesses would be the first step towards building a regional community.

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<sup>3</sup>Let’s construct a real Community of South American Nations in order to ‘live well.’ (Proposal from President Evo Morales to the head of states and people of South America, October 2, 2006). Available online: <http://www.integracionsolidaria.org>.

## INTEGRATION WITHOUT A CLEAR VISION

At 40, ASEAN is considered one of the most established regional groupings in the world. However, this staying power veils the absence of a clear vision for the region. ASEAN still has no strong identification with or articulation of regional interest despite its years. It has achieved success in cozy diplomatic relations that serves the interest and provides comfort to the political leadership of its members, but accomplishes little for its peoples. When it started to take economic cooperation seriously, objectives were limited to developing the region as a platform for third country exports and to attracting foreign investments into the region through trade liberalization. Broader objectives beyond opening up were left behind. Initial dreams of regional import substitution or the development of regional production bases were abandoned. Most regional initiatives cater to big business, but there were no projects directly targeting basic producers and workers. As a result, ASEAN has yet to establish itself as a popular concept, and failed to elaborate its rhetoric to popular consciousness.

In its first 25 years, political and security rather than economic cooperation had been ASEAN’s main focus. A voluntary preferential trading arrangement introduced in the late 1970s covered a measly two percent and five percent of intra-ASEAN trade in 1980 and 1986, respectively.<sup>4</sup> It was not until 1993 that a more comprehensive ASEAN Free Trade Area (AFTA)<sup>5</sup>, through the Common Effective Preferential Tariff (CEPT) Scheme, was established as the key economic project of ASEAN. AFTA’s goal is the complete abolition of tariffs for the ASEAN-6<sup>6</sup> by 2010 and 2015 for the

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<sup>4</sup>See Jenina Joy Chavez, “Economic Integration in ASEAN: In Need of another Miracle” in *Asian Exchange*, vol. 13 no.2, 1997 for a discussion of ASEAN’s early trade and economic integration initiatives.

<sup>5</sup>The next chapter, Rene Ofreneo’s “Neo-liberalism and the Working People of Southeast Asia”, gives a more detailed discussion of AFTA

<sup>6</sup>ASEAN-6 refers to Brunei, Indonesia, Malaysia, the Phil-

newer members, with flexibility on some sensitive products until 2018. To date, more than 99% of tariff lines in the inclusion list of ASEAN-6 are within the 0-5% range; almost two-thirds of which have 0% tariff. More notably, with the full inclusion of Malaysia's completely built-up and completely knocked-down automotive units in 2004, there are no more ASEAN-6 products temporarily excluded from the CEPT scheme.<sup>7</sup> A short list of highly sensitive agricultural products (e.g. rice for Indonesia, Malaysia and the Philippines) has until 2010 to be integrated in the trade arrangement. Average tariff for the ASEAN-6 under the CEPT Scheme is now down to 1.87%.<sup>8</sup>

Yet even with AFTA, there had been marginal increases in intra-ASEAN trade

ippines, Thailand and Singapore.

<sup>7</sup>ASEAN Secretariat, *ASEAN Annual Report 2003-2004* (Jakarta: ASEAN Secretariat, 2004).

<sup>8</sup>ASEAN Secretariat, *ASEAN Annual Report 2005-2006* (Jakarta: ASEAN Secretariat, 2006).

since the 1990s. Intra-ASEAN trade as a percentage of total ASEAN trade is 22.5% in 2004. Japan, the United States (US), the European Union (EU), China and Korea remain as ASEAN's largest trading partners, together accounting for more than 51% of ASEAN trade in 2003.<sup>9</sup> Though CEPT tariff levels are generally far lower than those committed by ASEAN Members to the World Trade Organization (WTO), intra-ASEAN trade is limited and the Association has not really paid attention to addressing this limitation. From its inception, AFTA was not seen as a vehicle to address the sluggish intra-ASEAN trade. Rather, it was designed to boost the competitiveness of ASEAN and to attract foreign investments into the region. The preferential nature of AFTA was not the main interest for ASEAN members. This is the reason why in some instances, WTO

<sup>9</sup>ASEAN Secretariat, *ASEAN Statistical Pocketbook 2005* (Jakarta: ASEAN Secretariat, 2005).

**Table 1a : Status of Free Trade Agreement in ASEAN Member Countries (As of September 2006)**

COUNTRY	UNDER NEGOTIATION				CONCLUDED			TOTAL
	Proposed a/	FA Signed/Under Negotiation b/	Under Negotiation c/	TOTAL	Signed d/	Under Implementation e/	TOTAL	
Cambodia	2	2	1	5	1	2	3	8
Indonesia	4	3	2	9	2	2	4	13
Lao PDR	2	2	1	5	1	4	5	10
Malaysia	5	3	5	13	2	3	5	18
Myanmar	2	3	1	6	1	2	3	9
Philippines	4	2	1	7	2	2	4	11
Singapore	5	2	8	15	2	11	13	28
Thailand	5	6	4	15	1	6	7	22
Vietnam	2	2	2	6	1	2	3	9
<b>TOTAL</b>	31	24	25	80	14	34	48	128

a/ parties are considering a free trade agreement, establishing joint study groups or joint task force, and conducting feasibility studies to determine the desirability of entering into an FTA

b/ parties initially negotiate the contents of a framework agreement (FA), which serves as a framework for future negotiations

c/ parties begin negotiations without a framework agreement

d/ parties sign the agreement after negotiations have been completed; some FTAs would require legislative or executive ratification

e/ when the provisions of an FTA becomes effective, e.g., when tariff cuts begin



commitments are realigned to CEPT rates, as in the case of Singapore (complete liberalization) and the Philippines (some CEPT rates become the most favored nation<sup>10</sup> rates).

Another indication that a bigger intra-regional market network is not the *raison d'être* for AFTA or ASEAN is its involvement in a network of trade and investment arrangements outside the immediate economic integration initiatives the Association itself has initiated. Individual ASEAN member countries are involved in a total of 128 free trade agreements (FTAs) in varying stages of development. Almost two out of five of these agreements have either been signed or are under implementation. Singapore, Thailand, and Malaysia have the most number of FTAs proposed, signed or implemented (**See Table 1a**). Outside of AFTA, ASEAN as a bloc is involved in six other FTAs with Australia and New Zealand, China, the EU, India, Japan, and South Korea. The FTAs with Australia and New Zealand, India, and Japan are under negotiation (with Framework Agreements signed with India and Japan). The ASEAN-China FTA is being implemented, initially with an Early Harvest Programme for Indonesia, the Philippines and Thailand; while the ASEAN-Korea FTA has been signed and is due for implementation in January 2007. The FTA with the EU is still under study. An East Asia Free Trade Area, covering the Plus Three countries (China, Japan and South Korea) and the other East Asian Summit countries (India, Australia and New Zealand), has also been proposed (See Table 1b).

That ASEAN seems to be uninterested in developing its own internal market is rooted in the extreme competition among its members. ASEAN's response to the low level of complementarity in the region is to invite foreign investors

<sup>10</sup>Most Favored Nation (MFN) rates refer to the best tariff rates a country gives to all of its trading partners without discrimination; also WTO rates. This is distinguished from preferential tariffs, which are rates of concession a country extends to a smaller number of countries it has special trade arrangements with.

and use the region as a platform for production and export. Meanwhile, national industries are eaten up by foreign capital, weakened or decimated, further diluting the possibility that ASEAN as a bloc would someday be able to speak of a regional capital and production base. While there are dreams for an ASEAN brand, it is not necessarily a dream for having regionally integrated production using regional capital selling to the region and using the region's vast human and knowledge resources. Rather, it is to consolidate regional production networks that will make it possible for foreign investors to base all the different stages of production in the region, selling both to the region and outside.

Nor is ASEAN able to play a significant role in the different trade initiatives entered into by its members. In the WTO, ASEAN is not known to carry common positions even as some ASEAN members are part of various coalitions.<sup>11</sup> ASEAN members in the WTO only came together to support the appointment of Dr. Supachai Panitchpakdi as Director General in 2002; and in December 2005 there was a joint proposal<sup>12</sup> by ASEAN WTO members on the services negotiations. The Association was not, for example, able to provide substantial assistance to Cambodia in its accession process. In the end, Cambodia had to offer more than what existing WTO members offered initially, and give up many of the flexibilities it was entitled to as a least developed country (LDC). Overall, Cambodia "accepted limitations not only

<sup>11</sup>Indonesia, the Philippines and Thailand are members of the G20, a coalition with strict focus on agriculture, specifically on the reduction of domestic support, tighter controls on export credits, and access to markets of developed countries. Indonesia and the Philippines take the lead in the G33, an alliance for special products and special safeguard mechanisms.

<sup>12</sup>Brunei, Indonesia, Malaysia, the Philippines and Thailand made a joint submission for the retention of the bilateral request and offer process and against the multilateral benchmarking system proposed by the developed countries (led by the EU and Japan). Under benchmarking, developing countries will be compelled to open up a number of sectors from among a few selected sectors. Under the request and offer method, WTO member countries set their own limits and are allowed to liberalize at their own pace.

with respect to trade policies, but also limitations in other areas...associated with...rights to benefit from special and differential treatment”.<sup>13</sup>

How do ASEAN members’ appetites for bilateral FTAs affect initiatives like AFTA? Do they strengthen them or do they dilute them? The signed FTAs<sup>14</sup> approximate the ambitions of AFTA and other ASEAN economic initiatives<sup>15</sup> within periods very close to ASEAN targets, a clear indication that whether in trade, investments or services, ASEAN does not prioritize the region but uses it as the platform to get more deals from outside the region.

In short, the importance of engaging ASEAN on these issues lies not just on what it does, but also on what it does not.

Signing bilateral agreements is a country’s prerogative, but the absence of institutions in ASEAN to facilitate better coordination among members erodes not only ASEAN’s relevance as a bloc, but also weakens the negotiating position of its members. For the ASEAN-China Free Trade Area (ACFTA), there is an absence of mechanism for common positions to be developed, and most negotiations are done on a bilateral basis. This was the case when terms of the Early Harvest Program were negotiated between China and Indonesia, the Philippines and Thailand separately. Lacking is the mechanism by which ASEAN members can process among themselves how concessions and/or commitments should be made, and how the group as a whole can be more supportive of the more hesitant or otherwise more economically vulnerable members. It is this lack that makes it difficult for ASEAN to develop harmo-

nized region-wide positions in multilateral fora. It is even more difficult to come up with common policies to present to external partners, whether ASEAN is negotiating as a bloc or the members negotiating individually.

ASEAN places its strategic sights on steering East Asian regionalism, wanting to be a “winning gate to Asia”<sup>16</sup> by securing linkages with the bigger Asian economies through the different FTAs. As mentioned, an East Asian FTA had been proposed, amidst thorny debates on whether or not non-Asians (particularly Australia and New Zealand) should be part of it. The proposal is already being challenged by yet another proposal for an Asia Pacific Free Trade Area, pushed as deserving serious consideration by no less than U.S. President George W. Bush himself during the November 2006 Asia Pacific Economic Cooperation (APEC) Summit in Vietnam. While ASEAN and most of its East Asian partners led by Japan would want to consolidate East Asia first, the US is adamantly against it. The US view is articulated by former US Assistant Treasury Secretary Fred Bergsten who believes that instead of “draw(ing) a line down the middle of the Pacific”, both EAFTA and the Asia Pacific FTA should be implemented simultaneously.<sup>17</sup> Now it becomes not just a question of whether ASEAN can be an effective driver for East Asia. It is also a question of whether ASEAN can stand up to the US and thwart its attempts to foil the already limited East Asian consolidation it hopes to steer.

Integrating Southeast Asia economically is a complicated process, one that requires the support of all sectors

<sup>13</sup>United Nations Commission on Trade and Development, *The Least Developed Countries Report 2004* (Geneva: UNCTAD, 2004).

<sup>14</sup>FTAs are not limited to trade in goods but also cover services, and in some cases investments.

<sup>15</sup>Aside from AFTA, ASEAN has also agreed to establish an ASEAN Investment Area (AIA) which will confer national treatment to ASEAN investors by 2010; and has signed the Framework Agreement on Services (AFAS) which envisions free flow of services by 2020.

<sup>16</sup>“ASEAN: A Winning Gate to Asia”, Address by ASEAN Secretary General Ong Keng Yong, 7th ASEAN Forum, Jakarta, 6 December 2005. Available online: <http://66.102.7.104/search?q=cache:PAjYc-G4vOxIJ:www.aseansec.org/17985.htm+East+Asian+Free+Trade+Area+ong&hl=en&ct=clnk&cd=6>

<sup>17</sup>AFP, “US, Asia differ over free trade mechanics”, posted 01 December 2006. Available online: [http://66.102.7.104/search?q=cache:\\_jbHG60GJ5AJ:www.channelnewsasia.com/stories/afp\\_asiapacific\\_business/view/244682/1.html+east+asian+free+trade+agreement&hl=en&ct=clnk&cd=11](http://66.102.7.104/search?q=cache:_jbHG60GJ5AJ:www.channelnewsasia.com/stories/afp_asiapacific_business/view/244682/1.html+east+asian+free+trade+agreement&hl=en&ct=clnk&cd=11)

to succeed. Unfortunately, ASEAN's way of integration is confined to opening up regionally, and opening up some more to outside the region. While this strategy may satisfy ASEAN's desire to be integrated with its bigger neighbors, it does not capture the breadth of economic imperatives for the region. Integration success should not be limited to increases in trade or the economic growth rate, but should strengthen the region's productive sectors. It is in this area that ASEAN fails miserably.

#### **WEAKNESS IN OTHER SIGNIFICANT TRANS-BOUNDARY CONCERNS**

If in its more developed initiatives ASEAN does not hold a glowing record in terms of community building, it is a disappointment in most other areas. Inequality between and among members, intra-regional migration, internal conflicts and human rights, regional health, and regional identity – these are some of the issues where ASEAN response leaves much to be desired.

***Inequality and the Development Gap.*** The optimism about ASEAN's ambitious economic initiatives is tempered by the stark realities in the region. Huge disparities in-country and among member countries exist. ASEAN is characterized by different stages of development and variable economic structures, ranging from the most open economy Singapore, to predominantly agricultural Laos and petroleum-based Brunei. Per capita income ranges between \$191 for Myanmar and \$25,209 for Singapore ; while unemployment can be as good as 1.5% in Thailand and as bad as 10.9% in the Philippines .

The distribution of the in-country growth achieved in the region in the last 20 years had been highly skewed. In the older Asian tigers Japan and South Korea, the richest 10 percent of the population captures a proportion of income that is only 4.5 times and 7.8 times more than the poorest 10 percent, respectively. In contrast, in the richest ASEAN countries of Singapore and Malaysia, the proportion is

a high 17.7 and 22.1, respectively . The difference can be attributed to the relatively broader base of growth and planning in Japan and South Korea, and the narrower financial base of the nouveau prosperity in Malaysia and Singapore.

The lack of a broad vision constrains ASEAN from developing more appropriate, even activist responses to bridge the gap between members. ASEAN needs to better appreciate its own economic history. The fastest growth in Asia came from various experiments in the 1970s, 1980s and until the early 1990s. ASEAN benefited from these patently non-neoliberal experiments, yet it is more than ready to set aside these lessons because liberalization is now regarded as the key to growth and development. Not enough attention is given to facilitating the process of preparation and maturation for newer members, or even older members with weaker economies. There are no systematic catch-up mechanisms and/or programs for smaller (e.g. the CLMV countries or Cambodia, Laos, Myanmar and Vietnam) members. The assistance available now pertains mostly to technical assistance to help newer members cope with liberalization.

ASEAN would do community building a great service if it starts to consider and implement programs that more proactively bring all members to a higher level of development, by seriously pooling alternative sources of development finance, and promoting economic and social policies that integrate the lessons of ASEAN's own tigers.

#### ***Intra-ASEAN Migration.***

ASEAN has a population of more than half a billion people, and is home to one of the biggest migrant sending countries in the world (the Philippines). The economic changes in the last two decades, and long-standing internal conflicts in some countries, prompt the continuous rise of intra-ASEAN migration, and the increase in the population of undocumented intra-ASEAN migrants. Estimates place the number of undocumented Southeast

Asian workers in ASEAN at 2.6 million. Majority of the undocumented migrants (82%) are Indonesians and Filipinos, and 83% of them are in Malaysia and Thailand. Aside from workers lacking official credentials to work legally in the countries of destination, refugees fleeing conflicts at home (e.g. Myanmar/Burma, Mindanao in the Philippines) add to the numbers of undocumented migrants.

Migration is an issue that ASEAN conveniently dances around despite its ability to create tensions among its members. There is yet to be a substantive recognition of the contribution of migrant workers to the economy, unless they are skilled and professional talents. ASEAN has initiatives towards mutual recognition arrangements (MRAs) of intra-ASEAN migrant professionals, but is silent on the issue of the mass low- and unskilled or otherwise undocumented migration that persists in the region. Discussion of undocumented migration is limited to issues of trafficking in persons, a security concern.

A comprehensive discussion of migration is needed in ASEAN to (1) acknowledge the contribution of migrant workers in the region's development; (2) address the social impacts of migration, including the need to protect migrants' rights; and (3) come up with regionally acceptable mechanisms to tackle migration, and promote/protect migrants' rights. Integration implies greater movements of people across the region, and provides an occasion for the socialization of an ASEAN identity. And because ASEAN also exports workers to countries outside of the region, a regional framework on migration will increase ASEAN members' capacity to negotiate migration issues with those countries, especially the Plus 3 partners where a sizeable number of Southeast Asian migrants are undocumented.

***Internal Conflicts and Human Rights.*** Part of what is considered ASEAN success is the Association's ability to mute political conflicts, and the absence of raging wars between countries in

the region. This is considered a feat considering the volatile context surrounding ASEAN's founding, and the involvement of some members in territorial disputes that have yet to find final resolution.

Yet internal conflicts, punctuated by struggles for self-determination, pervade and persist in the region. Aceh and Irian Jaya/West Papua in Indonesia, the south of Thailand, Mindanao in the Philippines, and Myanmar/Burma are conflict areas that ASEAN have so far neglected to discuss officially. Such internal conflicts affect ASEAN's overall security, which can only deteriorate unless ASEAN stops hiding behind the principle of non-interference and starts discussing principles and mechanisms that will bind members to certain norms and standards (e.g. human rights). Ironically, some members find motivation to speak about the issue of Myanmar/Burma from the US' expressed displeasure over the worsening situation, rather than on a clear commitment to facilitate transition in the country.

The issue of internal conflicts is related to the issue of democracy and human rights. ASEAN is known to have cuddled dictator governments in the past, and at present host two military governments. The concept of human rights is not something expressed explicitly in its official documents, and ASEAN remains the only regional association that has yet to establish a human rights mechanism. In fact, not all ASEAN members have national human rights bodies (courts or commissions). Despite persistent advocacy for human rights in the region, ASEAN has not been particularly responsive, yet another reason why ASEAN peoples do not feel a strong affinity with it.

***Regional Environment and Health.*** Southeast Asia is an environmentally diverse region that enjoys abundant land, mineral, forest, and aquatic resources. These resources often become the cause of conflict between governments and/or between their citizens. Increasingly access to these resources is being privatized, and negative externali-

ties related to their exploitation are dealt with market mechanisms (polluter pays, etc.). ASEAN approach to environmental resources tends to be piecemeal, and often contingent on the exigencies dictated by commercial needs (e.g. need to develop intellectual property regimes). What is needed now is a comprehensive approach that defines not only the rights of access, but also the responsibilities for stewardship, protection and renewal.

On health, the threat and/or incidence of infectious diseases like HIV/AIDS, severe acute respiratory syndrome (SARS) and avian flu continues to increase in the region. There are various initiatives at the ASEAN level to address this, also in collaboration with its external partners and international institutions. To be more effective, there needs to be sharper focus on the welfare of ASEAN citizens rather than on the negative impact of these diseases to the economy (e.g. bad for tourism or agriculture).

***Culture and Identity.*** The idea of ASEAN has to be explained to the people of the region, and this is best done by emphasizing the regional aspects that can bring the peoples of ASEAN together. A common understanding of ASEAN's proud history and legacy, promoted through the media and national and regional educational institutions would be a good start. For it to go beyond a public relations campaign, new ideas and trends that define the region (mobility and migration, international labor solidarity) should be incorporated. The search for identity should not turn a blind eye to the phenomenal diversity ASEAN is known for, and instead should celebrate it.

Most importantly, identity is best ensured by common agenda that peoples of ASEAN can identify with. A platform for third country exports and attractor of foreign investments is hardly an appealing identity that will make the peoples of ASEAN support the idea of a regional community. For ASEAN to be truly people-centered or people-empowered, key terms being mainstreamed in the As-

sociation these days, the political leadership of ASEAN needs to give attention to the issues of great concern to them. Mechanisms to ensure the equitable distribution of benefits of, and protection from the negative impacts of, integration; positive assistance from the bigger and stronger to the smaller and weaker members; the establishment of a regional instrument on migration; the establishment of a regional human rights mechanism; the protection of the regional environment; increasing the capacity of members to protect their citizens from regionally pervasive communicable or infectious diseases – these are some of the minimum initiatives ASEAN need to institutionalize to be relevant to people. Failing this, ASEAN will remain a government-centered Association pursuing a floating dream of community, unable to foster an ASEAN identity that Southeast Asians will happily embrace.

#### **WAYS FORWARD FOR SOUTHEAST ASIAN REGIONALISM**

Southeast Asia is a region of diverse peoples and cultures, of variable economic and political structures, and of uneven capacities and resources. The region's diversity is often used as an excuse for many things, from the slow pace of democratization to the shallowness of economic integration. But Southeast Asia is also home to common threats (e.g. environmental degradation, trans-boundary health problems), aspirations (e.g. rights, democracy), and needs (e.g. social development, economic growth). Developing common agenda around these threats, aspirations and needs will be a big bold step towards defining a community. Embracing the common agenda is crucial in developing a regional identity. That is, a regional identity can be developed through a common imagination of a regional set-up, something the region's people can build together.

As an institution for regional community building, ASEAN is wanting. Its milestones have been alien to people, because it has proceeded with a very

government-oriented perspective and involved highly-specialized groups. However, there are people's and community issues involving ASEAN countries, and spaces to respond to these issues should be explored at the regional level. Being an inter-governmental body, ASEAN has the responsibility to represent the region's people, and it should be taken to task for this responsibility.

In engaging institutions like ASEAN, the operative terms should be stakes claiming and demanding accountability. Evaluating ASEAN should lead civil society and social movements to the conception of alternative regionalism, including what kind of ASEAN will work for them. Presently, the process of creating an ASEAN Charter provides an opportunity for engaging ASEAN organizationally as civil society/social movements clarify what kind of regional alternatives will work for them.

However, the process of engagement should not be limited to and should not stop with the official process. ASEAN's

history is marked by the glaring absence of wide-ranging participation from civil society and social movements, and it is high time that the situation is rectified. The process must be taken to the people, the streets, the schools, the local communities. It is time to wrest the initiative from the political elite, and let the people define what kind of regional governance they want, and to articulate their vision for the region.

To be effective, regional engagement should have strong local and national foundations, and should complement global advocacies. It only makes sense that the issues brought to the regional arena are the same issues that groups promote in their own countries. At the same time, local and national advocacies should be given a regional articulation, not because it is a natural progression in campaigning, but because it can facilitate regional solidarity. Only in the spirit of solidarity can truly regional alternatives emerge. ■

**Table 1b : Status of Selected Key FTAs in ASEAN**

FTA	Status
ASEAN Free Trade Area (AFTA)	FTA under implementation
ASEAN-Australia and New Zealand FTA	FTA under negotiation
ASEAN-China FTA (ACFTA)	FTA under implementation
ASEAN-EU FTA	FTA proposed/Under consultation and study <i>a/</i>
ASEAN-India Regional Trade and Investment Area	Framework Agreement signed / FTA under negotiation
ASEAN-Japan Comprehensive Economic Partnership (AJCEP)	Framework Agreement signed / FTA under negotiation
ASEAN-Korea FTA (AKFTA)	FTA signed <i>b/</i>
East Asia Free Trade Area (EAFTA)	FTA proposed/Under consultation and study
Canada-Singapore FTA (CSFTA)	FTA under negotiation
India-Singapore Comprehensive Cooperation Agreement	FTA under implementation
Japan-Singapore Economic Agreement for New Age Partnership	FTA under implementation
Korea-Singapore FTA (KSFTA)	FTA under implementation
New Zealand-Singapore Closer Economic Partnership	FTA under implementation
Pakistan-Singapore FTA	FTA under negotiation
Singapore-Australia FTA (SAFTA)	FTA under implementation
Singapore-Sri Lanka Comprehensive Economic Partnership Agreement	FTA proposed
US-Singapore FTA	FTA under implementation
India-Thailand Free Trade Area	Framework Agreement signed / FTA under negotiation
Japan-Thailand Economic Partnership Agreement (JTEPA)	FTA under negotiation
Thailand-Australia FTA (TAF TA)	FTA under implementation
Thailand-New Zealand Closer Economic Partnership Agreement	FTA under implementation
Japan-Indonesia Economic Partnership Agreement	Framework Agreement signed / FTA under negotiation
Japan-Malaysia Economic Partnership Agreement (JMEPA)	FTA under implementation
Malaysia-Australia FTA (MAFTA)	FTA under negotiation
Malaysia-India Comprehensive Cooperation Agreement	FTA proposed
Malaysia-Korea FTA	FTA proposed
Malaysia-New Zealand FTA	FTA under negotiation
Malaysia-Pakistan FTA	FTA under negotiation
Japan-Philippines Economic Partnership Agreement (JPEPA)	FTA signed <i>c/</i>

**Source of Basic Information:** [http://aric.adb.org/regionalcooperation/integration\\_initiatives.asp?s-r&ss=3](http://aric.adb.org/regionalcooperation/integration_initiatives.asp?s-r&ss=3)

*a/* A joint feasibility study on ASEAN-EU Economic Cooperation (called the Report of the ASEAN-EU Vision Group: Transregional Partnership for Shared and Sustainable Prosperity, including a possible FTA, was completed in May 2006.

*b/* South Korea and nine ASEAN members signed the agreement in May 2006. Only Thailand refused to sign over issues on rice. If signed, implementation to commence in January 2007.

*c/* FTA undergoing Senate ratification process in the Philippines.

# Neo-liberalism and the Working People of Southeast Asia<sup>1</sup>

RENE E. OFRENEO

**I**n its Summit in Bali, the Heads of the ten member countries of the Association of Southeast Asian Nations (ASEAN) – the original ASEAN-6 (Brunei, Indonesia, Malaysia, Philippines, Singapore and Thailand) and the new ASEAN-4 (Cambodia, Laos, Myanmar and Vietnam) – adopted a historic declaration called Concord II. In the said Concord, ASEAN Heads of States declared that like the European Community, ASEAN territory shall be one contiguous ASEAN Community by the year 2020. This borderless ASEAN Community shall be composed of three communities: the ASEAN Security Community, the ASEAN Socio-Cultural Community, and the ASEAN Economic Community, or AEC

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<sup>1</sup> This paper was prepared for the ASEAN Inter-University Forum in Hanoi, July 19-21 2006.



Since then, the vision of a robust and rapidly integrating regional ASEAN economy has attracted a lot of media mileage, both within and outside the individual ASEAN countries. Home to over 500 million people, the ASEAN region is seen as the core of an even bigger economic community – the East Asia Economic Community (EAEC). The EAEC unites the ASEAN bloc with the dragon economies of Japan, China (including Hong Kong), South Korea and Taiwan. Some statistics on the potentials of a bigger East Asia grouping have naturally captured the imagination of economic and political commentators – two billion East Asian consumer markets, a collective GDP bigger than those of the United States’ or the European Union’s, and the world’s largest manufacturing base.

Public attention on the AEC project and the work-in-progress EAEC has been further buttressed by the following developments:

- The decision of ASEAN to further deepen the program for the ASEAN Free Trade Agreement (AFTA) with the launching of the 11 Priority Integration Projects or PIPs;
- The holding in 2005 of an East Asia Summit involving ASEAN Plus 3 (Japan, Korea and China) right after the annual Summit of ASEAN Heads of States;
- The approval in 2002 of a Framework Agreement for an ASEAN-China Free Trade Agreement (ACFTA), which provides for some modalities by which the individual ASEAN countries can conclude an ‘early harvest agreement’ with China by the mid-2000s and a full-blown free-trade agreement by 2010; and,
- The announcement in 2002 that Japan shall pursue its own bilateral or Economic Partnership Agreement (EPA) talks with ASEAN countries.

With the ASEAN Plus 3 trade talks heating up, other countries have decided to pursue their own separate trade negotiations with ASEAN member countries, both at the bilateral and regional levels. These countries are Australia, New Zealand, India, the EU, and, yes, the United States.

Yet, amid all this flurry of talks on regional economic integration, the working people in ASEAN – workers, farmers and other ordinary citizens – appear uninformed and, not surprisingly, indifferent to the varied ASEAN economic programs, which are understood mainly by the economic technocrats of various ASEAN governments. The ASEAN Trade Union Council (ATUC), in existence since the 1980s, has not been invited to any formal discussion or consultation on any of the trade programs mentioned above. ASEAN deliberations on AFTA, PIPs, ACFTA, EPAs with Japan and other economic projects are generally limited to government officials and members of the ASEAN Business Advisory Council (ABAC). Overall, there are no serious attempts on the part of ASEAN governments to inform the working population about the implications of these economic programs on their lives. Thus, small producers in Southeast Asia are generally uninformed about ASEAN economic projects such as AFTA<sup>1</sup>.

### **THE AFTA-CEPT PROJECT: A NARROW LIBERALIZATION PROGRAM**

To achieve economic integration, ASEAN has adopted economic liberalization, mainly through a tariff-busting program called AFTA. Under the AFTA, a Common Effective Preferential Tariff Program (CEPT) was supposed to reduce tariffs on products traded within the ASEAN region to 0-5% by the year 2008. The AFTA-CEPT was launched in 1992 with an original 15-year time frame.

<sup>1</sup> Aurora Alarde-Regalado, “The Impact of the ASEAN Free Trade Area (AFTA) on ASEAN Economies and Small Producers in Southeast Asia”, Research Report submitted to the Southeast Asian Council for Food Security and Fair Trade (Selangor, Malaysia, 2005).

In their 2001 Hanoi meeting, ASEAN leaders became ambitious and decided to fast-track the application of the zero tariffs for 60% of ASEAN products of the ASEAN-6 to 2003.

The AFTA-CEPT is implemented through a schedule involving four product lists:

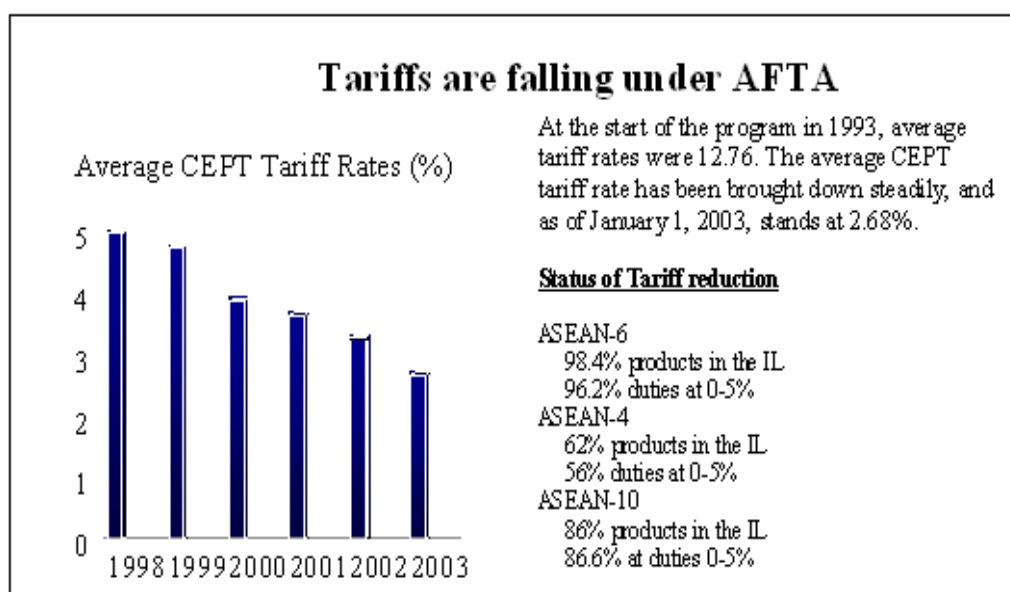
- The Inclusion List (IL): products in the IL are those that have to undergo immediate liberalization through the reduction of intra-ASEAN tariff rates, and the removal of quantitative restrictions and other non-tariff barriers. Tariffs on these products should have been reduced to a maximum of 20% by the year 1998, and to less than 5% by the year 2002 and by 2006 or later, for new members of ASEAN – Vietnam, Cambodia, Laos and Myanmar.
- The Temporary Exclusion List (TEL): products in TEL are shielded from trade liberalization for a temporary period, after which, all of these products would have to be transferred to the IL and subjected to the usual process of tariff reduction.

- The Sensitive List (SL): this list contains unprocessed agricultural products such as rice and sugar, which are given a longer period for integration into the free trade area. For the SL category, the commitment to reduce tariffs to 0-5% and to remove non-tariff barriers is extended up to the year 2010 for the ASEAN-6, up to 2013 for Vietnam, 2015 for Lao PDR and Myanmar, and 2017 for Cambodia.

- The General Exception List (GEL): the products in this list are permanently excluded from the free trade area for reasons of national security, the protection of articles of cultural value, and other reasons.

Based on the 2001 CEPT Package, all ASEAN-6 states were able to meet the target of reducing tariffs to 0-5% for 90% of their IL. In fact, the ASEAN-4 members are not too far behind in the liberalization process. As shown in Figure 1, the average tariffs have gone down to 2.68% as of January 2003. According to the ASEAN Secretariat, as of January 2004, the ASEAN-6 was also able to reduce to zero tariff 60% of the products covered by the IL. From the various re-

Figure 1: ASEAN-CEPT tariffs tumbling down



Source: ASEAN Secretariat.

ports of the ASEAN Secretariat in Jakarta, it appears that no ASEAN member has any major problem in complying with the AFTA-CEPT program.

The ultimate target of ASEAN is that by 2010, the ASEAN-6 would have eliminated all import duties (2015 for the ASEAN-4) with some flexibility for the sensitive products. To publicize the CEPT Scheme for the ASEAN Free Trade Area to the business community, a series of workshops on the CEPT Scheme (CEPT Outreach Program) is being held in key cities in ASEAN, with the help of the ASEAN Centre, Japan, and in cooperation with the ASEAN Secretariat and the National AFTA Units of host countries.

In the area of differing tariff nomenclatures, ASEAN tried to develop an ASEAN Harmonized Tariff Nomenclature, an 8-digit level tariff nomenclature based on the Harmonized System (HS) of the World Customs Organization. Five ASEAN member countries – Indonesia, Malaysia, Philippines, Singapore and Thailand – have also implemented customs valuation method in accordance with the World Trade Organization (WTO) Valuation Agreement.

It is abundantly clear that integration is simply seen as opening up each other's economic borders. ASEAN records do not contain any major studies and recommendations on complementation of economies, such as the issue of how those lagging in development can catch up with the more advanced ones, or on addressing issue-based social dimensions, such as inequity and joblessness. There were only some discussions on brand-to-brand complementation, human resources development (e.g., on mutual recognition or certification of skills), and sharing of some agricultural technology.

## **INTEGRATION SUCCESSES AND FAILURES**

One success indicator of integration is the level of intra-trading that has developed among ASEAN member countries. In

the European Union, two-thirds of trade is intra-EU trade; in North America, the North American Free Trade Agreement (NAFTA) accounts for more than half of the global trade of the United States, Canada and Mexico.<sup>2</sup>

ASEAN countries have been trading with one another by as much as one-fourth of their total exports and imports. This is a significant development, since the intra-trade of ASEAN countries had been very limited till the 1980s. However, it should be noted that intra-ASEAN trade, both at the export and import sides, have not increased significantly since the second half of the 1990s. This means the AFTA-CEPT is quite limited. The tremendous intra-ASEAN trade expansion in the early 1990s can be explained not by AFTA but by the unilateral trade liberalization policy that most ASEAN countries adopted in the 1990s. In fact, the greatest expansion in trade by the individual ASEAN countries is with the People's Republic of China despite the latter's relatively high tariff rates. While intra-ASEAN exports and intra-ASEAN imports have been increasing, extra-ASEAN exports and extra-ASEAN imports are rising even faster.

Moreover, intra-ASEAN trade is not evenly distributed between and among member countries. Take the experience of the Philippines. Half of the country's trade with ASEAN is with Singapore. A closer scrutiny shows that most Philippine exports to Singapore are assembled electronic products. The ostensible reason for this is that the Philippines is engaged in lower-level electronics assembly work, while Singapore is into higher electronics assembly or application. On importation, Singapore is a major transshipment center for products distributed in the region.

The limited impact of AFTA in boosting intra-regional trading did not

<sup>2</sup> Gijsbert van Liemt, "Trade, labour and employment in the ASEAN," in *Labour and Employment Implications of the ASEAN Free Trade Agreement*, ed. Anne Trebilcock (Geneva: ASEAN Secretariat and the International Labour Office, 2005).

escape the attention of WTO economists. In the 2003, the WTO wrote:

“It does not appear that the preferences under AFTA have significantly boosted intra-regional trade...First, within ASEAN about 66% of the tariff lines have the same MFN and CEPT rates. As far as the remaining one third of tariff lines is concerned, since many ASEAN countries have also automatically reduced their tariffs in the 1990s, the difference between MFN and CEPT rates is small...Hence, less than 5% of intra-regional trade is covered by CEPT preferences.”<sup>3</sup>

The CEPT preferences can be availed of by ASEAN importers/exporters by filling up the so-called ‘Form D’ indicating that the products being traded are ‘ASEAN products’ with at least 40% ASEAN content. Many in the business community have not heard of Form D or, even if they have, do not bother to use it for the simple reason that the most favored nation (MFN) and CEPT rates are virtually the same for most of the traded products.

ASEAN economies of Indonesia, Philippines, Thailand, Malaysia and Vietnam have similar agro-industrial structures; they produce similar industrial products such as shoes, rubber, garments, rice, corn, sugar and so on. As a result, there is limited intra-trading among them except for some vital products, such as rice. Very often, these countries even compete with one another, as with the example of getting investments for export-oriented garments.

### **SO WHO IS INTEGRATING ASEAN?**

So who is doing economic integration for ASEAN – given its ultra-liberal approach as the mode for integration and for individual national growth?

Apparently, these are entities with

<sup>3</sup> World Trade Organization, *World Trade Report 2003* (Geneva: WTO, 2003), 54.

regional and global reach. They happen to be the transnational corporations (TNCs) that have either regional operations in Southeast Asia, or in the individual ASEAN countries. Some automotive TNCs set up assembly plants and even parts manufacturing in the individual ASEAN countries to overcome high tariff and non-tariff barriers and capture the domestic markets for their products in the 1970s-1980s. With the tariffs and trade restrictions going down, these TNCs are now able to re-align and optimize their regional operations by changing their regional division of labor such as developing automotive hubs in areas with large emerging markets such as Thailand, while promoting specialized parts production in others, such as the Philippines having become a major producer of wire harnesses, etc. The point is that trade liberalization across the region has made it possible for TNCs to move products and processes more freely and to locate some aspects of work in certain countries based on profit maximization and market optimization.

The above observation is validated by the fact that the main participants in the original ASEAN industrial complementation program are TNCs. ASEAN industrial complementation projects are projects based in two or more ASEAN countries complementing one another. In the past, several names had been given to this initiative. The latest name is AICO – ASEAN Industrial Cooperation (AICO) Scheme, supposedly to promote ‘a more competitive ASEAN industry’. An AICO project enjoys preferential tariff rates of 0-5% on all intermediate and raw material inputs.

However, the AICO list shows mainly the following big TNCs as AICO producers:

- Auto and motorcycles – Toyota, Volvo, Nissan, Isuzu, Honda, Ford, Harada, Daihatsu;
- Electronics – Matsushita, Mitsubishi, Mitsubishi, Samsung, Showa, Sony, Yamaha;

- Others – Asahi, Bowden, Denso, Mistuba, Sanden, Yanmar; and
- Food – Nestle.

The only identifiable ‘ASEAN’ company in the AICO list is Thai Steel Cable, although it is not clear if this is really dominated by Thai nationals.

#### INTEGRATION IN AGRICULTURE? <sup>4</sup>

As for agriculture, the trajectory of the integration process taking place is not clear, if not totally confusing. One reason is that most ASEAN countries do not necessarily complement one another in terms of food and agricultural production. With the exception of Singapore and Brunei, most are producing their own agricultural requirements, with some like Thailand, Vietnam and Malaysia able to produce enough surplus for exports.

Another source of confusion is the lack of unified trade and tariff regimes in agriculture, exacerbated in recent years by the tendency of some countries to forge bilateral free trade agreements (BFTAs) with non-ASEAN countries. For example, Singapore has BFTA with Australia, US, Japan, Chile and other countries. Thus, strangely, Singapore is able to market canned juices and other agri-based products in ASEAN even if it is not an agricultural producer. Singapore’s behavior is highly opportunistic; it is a source of trade diversion in the region. It shows why ASEAN really looks like a Confused ASEAN, while EU is known as Fortress Europe.

On paper, ASEAN has launched numerous agricultural initiatives. In 1993, ASEAN adopted the following as its priorities on the agricultural front: food security, intra-/extra-ASEAN trade, technology transfer and productivity, human resources development, private sector participation, conservation of natural

<sup>4</sup> Dr. Rene Ofreneo, “From the Green Revolution to the Gene Revolution: Agriculture, AFTA and the TNCs” (paper submitted to the Asia-Pacific Network on Food Sovereignty, 2005).

resources, and ASEAN cooperation on varied agriculture-related issues. However, despite the numerous meetings and declarations on the above thrusts, there hasn’t been much progress in regional agricultural integration. This is so because there is hardly any budget and concrete organizational structures to back up ASEAN intents in these priority areas.

#### SO WHO IS DOING AGRICULTURAL INTEGRATION?

A closer scrutiny of developments in the region will reveal the following actors in the agricultural integration process:

- *Home-grown ASEAN agri-based TNCs.* The big agribusiness corporations such as CP of Thailand, San Miguel of the Philippines, the palm oil interests in Malaysia and the big food processors in Singapore are active in the region. Their operations are not limited to trading posts; it includes putting up production plants in the various ASEAN member states. For example, San Miguel Corporation of the Philippines has several brewery projects and agribusiness undertakings in Thailand, Vietnam and Malaysia.

In May 2006, ASEAN came up with a short list of 11 PIPs— Priority Integration Projects—one of which is agri-based. In this agri-based project, the development of a white shrimp project in Luzon in the Philippines, has been identified. This is going to be developed by a well-known Thai TNC, CP Thailand, together with its sister company in Indonesia, CP Indonesia.

- *Traders-investors from South Korea, Japan and China.* These giant economies in Asia are now major agriculture-deficit countries. Via the proposed ASEAN-China, ASEAN-Japan, and ASEAN-South Korea agreements, all these countries are competing with one another to transform ASEAN—with its rich land and water resources—

into their backyard garden: a source of food and raw materials. This is the deeper meaning of China's initiative, the 'Early Harvest Program', focused on agricultural products. China itself is not coy in baring its intent, as demonstrated by the cooperation programs it forged recently with the Philippines. It wants to help develop the Philippine coconut industry, as China needs all the coco fiber and other coco materials it can get a hold on for its varied industrial and raw material requirements. It also wants Philippine fruits such as banana and mango, which it is unable to produce in commercial quantities.

- *Agribusiness firms from US, Canada, Australia and EU.* The agribusiness TNCs from these countries look at ASEAN, with its half a billion population and a large land-sea territory, as a huge market with huge economic potentials. Aside from looking at ASEAN as a market destination for surplus goods such as corn and soya beans, these western agribusiness TNCs also view ASEAN as a potential market for farm inputs, seeds, and agricultural machinery.

#### **FROM THE GREEN REVOLUTION TO THE GENE REVOLUTION**

The biggest agricultural integration project taking place in the region is happening not through formal trading and investment arrangements, but through technology—specifically biotechnology. Quietly and without much fanfare, the big agri-based biotech companies such as Cargill, Monsanto, and Dupont are transforming the ASEAN countryside, with some help from the Asian Development Bank (ADB) and the 'converted' agricultural ministries of the different ASEAN governments, into a giant biotech lake.

#### **HOW IS THIS HAPPENING?**

The agribusiness TNCs have taken the bull by the horns, selling to ASEAN governments the idea that the perennial

problems of food and hunger in Asia can only be solved through trade liberalization and food production intensification. But since the Green Revolution of the 1960s-1970s is an exhausted project, they are promoting the Gene Revolution as the logical sequel to the Green Revolution. In promoting the Gene Revolution, the agribusiness TNCs are working at several levels: first, at the policy level, by mobilizing the support of the region's leading rural creditor, the ADB, and by convincing ASEAN governments on the importance of free trade and food production intensification through biotechnology; second, through back-channeling and talks with ASEAN and its member states; and third, through training, demonstration farms and technical assistance on biotechnology extended in each of the targeted countries. Since the genetically modified organism (GMO) technology, part of the larger biotechnology, is a controversial issue in many parts of the world and some publics in Asia, the agribusiness TNCs keep their marketing of biotechnology as quietly and unobtrusively as possible. They take care that the word 'biotechnology' (which also covers other forms of hybrid agriculture) is mentioned rather than the controversial term GMO. Food security is also defined as having access to the market, and such access is made possible by a free-trade arrangement and earnings by a developing country from GM-based production.

The leading TNCs supporting GMO/biotechnology propagation in Asia are Cargill and Monsanto. They happen to be very active in ASEAN policy corridors through the ASEAN-US Business Council, which organizes regular policy meetings and consultations. The most active committee in the ASEAN-US Business Council is the food and agricultural committee. Meetings of the food and agriculture committee are generally well attended, involving senior agricultural ministers and officials of the different ASEAN governments. The committee is headed by no less than Cargill, which openly bats for the adoption of

GMO/biotechnology (visit their website for their views) and free markets, so that they can do business in the region freely. Among the priority policy issues identified by the committee and the Council are the following:

- ‘Recognition of the food sector in bilateral and multilateral trade agreements,’
- ‘Fair, scientific, and regionally consistent treatment of biotechnology,’
- ‘Commitments by ASEAN governments to reduce tariffs/non-tariff barriers to food products,’ and
- ‘Advancing the APEC Open Food System.’

Robert McRae of Cargill, in the ASEAN Finance Ministers Meeting in Manila on August 6, 2003, stressed “providing MNCs opportunities effectively is providing your citizens opportunities”, as if the interests of MNCs and ASEAN citizens are one and the same. Cargill and Monsanto, in the 17th ASEAN-US Dialogue, held in Bangkok January 2006, argued that ASEAN is a significant importer of food, while the US is a major producer of agricultural products. They said that ASEAN should establish an ‘open food system’ to benefit from trade.

In the promotion of the GMO-based agriculture, ASEAN has adopted several protocols and conducted workshops and experiments, with the help of the governments and agribusiness firms from the US, Canada and Australia. Since 2001, ASEAN has been the ‘beneficiary’ of annual GMO/biotechnology workshops conducted by the US-based International Life Sciences Institute (ILSI), Health Canada, Australia/New Zealand Food Authority, Sante Canada and AVA. The workshops focused on how to apply the ASEAN Guidelines on Risk Assessment of Agriculture-related GMOs, which have been developed with technical assistance from these countries and the agribusiness TNCs. These work-

shops introduced and discussed GMO rice, GMO corn, GMO soy bean and GMO papaya. They are done annually in various ASEAN capitals.

There are no records of any ASEAN government or ASEAN agriculture ministers opposing GMO/biotechnology. What is recorded are comments on how to overcome civil society opposition to the propagation of GMO/biotechnology in each ASEAN country. Technical assistance is also provided to the individual ASEAN countries. Because of the support they get, ASEAN countries are into GMO/biotechnology research and production – exemplified by Thailand’s Biotech, Malaysia’s Bio Valley (a hub for biotech companies and research institutions, with special focus on agriculture), and the Philippines’ experimentation with Bt corn. In 2005, Singapore initiated the move for the establishment of an ASEAN Genetically Modified (GM) Food Testing Network.

### **ECONOMIC INTEGRATION: QUO VADIS?**

The economic integration taking place in the ASEAN region is happening outside the control of the working peoples, or of the urban and rural masses of the region. The integration is in the hands of the transnational corporate interests, which naturally have their own regional and global programs. In agriculture, one integration instrument is the propagation of GMO/biotechnology, which is in the hands of agribusiness TNCs that have managed to worm their way to ASEAN policy corridors.

These TNCs take advantage of the neo-liberal policy in place in most ASEAN countries as well as the framework of the ASEAN integration program under AFTA, PIPs and so on. In agriculture, the TNC-favored economists argue for the loose definition of food security to mean access to food. Such access, by their definition, means trade liberalization, industrial export orientation and GMO/biotechnology propagation.

Will the above neo-liberal economic formula solve unemployment, inequality, poverty and hunger in the developing countries of the region?

This is doubtful. Unemployment, inequality, poverty and hunger are rooted in the unequal distribution of resources and access to economic opportunities in society. They are also rooted in the uneven development of the economy, which is partly a legacy of past colonialism, bad economic advice by neo-liberal economists, and poor global and regional integration. Note that in the neo-liberal economic thinking, space is neither given for state intervention to regulate capital in order to preserve jobs nor to assert the nation's ability to determine its food and agricultural priorities in the service of its people. Structural issues, such as the absence of sustainable industry and agriculture, are not given reference to either.

In fact, the region has been developing in a very uneven manner under economic liberalization and globalization. Development has also been very uneven in the individual ASEAN countries, with some benefiting from economic integration, while many others are left out. In some countries, the number of those excluded constitutes the large majority. Civil societies in Indonesia, Philippines, and Thailand have extensive documentations on how liberalization and globalization tend to benefit a few included. These few are mainly the economic partners of transnational corporations and some skilled professionals, like IT programmers.

At the same time, these processes of globalization and liberalization tend to marginalize many —the short-term employee hires, the small farmers, communal fisherfolk, small and micro enterprises with no global linkages, domestic industries producing for the home market, indigenous peoples who do not comprehend the meaning of 'tradeables' and 'exportables', workers displaced by privatization and corporate restructuring, and others who have no sustainable

jobs or business niches under globalization and economic liberalization. Even in tiny Singapore, you have a growing segment of old redundant workers who cannot find meaningful and secure jobs in a liberalized and globalized economy. Such a situation is not politically and economically sustainable. Terrorist threats, insurgency, and social unrest breed in the fertile ground of social inequality and the exclusion of large sectors of the population from the benefits of growth.

Still, ASEAN's response to development issues tends to be one-sided: more and more economic liberalization without any clear regulatory framework.

Thus, it is up to the enlightened academics and civil societies to take up the cudgels for the cause of balanced, inclusive, and equitable economic integration.

Four decades after ASEAN's conception, ASEAN members are talking about the need for an ASEAN Charter and the challenge of developing an ASEAN economic community. Now it is time for certain assumptions and approaches on economic integration to become subject to a more rigorous scrutiny. Economic integration per se is not bad. And so is increasing trade between and among member ASEAN countries. The issue is on how to make integration balanced, inclusive, equitable and welfare-enhancing for all. How can ASEAN become truly an Economic Community of the ASEAN majority, the working population?

It is important that organizations of the under-represented sectors in ASEAN continue and enhance the process of engaging the ASEAN Leadership on the social and economic directions of ASEAN. In line with this, a number of civil society formations held the First ASEAN Civil Society Conference in Kuala Lumpur, in December 2005. The Conference came up with the following ten demands, which they were able to formally present to ASEAN Heads of States:

- *Share information with civil societies*



on the proposed ASEAN Constitution.

- Set up mechanism for engagement with civil societies on regional concerns.
- Transform ASEAN Parliamentary Caucus into ASEAN Parliament with peoples' representation.
- Translate commitments to rights of workers, women, children, migrants, elderly and refugees into doable instruments.
- Take decisive action on trans-boundary security/ environmental concerns, e.g., haze, bird flu, migration, etc.
- Seek end to suppression of civil and political rights.
- Ensure that global, regional and bilateral trade talks lead to justice and equity.
- Reverse unsustainable consumption, production and development patterns.
- Empower youth, women and indigenous peoples through access to education, employment and decision-making processes.
- Forge people-centered 'ASEAN identity' through better understanding of history, culture and diversity as well as shared values of ASEAN peoples.

For ASEAN Leaders, answering the ten demands will be a good beginning in ensuring that the next four decades of ASEAN will truly serve the interests of the working population of the region. ■

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<http://www.asean.org> (to look for the various documents on food and agriculture agreements)

<http://www.pecc.org> (PECC stands for the Pacific Economic Cooperation Council. Many members of the food and agriculture committee of the US-ASEAN Business Council are also active in the PECC, which conducts policy consultations in various ASEAN countries.)

<http://www.us-asean.org>



# China and Southeast Asia: *Emerging Problems in an Economic Relation*<sup>1</sup>

WALDEN BELLO

**T**he much publicized wooing of African countries by China exemplified by the China-Africa meeting that took place in Beijing in the first week of November brings up the question: how is China faring in its economic relations with its closest neighbors?

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<sup>1</sup>This essay was prepared for the Navutilus Institute for Security and Sustainable Development.

Southeast Asia, formally grouped into the Association of Southeast Asian Nations (ASEAN), is probably the region most courted by China, so the latter's relations with the area would give some indication of the likely evolution of Beijing's economic diplomacy toward other parts of the global South.

At first glance, it seems like the China-ASEAN relationship has been positive. After all, demand from a Chinese economy growing at a breakneck pace was a key factor in Southeast Asian growth beginning around 2003, after a period of low growth dependent on domestic demand. Indeed, this was also the case for Korea and Japan. For Asia as a whole, in 2003 and the beginning of 2004, noted an UNCTAD report, "China was a major engine of growth for most of the economies in the region. The country's imports accelerated even more than its exports, with a large proportion of them coming from the rest of Asia."

### **A MORE COMPLEX PICTURE**

Yet the picture was more complex than that of a Chinese locomotive pulling the rest of East Asia along with it on a fast track to economic nirvana. There have been widespread fears that China's growth is, in fact, taking place at Southeast Asia's expense. Low wages, many in Southeast Asia feared, has encouraged local and foreign manufacturers to phase out their operations in relatively high-waged Southeast Asia and move them to China. There appears to be some support for this. China's devaluation of the yuan in 1994 had the effect of diverting some foreign direct investment away from Southeast Asia. The trend of ASEAN losing ground to China accelerated after the financial crisis of 1997. In 2000, foreign direct investment in ASEAN shrank to 10% of all foreign direct investment in developing Asia, from 30% in the mid-nineties. The decline continued in 2001 and 2002, with the United Nations World Investment Report attributing the trend partly to "increased competition from China." Since the Japanese have been the

most dynamic foreign investors in the region, much apprehension in the ASEAN capitals greeted a Japanese government survey that revealed that 57% of Japanese manufacturing TNCs found China to be more attractive than the ASEAN-4 (Thailand, Malaysia, Indonesia, and the Philippines).

### **SNAGS IN A TRADE RELATIONSHIP**

Trade was another, perhaps greater, area of concern. In the last few years, China has aggressively sought free trade agreements with the ASEAN governments. This push appears to have met with some success. Thailand and China concluded an "early harvest" free trade pact in 2003. At the 10th ASEAN Summit held in Vientiane, Laos, in November 2004, the ASEAN countries issued a joint statement expressing agreement with the goal of removing all tariffs between ASEAN and China by the year 2010. At that meeting, a positive spin on the proposed China-ASEAN Free Trade Agreement was provided by Philippine President Gloria Macapagal-Arroyo, who hailed the emergence of a "formidable regional grouping" that would rival the United States and the European Union.

Yet things have not proceeded as smoothly as Beijing would have wanted. In the experimental arrangement between Thailand and China, the two countries agreed that tariffs on more than 200 items of vegetables and fruits would be immediately eliminated. Under the agreement, Thailand would export tropical fruits to China while winter fruits from China would be eligible for the zero-tariff deal. The expectations of mutual benefit evaporated after a few months, however, with most Thai commentaries admitting that Thailand got a bad deal. As one assessment put it, "despite the limited scope of the Thailand-China early harvest agreement, it has had an appreciable impact in the sectors covered. The "appreciable impact" has been to wipe out northern Thai producers of garlic and red onions and to cripple the

sale of temperate fruit and vegetables from the Royal projects.” Thai newspapers pointed to officials in Southern China who refused to bring down tariffs as stipulated in the agreement while the Thai government brought down the barriers to Chinese products.

Resentment at the results of the China-Thai “early harvest” agreement among Thai fruit and vegetable growers was, in fact, one of the factors that contributed to widespread disillusionment with the Thaksin government’s broader free trade agenda. Opposition to free trade was a prominent feature of the popular mobilizations that culminated in the ouster of that regime in mid-September by a military coup.

The Thai early harvest experience created consternation not just in Thailand but throughout Southeast Asia as well. It stoked fears of ASEAN becoming a dumping ground for China’s extremely competitive industrial and agricultural sectors, which could drive prices down as a consequence of cheap urban labor that was continually replenished by dirt cheap labor streaming from the countryside. People wondered if FTAs with China would not simply legalize the dumping of Chinese goods, a great deal of which were already being smuggled across their land borders with China or, in the case of the Philippines, across the South China Sea.

### **THE CHINESE VIEW**

For Chinese officials, the benefits to China of an FTA with ASEAN were clear. The aim of the strategy, according to Chinese economist Angang Hu, was to more fully integrate China into the global economy as the “center of the world’s manufacturing industry.” A central part of the plan was to open up ASEAN markets to Chinese manufactured products. In light of growing protectionist sentiment in the US and European Union, Southeast Asia, which absorbed only 8.2 percent of China’s exports, was seen as an important market with tremendous potential to absorb more Chinese goods.

Also key, noted Hu, was the Chinese government’s plan to attracting investment “into the western region of China from ASEAN nations, weaving the western region more thoroughly into the fabric of regional and international trade.”

### **ASEAN: A NET BENEFICIARY?**

Despite brave words from President Arroyo and other ASEAN leaders, it was much less clear how ASEAN would benefit from the ASEAN-China FTA. It was highly doubtful that China would depart from what Hu has characterized as China’s “half open model,” which is marked by “open or free trade on the export side and protectionism on the import side.”

Certainly, the benefits would not come in labor-intensive manufacturing, where China enjoyed an unbeatable edge due to the constant downward pressure on wages exerted by migrants from a seemingly inexhaustible rural work force that makes an average of \$285 a year. Certainly not in high tech, since even the US and Japan were scared of China’s remarkable ability to move very quickly into high tech industries even as it consolidates its edge in labor-intensive production. Certainly not in labor services either, since China could produce engineers, nurses, and domestic workers that would perform the same work but at lower wages than their ASEAN counterparts. For instance, China’s recent deployment of seafarers has threatened the Philippines’ premier position as a source of seamen globally.

Would agriculture in ASEAN be a net beneficiary? But, as the early harvest experience with Thailand showed, China was clearly super-competitive in a vast array of agricultural products: from temperate crops to semi-tropical produce, and in agricultural processing. Vietnam and Thailand might be able to hold their own in rice production, Indonesia and Vietnam in coffee, and the Philippines in coconut and coconut products, but there might not be many more products to add to the list.

What about raw materials? Yes, of course, Indonesia and Malaysia had oil that was in scarce supply in China, Malaysia did have rubber and tin, and the Philippines had palm oil and metals. But a second look made one wonder if the relationship with China was not reproducing the old colonial division of labor, whereby low-value-added natural resources and agricultural products were shipped to the center while the Southeast Asian economies absorbed high-value added manufactures from Europe and the United States.

### **HARD TRUTHS**

Thus, drastic imbalance would likely be the result of free trade agreements between the ASEAN countries and China.

In the view of many, the problem lies largely with ASEAN; since despite the rhetoric of regional integration, ASEAN's economies are still largely ten separate economies. The vision of creating an integrated market of 450 million consumers that was expressed by the original ASEAN plan for regional import substitution industrialization—one that would have been achieved via increasingly freer trade among member countries accompanied by high tariffs and quotas against third country products—was never implemented. The Southeast Asian nations had over 30 years to build an “ASEAN house,” and they had squandered the opportunity. Had ASEAN evolved along the lines envisioned by its founders, it would not have displayed the disarray with which its members confronted the rise of China.

In short, ASEAN remains a very weak economic entity. Moving quickly to conclude a free trade agreement with China is likely to lead to the same consequences that the early harvest agreement between China and Thailand had led to. Even if China agreed with many ASEAN exemptions from steep tariff reductions, ASEAN would be locked into a process where the only direction that barriers against super-competitive Chinese industrial and agricultural goods would

take is downwards. At this juncture, an ASEAN-China FTA or, what is more likely, separate Chinese FTAs with different ASEAN countries, can only lead to de-industrialization and agricultural crisis in ASEAN.

The relationship between ASEAN and China is not a colonial relationship. It cannot even be said to be an exploitative one at this point. But unless considerations of equity are front and center in the negotiation of economic relationships between Beijing and its neighbors, the old structural patterns marking the relations between Southeast Asia and Europe, the United States, and Japan could easily be replicated. ■

# Welcome China!

## *China's Rise and its Increasing Role in ASEAN*

DOROTHY-GRACE GUERRERO

Since joining the World Trade Organization (WTO) in 2001, China increased its involvement in Asia to enhance its global competitiveness. The Chinese government shifted its diplomatic strategy from that of a developing country focused on issues of domestic concerns towards one that is taking regional and global leadership. This raised questions concerning the nature of China's rise and its implications. To assuage suspicions of Chinese hegemonic ambitions, Chinese leaders often emphasize in global meetings and high-level visits to the region that China intends to strengthen mutual political trust and economic co-prosperity with its neighbors.



The prediction by many analysts that China will be the world's most powerful economy by 2050 was echoed by a warning from US Congress representatives about such overtake.<sup>1</sup> The countries within the Association of Southeast Asian Nations (ASEAN) started to strengthen their bilateral relationship with China in recognition of China's growing role as a source of investment. ASEAN leaders are increasingly recognizing the benefit of a growing Chinese demand for ASEAN products to the economic growth of its members.

China is indeed rapidly becoming the predominant power in the Asia Pacific and is starting to challenge the role of both the United States and Japan in the region. The question is: will China's increasing importance in the region make ASEAN countries more prosperous, more stable, and equitable? To address this question, one must understand the current importance of China and the many challenges that come with China's new role in the region.

### **ASEAN-CHINA RELATIONS**

The ASEAN-China relations began in 1991 when China first expressed its interest for closer cooperation with ASEAN during the 24th ASEAN Ministerial Meeting in Kuala Lumpur. Then Chinese Foreign Minister Qian Qichen attended the meeting as a guest of the Malaysian Government. Relations were formalized during the Bangkok Ministerial Meeting through an exchange of letters between then ASEAN Secretary General Dato Ajit Singh and Qian Qichen in 1994. Qian was also China's Vice Premier at that time. Two joint committees were set up as a result: the Scientific and Technological Cooperation and the Economic and Trade Cooperation.

China gained full dialogue status with ASEAN during the 29th Ministerial Meeting in Jakarta in 1996. All mechanisms at the working level were coordinated through the ASEAN-China Joint Cooperation Committee. During this meeting China also agreed to the establishment of the ASEAN-China Cooperation Fund. The ASEAN-China Senior Officials Political Consultation was also set up as a forum on political and security issues. A Code of Conduct on the use of the South China Sea was also established as a means to prevent conflict and pro-

<sup>1</sup>Jonathan Watts, "China's Powerhouse vision for 2050", *The Guardian*, February 10, 2006.

mote peace in the region.

As developing countries, ASEAN members and China share a common interest to strengthen economic relations. China initiated the establishment of an Expert Group within the ASEAN-China Joint Cooperation Committee to study the various areas for trade and economic cooperation between China and the ASEAN.

The financial crisis that hit Asian countries in 1997 brought the region together to discuss common responses to the crisis during the ASEAN meeting in Kuala Lumpur that year. The evolution of the ASEAN Plus Three (Japan, China, and South Korea) was a recommendation of the East Asian Vision Group (EAVG), formed to propose possible areas of cooperation for ASEAN Plus Three. The EAVG suggested an East Asian Summit arrangement, which led to the creation of a Study Group that prepared a report about its process. The group's final report was presented to the 2002 ASEAN Plus Three Summit in Phnom Penh, Cambodia.

ASEAN adopted the Asean Plus Three (APT) Framework during the 2004 ASEAN Summit in Vientiane, Laos. It will be recalled that the idea of an East Asian formation was originally proposed by former Malaysian Prime Minister Mahathir Mohamad as an East Asian Economic Caucus in 1991. PM Mahathir's proposal, which was then dubbed as the "Caucus without Caucasians", failed due mainly to the strong opposition by the US which was excluded in the all-Asian caucus. When current Malaysian Prime Minister Abdullah Badawi resurrected his predecessor's idea of an East Asian Community in the 2004 APT meeting in Vientiane, Chinese Premier Wen Jiabao immediately supported it. This resulted in the historic First East Asian Summit (EAS) in Kuala Lumpur in 2005.

### **TWO GIANTS IN THE SAME MOUNTAIN**

The First East Asian Summit (EAS) was held despite tensions that surfaced in the latter part of its formation. The fact that it was realized despite the stark difference between the original proposal and the one that was actually inaugurated showed the resilience of the ASEAN Plus Three. Indeed instead of just an ASEAN + 3 Summit, it became an ASEAN + 3 + 3 for the Summit also brought along India, Australia, and New Zealand.

The Summit was China's trial balloon for the realization of an East Asia Community, which was inspired by the case of the European Union. China saw an opportunity to steer East Asian multilateralism, along the lines of the Shanghai Cooperation Organization, to serve Beijing's strategic goals and further weaken the US influence in East Asia.<sup>2</sup> Beijing's diplomatic offensive was met by Japan's strategy of including India, Australia and New Zealand. In effect the 2005 EAS was a proxy battle between China and Japan.

China's proposal to divide the EAS members into core (APT with China as dominant player) and secondary (India, Australia, New Zealand) categories in the eve of the EAS met strong opposition from Japan, which insisted that an enlarged framework beyond the ASEAN Plus Three is more viable for an East Asian Community. Japan's inclusion of the three countries was aimed at counterbalancing Chinese influence in East Asia. China's proposal of a further deepening of the ASEAN+3 structure, which China sees as the foundation on which an eventual East Asian Community would be based, was supported by South Korea, Burma, Thailand, and Malaysia. Japan's view of enlargement was supported by Indonesia.

Though not invited to the ASEAN Plus Three, the US supported Japan's proposal. The US Secretary of State Condoleezza Rice made comments to the effect that the inclusion of such "democratic states" as Australia, New Zealand, and India in the East Asia Summit would be a most welcome initiative.<sup>3</sup> India saw its inclusion in the EAS as an opportunity to promote its "Look East" policy, which is in line with the "congame China" strategy hatched by a US-India-Japan alliance.<sup>4</sup> The "congame" (contain plus engage) China strategy first came out in the late 1990s when the US realized that neither prevention-containment nor engagement with China serves the US interest. "Congame" seeks to accomplish three things: preserve the hope inherent in the engagement policy of the US with China while deterring China from becoming hostile, and hedge against the possibility that a strong China might challenge

<sup>2</sup> Mohan Malik, "The East Asia Summit: More Discord Than Accord," Asia Pacific Center for Security Studies, (February 2006).

<sup>3</sup> Noriko Hama, "How Not to Build an East Asian Community", (December 9, 2005); available from: [www.opendemocracy.net](http://www.opendemocracy.net).

<sup>4</sup> Malik, p.4.

US interests.<sup>5</sup> China, on the other hand, wanted to ensure that India remains at the margins of an emerging East Asian Community.

In the end, because of conflicting objectives, the First EAS was not able to come up with a common declaration. APT deepening supporters led by China did not want a joint Summit Declaration referring to an East Asia Community that includes non-East Asians. Those supporting APT+3, on the other hand, did not want a narrow ASEAN Plus Three focus. ASEAN took the steer by making sure that the hosting of future EAS remains with it, ensuring that ASEAN drives the initiative towards an East Asian Community.

The rift in the First EAS mimicked the Sino-Japanese conflict. If their feud continues to be stoked, Japan and China may well be a case of the proverbial two giants sharing a mountain. The feud is continually reignited by a number of sparks, including: Beijing's blocking of Japan's bid to have a permanent seat in the UN Security Council; the competing claims to petroleum deposits and islands in the East China Sea; and China's irritation at the visits of former Prime Minister Koizumi to the Yasukuni Shrine where Japan's war dead, fourteen of whom are considered war criminals by China and South Korea, are buried. Unless these two giants settle their historical differences, it is doubtful whether a broader East Asian Community is possible.

The European Community is said to have inspired the building of an East Asian Community. Unlike the EC, however, East Asians are glued together by economic drive and constrained by very incompatible politics. Bridging the conflicting politics between Japan and China requires the settling of debts. Germany's owning up to its accountability for past adventurisms may well be a key example for Japan. Germany apologized to the Jews for the crimes committed to them by the Nazis. Despite the debate in Germany about the limitations of the mandatory Holocaust Education, there is commitment in the teaching of this part of history to German students. The issues about Japanese history textbooks that downplay Japan's treatment of China during World War II, on the contrary, remain unsettled.

<sup>5</sup> Zalmay Khalilzad, "Congame China", RAND Issue Papers 187, (1999).

## ASEAN-CHINA FREE TRADE AGREEMENTS

The ASEAN-China Free Trade Agreements (ACFTA) is a crucial component of East Asian regional economic integration. In 2002, Chinese and ASEAN Leaders signed the Framework Agreement on Comprehensive Economic Cooperation and decided that an ASEAN-China FTA would be set up in 10 years. When realized, the ASEAN-China FTA will be the largest FTA in Asia. It will also be the biggest FTA between developing countries; biggest in terms of population covered representing a market of 1.85 billion consumers and a combined gross domestic product of almost 2.5 trillion dollars. The ACFTA will be fully implemented for the ASEAN-6 in 2010, and will integrate Vietnam, Laos, Myanmar, and Cambodia by 2015.

On January 1, 2004 the two parties began implementing what China called an "Early Harvest Plan" or EHP. This plan grants a 3-year duty free entry for ASEAN goods into the Chinese markets. After this, China's manufactured goods will have full free tariff access to Southeast Asian markets. This secures China's access to the region's raw materials and at the same time removes barriers to China's exports. The EHP cut tariffs on more than 500 products as part of the efforts to facilitate the FTA. The ACFTA will strengthen China's clout by making it the center of gravity in Asia and surpassing the influence of Japan and the US. The 8th China-ASEAN Summit on November 29, 2004 in Vientiane resulted in a package of agreements on trade in goods and dispute settlement. China and ASEAN began to cut tariffs on more than 7,000 products-- a move indicating the start of the substantial tariff reduction phase between the two parties.

Trade between China and ASEAN has been on the rise, growing at an annual average of 19% between 1995 and 2002. The 2002 trade record is US\$ 54.8 billion.<sup>6</sup> This leapt to more than US\$100 billion for the first time in 2004 and further increased to US\$130.37 billion in 2005.<sup>7</sup> ASEAN trade with Japan and the US remained higher at \$136 billion each in 2004, but this is expected to be overtaken by ASEAN-China trade soon.

Supporters of ACFTA argue that

<sup>6</sup> Bian Shen, "New Opportunity for ASEAN-China Trade", *Beijing Review*, (May 1, 2003).

<sup>7</sup> Li Guanghui, "China-Asean FTA both necessary and beneficial," *China Daily*, (November 6, 2006).

Chinese and ASEAN economies complement one another. But China's expansion is not being welcomed by everyone. In fact, reaction to China's growing economic presence is increasingly becoming negative, especially from small farmers and manufacturers in the region. Those in electronics, furnitures, motorcycles, and fruits and vegetables increasingly see China as a threat. In Thailand, farmers are despairing that they could not sell their own produce anymore because of the low-priced Chinese vegetables that invade the markets in rural towns and cities in the country.<sup>8</sup> Malaysian and Indonesian workers are also complaining about jobs being lost to Chinese workers due to closures of enterprises that are losing orders to China. Increased Chinese textile exports since 2005 to Cambodia and Vietnam started to supplant local producers in the two countries.<sup>9</sup>

The strong drive and interest by the ASEAN elite to deepen economic ties with China is not shared by farmers and small businesses that fear the competitive advantage of China in churning out low-priced goods. Environmentalists and interests groups also worry about the impacts of Chinese demand on natural resources in the region.

## DEVELOPMENT COOPERATION

In recent years, the flow of Chinese development assistance to Southeast Asia, especially to Laos, Burma, and Cambodia, has been increasing. In the Greater Mekong Sub-region in general, China is actively pursuing cooperation for the construction of power plants and regional grid interconnection. China also finances projects in Vietnam Kon Giang 2 and Bao Loc and the rest of Southeast Asia.<sup>10</sup> In Malaysia, it supports an ongoing project for the rehabilitation of Tenompangi hydropower plant in Sabah. Laos' Nam Tha and Tha Som and Myanmar's Kun are also benefiting from China's external development assistance.

China is balancing its deepening trade partnership with ASEAN with development support. China is now trying to match Japan's role in development assistance, which remains dominant. Clear

<sup>8</sup> Supara Janchitfah, "Lost in Statistics", *Bangkok Post*, (August 13, 2006).

<sup>9</sup> Denis Gray, "Anxiety and Opportunities Mount as Chinese Colossus Exerts Influence on Southeast Asia", *Associated Press*, (March 30, 2004).

<sup>10</sup> Please see details of these projects at the Rivers Watch East and Southeast Asia webpage, [www.rwesa.org](http://www.rwesa.org).

ly, the current swirl of Chinese money to development projects within ASEAN is intended to warm the relationship between China and its neighbors.

However, China is perceived as a source of many environmental problems. Its development of the Mekong River within its border negatively affects the countries downstream, which include Thailand, Laos, Cambodia, and Vietnam. Chinese logging companies are also notorious for violating Forestry Laws in Burma and Indonesia; and for contributing to severe deforestation in the two countries. As China continues with its charm offensive through government assistance and regional investment, it must also own up to increasing responsibility.

#### **FROM PAX AMERICANA TO PAX ASIA PACIFICA?: CHINA-ASEAN MILITARY COOPERATION**

China's diplomatic offensive in Southeast Asia has raised concerns about the implications of China's rise on the balance of power in Asia Pacific. Those fearing a China threat scenario see China's increasing influence and political muscle flexing as signals of its interest to attain regional hegemony. The US, for instance, has reason to be threatened as China's rise could disrupt its preeminent role in Asia, including its ability to shape regional politics to serve its interests.

China skeptics argue that as China's economic power grows, it may seek to expand its political power because it wants to protect and affirm its interests. They fear that over time China might use its growing military capability to control politics in Asia in the same manner as the US. China, on the other hand, is continually taking pains to ensure that its rise is perceived as non-threatening. Chinese officials always point out that China is expanding its political influence through the institutional approach; that is, by means of international cooperation. It has established itself as an Asian power and world power through increased integration into the international community. From an economic viewpoint, the benefits of China's alliance with the US still outweigh the possible gains from challenging US political and military hegemony.

China's leaders call their vision "heping jueqi" or the peaceful rise of China.<sup>11</sup> This peaceful rise is being pur-

<sup>11</sup> Yiwei Wang, "The Dimensions of China's Peaceful Rise", available online: <http://www.atimes.com>.

sued through trade, confidence building measures, development cooperation, and assistance. There is also a growing perception that China is not challenging the US, rather, it is "filling-up" the space vacated by the US as it gets pre-occupied somewhere else.

With ASEAN, China has never been aggressive. It signed in October 2003 the Treaty of Amity and Cooperation,<sup>12</sup> which indicates China's commitment to respect the ideals long held by ASEAN: sovereignty and non-interference in each other's internal affairs, and settlement of disputes in a peaceful manner. In terms of military cooperation, China initiated Security Policy Conferences in the Asian Regional Forum (ARF), which were held in Beijing in 2004 and in Vientiane in 2005. There are now Joint Military exercises with Australia, the Philippines, and Thailand, training of ASEAN officers and provision of language trainings to military personnel from ASEAN countries. All this is done to show that China identifies with the regional security ideals of ASEAN.

China's initiative on the Code of Conduct that will come up with plans for joint development in the South China Sea also pacifies, at least for the time being, ASEAN Member claimants of the disputed territories. In the past, conflicts between the Philippines, China and Vietnam erupted over control of islands in the South China Sea. In March 2005, state-owned oil companies from the three countries signed a three-year agreement for joint exploration for oil and gas in the disputed area.<sup>13</sup>

However, there remain security issues involving China that pose a challenge to ASEAN and to Asia generally. The issue of Taiwan is key. China's insistence on the One China Policy may not match the economic imperatives of ASEAN all of the time. The Singaporean Deputy Prime Minister Lee Hsien Loong's (son of former leader Lee Kuan Yew) visit to Taiwan in July 2004 displeased Beijing and caused the cancellation of the visit of Chinese Central Bank Governor Zhou Xiaochuan to Singapore.<sup>14</sup>

At this point, it will still take some

<sup>12</sup> "China joins Treaty of Amity and Cooperation in Southeast Asia", *People's Daily*, (October 9, 2003).

<sup>13</sup> ASEAN, "Declaration on the Conduct of Parties in the South China Seas", (November 4, 2002), available online [www.aseansec.org/13163htm](http://www.aseansec.org/13163htm).

<sup>14</sup> Elizabeth Economy, "China's Rise in Southeast Asia: Implications for Japan and the United States", *Japan Focus*, (October 10, 2005).

more time to see whether China's gestures of non-interference, cooperative security, and "filling-in" moves will indeed eat at the role of the US in the region. Pentagon's Quadrennial Defense Review released in February 5, 2006 reaffirms that the US will not allow the rise of a competing superpower.<sup>15</sup> Indeed, the US has taken steps to re-establish relationships with ASEAN countries. However, the Bush administration's blinkered focus on military response to the challenge of terrorism increased anti-American sentiments among Muslims in Asia.

While China has yet to gain the status of an alternative to US leadership in the region, ASEAN could always use China's potential as a possible alternative in its balancing act with the US and Japan in various political, economic and security negotiations.

### **THE WAY AHEAD... WILL PEOPLE MATTER?**

ASEAN is the "mother of all regional formations" in Asia. It has gone through a long history, of challenges and rebirths. The presence of China in the evolving regional community and its role in the governance of the region's economic, political and security relations have potential benefits to member countries. China's leadership in combating drug trafficking in its border could contribute to the solution of transnational crimes. Its initiatives for deeper cooperation on health issues like the spread of severe acute respiratory syndrome (SARS) and HIV/AIDS will certainly give a big push to efforts toward addressing these problems.

If successful, China's efforts to solve its internal problems through its new social policies for the countryside may provide a good model for a redefined activist state's role in economic governance. However, China's growing influence does not necessarily ensure human security, deeper democracy, political transparency, protection of the environment, and human rights in the region. Despite growing sentiment of anti-Americanism in the region, the US is still considered by many as a more democratic country and a better supporter of human rights.

The China-Africa Summit held in Beijing in November 2006 showed China's very limited appreciation for the participation of civil society organizations in geo-political events. NGOs were not part

of the big meeting, which was attended by 43 African heads of state. A stronger civil society participation in ASEAN affairs will most certainly not be championed by China.

Asian movements, NGOs, and campaign groups are increasingly recognizing the importance of engaging China. To do so, it is important to understand China better and know their counterpart/ like-minded organizations within the mainland. It is crucial to engage China and work with the increasing number of people and organizations there that are working to make China more responsive to social concerns. ■

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<sup>15</sup> *Japan Focus*, (April 2006).

# Development and Plunder in the Mekong Region

SHALMALI GUTTAL

## THE MEKONG REGION

**T**he Mekong region encompasses the province of Yunnan in the Peoples' Republic of China (China), Burma, Thailand, the Lao Peoples' Democratic Republic (Laos), Cambodia, and Vietnam. The region derives its name from the Mekong river, which emerges from a source in Tibet, approximately 5500 meters above sea level, and flows 2161 km through China's southern provinces of Qinghai and Yunnan, and then flows another 2719 km through Burma, Laos, Thailand, Cambodia, and Vietnam, where it finally joins the South China Sea.

Except for China, all Mekong countries are members of ASEAN. Thailand is one of the original ASEAN-5 countries. Burma (Myanmar) is the newest entrant. China, however, has started to cement economic ties with ASEAN through a free trade agreement and an “Early Harvest Program”. The Mekong region is possibly one of the wealthiest regions within the ASEAN grouping in terms of environmental resources and bio-diversity.

The Mekong river is the world’s 12th longest river in the world (about 4,200 km long) and 10th largest in terms of annual water yield (about 475,000 million cubic meters) with a massive drainage area of approximately 795, 000 square km across six countries. It is one of the most seasonal rivers in the world as measured by the difference between maximum and minimum monthly flows. From its origins in the snow-fed plateau of Tibet, the river passes through and shapes a wide range of topographies and geographies, including the gorges of the Upper Mekong in China, the uplands of Burma and Laos, the flood plains of Cambodia and the nine-tailed dragon of the Mekong Delta in South Vietnam.

The Mekong region is a region of immense environmental, social, cultural, biological and economic wealth, and diversity. From water, timber, flora and fauna, to gemstones and minerals, the natural wealth of the region provides a strong base for diverse domestic and local economies. Although the Mekong region extends well beyond the river basin, the Mekong River drains much of the region, especially downstream from the Golden Triangle. Changes in the Mekong River or its tributaries can effect significant changes in the entire region’s environment and economy. The high rise and falls of water flows in the Mekong river and its tributaries between wet and dry seasons support numerous lake, riverine, swamp, wetland and backwater ecosystems that are rich in biodiversity such as Cambodia’s Tonle Sap lake (also called the Great Lake) and South Vietnam’s vast

Mekong Delta in the lower Mekong. The Mekong freshwater system is the third most diverse in the world and home to at least 1200 species of fish, the Irrawaddy Dolphin, Giant Catfish, and Siamese Crocodile.

More than 250 million people inhabit the region, of which at least 80 million live in the basin itself. The region is brought alive by over 70 distinct ethnic and linguistic groups, who are often found in varying proportions across the countries of the region. About eighty percent of the population in the region is dependent on small holder agriculture and artisanal fisheries as the main sources of livelihood. More than half of the protein intake of the region’s people comes from fish, and fish is an important source of income and livelihoods for local communities and commercial fishers alike. For most rural communities—upland and lowland alike—forests, woodlands and plains serve as crucial sources of food, medicinal plants, raw materials for housing and occupational tools, and forest products for local trade.

The region is also home to an extraordinary variety of agricultural practices and land, forest and water stewardship methods, many of which have evolved from age-old traditional practice and local knowledge. These include upland swidden fields, wet rice cultivation, river-bank gardens and horticulture. Rural communities tend to meet their food and income needs through rice cultivation, horticulture, hunting, fishing, and foraging.

The region has a varied political history. Four of the region’s countries—China, Laos Cambodia and Vietnam—are moving from centrally planned to market based economies. Thailand is a constitutional monarchy with an elaborate market economy. Burma is rule by a military junta. In a span of just over sixty years, countries in the region have variously moved through numerous political-economic formations—colonies, monarchies, military dictatorships and

communist republics—as they established their current identity as modern nation states.

The Mekong region has been marked by political conflicts for hundreds of years, many among neighbors from within the region. Some of the most visible imprints on the region have come from the colonial aggressions of the nineteenth and twentieth centuries from Britain, France, Imperial Japan, China, and most recently, the United States (US). During the 1960s and 1970s, much of the lower Mekong was consumed by war, whose human, social, economic, and environmental costs have yet to be fully mapped and acknowledged. The cold war provided the US and its allies with the impetus for full-blown war (in Vietnam); the heaviest bombing recorded in history (in Laos); and political manipulation with tragic consequences (in Cambodia). China and Thailand, while quick to protect their own lands from becoming theatres of war, colluded with external aggressors at various times.

Now it is peacetime and the regions' peoples are exhorted to look towards the future rather than at the past. But collective memory is more difficult to rewrite than history books. Despite a newfound spirit of inter-governmental cooperation in the Mekong region, old suspicions and prejudices linger. Former occupying powers too seem unable to give up their spheres of influence. What they are no longer able to do with colonial administration, artillery and bombs, they attempt to do through economic policy and development assistance.

### **DEVELOPMENT TRENDS IN THE MEKONG REGION**

The countries of the Mekong region are not on the same economic footing. Burma, Laos, and Cambodia are categorized as Least Developed Countries (LDCs) and are the smallest economies in GDP/per capita income terms. Along with Vietnam, they are less economically powerful than China and Thailand. But in terms

of natural resources and environmental wealth, they surpass their larger neighbors, who have aggressively depleted and degraded their natural reserves through ill-considered and poorly planned development strategies. Thailand is the most prosperous in terms of income and consumption, and has been the hub for much of the post-cold war economic activity in the region. China, Thailand, and to a significant extent, Vietnam have made important investments in health, education, basic and financial services, science and technology, and labor-force development. Burma, Laos, and Cambodia, however, continue to have poor social indicators with little national public investments in key social sectors.

Development in the Mekong region is increasingly market led. Development models across five Mekong countries (Burma not included) prioritize rapid economic growth, integration with regional and global markets, and increasing the role and share of the private sector in the domestic economy. Private sector involvement is particularly sought in sectors such as physical and social infrastructure, tourism, finance, energy, power, and agriculture. National development plans are augmented by regional economic cooperation frameworks promoted by the Asian Development Bank (ADB), the World Bank, The International Financial Corporation (IFC), northern bilateral donors, and private venture capital funds. At the heart of all development plans, national and regional, is the exploitation of the region's immense environmental and natural wealth, water resources, and agricultural potential. The ADB has summed up the prevailing vision of development as follows:

“The economic potential of the river and that of the land and peoples its passage defines is huge, although until now it has been largely undeveloped.... Water from the Mekong River supports agriculture, and its fish yields are a source of both protein and income. It can also be used



to generate electricity and as transport corridors. Forests in the Mekong region protect hydro-power projects and agriculture from siltation and erosion, contribute to tourism potential, and provide subsistence to rural communities...”<sup>1</sup>

According to the ADB—and the World Bank—the Mekong region has the natural resources, a growing and trainable labor force, abundance of land and strategic location for it to fast become an economic growth area. What it lacks is capital, technology, know-how and political will among the Mekong countries to effect their transformation from subsistence to hypermarket economies. This lack is now quickly being made up for by a plethora of development, investment, and “capacity building” projects, with numerous development professionals and “experts” ready to advise governments on how to transform their natural wealth into GDP growth figures and bank accounts.

Although many development projects in the smaller Mekong countries do emphasize social sectors such as health, education, water supply, and sanitation, “development” in the Mekong seems to mostly imply hydroelectric dams, massive irrigation and electricity-transmission systems, logging of the region’s ancient forests, extractive industry, the construction of roads, highways and ports, tourism, massive irrigation and electricity-transmission systems, industrial tree plantations, commercial, chemical-intensive and mono-crop agriculture, and aquaculture of exotic (non-native) fish species.<sup>2</sup>

The Mekong river basin has long been coveted by the dam industry. Since the onset of economic liberalization in the 1980s, dam builders—backed by International Financial Institutions (IFIs), UN agencies and donors—have flocked

<sup>1</sup> *A Wealth of Opportunity, Development Challenges in the Mekong Region* (Asian Development Bank, 2000).

<sup>2</sup> Dave Hubbel, “Development in the Mekong Region”, available online: [http://www.hurights.or.jp/asia-pacific/no\\_30/02.html](http://www.hurights.or.jp/asia-pacific/no_30/02.html).

into the region to stake their claims to the region’s relatively untapped water resources. Quick on their heels have been the timber, pulp and paper industries, followed by tourism and mining companies. The region’s water ways, forests, wetlands, river-banks and agricultural lands are seriously threatened by dams, commercial mono-crop agriculture, plantations, tourism, mining and road projects. Land-grabbing by local/national elites (including powerful government officials) is rife; hundreds of thousands of people across the region are being ousted from traditional occupations and territories. But all this seems to be of little interest to the region’s governments, development policy advisors, bankers and donors. Majority of the region’s peoples are systematically excluded from development planning; have little hope of legal redress when their lands, rivers and forests are stolen; and are routinely intimidated by state and non-state actors if they dare express dissent against the prevailing development wisdom of the day.

## STAKING CLAIMS

*“With vision and capacity, Swedish business has an excellent opportunity to play an important part in supplementing Swedish development cooperation in one of the world’s most dynamic regions, while generating profits at the same time. This means more than simply selling goods and services paid for by Swedish aid; it is a question of whether business and aid can work together to contribute to development in line with Sweden’s Global Development Policy.”*

— Johan Brisman, Consultant at SIDA’s Asia Department<sup>3</sup>

Development financing in Mekong countries comes from multilateral and bilateral sources. China, Laos, Cambodia and Vietnam are under World Bank In-

<sup>3</sup> “Open door to investments in the Mekong region” (In-depth information 28 Mar 2006), available online [http://www.sida.se/sida/jsp/sida.jsp?d=1328&a=23299&language=en\\_US](http://www.sida.se/sida/jsp/sida.jsp?d=1328&a=23299&language=en_US).

ternational Monetary Fund (IMF) loan regimes, which mandate privatization, liberalization and market-friendly regulation as conditions for credits. These countries are also heavy borrowers from the ADB, which prioritizes the establishment of free market conditions in all loans and technical assistance grants. Bilateral donors to the Mekong countries include Japan, China, Canada, Ireland, the Netherlands, Sweden, Denmark, Norway, Finland, Australia, the US, Britain, South Korea, Switzerland, and Thailand.

In 1997, the World Bank's IFC set up the Mekong Private Sector Development Facility (MPDF). The MPDF operates in Laos, Cambodia, and Vietnam and aims to reduce poverty through sustainable private sector development. Support for the MPDF comes from the ADB and the governments of Australia, Canada, Finland, Ireland, Japan, New Zealand, the Netherlands, Norway, Sweden, Switzerland, and the United Kingdom.<sup>4</sup>

In 2002, with support from the MPDF, the Mekong Enterprise Fund (MEF) was launched as the first venture capital fund to make equity investments in small and medium sized private businesses in Vietnam, Laos, and Cambodia. The \$16 million Fund aims to provide investment capital and technical support to private companies founded and managed by private entrepreneurs, with a focus on export industries and local service providers. MEF investors include the ADB, the Nordic Development Fund (NDF), the Finnish Fund for Industrial Cooperation Ltd. (Finnfund), the State Secretariat for Economic Affairs of Switzerland (SECO), and other private investors. The Investment Manager of the Fund is Mekong Capital Ltd, and the Advisor to the Fund is MPDF.

Mekong region countries have signed on to a host of bilateral trade and investment agreements, as well as to regional cooperation agreements through the ASEAN (Association of Southeast Asian Nations), the Greater Mekong

Sub-region Economic Cooperation Program (GMS), and the more recent Ayeyawadi-Chao Phraya-Mekong Economic Strategy (ACMECS) framework. With the exception of Laos and Burma, all the Mekong countries are members of the World Trade Organization (WTO). Vietnam signed a bilateral trade agreement (BTA) with the US a few years ago; Thailand is currently negotiating BTAs with the US and Australia respectively; and Cambodia has entered into a Trade Investment Framework Agreement (TIFA) with the US.

The most sustained and high profile impetus for market led development in the region has come from the ADB through the GMS. Initiated in 1992, the GMS is an ambitious master plan to create a "frontier" of rapid economic growth through regional economic cooperation. The GMS aims to transform the rich human and natural endowments of the Mekong region into a region-wide free trade and investment area, fueled and led by private sector growth. Majority of the capital investment in the GMS has been in the areas of transportation infrastructure (road, railways, air and waterways), power/electricity, tourism, and trade and investment facilitation. Since 1992, more than 100 projects in transportation, energy, telecommunications, trade and investment, tourism, environment, human resources, and agriculture have been launched through the GMS, although investment capital for most of these projects is still to be secured. GMS projects are developed almost entirely by ADB staff and private consultants and firms.

On July 4-5, 2005, the Heads of States of the GMS countries met in Kunming at the second GMS Summit and declared that, "the GMS is committed to creating a conducive and competitive environment for trade, investment, and private sector development. To strengthen market fundamentals, we will promote financial efficiency, a sound policy, and institutional, legal and regulatory framework; and undertake further facilitation and harmonization of trade and

<sup>4</sup> See IFC MPDF website for more information.

investment regimes.”<sup>5</sup> And further, “A well-built, seamless, multi-modal infrastructure is essential to the facilitation of trade, movement of people and the provision of basic services throughout the whole region. We therefore commit ourselves to fully ‘connecting GMS’.”<sup>6</sup>

According to ADB Vice-President Liquan Jin, “The vast development potential of the GMS makes it an attractive trading partner, investment location and tourist destination.”<sup>7</sup> In a bid to woo investors and leverage private capital for infrastructure projects in the region, the ADB has established a Mekong Development Forum. It serves as a rotating platform to bring private companies, investors, donors and Mekong country governments to discuss future cooperation. In November 2005, the Forum was held in India, in collaboration with the Confederation of Indian Industry (CII). According to the CII, trade and investment opportunities in the transport, energy, information technology, agribusiness, and tourism sectors are of particular interest to India.<sup>8</sup> In March, 2006, the Forum met in Singapore to discuss the investment opportunities for Singaporean companies in the Mekong sub-region. In April, 2006, the Forum was organized in Stockholm and this time it was Swedish investors who gathered with the ADB, Swedish Governments, and Mekong region governments. In a news brief to the Swedish International Development Cooperation Agency (SIDA), Johan Brisman, Consultant at SIDA’s Asia Department asked, “Might we get to see Vattenfall and ABB invest in the energy infrastructure of the region, Skanska and Vägverket becoming involved in transport, and the Swedish environmental

movement, forestry and pharmaceutical industry working actively on forest issues and biological diversity?”<sup>9</sup>

Another important regional cooperation framework is the ACMECS, which brings together Burma, Laos, Thailand, Cambodia, and Vietnam. Named after the three major river systems that run through these countries, the ACMECS aims to increase cooperation in five main areas: trade and investment facilitation; agricultural and industrial cooperation; regional transport linkages; tourism; and, human resource development. ACMECS aims to transform the border areas of its five members into special economic zones of high growth. With the fertile lands and hydro-power potential that the river basins offer, key areas of investment are agriculture and energy.

Regional agreements do not diminish the roles of old and new heavy-hitters in the Mekong development-investment business. Over the past 15 odd years, China has started to play a leading role in speeding up investments in the region independently and through the GMS and ASEAN + 3 frameworks. China is arguably becoming the most dominant driver of trade and investment in the region, as well as one of the most sought after markets for exports of the region’s raw materials and processed products. China has signed numerous agreements with other GMS member countries in areas such as transportation, animal epidemics prevention, information technology, superhighway construction, power trade, tourism and environmental protection. According to an official Chinese daily newspaper, “Ever since the inception of the GMS Program, China has been both a beneficiary of, and a contributor to it and has made large investments in infrastructure construction within the region.”<sup>10</sup>

China is also pouring massive amounts of money into transportation

<sup>5</sup> Available online [http://www.adb.org/Media/Articles/2005/7879\\_Greater\\_Mekong\\_Subregion\\_declaration/default.asp?RegistrationID=guest](http://www.adb.org/Media/Articles/2005/7879_Greater_Mekong_Subregion_declaration/default.asp?RegistrationID=guest).

<sup>6</sup> *Ibid.*

<sup>7</sup> “Mekong Development Forum in Singapore to Explore \$15 Billion in Potential Investment” (ADB Media Release, March 3, 2006), available online <http://www.adb.org/Media/Articles/2006/9416-Singapore-Mekong-Development-Forum/default.asp>.

<sup>8</sup> Available online <http://www.hindu.com/thehindu/holnus/006200511061010.htm>.

<sup>9</sup> “Open door to investments in the Mekong region” (In-depth information 28 Mar 2006), available online [http://www.sida.se/sida/jsp/sida.jsp?d=1328&a=23299&language=en\\_US](http://www.sida.se/sida/jsp/sida.jsp?d=1328&a=23299&language=en_US).

<sup>10</sup> Hu Xuan, *China Daily*, July 7, 2005, p. 4

and energy facilities including hydro-power dams on the Lancang (as the Mekong is called in China), Laos and Cambodia. China has funded the “North-South Corridor,” a highway that links Kunming to Bangkok via Laos (scheduled to be fully operational by 2007), and several other smaller roadways in Laos and Cambodia. It is the largest investor in Laos and the 3rd largest investor in Cambodia. For China, one of the most important trade routes is the 4,425 km long Mekong River itself and it has blasted rapids in the Upper Mekong to make it navigable. On March 6, 2006, the Joint Coordination Committee of Navigation on Lancang-Mekong<sup>11</sup> River met in Champassak, Laos, to discuss commercial navigation on the Lancang-Mekong as a way to boost trade activities among the upper Mekong countries. A Lancang-Mekong navigation channel is being developed through inter-governmental cooperation among China, Laos, Burma, Thailand and Vietnam. It is estimated that a total of US \$ 36.11 million of capital assistance will be committed to Lancang-Mekong navigation development and management by the ADB, governments of the Netherlands, Sweden and Britain, and other international organizations.<sup>12</sup>

China’s growing influence is in direct competition with the region’s traditional economic “hub” Thailand. With its well developed export capacity and long standing relationship with the world’s large capitalist powers, Thailand has been the most voracious consumer of the region’s natural resources; it is also the region’s favored destination for capital, labor, goods, services, and tourism. Since its recovery from the 1996-98 economic crisis, Thailand has aggressively promoted itself as a champion of Asian self-sufficiency with Thai businesses leading the charge. Thai corporate interests in the region are largely focused on agriculture, electricity, and tourism.

<sup>11</sup> The Mekong River is known as the Lancang in China

<sup>12</sup> Xiao Yu-hui, *Kunming Daily*, March 7, 2006; available online [http://news.yninfo.com/yunnan/jingji/2006/3/1141712581\\_18/](http://news.yninfo.com/yunnan/jingji/2006/3/1141712581_18/).

China’s growing influence in the Mekong region is also viewed with concern by Japan, which has attempted to maintain a large economic and political presence in the region. As far back as the mid-1960s, Japan attempted to be a “bridge builder” among the newly formed ASEAN and the communist regimes of Indochina. In 1993, Japanese Prime Minister Kiichi Miyazawa proposed the creation of the “Forum for Comprehensive Development of Indochina,” which held its first ministerial-level meeting in Tokyo in February 1995. Japan is the largest bilateral donor in Cambodia, Laos, Burma, and Vietnam (CLMV). On its own, as well as in collaboration with the ADB, Japan has funded several regional infrastructure projects. Most high-profile among these is the “East-West Corridor,” a super highway—including a bridge over the Mekong River—that links Muktahan in northeastern Thailand, Savannakhet in southern Lao PDR and the port of Da Nang in central Vietnam. Scheduled for completion next year, the highway is expected to be extended to Mawlamyine in southern Burma at a future date. A second “East-West Corridor” is also in the works to link Bangkok, Phnom Penh, and Ho Chi Minh City, scheduled for completion in 2006-2007.

## CAPTURING THE WATERS

Some of the most serious threats to the environments, ecologies, economies and livelihoods in the Mekong region come from the frenzy of dam building on the Mekong and its tributaries. More than 100 dams have been planned for the region, some already built and many still in the design and survey stages. While some dams are billed as multi-purpose, majority are hydro-power dams aimed at meeting the ostensible power/electricity needs of a rapidly growing region.

Hydro-power development in the Mekong is largely catalyzed and supported by the World Bank, ADB, the United Nations Development Program (UNDP), export credit agencies (ECAs)

and bilateral donors including Norway, Sweden, China, France, Japan, Thailand, and Australia. The ADB estimates that the Mekong Basin has a “theoretical” hydro-power generating potential of 58,000 MW and of this, about 37,000 MW of installed capacity is actually feasible. One of the flagship projects of the ADB supported GMS is the Mekong Power Grid that aims to purchase electricity from hydro-power projects in China, Burma and Laos and distribute it across the region (mainly to Thailand) through a regional power grid.

Hydro-power projects in the Mekong are lucrative businesses for consulting and engineering companies from Europe, North America, Australia and Thailand, who are able to secure relatively risk free contracts to survey and build dams under Build-Own-Operate (BOT) arrangements. Many companies have formed international consortia of public and private sector companies to bid for large hydro-power projects, and are able to secure financing because of the guarantees and subsidies provided by IFIs and ECAs. While Laos and Cambodia rely on IFI and donor support for hydro-power development, China and Vietnam have been able to leverage capital for their dam building projects from private capital markets.

Upstream on the Lancang, China has started to develop a huge cascade of hydro-power projects in Yunnan, which has already started to change the Mekong’s seasonal ebbs and flows. Huaneng Power International, China’s largest energy generator, has been given most of the hydro-power development rights on the Mekong and Yangtze rivers. At least eight dams are in the pipeline; the Manwan and Dachaoshan dams have already been built; and the Xiaowan dam is under construction. The Xiaowan dam alone will be able to capture some 25 per cent of the Mekong’s total annual volume of water flowing downstream from Yunnan. The potential impacts of the Yunnan dams on the natural flow of the Mekong River all the way down to Cambodia and

its Great Lake system are alarming. The Tonle Sap in Cambodia and the Mekong Delta in South Vietnam, which encompass some of the most fertile and rich rice growing and fisheries areas, will be particularly endangered by dams on the Mekong. Fish migration, feeding and reproduction cycles in the Mekong River basin are likely to be disrupted, thus decreasing the productivity of Mekong fisheries and affecting the food supply of millions of people living in the basin. Impacts within Yunnan itself give cause for concern. The Yunnan Resettlement and Development Bureau estimates that about 500,000 local people will be displaced by Yunnan’s hydro-power development plans in the coming 15 years. The province will have to move an average of 40,000 people every year to pave the way for hydro-power projects—possibly the largest known figure for dam displaced peoples anywhere in the world over the past 50 years.<sup>13</sup> In addition to this is the massive flooding of agricultural lands, river bank farms, forests and fallows that are crucial sources of livelihoods for the province’s rural communities.

The Central Highlands of Vietnam are fast turning into a hub of hydroelectric development. It is estimated that by 2010, the Central Highlands will have an installed capacity of 5,000 MW (one-third of the current national electricity capacity) through more than 20 large and medium sized dams on the Sesan, Se Re Pok, Ba, and Dong Nai rivers. The Yaly and Sesan 3 hydro-power plants have already been in operation for some years now. The plethora of hydro-power projects in Vietnam are justified by the government as necessary for generating electricity to meet the country’s development needs and for providing employment for thousands of workers. However, there is little acknowledgment by the government of the long term negative impacts of these projects on downstream communities (many in neighboring Cambodia), or on communities that have been forcibly

<sup>13</sup> Chuncheng Wanbao, *Kunming Evening Daily*, May 23, 2006.

relocated to make way for the projects, or on the lands and forests that are flooded by the dam reservoirs.

Laos is a haven for hydro-power projects partly because of its abundance of rivers and appropriate topography for dam projects, but more so because the Lao Government has willingly accepted hydro-power as its only long term revenue option. Laos is estimated to have the potential capacity to generate 18,000 MW and more than 50 dams are proposed to be built in this small, largely rural and environmentally rich country over the next 25 years. Almost every province of Laos is abundant with streams and rivers, many of which have already started to be dammed over the past two decades. Dams proposed and already built include those on the Namngum, Namleuk, Namkading, Namtheun, Saset, Senamnoi, Sekaman, and Sekong rivers.

Hydro-power development in Laos is driven completely by IFIs, bilateral donors, and specialized consulting firms; at present, Thailand is more or less the sole market for Laos' electricity. All recent and new projects are variations of the BOT model. Consortia made up of public and private sector companies (including Electricite du France, Transfield, Snowy Mountains Engineering Corporation, John Holland Holdings Limited, Tasmanian Hydroelectric Commission Enterprises Corporation, and GMS have made hefty profits through consultancy services, procurement, and construction contracts. Laos is considered a "high risk" investment destination; private financing for infrastructure projects is leveraged through an elaborate system of IFI brokered guarantees and counter-guarantees that ensure that investors recoup their money before the government. The people of Laos are left with infrastructure that they don't have the funds for, and equipment to maintain with, and a mounting external debt. In order to keep the dam infrastructure running after investors have recouped their profits and left, the Lao government will remain bound to IFIs and donors for more loans

and grants. Contrary to IFI assertions, hydro-power development in Laos will increase rather than decrease its aid dependency.

Although the gains to Thailand and the dam building industry from Laos' hydro-power projects are evident, it is far more difficult to estimate how Laos'-mostly rural—population will benefit from these projects. Rural electrification is still a distant dream in the country; hydro-power generation is primarily for export and the state simply does not have the cash to put in place the required systems for distributing electricity across its vast (at many places mountainous and remote) rural areas. On the other hand, thousands of families have been relocated without adequate compensation to alien environments to make way for dams. Communities living downstream from dam projects have lost their seasonal river bank gardens and have reported losses in fish species and numbers, as well as losses of other local flora. Primary, as well as abundant secondary growth forests have been indiscriminately logged in and around dam sites, and fertile agricultural lands and woodlands have been flooded by dam reservoirs. The World Bank funded Nam Theun 2 dam in central Laos will divert millions of cubic meters of water from the Theun River into the Se Bang Fai River, thus completely altering the natural flow of the Se Bang Fai and potentially destroying the fisheries and riverbank vegetable gardens of more than 100,000 people living along the Xe Bang Fai and its tributaries. Widespread logging in and around the proposed dam sites of the upper Sekaman and Sekong Rivers have resulted in loss of precious old growth forests.

The Lao Government, IFIs and donors justify dam projects as necessary for "poverty reduction." But there is little evidence to back this claim. Field reports indicate quite the opposite—dams in Laos are severely impoverishing rural communities as well the entire country through mounting external debts and the loss of environmental wealth that cannot

be replaced.

Rivers know no boundaries. Together, the Se Kong River in Laos and Cambodia, the Se San River in Vietnam and Cambodia, and the Nam Theun River in Laos contribute approximately 20 per cent of the Mekong's annual flow volume and nurture some of the most biologically diverse ecosystems in Southeast Asia. They are also home to thousands of communities many of whom are ethnic minorities and indigenous peoples. Dams on any of these rivers in any country will affect the ecologies and lives of peoples in another. More than 50,000 people living along a 200 kilometer stretch of the Se San River in northeast Cambodia have experienced deaths by drowning, sudden and abnormal flooding, and severe damage to their fisheries because of the Yali Falls dam located upstream on the Se San in Vietnam.

As elsewhere, dams in the Mekong region have far-reaching and long term negative impacts that can neither be reversed nor mitigated. Large scale logging; flooding of forests; agricultural, foraging and grazing lands; loss of local diverse flora and fauna; and, the destruction of entire micro ecosystems in interrelated watersheds are habitual companions to these dams. Thousands of families are resettled to alien, inhospitable environments where they are expected to start life anew without the resources, knowledge, and skills required to do so. Many are not able to survive and move on looking for more hospitable environments. Fish, shrimp, and crabs are some of the most important sources of protein and income for nearly 65 million people living in the Lower Mekong Basin. Dams, navigation channels, rapid economic regionalization and infrastructure development are all contributing to unprecedented changes in water resources and rural livelihood opportunities.<sup>14</sup>

However, these impacts are neither

<sup>14</sup> Dr. Simon R Bush and Le Nguyet Minh, *Fish Trade, Food and Income Security: An overview of the constraints and barriers faced by small scale fishers, farmers and traders in the Lower Mekong Basin*, (Oxfam America, 2005).

fully studied nor acknowledged by the dam industry, IFIs and governments. Although dam projects are promoted in the name of "regional development," no attempts have been made by any of these institutions to comprehensively assess the cumulative impacts of existing and proposed dams on the ecologies and livelihoods of the region's peoples.

## **SELLING THE FORESTS AND GRABBING THE LANDS**

One of the most crucial features of the Mekong region, its forests, are being rapidly eroded as a result of dams, rampant and indiscriminate logging, rapid expansion of industrial tree plantations, and land grabs by local/national elites and foreign companies. Forests in the Mekong region are a mix of lowland and highland tropical, deciduous, semi-evergreen, evergreen, peat, and mangrove formations. Over the past two decades, about 50 per cent of this forest cover may well have vanished due to dams, logging, commercial agriculture, plantations, tourism and roads.

Forests are not only crucial repositories of much of the region's biological wealth and diversity, but equally important, they are intrinsic parts of the lives, cultures and economies of majority of the region's peoples. For rural communities, forests and woodlands are a source of medicinal herbs and plants, fuel-wood, housing materials such as wood, leaves and grasses, small animals for food, and a variety of products such as mushrooms, bamboo and rattan shoots, honey, vines, resin, roots and wild vegetables for food and income. Many communities — particularly indigenous or animist communities—have sacred, spirit forests that are governed and shared through stringent rules and practices. Many sacred forests are sources of local rivers and streams and protecting the forest also means protecting the communities' water sources. Forests are also important for local folklore, education and knowledge; children learn the value of plants, animals, poisons and medicines by accompanying their parents

to forests. In both upland and lowland areas, the demarcation between forest and agricultural lands is often blurred. Swidden cultivation is rotational and letting the forest regenerate on fallows is important to preserve the fertility of swidden fields. The system of rotating production fields and fallows is common in lowland farming as well. It is common for farmers to say that fields that are not planted on become forests. Vegetable gardens and small fruit orchards are often planted in forests and woodlands to provide hospitable growing conditions.

Such multiple uses of forests among local communities is not romantic, but a reality. Forests and the water systems they support—streams, rivers, lakes, and wetlands—are crucial to ensure food and livelihood security in a region where most governments have more or less abandoned their obligations to citizens. However, this is not acknowledged by the region's policy makers and development experts. In the prevailing development imagination, forests are economic resources for timber, non-timber forest products (NTFPs) for commerce, and sources for new pharmaceuticals. Already logged forests are designated as 'degraded forests' and handed over to companies for industrial tree plantations. Forestry "experts" accept that some forests do need to be protected for maintaining important watersheds (and preserving hydro-power potential), flora, and fauna. To achieve this, it is imperative that some forests be designated as protected and conservation areas, barring local communities from using these areas. Ironically, most of the region's forests have been destroyed as a result of modern forest governance systems and not by the use of forests by rural communities.

In Cambodia, forestry officials and experts estimate that the country has lost about 2.6 million hectares of forest over the past twenty years<sup>15</sup>, much of it to logging companies. Cambodian hard wood fetches a high price (US \$ 120 per

<sup>15</sup> Available online [http://www.atimes.com/atimes/Southeast\\_Asia/DH30Ae01.html](http://www.atimes.com/atimes/Southeast_Asia/DH30Ae01.html).

meter) and Cambodian timber companies have generated tens of millions of dollars from their operations. A forestry law was passed in 2002 that makes it illegal to cut trees outside forest concession areas and in areas designated as national parks and wildlife sanctuaries. The Cambodian Government also placed a moratorium on granting further forestry concessions during this period. While these have significantly reduced logging, the moratorium does not cover economic land concessions which are owned by many logging companies and on which logging continues, albeit on a much smaller scale than before.

Commercial logging has been going in Laos for more than 30 years now. By the end of the 1980s, timber products accounted for half of the country's export earnings. Commercial logging in Laos has been supported by the World Bank, the ADB, UNDP, the Food and Agriculture Organization (FAO), and bilateral donors such as Sweden, Australia and Finland. In 1990, Laos adopted the World Bank-UNDP-FAO initiated Tropical Forest Action Plan (TFAP), which laid out a framework for land and forest management, and recommended a logging rate of 280,000 cubic meters a year and the establishment of industrial tree plantations.<sup>16</sup>

In the following years, commercial logging reached unprecedented scales with clear cutting of high-value hard wood forests well beyond the permitted limits. Private companies from neighboring countries and Lao military owned companies (such as Bolisat Phattana Khet Phudoi -BPKP— and DAFI) sparred for the best cuts. By the mid-1990s, a worried Lao Government attempted to ban all commercial logging in the hope of curbing illegal logging. But both legal and illegal logging continue with the tacit assent of forestry and highly placed government officials, and much of the logging revenues do not reach state cof-

<sup>16</sup> "Making money from trees? Commercial tree plantations in Lao PDR," *Watershed*, volume 9, no. 3 (March-June 2004).



fers. Although precise figures are hard to come by, it is possible that Laos has already lost at least 40 percent of its total forest cover and most of its hard wood reserves.

With the TFAP also came categorization of forests as production, conservation, protection, regeneration and degraded forests. Although the Lao Government recognized that rural communities need forests to meet their food, health, livelihood and spiritual needs, a key objective of forest categorizations and management plans was to restrict the access of ‘unauthorized’ rural people into the forests. Those who are considered properly authorized are forestry officials, logging and plantation companies, selected donors, and conservation organizations. Often, forests that villages have used for decades for foraging and firewood are declared off bounds for village residents. If village residents need to cut a few trees to build or repair their homes, the village meeting house, or a local wat (Buddhist temple), they must get permission from district authorities, or it is likely they will be penalized. But companies that extract more than the permitted amount of timber, or log protected areas are rarely chastised. Such contradictions have led to increasing tensions between rural communities (especially those who are already impoverished) and forestry officials.

In Burma, abundant teak and hardwood forests along the Burma-Thailand border have sustained more damage in the past 25 years because of logging by Thai companies than during 100 years of colonial timber extraction. In the mid-1980s, about 18 Thai firms were granted permission by both the ruling Military junta in Burma, as well as some rebel groups to log forests in Burmese territory along the Burma-Thai border from Chiang Rai in the north to Ranong in the South. For the military junta, the main motivations for granting logging concessions were that they could get money from timber extraction (through royalties) in rebel territories without actually

engaging in logging and equally important, they could use the roads and other infrastructure developed by logging companies to transport arms and scale up the war against rebel groups.<sup>17</sup> For the rebel armies, the main motivation was money; they needed the logging revenues to purchase sophisticated arms and weaponry, much of which was supplied by the Thai military.

Because of the risky nature of operations—logging in war zones—logging companies speeded up their operations and cut all the trees they could, big and small, mature or not. Between 1988 and 1992, Burma’s forest areas along the Burma-Thai border were completely devastated by Thai logging; the devastation extended 100 km deep into Burma. Because of international outcry against destruction of one of the world’s richest tropical forests, the Burmese Government canceled all logging concessions between 1992 and 1995. But this did not stop the logging. Logs that were already cut and stored at border areas were still claimed by Thai companies. Also, the Burmese Government has no authority over the rebel armies who continue the timber trade with Thai companies.<sup>18</sup>

Organized commercial logging is an old story in Thailand and was possibly first established by the British logging industry, which expanded its operations from Burma into northern Thailand. While the early logging era focused on teak, after World War II, commercial logging continued with non teak trees and was Thailand’s predominant form of forest exploitation until it was banned in 1989. The ban, however, did not end timber extraction from natural forests.<sup>19</sup> Thailand’s wood industry simply switched its supply chain to illegal logging inside the

<sup>17</sup> Veerawat Dheeraprasart, “Until No Trees Remain: Illegal logging in the Salween Forest,” in *After the Logging Ban, Politics of Forest Management in Thailand* (Thailand: Foundation for Ecological Recovery, 2005).

<sup>18</sup> *Ibid.*

<sup>19</sup> Dr. Pinkeaw Luangaramsri, “The Politics of Nature Conservation in Thailand,” in *After the Logging Ban, Politics of Forest Management in Thailand* (Thailand: Foundation for Ecological Recovery, 2005).

country and legal and illegal imports from Burma, Cambodia, and Laos. The wood industry also found a new supply source: commercial tree plantations.

Industrial tree plantations in the Mekong region are a scourge as widespread and deadly as large dams. Plantations are an old phenomena in the region dating from French and British colonial eras when colonial companies established large hard wood and rubber plantations. In the past twenty odd years, however, every country in the region has handed tens of thousands to hundreds of thousands of hectares of agricultural and forest lands over to private companies for commercial and industrial tree plantations. These include eucalyptus, pine, and acacia plantations for the pulp and paper industry, teak and other hard wood for the timber industry, and commercial crops such as rubber, cassava, sugar cane, palm oil and cashew-nuts. The tree/crop species that are planted are generally fast growing in order to maintain a steady supply of raw materials for industry, and all of them are alien to the region. A new category of plantations that has recently emerged is “carbon sink” plantations through which, countries can purchase “carbon credits” by financing tree plantations.

Plantations have been heavily promoted by donors, IFIs, ECAs and private forestry consulting firms as a development strategy to maximize the economic use of “degraded” forests and unused land, prevent soil erosion and flooding, increase reforestation and alleviate poverty. One of the most notorious forestry consulting firms is Jaako Poyry from Finland. Poyry promotes a purely industrial approach to forests based on a northern model of sparse population and low biodiversity, which is completely opposite to the dense populations and high bio-diversity of tropical forest areas.<sup>20</sup> Poyry is the darling of the pulp and paper industry (it has carried out over 400 projects for the industry over the past 40 odd years). It is

<sup>20</sup> Tove Selin, “Jaakko Poyry and the Fin(n)ished Forests of the Mekong Region,” *Watershed*, volume 9, no. 3 (March-June 2004).

also a favored consultancy firm for many IFIs, ECAs and donors.

Although the specifics vary according to country, the overall story of plantations in the Mekong region is a story of forest destruction, land grabs and impoverishment of peoples and environments. Fast wood plantations are generally accompanied by processing plants close at hand. Paper and pulp mills in the region have poisoned local water systems and soils with chemicals and wood particles. Plantations and their processing plants consume huge amounts of energy and water which are denied to local communities living in and around the plantations. Eucalyptus plantations create aridity and rapidly deplete the soil of moisture and nutrients. Plantations are mono-cultures and repeated planting of the same crop/tree in close cycles requires intensive use of chemical fertilizers, pesticides and herbicides, which leach into the soil and ground water and reduce the fertility of surrounding areas. In some cases (e.g., the Green Sea concession in Northeastern Cambodia and Lao World Coconut concession in central Laos) the primary objective is logging of tropical forests.

Plantations are displacing people from their villages, fields, forests, and traditional occupations. In many cases (as in Cambodia, Vietnam and Yunnan), village residents are actually forced to relocate to new areas to make way for the plantations. In other areas, village residents can remain in their villages but not use the surrounding forests and woodlands for foraging and cultivation since these are now under the control of plantation companies. A common occurrence in every country is encroachment by plantation companies on village, forest and public lands, well beyond the area permitted in concession contracts. Villagers in Southern Laos report that Vietnamese plantation companies have put fences around their grazing lands and are claiming them as part of the plantation areas. Although this is in violation of verbal and written agreements, government authorities have not taken action against

the companies.

In Cambodia, a handful of powerful companies with high political connections have secured “economic land concessions” across the country for rubber, eucalyptus, pine, acacia, teak, palm oil, sugar cane, and cassava. Many of these concession areas are not actually being used for the agreed purposes, for example, the Pheapimex area in central Cambodia. The common wisdom in the country is that these lands have been grabbed by companies for speculation and tourism development and that they not be returned to the communities. In northeastern Cambodia, land grabbing by powerful local elites and private companies has become so commonplace that local communities often remark that the only reason the government supports road building projects is so that their lands can be stolen more easily.

One of the most irresponsible supporters of industrial tree plantations is the ADB. In Laos, the ADB and JICA (Japanese official aid) are promoting “small holder” plantations of 2 – 3 hectares whereby farmers are contracted to grow trees under private companies subsidized by the ADB and JICA. However, Lao farmers are not mono-culture producers and plantation production systems are completely alien to their definition of agriculture. On April 6, 2006, the ADB approved a Forest Plantations Development Project for Laos. With a budget of US \$ 15.35 million, the project aims to establish 9,500 hectares of small livelihood plantations (SLPs) and a Lao Plantation Authority. The loan document states that:

“The goal of the Project is to support the establishment of financially viable SLPs and MEPs and to facilitate industrial plantation development and the associated processing industry, to create a substantial plantation resource base. The Project will catalyze large-scale foreign direct investment in forest plantations to develop an efficient wood

processing industry. The long-term objective is to develop an efficient and equitable sub-sector to accelerate the pace of economic development, reduce poverty, and improve the environment.”<sup>21</sup>

Alarming, the above loan was approved barely months after the ADB’s Operations Evaluation Department (OED) found that the precursor to this project—which also promoted eucalyptus plantations among family farmers—was completely unsuccessful and ridden with fraud and corruption. From 1993–2003, the ADB financed a US \$ 11.2 million loan project to promote eucalyptus tree plantations among small and medium scale farmers. In its evaluation of the project, the OED concluded that because of the project, people were driven further into poverty by having to repay loans for failed plantations, and that the ADB’s performance was completely unsatisfactory.<sup>22</sup>

As in the dam building industry, plantation companies get subsidies, preferential financing and other supports from the institutions such as the ADB, World Bank, UNDP, and FAO, and from northern donors such as Canada, Britain, Japan, Australia, Finland, and Sweden. Each Mekong country is also supporting its own private companies to corner land concessions for plantations. Although many plantation companies operating in the region are Asian, their know-how and equipment comes from northern consultancy and engineering firms, who in turn are promoted by northern donors and IFIs.<sup>23</sup>

To date plantation promoters have not provided any empirical evidence that plantations have provided employment,

<sup>21</sup> ADB Loan Agreement (Special Operations, Forest Plantations Development Project) between Lao Peoples’ Democratic Republic and the Asian Development Bank. Loan Number 2209-LAO(SF).

<sup>22</sup> Chris Lang and Bruce Shoemaker, “Creating Poverty in Laos, the Asian Development Bank and Industrial Tree Plantations,” in *World Rainforest Movement* (April 2006).

<sup>23</sup> For a comprehensive analysis of industrial tree plantations in the Mekong region, see Chris Lang “The Pulp Invasion, the International Pulp and Paper Industry in the Mekong Region,” in *World Rainforest Movement* (December 2002).

regenerated forests or generated revenues that governments have used for national development and poverty reduction. Grabbing land and replacing diverse, natural forests with mono-culture plantations is thus relatively cost-less for the companies. But it has proved extremely expensive for the rural communities that depend on these forests and lands for their very survival.

### **THE HIGH COST OF DEVELOPMENT**

Every country in the Mekong region has special government departments devoted to wooing and negotiating contracts with private and public investors, donors and creditors. But no such facility exists to systematically document the loss of waters, forests, fish, bio-diversity, lands, livelihoods, and incomes, or to record testimonies of local communities about how their lives and environments have changed as a result of the largely unregulated investment pouring into the region. Whatever documentation exists on these issues has been carried out by national and international civil society organizations, independent researchers and academics, often under insecure political conditions.

There are several issues that this paper does not cover, for example the impacts of roads, mining, tourism and agribusiness activities on the region's resources and livelihoods. Tourism, for example, is an extremely complex phenomenon whose effects extend to changes in social and cultural organization, labor and trafficking of humans, flora and fauna.<sup>24</sup> Roads, although necessary for connecting national communities, are also the means of carrying the region's precious resources to markets over which local people have no control.

Contract farming is being aggressively promoted in every Mekong country to "integrate" small hold farm-

ers into the regional and global economy. While contract arrangements may provide some income to farmers in the short term, contract terms do not generally favor the producers. In Cambodia, small hold farmers are facing acute financial distress because of contract farming related debts. Thailand's experience over the past thirty years of leaving its small hold farmers vulnerable to market forces with no protection is a cautionary tale. Real farm income in Thailand has not increased since 1977, whilst spending on agricultural inputs has increased over the same period. Small farmers are increasingly indebted and many farming families have lost their lands due to heavy debts that they are unable to service. Out of 5.7 million farming families, 4.7 million do not have enough land to sustain themselves. In Cambodia, Laos and Thailand, distress migration from rural to urban areas is rapidly increasing. Those who were once able to live off their lands, forests and rivers are now trying to survive as workers in the construction, services and hospitality industries.

Where is the wealth of the Mekong region going? Certainly not to the majority of the region's peoples. Instead, the region is being plundered to feed the pockets and bank accounts of government officials, national elites, and domestic and foreign private companies. Mekong country governments, IFIs, bilateral donors and regional groupings like ASEAN are pushing development projects in which the Mekong region has little meaning beyond being a source of raw materials and cheap labor to feed the needs of wealthy consumers and destructive industries. Despite their prattle about human rights, good governance, and the rule of law, national and international policy makers are blind and deaf to the realities and voices of the communities whose rights to their environments and livelihoods are being trampled on in the name of development. ■

<sup>24</sup> For excellent analyses on tourism, see *New Frontiers*, "Briefing on Tourism, Development and Environment Issues in the Mekong Sub region"; available online: <http://www.twinside.org.sg/title/nf7.htm>.



Figure 1: A map of the Mekong Region

# Raising a different flag

## *Struggles for Self-Determination in Southeast Asia*

HERBERT DOCENA

**T**he Association of Southeast Asian Nations (ASEAN) has chosen the slogan, “One Caring and Sharing Community” for its 12th summit in Cebu this December. While such a slogan remains a promise, it is true that at the very least, no open fighting has broken out among the nation-states that comprise this regional grouping. Since the 1960s, when Thailand and the Philippines sent military contingents to Vietnam under the command of the United States and, most recently, in 1978 when Vietnamese troops entered Cambodia, no Southeast Asian country is known to have sent ground troops to another country in Southeast Asia, thereby laying the ground for “sharing and caring” in the region.

This picture of calm, however, hides the bloodletting within. Despite the seeming harmony among Association of South-east Asian Nation (ASEAN) members, certain countries within the ten-nation grouping are still wracked by long-running conflicts that remain unresolved. This article looks in particular at the Philippines, Thailand, Indonesia, and Burma where, for decades now, centralizing states – driven by domestic and foreign interests – have used various instruments of power against groups of people struggling for self-determination within their territories. In each of these cases, the state’s attempts to subjugate minority groups politically, economically, and culturally and to control or gain access to resources have been met with organized – at times wavering, at other times escalating – resistance.

Because of this decades-long dynamic, the political and territorial integrity of some of the states that comprise ASEAN are still being actively contested. In the Philippines, despite decades of war, attempts to secure lasting peace through negotiated settlements with the Moros in Mindanao have all but faltered. In southern Thailand, separatist sentiments among the Muslim Malays – earlier thought to have been doused – are believed to be on the resurgence. In Burma, various ethnic-based movements have been struggling for greater autonomy or independence for nearly fifty years. Signed in August 2005, the ink on the peace agreement between Jakarta and the Gerakan Aceh Merdeka (Free Aceh Movement) is still fresh and it is perhaps, given the record of past failures, too early to tell whether peace will hold. Meanwhile, among the Melanesian people of West Papua, called Irian Jaya by Indonesia, the pro-independence movement remains popular and is gaining more international attention.

Though there are important differences and complications, the similarities among these cases are striking, as will be

discussed below.<sup>1</sup> ASEAN governments have attempted to sweep the issues raised by these self-determination struggles under the rug in the name of “mutual non-interference” and, in the past few years, the “war on terror” has not only served to detract from the fundamental causes behind the conflicts; it has also promoted military solutions to problems that undoubtedly require more complex solutions.

## CONTINUING COLONIALISMS

The struggles for self-determination in Southeast Asia are inextricably bound to the history of colonialism as well as to the continuing attempts by foreign and indigenous powers to secure their interests in the region today. As in other parts of the world, the boundaries of the states that comprise the ASEAN today were to a large extent drawn by the Western colonial powers that once directly ruled territories in the region and the indigenous ruling classes and groups that replaced them after gaining formal independence. The decision as to which areas were to be included in the emerging states, however, often did not have the expressed democratic consent of the people living in them. One day, they would wake up in a colony; the following day, they would find that they had become citizens of a state not of their own choosing.

Prior to the arrival of the Spanish colonizers starting in the early 16th century, what is now known as the Philippines was but a collection of smaller settlements of people with different cultures and languages and uneven levels of political organization. It was only through Spain’s attempts to centralize its rule throughout the archipelago and the eventual struggle for independence by the indigenous population that the idea of a nation-state to be eventually called the Philippines emerged. But what

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<sup>1</sup>This piece is the beginning of a wider research project on the issue. It is an initial and not an exhaustive attempt to survey and flag some of the similarities among the self-determination struggles in order to guide further research.

constituted this idea was contested even then. The Muslim Moros living in the southern areas considered themselves of a distinct identity and culture from the rest of the Christianized population governed by the Spanish. Despite not having totally established political control over the Moro-dominated areas, however, the Spanish proceeded to cede these areas to the United States in 1898. The British would also relinquish an area claimed by a Moro sultanate to their colony of Malaya.

After the United States took over from the Spanish, Moro leaders wrote to the US government to reiterate their demand that they not be made part of the Philippines if it was given independence. Due largely to the efforts of US and domestic elites who had economic interests in securing control over the lands and their investments in the south – as well as to the nationalists determined not to lose territory – no effort was made to find out whether the Moros and the indigenous people really wanted to become “Filipinos.”<sup>2</sup>

The story of the Moros is analogous with the story of the Acehnese. Though the colonial powers never established full control over the once independent Acehnese kingdom because of the strong resistance by the locals, they passed it around as though they had possessed it. In 1824, the British handed over all of Sumatra island to the Dutch even if they had held no actual power over Aceh on its western flank. In 1873, the Dutch attempted to bring the area under control by invading it. The resistance was so fierce and unrelenting that between 50,000 to 100,000 Acehnese were killed in the war that lasted for over thirty years. Even then, the Dutch were only able to exercise tentative rule over the area and parts of the province remained out of its control until

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<sup>2</sup>Aijaz Ahmad, “Class and Colony in Mindanao” and “The War against the Muslims,” in *Rebels, Warlords, and Ulama: A Reader on Muslim Separatism and the War in Southern Philippines*, ed. Kristina Gaerlan and Mara Stankovitch (Quezon City: Institute for Popular Democracy, 2000).

1942 when the Japanese invaded. In 1949, in negotiations that the Acehnese were not privy to, the Dutch “gave up” something they did not even own by including Aceh among the territories handed over to the newly independent Indonesian state.<sup>3</sup>

Unlike Aceh, however, the Dutch refused to give up West Papua to Indonesia. In an attempt to hold on to a piece of land in Asia, they instead promised a separate and independent state to the West Papuans, a non-Muslim people who have more in common culturally with their fellow Melanesians from Papua and its neighboring islands than with the Malays who dominate the rest of Indonesia. This incurred the ire of Indonesian President Soekarno and other nationalists who insisted that West Papua be made part of Indonesia, threatening to invade it if the Dutch refused.

Eager to appease Soekarno, partly for fear that he would move closer to the Soviets, the United States quickly intervened to broker a compromise between the Indonesians and the Dutch. But the “stone-age Papuans,” as Walt Rostow, who was then presidential adviser to John F. Kennedy,<sup>4</sup> called them, were not at the table. Pressured by the US, the Dutch agreed to hand over West Papua to the Indonesians but on the condition that a referendum be conducted to give the West Papuans a chance to vote for or against independence. Out of a population of 800,000, the Indonesian military proceeded to hand-pick 1,022 tribal leaders who were told that they would be guilty of treason and would thereby have to be shot if they voted to break from Indonesia. In the end, all of them voted against separation. The United Nations supervisor raised issues about the exercise and there was a chance that the vote could be questioned at the General Assembly. But by that time, General Soeharto had – in

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<sup>3</sup>Ben Terrall, “A Brief History of Aceh,” *Estafeta* (East Timor Action Network/U.S.) Vol 7 No. 1 Winter 2001.

<sup>4</sup>US Department of State, Office of the Historian, Bureau of Public Affairs, “Foreign Relations, 1961-1963, Vol XXIII Southeast Asia,” (March 6, 1995).



a coup that killed over 600,000 Indonesians – taken over. More cooperative with the US than Soekarno, Soeharto opened up Indonesia’s economy to foreign investors and gave a concession to the American company Freeport to operate in West Papua. Despite being aware of Jakarta’s machinations, US officials told the UN supervisor that he should accept “political realities” and indicated to the General Assembly that the referendum results would not be challenged by the US.<sup>5</sup>

The history of the mostly Muslim and Malay people who constitute the majority in the southern provinces of Thailand – but a minority in the Buddhist-majority country – is a bit different in that a non-Western colonizer was involved. The provinces formed what was once the core of the independent kingdom of Patani that was invaded and annexed by the kingdom of Siam in 1784 and which became part of the nation-state subsequently named Thailand. That annexation was not accepted passively by the Malays: in various revolts in the 18th and 19th centuries, they rose to challenge Siamese control. At the same time, the British and French colonizers that had entered the scene by then were pressing Siam from the south and the east respectively. In 1904 and 1909, without the locals’ consent, the Siamese and the British imposed a settlement in which the British would recognize Siam’s annexation of the former Patani kingdom so long as Siam accepted British control over the other Malay states further south.

The locals’ demand to be under neither the Siamese nor the British did not dissipate, however. As the Thai gov-

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<sup>5</sup>“Indonesian Human Rights Abuses in West Papua: Application of the Law of Genocide to the History of Indonesian Control,” Allard K. Lowenstein International Human Rights Clinic Yale Law School, (April 2004); “Indonesia’s 1969 Takeover of West Papua Not by ‘Free Choice,’” National Security Archive, (July 9, 2004); “Papua: Answers to Frequently Asked Questions,” International Crisis Group Asia Briefing No. 5, (September 5, 2006); John Wing with Peter King, “Genocide in West Papua: The role of the Indonesian state apparatus and a current needs assessment of the Papuan people,” University of Sydney Center for Peace and Conflict Studies, (August 2005).

ernment sided with the Japanese during World War II, the Malay leaders in the south forged a “gentlemen’s agreement” with the British, extracting the promise that they would be given independence as soon as the Japanese were driven out. This was not to happen. As with the case of Indonesia, the United States treasured the Thai government as an anti-communist ally. Not wanting to destabilize it, the US pressured the British to put their common interests over their promise to the Malays. The British agreed.

Similar accounts of conquest and betrayal characterize Burma’s fractured past. Possibly Southeast Asia’s most ethnically divided country, an estimated half of the population belong to the Burman ethnic group while the rest are divided among the Karen, Shan, Chin, Mon, Kachin, Wa, Karenni, Pa’o, Palung, Naga, Lahu, and Akha peoples. Most are Buddhists but Muslims and Christians constitute sizeable segments of certain ethnic groups. In the centuries prior to the arrival of the British in 1824, the area that now more or less make up current Burma was the domain of various kingdoms and groups locked in a protracted struggle for control and territory. For a time, no one group was able to dominate the scene for an extended period. By the 18th century, the Burman kingdom gained ascendancy; even then, it could only exact tributes from – but not totally dominate – the other kingdoms who managed to retain much of their autonomy.

It was only when the British colonized the area that “Burma” began to be considered a single geographic unit, even as it was to become more splintered. Under British rule, colonial administrators fueled antagonism and distrust among the ethnic groups. They divided Burma into two spheres and ruled each differently: one was for the Burman people who were viewed with suspicion and were ruled directly; the other was for all the other non-Burman groups who were given more autonomy. As a result, resentment against the British was stronger among the Burmans; the non-Burmans, on the

other hand, felt they were liberated from Burman repression by the British. When World War II came, the Burmans, having been promised by the Japanese that they will be given independence once the British left, initially fought alongside the Japanese against the British; the non-Burmans for the most part, having been promised their own independent states by the British, fought with the British against the Japanese. Both were to be betrayed.

After the war, Burman resistance leader Aung San brokered an agreement with selected ethnic groups – the Shan, the Kachin, and the Shin – in which they agreed to drop their demands for their own independent states and instead create the Union of Burma. Under this agreement, certain groups would be allowed to govern in their own states and would be given an equal share of the country's wealth; some would have the right to secede from the Union if they so decide after ten years. The problem with this selective granting of rights was that other groups – such as the Karen, the Mon, and the Rakhine – were left out in the cold and the agreement soon unravelled. Shortly after it came into being in 1948, the new state of Burma was besieged by the Karen and other ethnic groups who – having first used non-violent means but were repressed – took up arms to fight for federalism or independence. Other ethnic groups with similar demands would likewise mount their own armed challenge to the state in the succeeding years. The 1962 coup which catapulted a military junta to power ushered in an era of heightened repression that has yet to end.

Even after the colonial powers formally withdrew starting in the 1940s, they continued to intervene in the domestic struggles for power in the region. In the Philippines, Indonesia, and Thailand, the US consistently backed authoritarian governments, their militaries, and the ruling elites that allied with them, through vast sums of economic and military aid in exchange for their support for the US' geo-

political and economic goals. Extended in the belief that these states' stability were more important in the pursuit of these goals than issues of self-determination, US support contributed heavily, if not decisively, to quelling the separatist and other movements that emerged in the region. Military equipment sold and donated to the governments were used against movements that challenged the hold of US allies on power and the stability of the states. In exchange, these allies gave the US access to military bases necessary for staging intervention in the region. To the extent that challenges to the region's states were also threats to US interests, local militaries also served as frontliners for fighting common enemies.

Burma proved to be an exception. The post-independence U Nu government was, along with India's Nehru and Indonesia's Soekarno, among the main proponents of non-alignment between the US and the Soviet Union during the Cold War. In the 1960s, the US attempted to win Burma over and shed its neutrality but the strategy backfired: it prompted Burma to renounce the US and move closer to Peking instead.<sup>6</sup> Since then and through the Vietnam War, Burma's "socialist" military junta has kept the US at an arms length, even as the Philippines and Thailand, and to a lesser extent Indonesia, embraced it.<sup>7</sup> In recent years, and in response to US' attempts to punish it with sanctions, Burma has relied on China to supply it with over a billion dollars worth of military equipment used against pro-democracy and separat-

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<sup>6</sup>In the 1960s, defeated Chinese Nationalist forces from Taiwan had taken refuge in bases in Burma and were launching operations against the Chinese communist regime with the help of the US. In an apparent effort to turn Burma against Peking and favor Washington instead, the US provoked China to retaliate and attack Burma. But it did not work. Burma sided with the communists instead and attacked the Nationalists. (William Blum, *Killing Hope: US Military and CIA Interventions Since World War II* (London: Zed Books, 2003))

<sup>7</sup>US Department of State, Office of the Historian, Bureau of Public Affairs, "Foreign Relations, 1961-1963, Vol XXIII Southeast Asia," (March 6, 1995); US Department of State, Office of the Historian, Bureau of Public Affairs, "Foreign Relations, 1964-1968, Vol XXVII Mainland Southeast Asia," (September 21, 2000)..

ist fighters. As with the US' relationship with Thailand and the Philippines, China helps protect Burma from external and internal pressures for reform while Burma gives it access to its military bases and to its resources.<sup>8</sup> Apart from China, the regime has also survived on the revenues of exports to Thailand and on aid from Japan. Despite the sanctions, revenues from concessions granted to US corporations have also kept the regime alive, as will be discussed below.

### **OLD-STYLE PRIVATIZATION**

The incorporation of the Malays of southern Thailand, the Moros, the Acehnese and West Papuans, and the various ethnic minorities into Thailand, the Philippines, Indonesia, and Burma facilitated the establishment of control over these regions' lands and natural resources. Using their state powers, governments effectively expropriated these resources and put them into the hands of foreign and domestic interests.

Indonesia is the world's largest natural gas exporter; in 2000, its oil and gas exports accounted for as much as 30% of its gross domestic product. A large part of this, up to 40% of total revenues in 2000, comes from Aceh, the largest natural gas field in the world. Granted a concession to tap this field is ExxonMobil, which considers its operations in Aceh as the "jewel in the company's crown."<sup>9</sup> But little of the wealth generated trickled down to the Acehnese as a large percent of the revenues went to the central government and to the foreign companies. Indonesia is also home to the world's largest gold-mine and second largest copper-mine, both of which are located in West Papua, and operated under a concession given to a US company Freeport. Under its contract with the government, Freeport was, like other investors, allowed

to confiscate West Papuan lands. Other Jakarta-based companies and foreign corporations mowed down West Papuan forests for their plantations, timber estates, and forest concessions. As with Aceh, the revenues and taxes went back to Jakarta and to the home companies but little was spent in West Papua itself. Driven away from their lands by the companies, many West Papuans became homeless in their own land. Deprived access to their source of survival and livelihood, many were conscripted as forced labor.

Even before Philippine independence, multinational corporations, landlords and other powerful elites from the north of the country had seized ownership over vast tracts of fertile lands in Mindanao. On areas previously owned or collectively accessed by the indigenous population, they developed cash-crop, fruit, and rubber plantations, logging, mining, and other resource-extraction operations. As with West Papua, the money flowed back north to Manila and abroad, with little trickling down to the south. The fishing grounds, too, became increasingly dominated by trawlers from the capital, displacing the small fishers who depend on the seas for their survival.

Incidentally, unknown to many, one of the first demands of the Abu Sayyaf Group, whose members broke away from the mainstream separatist movement and which eventually became associated with kidnapping and other criminal activities, was that trawlers from the north be banned from fishing in the south. It is also telling that the current peace negotiations between the government and the Moro Islamic Liberation Front, one of the two main separatist groups, have foundered precisely on the question of control over land and resources. While it has been willing to concede some measure of political and cultural autonomy to the group, the government is adamantly refusing to give up control over the region's mines.

Issues relating to control over natu-

<sup>8</sup>Ashild Kolas and Stein Tonnesson, "Burma and Its Neighbors: The Geopolitics of Gas," *Austral Policy Forum* 06-30, (August 24, 2006).

<sup>9</sup>Robert Jereski, "Activist and Press Background on Exxonmobil Activities in North Aceh," *International Forum for Aceh*, May 27, 2001.

ral resources are also acute in southern Thailand, which – like Mindanao and West Papua – holds a disproportionate share of some of the country’s total resources. For instance, Thailand is the world’s largest natural rubber exporter, 70% to 80% of which is produced in the south. But it is not the locals who own the rubber plantations or the mines; they are owned by Thais, usually Buddhist and often of Chinese origin. Neither have they benefited from the severe deforestation caused by logging concessions in their area. An overwhelming majority of them are either small farmers or fishers.<sup>10</sup> But as in Mindanao, fish stocks have been sharply depleted as a result of over-fishing by large-scale operators from outside the region. Incidentally, the escalation in the violence in the region since 2001 has been linked by some locals to government plans for the south that would have accelerated the depletion of marine resources there. A plan to give private property rights over certain plots of the sea would have further taken access to what is otherwise communal property away from the locals, privileging outside investors, and effectively privatizing the sea.

But it is in Burma where the most skewed distribution of resources could be found: the wealth from the country’s resources accrues mostly to a small group of people composed of the military junta, their families, and their cronies while the rest of the population languishes in abject poverty. With its economic difficulties exacerbated by sanctions imposed by the US and Europe, the military junta has managed to endure by living off the revenues earned in the exploitation of the country’s vast natural resources, including timber, gems and minerals, and hydroelectric energy potential. From a political and economic perspective, however, the single most important commodity is natural gas, access to which has not only earned hard currency for the

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<sup>10</sup>Moshe Yagar, *Between Integration and Secession: The Muslim Communities of the Southern Philippines, Southern Thailand, and Western Burma*. (Myanmar, Lanham, Maryland: Lexington Books, 2003)

regime but also the political support of neighboring Thailand and energy-starved China and India. To extract these resources, concessions have been sold to state and multinational companies, with their revenues split between the junta and the shareholders. Ethnic minorities who live in the area of the timber operations, mines, plants, dams, and pipelines, are not only deprived a share, they have also been displaced from their lands, cut off from their sources of livelihood, and forced to work at gunpoint with no compensation.

## **DISPLACEMENT AND MARGINALIZATION**

In all four cases, efforts to subordinate people politically under the nation-state and thereby ensure control over resources were pursued by employing a common method: resettlement or depopulation. Governments deliberately drove the indigenous people from their lands while encouraging the migration of mostly landless people from other parts of the country in order to change the balance of the population in the contested regions, create tensions between different groups, and dilute the demand for autonomy or separation. At the same time, these internal migration policies served to defuse growing social pressure from the landless rural people while strengthening the landholders’ grip on their lands elsewhere in the country.

Starting in the early 20th century, the Philippine government encouraged landless families from the north to instead go and settle in what was billed as the “Land of Promise” that is Mindanao. Fleeing from rural misery and repression, thousands took the offer and headed south, cultivating land that had not already been acquired by the multinational corporations and the local elites. So successful was the program that by the time the war broke out in the 1970s, Moros and other indigenous people accounted for only 40% of the population and owned less than 17% of the lands, with over 80% of them landless. Just 60

years earlier, in 1913, they constituted 98% of the region's population and "owned" all of the lands prior to colonization. The resulting demographic shift in the region has subsequently affected the outcome of referendums reflecting the extent of local support for the separatist political project. In other words, if a referendum asking local residents whether they wanted to be part of the Philippine nation-state were conducted today, its results would be very different if the same referendum had been conducted a century ago.

In the 1960s, the Thai military government launched the "Self-Help Land Settlement Project" in order to move poor landless families from the parched northeast into the south. Each family was given seven to ten acres of land. By 1969, a total of around 160,000 Thais – who are predominantly Buddhists – had resettled in the south. Officials admitted that the project was aimed at tilting the demographic balance in order to dilute the proportion of Muslims in the region.

Similarly, in 1969, having taken the province from the Dutch, Indonesia announced an "open door policy" for all its citizens who wished to settle in West Papua. Partly funded by the World Bank, the transmigration policy has led to a situation where non-Papuan migrants now account for about 35% of the population, with Papuans projected to become a minority if the trend continues. While settlers have been given lands, Papuans have been driven to barren hills or deeper into the forests, by the newly arrived migrants. The movement of mainly Javanese migrants to Aceh and other areas outside Java has been encouraged by the Dutch since the 19th century and continued through the Suharto regime,<sup>11</sup> although possibly with less success in changing the demographic balance than in West Papua.

In Burma, the military has system-

<sup>11</sup>Tamara Renee Shie, "Indonesia's Aceh Conflict in Perspective: Security Considerations for Tsunami Relief and U.S.-Indonesia Relations," Institute for National Strategic Studies (National Defense University) Background Paper, (February 1, 2005).

atically driven away ethnic minorities from their lands not only to cut community support for resistance movements but also to get them out of the way of the junta's and the corporations' resource-extraction operations. Thousands of villages have been forcefully relocated, many razed, in order to make way for dams, mines, or pipelines. For the construction of the Japanese-funded Lawpita hydropower and Moby dam in the 1960s, for example, more than 12,000 mainly Shan and Karenni villagers were displaced. Recently, the most controversial example has been that of the Yadana pipeline project, owned by a consortium that includes the multinational energy corporations Unocal and Total. Halliburton, of which current US Vice President Dick Cheney was former chief executive officer, was also involved in the project. The junta chose a path that would minimize costs but it happened to be inhabited by Karen, Mon, and Tavoy peoples. Not only were they forced out of their lands by the military, they were also conscripted to clear the path for the pipeline by cutting through dense swathes of jungle.

Expelled from their lands and torn away from the resources that had previously sustained their communities, the people of southern Thailand, Mindanao, Aceh, West Papua, and Burma have a paradoxical existence: while their traditional lands generate immense wealth for the state and the elites, they are among the most impoverished and most marginalized of their country's population. West Papua has Indonesia's highest poverty level, double the national average. The standards of living – educational attainment, health care, life expectancy – are among the worst. Southern Thailand provinces are among the least developed in the country, with monthly incomes just a small fraction of those in the north and center. The Moro-dominated provinces in the southern Philippines have consistently been ranked among the poorest in the entire country and living conditions have been gauged to be among the most miserable. While abject poverty cuts across

Burma's ethnic cleavages, minorities in the eastern regions have been found to have the worst health conditions not just in Burma but in the world.

### **CULTURAL ANNIHILATION**

Just as the states attempted to displace or de-populate the contested regions, they also sought to suppress anything which might serve as a common reference for collective action. Indigenous cultures, languages, and other expressions of self-identification were punished, repressed, replaced – if not totally obliterated by ones approved by the state.

In Thailand, ultra-nationalist regimes banned the use of the Malay language and forced civil servants to shed their Malay names and adopt Thai names instead. People were forbidden to wear traditional Malay dress. The names of streets were changed from Malay to Thai. While the teaching of English, German, and French were allowed, the teaching of Malay was not.<sup>12</sup> Islamic religious schools were obliged to adopt a secular curriculum; statues of Buddha were erected in public schools and Muslims were forced to bow before them. Though some of these policies have been relaxed, some remain and the over-all intent stays the same: for the Muslim Malays to be assimilated into the dominant Thai culture. That these policies have not endeared the central government to the locals is evident in that different generations have had the same demands: that they be repealed.

In 1989, in a gesture reminiscent of the Thai leader Phibun's changing the name of Siam to Thailand to reinforce Thai nationalism, Burma's military junta also changed the name of Burma to Myanmar – a name that makes sense only in the Burman language but not in other minorities' languages. Such a move offended and further estranged the non-Burman groups and highlighted the extent to which the junta leaders continued to appeal to what some believe to be their

<sup>12</sup>"Southern Thailand: Insurgency, not Jihad"; *True*.

last remaining source of legitimacy, their appeal to Burman nationalism. Cultivating this has meant promoting the Burman language over all the other languages in the education system, privileging members of the group in the civil service and the military, and stressing the superiority of Burman culture over others. The obverse of this "Myanmarfication" process, or the state-sponsorship of Burman cultural hegemony, has been the denigration of the cultural practices and identities of the other ethnic groups within present-day Burma.

From the moment it took control in 1963, the Indonesian government has likewise worked determinedly to erode Papuan identity. As in Thailand, it enforced the use of Indonesian as the official language. Singing the West Papuan national anthem and raising of the Morning Star flag, a prominent symbol of the pro-independence movement, are considered treason. Anyone caught singing songs in local languages could face execution. As ethnic groups were decimated or became overwhelmed by the influx of outsiders, many local dialects disappeared completely.

Though perhaps less severely and probably more successfully than Indonesia or Thailand, the Philippine government has also through the years sought to assimilate the Moro people into the nation by privileging officially designated norms and practices. The most effective purveyor of approved national expressions has been the educational system which transmits the "national" language and other national symbols through thousands of schools throughout the archipelago. Since the time of the Spanish, the Catholic Church has also persevered in its proselytizing mission, establishing churches and schools in the farthest reaches of the Muslim areas.

### **THE LANGUAGE THEY SPEAK**

If by force they were incorporated into the states, so by force have they remained with them. In the absence of expressed consent or in the case of active

resistance, state authorities in Thailand, the Philippines, Indonesia, and Burma have in various periods used violence to retain control over the contested terrains and suppress stirrings of dissent. In all four countries, a large fraction of their standing military have been deployed to and stationed at the troubled regions for years. Their mission has not changed: to secure continuing access to the resources and to pacify the displaced population.

In this mission, Indonesia's armed forces is perhaps the most extreme example of the nexus between state power and corporate interests: not only is the military directly profiting from resource-extraction businesses such as logging and mining, its members are also directly paid by corporations to secure them. In West Papua, for example, the military's special operations unit, the Kopassus, has been hired by Freeport to guard its mines.<sup>13</sup> That the state's use of violence is aimed at securing the continued extraction of resources is confirmed by one study which found that abuses against West Papuans were "caused by military and police presence aimed at protecting mining firms, forest concessions, and timber estates exploiting natural resources." Since the 1970s, thousands of civilians – one estimate puts it at over 100,000 – have been killed by the Indonesian military in West Papua. The history of massacres, repeated aerial bombardment, the use of chemical weapons, cases of torture and assassinations has prompted some to accuse the Indonesian military of committing genocide against the West Papuan population. While such a charge is disputed owing to the strict technical definitions of the term "genocide," a human rights organization at Yale University has concluded that the Indonesian government's actions "clearly constitute crimes against humanity under international law."

As in West Papua, Indonesian security forces are also on the payroll of ExxonMobil in Aceh; because they receive direct payment from the company to

guard their facilities, some have argued that these security forces should, in fact, be considered ExxonMobil employees. Despite public accusations of murder, rape, torture, destruction of property, and other acts of terror against them, ExxonMobil continues to engage their services, prompting some to accuse the company of willful complicity in human rights violations. Like in West Papua, the Indonesian military has conducted various military offensives in Aceh at different times for the past fifty years. The rise of the Free Aceh Movement and local support for it is often attributed to the military's repressive presence in the province. In the late 1980s, after the province was officially designated by the Indonesian armed forces as a "Military Operational Area," atrocities blamed on the military escalated. Thousands were imprisoned and there were numerous accounts of rape, torture, massacres, and disappearances. In 2003, martial law was declared and a new wave of repression followed. Between 9,000 to 15,000 are estimated to have died since 1976.

In Burma, the security forces' relationship with the investors has likewise been institutional: the concession agreements between the regime and the corporations stipulate that the military are obliged to protect their operations. Unocal officials, for example, have disclosed that their consortium for the Yadena pipeline "hired the Burmese military to provide security for the project." In fact, documents reveal that the company held meetings with military commanders in order to instruct them where they required roads, military facilities, and security. To render their services, the Burmese military increased their presence along the pipeline, drove out locals at gunpoint, forced them to work for the project, and prevented them from running away. In 1996, victims sued Unocal and Total before American and European courts, accusing the companies of knowingly abetting the Burmese military in cases of murder, rape, torture, and slavery. The companies denied they had any

<sup>13</sup>Papua: Answers to Frequently Asked Questions."

knowledge about the military's actions but a US Federal Court concluded that, "the evidence does suggest that Unocal knew forced labor was being utilized." The companies agreed to an out of court settlement.

There are no known estimates of the total number of people killed or affected by the Burmese state's five-decade attempt to crush the ethnic minority movements. In the first two years after 1948 alone, an estimated 60,000 were killed.<sup>14</sup> Through the decades, the military has mounted various large-scale and smaller offensives against the various armed groups throughout the country. In recent years, the junta has waged a full-scale counter-insurgency war that deliberately targets civilians in the hope of preventing communities from providing support to the resistance fighters. In the past ten years, in the eastern region alone, attacks against Karen and other civilians have resulted in around 3,000 villages being destroyed; more than a million displaced. An estimated 15,000 fled to the jungles at one point. Of the Karen's population of seven million, over a million have fled since 1988. In 1992, during a crackdown on the Muslim minorities, 300,000 escaped to neighboring Bangladesh. There are conceivably thousands of cases human rights abuses – including rape, torture, beheadings and mutilations – but they are difficult, if not impossible, to verify or document because of the junta's restrictions on local and foreign media and non-government organizations. Some have accused the regime of conducting "ethnic cleansing" against the minorities.

In various episodes when the Malays became more assertive throughout the 20th century, the Thai security forces quickly moved to crush them. Hundreds died, many went underground, while an undetermined number went missing. In the latest resurgence of what is believed to be separatist violence, the brutality of the Thai military was on full show in

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<sup>14</sup>Kolas and Tonneson.

what are now remembered as the Krue Se and Tak Bai incidents. In Krue Se, the military shot at and killed over 32 poorly armed or completely unarmed young men inside a mosque; others were reportedly executed. In Tak Bai, the military rounded up over 1,300 men into army trucks and stacked them lying down, one on top of another five to six layers deep. At least 79 died, mostly due to suffocation<sup>15</sup> and despite knowing about the deaths in some trucks, nothing was done to alert those in other trucks in order to prevent more deaths. These are just the most spectacular cases but, especially with the imposition of martial law in the south in July 2005, there have been numerous cases of arbitrary arrests and detentions, disappearances, torture, and other human rights abuses.

In the Philippines, over 100,000 are estimated to have died as a result of the full-scale war that erupted between the Philippine military and the separatist movements that emerged starting in the early 1970s. While there are differing theories as to the spark that ignited it all, it is known that in the late 1960s, the Philippine military – widely believed to be backed by loggers and politicians – organized and financed paramilitary groups that massacred entire Muslim communities in order to drive them out from their lands. This provoked organized resistance on the part of the Moros who in 1972 formed the Moro National Liberation Front (MNLF). In the ensuing war, cities were razed and tens of thousand were displaced. Though the MNLF eventually split and entered into peace negotiations with the government, the military continues to keep a tight grip on the region. Locals accuse troops of acting with nearly absolute impunity in areas under their control as accusations of beheadings, extra-judicial killings, and other atrocities blamed on the military have gone unresolved.

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<sup>15</sup>"Southern Thailand: Insurgency, not Jihad."



## **TERRORISTS AND FREEDOM-FIGHTERS**

Recent years have seen increased militarization and repression in these contested areas as governments seek to portray and justify their actions as part of the “global war against terror” launched and led by the United States since 2001.

In order to bolster their warfighting capabilities, the United States has increased its military aid to both Thailand and the Philippines and has revived military ties with Indonesia, which were suspended due to pressure following widespread human rights violations perpetrated by the Indonesian military in East Timor. US Special Forces are now in the southern Philippines ostensibly to pursue the Abu Sayyaf, a group designated a “terrorist organization” by the US but there are allegations that joint operations with the Philippine military have also been aimed against the MNLF. While packaged as training exercises and humanitarian work, the larger unstated mission of the deployment is evidently to ensure the capability to mount rapid intervention against challenges to Philippine and US control in the region.

Throughout Southeast Asia, a raft of repressive anti-terror measures and legislation that clip civil liberties and strengthen the security agencies have either been adopted or introduced. The targets of these increased military and punitive capabilities are ostensibly the officially designated “terrorists” but the net has been cast wide: government and military officials often use the word to refer to local separatist and other armed movements.<sup>16</sup> The media is replete with stories claiming shadowy linkages among groups or individuals. Though often based on information that is impossible to verify, such reports are passed off as facts,

<sup>16</sup>Even the Burmese junta, which is not a US ally, calls the ethnic resistance movement Karen National Union as “terrorists.” It also claims to support the US “war on terror” against elements among the Muslim Rohingya community. (John Aglionby, “Inside Burma: Fear and Repression,” *Guardian*, May 23, 2006; Amitav Acharya, “Democracy in Burma: Does Anybody Really Care?” *YaleGlobal*, September 1, 2005.

thereby contributing to an atmosphere of conspiracy and fear. Such an atmosphere has, in turn, proven conducive to governments justifying acts of repression by claiming they are necessary to be crack down on heartless criminals with sinister intentions. The “war against terror” has served to obscure the larger issues by reducing fundamental questions of justice and sovereignty to a simple matter of criminality. By giving the institutions of coercion more power and money, the “war on terror” will ensure that only military solutions are applied to problems that cannot be solved by force.

## **CARING AND SHARING**

As ASEAN leaders meet for its summit in Cebu, the larger issues raised by self-determination struggles will not be on the agenda. In the name of “non-interference,” members of the ten-member grouping have traditionally turned a blind eye to their fellow members’ actions towards movements for self-determination within their borders. At times, despite the appeal to “non-interference,” they have also lent a hand to fellow government’s efforts to crack down on these movements. At other times, they have instrumentalized the struggles in their neighboring countries to pursue their own geo-political goals.

Instead, the priority agenda of the ASEAN will be on how to strengthen regional cooperation in the “war against terror.” This, however, will again be focused on how best to employ coercion through increased intelligence-sharing and closer law enforcement ties, rather than on addressing the factors that people claim compel them to take up arms.

If history is to be a guide, these problems cannot be solved by force. Despite the long-drawn-out and often heavy-handed attempts by the states to stifle dissent, the demand for self-determination still resonates. While people have grown increasingly disappointed and disenchanted with organized liberation movements in the Philippines,

the demand for sovereignty draws deep popular support. In southern Thailand, a splintered separatist movement that was dismissed as dead in the 1980s is said to be reviving. In Aceh, the big question now is whether the signing of the peace agreement will actually translate to empowerment. In Burma, despite five decades of unrelenting attacks from one of the most brutal regimes in the world, at least five liberation armies are still standing and opposition to the regime is nearly as universal as the call for a change in the relations among the ethnic groups. In West Papua, despite being continually told that theirs is a lost cause, people continue to fly the Morning Star flag.

Theirs is but the continuation of a long history of struggles for self-determination that has surged and ebbed through the decades, expressed in various manifestations, articulated through different if divided organizational vehicles, employing differing tactics and strategies, and appealing to various ideologies and justifications. Some are willing to pursue self-determination by pushing for greater autonomy within the current nation-states; others remain resolute in their belief that self-determination can only be had through independence and the establishment of their own nation-state. Some have mobilized popular support by invoking nationalism; others summon religion, or both. Some have been subverted by indigenous elites; others instrumentalized by other states and interests. Some have chosen to confront state violence with violence; others have chosen to take the path of unarmed civil and political resistance. How self-determination could be achieved and in what ways it should be pursued have been recurring questions. But the ultimate aim -- that people regain greater control of their fate -- remains the same. That they are able to do so remains an unmet prerequisite for the creation of "one caring and sharing community." ■



# Democracy and Human Rights in ASEAN

RASHID KANG

**E**conomic integration<sup>1</sup>, and the building of a stronger regional bloc, seems to be the major force behind the current efforts by the Association of Southeast Asian Nations (ASEAN) to create a more cohesive community. Will democracy and human rights have significant roles to play in this process? Can community building contribute to the meaningful improvement of democracy and human rights in ASEAN?

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<sup>1</sup>Referring to the final goals emulated in the documents like ASEAN Vision 2020, Hanoi Plan of Action (1999-2004), Bali Concord II (2003), Vientiane Action Plan (2004-2010), ASEAN Initiative for ASEAN Integration, Roadmap for the Integration of ASEAN (RIA).

## **ASEAN AMBITION AND ROAD TO AN ASEAN CHARTER**

Some of the most significant events in ASEAN happened in its fourth decade of existence. ASEAN celebrated its 30th anniversary in 1997 by adopting its ASEAN vision 2020. A year later, it entered the period of concrete planning with the adoption of the Hanoi Action Plan (1999-2004). In 1999, ASEAN completed its full house of 10 member states when Cambodia joined the group. In 2003, ASEAN adopted the ASEAN Concord II (Bali Concord II) and, in 2004, the Vientiane Action Plan (2004-2010), which replaced the Hanoi Action Plan. In 2005, ASEAN formed an Eminent Persons Group (EPG) to propose “bold and visionary” principles for an ASEAN Charter.

Two major events are expected to happen in 2007 as ASEAN prepares to celebrate its 40th anniversary. First, under the 2006 chairmanship of the Philippines, it applied for observer status in the United Nations (UN). The only inter-governmental body in the world without a statutory document, ASEAN has been denied official status in the UN system for years. Once the observer status is granted, it is expected that ASEAN will take a collective voice in UN meetings of interest to it.

Second, ASEAN is set to adopt the ASEAN Charter. The EPG will submit its recommendations at the 12th ASEAN Summit in Cebu, Philippines. A fast track High-Level Panel on the Drafting of the ASEAN Charter will be formed for the actual drafting of the ASEAN Charter based on the Blueprint formulated by the EPG. The final draft is expected to be completed by July 2007. Whether or not ASEAN will be viewed as a credible entity and be able to carry its weight in international affairs depends on how important benchmarks, especially in human rights and democracy, will be enshrined in the ASEAN Charter.

The ASEAN Charter process is a

result of the considerable change in the Association’s mission in the recent two decades. The end of the Cold War, the advent of economic globalization, and the rise of China as an economic super power have witnessed ASEAN’s shift from its original preventive diplomacy<sup>2</sup> of maintaining peace and harmony among its neighboring countries—through agreements like the Treaty of Amity and Cooperation (Bali, 1976) and the Zone of Peace, Freedom and Neutrality (1971)—and into the constructive diplomacy of community-building to cope with increasing competition in a globalized world.

The 1997 economic crisis also prompted ASEAN to respond to the needs of new regionalism. ASEAN Vision 2020 commits to establish “caring societies” in which “all people enjoy equitable access to opportunities for total human development regardless of gender, race, religion, language, or social and cultural background.” It also proclaims ASEAN as an “outward-looking” organization and “an effective force for peace, justice and moderation in the Asia-Pacific and in the world.”

A similar tone was further expanded in the 2003 Bali Concord II where ASEAN proclaims that the “ASEAN Community shall be established comprising three pillars, namely political and security cooperation, economic cooperation, and social-cultural cooperation that are closely intertwined and mutually reinforced for the purpose of ensuring durable peace, stability and shared prosperity in the region”. Such a shift in priorities may provide a new paradigm for ASEAN to revisit democracy and human rights from a regionalist perspective.

## **DEMOCRACY, HUMAN RIGHTS AND “ASIAN VALUES”**

The discourse on human rights and democracy in ASEAN is framed by way of “Asian Values”, a concept first asserted

<sup>2</sup> ASEAN’s original purpose was primarily about containing regional conflict among diverse neighbors, and uniting as a region against external threats (which then meant the communist world).

after the Cold War to promote Asian capitalism and the efficacy of the developmental state. This framing was also a response to the strengthening of UN human rights mechanisms since the 1980s that put some ASEAN member states (with bad human rights records) on the defensive. The preparation toward the first World Conference on Human Rights (Vienna, 25 June 1993) saw ASEAN forming an alliance with larger Asian Governments in an effort to distinguish its stance from the Universal Declaration of Human Rights (UDHR). Only the Philippines, at the time, refused to accept that economic development must entail sacrifice of individual and political rights, asserting that the nation's experience had demonstrated that this was a false choice.<sup>3</sup> The rest of ASEAN stressed cultural relativism.

Universality won out in Vienna when the World Conference reaffirmed the spirit of the UDHR and adopted the three core principles of human rights, namely universal, indivisible and interdependent. As a gesture of good will, the 26th ASEAN Ministerial Meeting (AMM) in Singapore in July 1993 declared that, "in support of Vienna Declaration and Program of Action of June 25, 1993 ... ASEAN should also consider the establishment of an appropriate regional mechanism on human rights." This was subsequently followed by a declaration by the ASEAN Inter-Parliamentary Organization (AIPO) during its 14th General Assembly in September 1993, asserting that it is the task and responsibility of the ASEAN Member States to establish an appropriate regional mechanism on human rights. But while the AMM continues to include a paragraph in its annual Joint Communiqués reiterating its commitment to a regional mechanism for human rights, its individual members' policy on human rights continues to be defensive in nature, and no regional mechanism has been established by ASEAN to date.

<sup>3</sup> Hitchcock, *The Politics of Human Rights in Southeast Asia*, ed. Philip J. Elridge (UK: Routledge, 2002).

In global fora, ASEAN finds it easier to engage the West in polemical debates than come up with practical approaches to strengthen human rights in the region. Key ASEAN governments such as Malaysia and Singapore claim that they pay more attention to the enjoyment of Economic, Social and Cultural Rights (ESCR) than to Civil and Political Rights, but fail to ratify the International Covenant on ESCR. At the national level, they refuse to acknowledge that fundamental civil and political rights of its citizens are being violated due to the denial of their ESCR, demonstrated, for instance, by numerous incidents of forced evictions of citizens from their land and livelihood.

The general discourse on democracy in ASEAN during the growth years of its key members evolved around the argument that democracy is inimical to development. The "Asian Values" argument, however, became vulnerable during the Asian Financial Crisis. There had been some recognition of the strong connection between (they are after all indivisible) economic and political rights. For example, Musa Hitam, former Malaysian deputy Prime Minister, pointed out in an interview in 1998 that "in the present social economic scenario, the human rights cause seems to be [the] winner."<sup>4</sup> Lee Kuan Yew also admitted in 1998 that nepotism is a Confucian weakness.<sup>5</sup> However, such nascent recognition of human rights in official discourse was short-lived. September 11 and the war on terrorism had given ASEAN governments a new impetus to pick up the discourse of "state security" and retreat from receptivity to commitments on human rights and democracy.<sup>6</sup>

## DECODING THE ASEAN WAY

ASEAN is fond of grand documents (e.g. ASEAN Vision 2020, Bali Concord II,

<sup>4</sup> New Straits Times (Kuala Lumpur), June 1, 1998.

<sup>5</sup> Amitav Archarya, "Southeast Asia's Democratic Moment", *Asian Survey*, Vol. 30 (May-June 1999).

<sup>6</sup> Maznah Mohammad, "Toward a Human Rights Regime in Southeast Asia: Charting the Course of State Commitment," *Contemporary Southeast Asia*, Volume 24, Number 2, (August 2002).

etc.) that talk about end goals such as “a community of cohesive, equitable and harmonious societies, bound together in solidarity for deeper understanding and cooperation”<sup>7</sup>, “a concert of Southeast Asian nations, bounded together in partnership in dynamic development and in a community of caring societies, committed to uphold cultural diversity and social harmony”.<sup>8</sup> But when it comes to human rights, ASEAN neglects to define milestones that will guide implementation. Most glaring is the critical omission of the universality criteria. This exposes proposals, such as that for the establishment of ASEAN human rights mechanism(s), to risks of becoming a rights meeting venue “that doesn’t mention the wronged.” Other principles that could open up new possibilities for better human rights promotion and protection, which had been proposed in the past but were not accepted or implemented by ASEAN, include “constructive intervention”<sup>9</sup>, “flexible engagement”<sup>10</sup>, “enhanced interaction”<sup>11</sup> and “the Minus X formula”. It remains to be seen if the current effort to draft an ASEAN Charter will be able to make meaningful breakthrough on this aspect.

On the other hand, there are well-defined values in ASEAN that hamper a better appreciation of human rights and democracy both at national and regional level. In addition to non-interference, ASEAN also operate on the principles of quiet diplomacy, non-use of force, and decision making process through consensus, which altogether constitute the “ASEAN Way”.<sup>12</sup>

Despite its fondness for grand dec-

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<sup>7</sup>The ASEAN Socio-Cultural Community (ASCC) Plan of Action.

<sup>8</sup>Bali Concord II.

<sup>9</sup>The concept first appeared the Newsweek International article in July 1997 by Anwar Ibrahim, former deputy prime minister of Malaysia.

<sup>10</sup>Proposed by Foreign Minister of Thailand Surin Pitsuwan in the 1998 ASEAN Ministerial Meeting (AMM)

<sup>11</sup>Renamed from the “flexible engagement” by the ASEAN in response to Thailand proposal in 1998.

<sup>12</sup>Hiro Katsumata, “Reconstruction of Diplomatic Norms in Southeast Asia: The Case for Strict Adherence to the ‘ASEAN Way’,” *Contemporary Southeast Asia*, Volume 25, Number 1 (April 2003).

larations, ASEAN is reluctant to put down its values or principle on democracy in its official documents. Unlike other international or regional inter-governmental bodies, ASEAN does not have a document like the Organization of American States’ (OAS) Santiago Declaration which expresses an explicit commitment to democracy as a key principle of regionalism; or that of the Organization of African Unity, which endorses democratic governance as a way of dealing with Africa’s political conflicts and economic ills. ASEAN does not insist on democratic political systems as necessary criteria for gaining and maintaining membership in the Association. In fact, this was the main argument of ASEAN when it decided to admit Myanmar as member in 1997, despite international civil society’s outcry against ASEAN’s acceptance of a military dictatorship. As a result, ASEAN now faces tremendous challenges arising from the “ill-thought policy of enlargement.” Using low standards in admitting members to a forum where all decisions are taken by consensus further lowers the possibility of coming up with common denominators. This has been exploited similar to veto power, posing a dilemma similar to that faced by the UN Security Council where no decision can be taken up unless it is endorsed by the five veto countries.

Unlike other regional groups, the theory and practice of democratic assistance (like election monitoring, programs to assist members to establish and consolidate democratic institutions) were never an agenda of ASEAN because of its principle of non-interference. ASEAN thus cannot officially have a role in encouraging the democratic transitions of its members. In the case of Myanmar, it was the intervention of the ASEAN Inter-Parliamentary Myanmar Caucus (AIPMC), not the ASEAN Leaders that produced proposals for the resolution of the democratic crisis in Myanmar.

The word democracy does not appear at all in the ASEAN Vision 2020 (1997). In the Bali Concord II (2003),

democracy was not mentioned as value or principle but found its way in the document in the form of an end goal of a “democratic and harmonious environment” thus,

“The ASEAN Security Community is envisaged to bring ASEAN’s political and security cooperation to a higher plane to ensure that countries in the region live at peace with one another and with the world at large in a just, democratic and harmonious environment....”

In the elaboration of the Bali Concord II under the ASEAN Security Community (ASC) Plan of Action, ASEAN made a bold attempt to define the application of democracy while not referring explicitly to the values of democracy. The following paragraph is considered ASEAN’s first attempt to define the principle of democracy.

“...ASEAN Member Countries shall promote political development in support of ASEAN Leaders’ shared vision and common values to achieve peace, stability, democracy and prosperity in the region. This is the highest political commitment that would serve as the basis for ASEAN political cooperation. In order to better respond to the new dynamics within the respective ASEAN Member Countries, ASEAN shall nurture such common socio-political values and principles. In this context, ASEAN Member Countries shall not condone unconstitutional and undemocratic changes of government or the use of their territory for any actions undermining peace, security and stability of other ASEAN Member Countries.”

Unfortunately, reflecting the struggling mindset of ASEAN, the ASC Plan of Action also carries other conflicting principles, particularly on the “principles of non-interference (and) respect for national sovereignty” vis-à-vis the assertion that ASEAN shall not condone undemocratic regimes. In the detailed ASEAN Economic Community Action

Plan, ASEAN does not articulate the relationship between democratization and economic liberalization.

Aside from the lack of elaboration of the principles of democracy, ASEAN also lags behind other regional bodies in terms of human rights institutions and mechanisms. For example, the OAS has its Inter-American Commission on Human Rights and Inter-American Court of Human Rights; the European Union has its European Court of Human Rights and a Commissioner for Human Rights; and the African Union has its African Court of Human and Peoples’ Rights and the African Commission on Human and Peoples’ Rights. ASEAN only has informal mechanisms such as the regular meetings (since 1988) between ASEAN foreign ministers and senior officials and the Working Group for an ASEAN Human Rights Mechanism during the annual ASEAN Ministerial Meeting (AMM). The interaction was enhanced in 2005 after Senior Officials in Vientiane, Laos, engaged the Working Group to help implement four human rights related programs in the VAP.<sup>13</sup> On a relevant set-up, the Working Group itself has also organized regional workshops with ASEAN governments on the mechanism proposal pursuant to the suggestions of the Senior Officials themselves. Five such regional workshops had been held so far, all co-organized by the Working Group with ASEAN governments and the national human rights institution of the host country (Indonesia, 2001; Philippines, 2002; Thailand, 2003; Indonesia, 2004; and Malaysia 2006).

ASEAN is also far behind in terms of norm setting. The EU has its European Convention on Human Rights and Fundamental Freedoms (1953), the OAS has its American Convention on Human Rights “Pact of San Jose, Costa

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<sup>13</sup>These four areas of VAP are: i) establishment of a commission on the promotion and protection of the rights of women and children, ii) elaboration of an ASEAN instrument on the promotion and protection of the rights of migrant workers, promoting education and public awareness on human rights institutions in the region; and iv) networking among existing national human rights institutions in the region.



Rica” (1969), the African Union has its African Charter on Human and Peoples’ Rights (1986), and even the Council of the League of Arab States has come up with its own Arab Charter on Human Rights. In ASEAN, the words “human rights” have yet to find their way to official documents. It was only included in the annex of the ASEAN Security Community Action Plan. In the annex, a list of activities<sup>14</sup> is given, without mention of how they will be implemented. The Vientiane Action Plan (2004-2010) further elaborates the list of activities to be undertaken on the promotion of human rights and obligations.<sup>15</sup>

From these plans of actions, it is clear that ASEAN is still at the stage of norm setting and is more ready for the articulation of the element of human rights promotion, but less so on human rights protection. This also shows that “human rights” is still considered a very sensitive term to be given a higher status in ASEAN documents, much less given distinctive declaration. All of this is rooted on ASEAN’s insistence on the principle of “non-interference”.

<sup>14</sup> The activities mentioned are: Promotion of human rights and obligations:

- a. Establishing a network among existing human rights mechanisms;
- b. Protecting vulnerable groups including women, children, people with disabilities, and migrant workers; and
- c. Promoting education and public awareness on human rights.

<sup>15</sup> The direct quote follows:

Under the Program Areas and Measures ref no 1.1.4: Promote human rights:

- 1.1.4.1 Completion of a stock-taking of existing human rights mechanisms and equivalent bodies, including sectoral bodies promoting the rights of women and children
- 1.1.4.2 Formulation and adoption of MOU to establish network among existing human rights mechanisms
- 1.1.4.3 Formulation of work program of the network
- 1.1.4.4 Promote education and public awareness on human rights
- 1.1.4.5 Establish a network of cooperation among existing human rights mechanisms
- 1.1.4.6 Elaboration of an ASEAN instrument on the protection and promotion of the rights of migrant workers
- 1.1.4.7 Establishment of an ASEAN commission on the promotion and protection of the rights of women and children

Globally, the inter-linkage between human rights and democracy is widely recognized. There is growing recognition that democracy provides the only political structure within which human rights can be guaranteed. On the one side, democratic political institutions are recognized not only to be insufficient, but also will be ineffective without an underpinning of basic human rights. This recognition finds expression in the ideas of ‘substantive (versus procedural) democracy’, of ‘inclusive democracy’ or ‘human rights-based democratization’, and so on.<sup>16</sup> Stuck in the ASEAN Way, ASEAN is still far away from this global discourse.

### **ASSERTING NEW NORMS IN ASEAN REGIONALISM**

In the construction of an ASEAN Community the question of democracy and human rights becomes even more pressing. ASEAN has to confront unresolved issues if it wants coherent actions and coordination among members.

First, can a cohesive community and regionalism be built while ASEAN remains a consensus based body? In politics based on consensus-building, decisions are always subject to the test of political feasibility. It is doubtful whether an inter-governmental body can be effective if the decision-making process or enforcement of a collectively decided action is always subject to political negotiation and compromise. The indication of an ongoing shift from a consensus-based to rules-based platform (such as through the planned Charter) is welcome. However, it remains to be seen whether ASEAN can go beyond applying the rules-based mechanism exclusively on the ASEAN Economic Community, and recognize the importance of the principles of democracy and human rights. The incompatibility of ASEAN’s non interference principle and of applying a rules-based

<sup>16</sup> David Beetham, “Democracy and Human Rights: Contrast and Convergence,” paper presented in the Seminar on the Interdependence between Democracy and Human Rights, (Geneva: Office of the High Commissioner for Human Rights, November 25-26, 2002).

mechanism should be recognized.

Second, ASEAN faces many challenges and non traditional security threats that are cross-boundary in nature. These include: human trafficking; drug trafficking; migration and migrant workers; social impact of brain drain; diseases and pandemic; dam building and river diversion; cross boundary pollution and toxic waste dumping; transnational crimes; economic crimes; and food security. Most of these challenges imply power relations—receiver-sender, winner-loser, or perpetrator-victim. It should be noted that such power relations are not only vertical relationships between people and governments, but also horizontal interaction between richer or stronger and poorer or weaker governments. These are issues that can only be met effectively by neighboring states acting in coordination. De-politicizing these trans-boundary issues is the better way to deal with them. Thus, a regional mechanism bound by internationally accepted norms and standards, and with a system of democratic check and balance to facilitate and deliver binding decisions, is the way forward for ASEAN regionalism in a long run.

A community implies recognition of the inter-linkages of the social, political, and economic forces binding the shared interests of its people. The challenge for ASEAN, as articulated by Malaysian Prime Minister Ahmad Badawi<sup>17</sup>, is the “universal acceptance that community interests would prevail over national interests on issues affecting the community...The challenge for ASEAN is to find a formula where the larger community interest should never become subordinate to the interest of only a few members.”

Third, in order to address the development gap among members who are at different stages of nation building, ASEAN must go beyond merely recog-

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<sup>17</sup> PM Badawi's keynote address in the National Colloquium on ASEAN, (Malaysia: Malaysian Ministry of Foreign Affairs and ASEAN Study Centre, (August 7, 2004)..

nizing “that deepening and broadening the integration of ASEAN must be accompanied by technical and development cooperation”<sup>18</sup>. It should also embrace the principle of redistribution to ensure equitable and substantiated support among ASEAN members.

Fourth, a system of monitoring and reporting the progress of the current blueprint of ASEAN Community Action Plan is important. ASEAN should adopt a rights based approach (RBA) – with the four basic principles of accountability, participation, indivisibility, and non-discrimination – in checking against plans and the actual implementation of its programs.

Fifth, community also implies the concurrent needs for increased accountability and democratization at both national and regional levels. The process of democratization at the country level needs to be complemented by a democratization of the institutions at the regional level. The challenge is to define the institutions that will advance ASEAN as a democratic inter-governmental body. Internationally, a set of three criteria (namely electoral authorization, on-going accountability, and responsiveness to public opinion), is considered the minimum for democratic institutions.<sup>19</sup> For such institutions to emerge, ASEAN needs to break away from its practice of being predominantly the business of the executive branch of its member governments. Involving parliaments, and empowering forums like the ASEAN Inter-Parliamentary Organization, can help build a more democratic ASEAN.

Sixth, a vibrant civil society is the key to a successful democratization process. ASEAN needs the proactive role of civil society. It should strengthen cooperation with civil society organizations in the cultivation of a healthy check and balance mechanism and in forging partnerships for development. It should expand the definition of civil society which

<sup>18</sup> Vientiane Action Plan (VAP).

<sup>19</sup> *Ibid.*

is currently limited to non-governmental organizations (NGOs), technical associations, and professional groups, and academic groups. It should also relax its strict and selective NGO accreditation process, which has affiliated a measly 55 NGOs as of May 2006. Civil society participation should be mainstreamed and integrated in all relevant ASEAN bodies, meetings and processes. Enshrining civil society role in documents like the ASEAN Charter will be a good indicator of the ASEAN commitment to bring ASEAN down to its peoples.

Finally, the role of the existing national human rights institutions (NHRIs) in the ASEAN region (namely Indonesia, Malaysia, the Philippines and Thailand) and its regional network remains important even as a regional human rights mechanism is pushed. ASEAN should give important reference to the roles of NHRIs in protecting and promoting human rights at the national and regional level. Remaining ASEAN governments that have yet to create its NHRIs should also commit itself to the creation of an independent commission in line with the Paris Principles within a definite time frame. Governments that already have NHRIs should respect, protect and preserve their independence, and allow them to develop their practice to guard against their deterioration into toothless bodies. ■

# The Role of Non-State Actors in ASEAN

ALEXANDER C. CHANDRA

Since its establishment in 1967, the Association of Southeast Asian Nations (ASEAN) has shown little interest in facilitating the participation of non-state actors in its decision-making processes. ASEAN is well-known for its elitist tendencies and for how few of its policies correspond to the needs of Southeast Asian people. At the same time, it could also be argued that ASEAN has become this way due to the lack of pressure from non-state actors on the Association. However, during its infancy, most ASEAN member countries were governed by authoritarian regimes which made it difficult for social pressure to emerge, both at the national and regional levels.

In recent years, non-state actors have gained importance in the regionalization process in Southeast Asia. The business community, the academic community, and non-government organizations (NGOs) get increasing recognition as critical participants in the creation of a regional community and identity.<sup>1</sup> However, their participation in ASEAN has been limited to conferences, symposia, and seminars focusing on various regional issues.<sup>2</sup> It was only after the financial crisis of 1997 that the involvement of a wider range of non-state actors in the association intensified, partly due to the process of relative democratization in the region.

In time for ASEAN's plan to introduce an ASEAN Charter and to establish an ASEAN Community, the Association has begun to realize that there is widespread criticism of ASEAN's closed and exclusive nature. There are now several forums through which civil society groups can find a voice in ASEAN, from the ASEAN People's Assembly (APA), which was convened in Batam, Indonesia in 2000, all the way up to the ASEAN Civil Society Conference, which was first held in Shah Alam, Malaysia in December 2005. Civil society groups have also been invited to provide input to the members of the Eminent Persons Group (EPG), which was tasked to prepare recommendations to the ASEAN Charter by the 12th ASEAN Summit in Cebu City in December 2006. These developments not only suggest that ASEAN should address its democracy deficit, but also that civil society groups are now ready to engage with ASEAN and its activities. ASEAN is indeed under pressure from the citizens of its member countries to make

<sup>1</sup> Noda Makito, 'The Role of Nonstate Actors in Building an ASEAN Community', in *Road to ASEAN 10: Japanese Perspectives on Economic Integration*, eds. S. Sueo and N. Makito (Tokyo: Japan Center for International Exchange, 1999), 167-94.

<sup>2</sup> Desmond Ball, 'CSCAP: The Evolution of "Second Track" Process in Regional Security Co-operation', in *Security Co-operation in the Asia-Pacific Region*, eds. D. Ball, R. Grant, and J. Wanandi (Washington, DC: Centre for Strategic and International Studies, 1993); C. G. Hernandez, *A People's Assembly: A Novel Mechanism for Bridging the North-South Divide in ASEAN*, (unpublished manuscript, 1995).

substantial changes in its *modus operandi*. Unless such attempts are made, the Association will lose its significance to the people of the region.

## THE RELEVANCE OF CIVIL SOCIETY ENGAGEMENT WITH ASEAN

The idea that people should participate in ASEAN decision-making processes had already emerged in the 1980s among prominent figures within the elite ASEAN circle. Former Indonesian Foreign Minister and one of the founding fathers of ASEAN Adam Malik once stated that "the shaping of a future of peace, friendship and cooperation is far too important to be left to government and government officials... [as such, there is a need for] ever-expanding involvement and participation of the people".<sup>3</sup> Malik's idea, however, only became an issue of discussion between those involved in Track 1 and Track 2 diplomacies.<sup>4</sup> It was the ASEAN Institutes for Strategic and International Studies (ASEAN-ISIS), established in 1988, that submitted an idea to have "an assembly of the people of ASEAN" in 1995 which subsequently resulted in the launching of the first ASEAN People's Assembly (APA) in 2000. It was only then that the participation of the people was finally recognized by ASEAN and its member governments.

Concrete interaction between civil society groups and ASEAN predates

<sup>3</sup> As cited in Ali Alatas, *ASEAN: An Association in Search of People or the People's Search for an Association*, Report of the First ASEAN People's Assembly, (Jakarta: Centre for Strategic and International Studies, 2001).

<sup>4</sup> Track 1 refers to the practice of diplomacy amongst government officials. Track 2 diplomacy can be considered as the practice of bringing public intellectuals, academics, government, business, media and other relevant sectors in their private capacity to discuss economic, political, and security issues at both the domestic, regional, global levels. For detailed definitions of Track 1 and Track 2 diplomacy, see, for example, Carolina G. Hernandez, 'Track Two and Regional Policy: The ASEAN ISIS in ASEAN Decision Making', in *Twenty Two Years of ASEAN ISIS: Origin, Evolution and Challenges of Track Two Diplomacy*, eds. H. Soesastro et al. (Jakarta: Centre for Strategic and International Studies and the ASEAN Institute for Strategic and International Studies, 2006).

APA. An example of such interaction is the involvement of the business sector in many of ASEAN's economic integration initiatives, which resulted in the establishment of the ASEAN Chambers of Commerce and Industry (ASEAN-CCI) in 1972. ASEAN-CCI became an important vehicle through which the business community channels inputs and concerns on regional economic issues to ASEAN. It also played a key role in the creation of the ASEAN Free Trade Area (AFTA).<sup>5</sup> Following the surge of trade liberalization in the mid-1980s, the ASEAN business community began to realize the increasing production diversity and complementary nature of ASEAN economies, resulting from the process of industrialization and the operations of transnational corporations (TNCs) in the region<sup>6</sup>. These factors, among others, justified ASEAN's introduction of AFTA in the early 1990s.

During the 1980s and 1990s, a regional production network, ethnic business network, and sub-regional economic zones have emerged, all of which have helped initiate an informal bottom-up regionalization process throughout East Asia.<sup>7</sup> In Southeast Asia, this process played a crucial role in influencing ASEAN to look towards many other regional economic integration initiatives. Although political co-operation may have been at the forefront of ASEAN's overall agenda, economic integration has been at the heart of many of the Association's regional integration initiatives. Within the ASEAN Secretariat, for example, funding has been concentrated mainly on economic integration initiatives.<sup>8</sup> Although the Secretariat has well-trained economists and trade experts, the busi-

ness sector is known to provide substantial input to regional economic integration initiatives.

The academic community has also been playing a key role in ASEAN. It has been known to articulate its own vision for an integrated ASEAN. The ASEAN-ISIS and the Institute for Southeast Asian Studies (ISEAS), for example, have provided much-needed input to ASEAN.<sup>9</sup> Members of ASEAN-ISIS, which include the Brunei Minister of Foreign Affairs, the Cambodian Institute for Co-operation and Peace (CICP), the Indonesian Centre for Strategic and International Studies (CSIS), the Laos Institute for Foreign Affairs, the Malaysian Institute for Strategic and International Studies, the Philippines' Institute for Strategic and Development Studies (ISDS), the Singapore Institute of International Affairs (SIIA), Thailand's Institute for Security and International Studies (ISIS), and Vietnam's Institute for International Relations (IIR), are influential not only at the national level, but also at the regional level. This influence allows ASEAN-ISIS to play a bridging role between ASEAN and wider civil society through its steering of the APA initiative. This bridging role reflects a close relationship between ASEAN and national and regional think-tanks.

Unfortunately, civil society involvement with ASEAN has been limited to the academic circle and the business community. Indeed, it was only after the economic crisis of 1997 that more civil society groups became involved in

<sup>5</sup> Paul Bowles, 'ASEAN, AFTA, and the "New Regionalism"', *Pacific Affairs*, Vol. 70, No. 2 (1997), 219-33.

<sup>6</sup> J. L. Tongzon, *The Economies of Southeast Asia*, 2nd edition (Cheltenham and Northampton, MA: Edward Elgar Publishing Ltd., Inc, 2002), 182.

<sup>7</sup> Dajin Peng, "Invisible Linkages: A Regional Perspective of East Asian Political Economy", *International Studies Quarterly*, Vol. 46, No. 4 (2002), 423-47.

<sup>8</sup> An informal discussion was conducted with a staff member whose name will remain anonymous throughout this paper at the ASEAN Secretariat on August 2006..

<sup>9</sup> Although both ASEAN-ISIS and ISEAS have similar research programs (i.e. economics, politics and strategic studies, social and cultural studies, etc.), the two institutions differ in that the former is comprised of think-tanks with regional interests at the national level while the latter is simply a regional think-tank. ISEAS attended the formation of ASEAN-ISIS in Bali, Indonesia in 1984. However, since ISEAS considers itself a regional think-tank, the Singapore Institute of International Affairs (SIIA) joined in the ASEAN-ISIS instead to represent Singapore (an informal discussion, on September 7, 2006, with a researcher in one of the academic think-tanks that is part of the ASEAN-ISIS. The name of this individual will remain anonymous throughout the paper)..

ASEAN and its activities, also largely as a result of the process of democratization in the Southeast Asian region.<sup>10</sup> ASEAN became of interest to non-governmental organizations (NGOs). The participation of NGOs and other civil society organizations (CSOs) is occasioned partly by their work at the grassroots and reflects an immediate response to public need.<sup>11</sup> CSOs in general are also “naturally issue-oriented or even issue specific”,<sup>12</sup> which makes them ideal advisers to regional and international organizations.

Meanwhile, Southeast Asian CSOs themselves have been questioning the need to engage with ASEAN at all. Prior to the economic crisis (1997-98 period), most Southeast Asian CSOs, apart from the academic community, were indifferent to the Association. Many CSOs saw ASEAN as an elitist club for the member countries’ foreign ministers, – a club that made many regional integration initiatives without any firm commitment to implement them. Although NGOs and grassroots organizations in Southeast Asia have been involved in various regional networks, most of their activities have focused on campaign and advocacy on multilateral bodies and their arrangements. They paid more attention to the threats posed by international organizations such as the International Monetary Fund (IMF), the World Bank, and the World Trade Organization (WTO). ASEAN, on the other hand, was regarded as a weak organization with little power to impact on the well-being of Southeast Asian people.

There are numerous reasons why civil society is now keen on engaging ASEAN. First and foremost is ASEAN’s intention to establish an ASEAN Com-

munity by 2020, as enshrined in the Bali Concord II (2000). This agreement promotes political, economic, and socio-cultural co-operation through the ASEAN Security Community (ASC), the ASEAN Economic Community (AEC), and the ASEAN Socio-Cultural Community (ASCC) respectively. During the 38th ASEAN Economic Ministerial Meeting (AEM) held in Kuala Lumpur in August 2006, ASEAN announced the acceleration of the creation of AEC to 2015, five years earlier than originally planned<sup>13</sup>. Many regard the ASEAN Community as ASEAN’s most ambitious plan, one that has forced CSOs to take ASEAN more seriously.

Secondly, Southeast Asian CSOs are increasingly of the opinion that ASEAN is a platform from which to influence policy at the regional level. Although the prevailing view is that regional policy is determined by domestic politics, regional organizations influence policies at the national level. In trade related issues, for example, the ASEAN Secretariat has been keen to promote bilateral free trade agreements (BFTAs), an initiative that draws both support and concern from government officials and CSOs in the region. Some are concerned that BFTAs might damage multilateral trade negotiations under the auspices of the WTO,<sup>14</sup> while others are concerned about the potential damage that this form of trade liberalization may have on ASEAN’s own integration process.<sup>15</sup> Apart from the trade-diversion effect, pursuing different trade commitments can also be confusing. Headed by a staunch neo-liberal, Ong Keng Yong, ASEAN believes that bilateral deals are ways to iron out

<sup>10</sup> Alexander C. Chandra, “Indonesia’s Non-State Actors in ASEAN: A New Regionalism Agenda for Southeast Asia?”, *Contemporary Southeast Asia*, Vol. 26, No. 1 (2004), 155-74.

<sup>11</sup> Leo Gordenker and T. G. Weiss, “Pluralizing Global Governance: Analytical Approaches and Dimensions”, in *NGOs, the UN, and Global Governance*, eds. T. G. Weiss and L. Gordenker (London: Lynne Rienner Publishers 1996), 17-47.

<sup>12</sup> Makito, op. cit. p. 177.

<sup>13</sup> Global Justice Update, “ASEAN Sepakat untuk Percepat Integrasi Ekonomi Hingga Lima Tahun (ASEAN Agrees to Accelerate Economic Integration Until Five Years)”, *Global Justice Update*, Vol. IV, No. 69-70, (1-31 August 2006).

<sup>14</sup> See, for example, Martin Khor, “Bilateral/Regional Free Trade Agreements: An Outline of Elements, Nature and Development Implications”, *Third World Resurgence*, Issue No. 182-183 (2005), 11-15.

<sup>15</sup> See, for example, Alexander C. Chandra, ‘Indonesia and Bilateral Trade Agreements (BTAs)’, *The Pacific Review*, Vol. 18, No. 4 (2005), 541-88.

thorny issues between two trading partners before they stymie larger negotiations.<sup>16</sup> While ASEAN has been actively involved in this type of trade liberalization, Southeast Asian CSOs have been nervously watching out for the potential impacts of faster and more comprehensive trade liberalization under BFTAs. Yet, few civil society groups in the region showed any interest in the BFTA negotiations between ASEAN and China. As a result, the ASEAN-China Free Trade Agreement was implemented in 2004 with little response from civil society groups. In fact, in some countries such as Indonesia, the deal went into the implementation phase without even parliamentary ratification<sup>17</sup>.

Thirdly, while increasingly aware of the potential harm ASEAN policies may have on policies of member countries, ASEAN CSOs also acknowledge the potential benefits that ASEAN might generate for its member countries. In spite of the 1997-98 economic crisis, ASEAN is still in existence, proving that member countries still believe the Association can be useful. ASEAN is regarded as one of the most successful regional groupings in the world by many regional integration observers for, inter alia, its ability to maintain stability and sustained economic development. Member countries have enjoyed peace, and have thus been able to concentrate on their own economic development. In other words, ASEAN can be seen as a useful tool, a buffer to prevent the conflicts that plagued its member countries before the Association was established in 1967.

## **NETWORKS AND FORUMS FOR ENGAGEMENT WITH ASEAN**

Over the years, forums were opened so

16 D. Arnold, *Attracting FDI Through the Spread of Free Trade Agreements: Unraveling the Rationale and Impact on Labour Conditions in ASEAN* (Hong Kong, SAR: Asia Monitor Resource Centre, 2004); available from <[http://www.thailabour.org/docs/fdi\\_asean.pdf](http://www.thailabour.org/docs/fdi_asean.pdf)>; Internet.

17 Daniel Pambudi and Alexander C. Chandra, *The Impacts of the ASEAN-China Free Trade Agreement on the Indonesian Economy* (Jakarta: IGJ, 2006).

civil society can engage ASEAN and ASEAN issues. However, civil society groups have yet to consolidate among themselves regarding how and to what extent their engagement should be, thereby limiting their engagement with ASEAN. Currently, there are two formal forums for civil society engagement with ASEAN, namely the ASEAN People's Assembly (APA) and the ASEAN Civil Society Conference (ACSC). Of the two, APA is the one more recognised by ASEAN; it is incorporated in the Vientiane Action Program (VAP) signed during the 10th ASEAN Summit in Laos on November 29, 2004. A formal network represents the academic community (the ASEAN-ISIS) while some groups that attended the first ACSC in Kuala Lumpur in December 2005 started the Solidarity for Asian People's Advocacy (SAPA) to promote broader civil society engagement with ASEAN.<sup>18</sup> In essence, both ACSC and SAPA are considered an alternative forum and network for engaging ASEAN. The new way many civil society groups want to engage ASEAN produced the ACSC and subsequently SAPA.

## **ASEAN-ISIS AND SAPA: NETWORKING THE REGION**

As mentioned earlier, the Southeast Asian business community was one of the few civil society groups that carried out some networking within the region through the ASEAN-CCI. However, it was the academic community that has active influence on many ASEAN policies. The ASEAN-ISIS can be considered as the most established academic network working on ASEAN. While some might

<sup>18</sup> There are other formal and informal networks among Southeast Asian civil society groups working on specific issues. The Working Group for an ASEAN Human Rights Mechanism (WGAHRM) is one of the most notable networks of individuals and groups that work with governments and NGOs on the issue of human rights. Another network of specific groups that has strong advocacy is the Asia and Pacific Regional Organization of Union Network International (UNI-APRO), which is a trade union network in the Asia-Pacific region. It is not the purpose of this paper to elaborate on either of these networks despite their increasing significance in influencing the policy of ASEAN.



describe ASEAN-ISIS as a loose association of think-tanks, a policy-network, or a policy-community, those within the ASEAN-ISIS circle or those who have been in contact with the network would see it as Track 2 diplomacy.<sup>19</sup> The idea of forming an ASEAN-ISIS emerged from a discussion between Juruf Wanandi of CSIS and an American scholar on ASEAN Donald Emerson, in the early 1980s.<sup>20</sup> A number of subsequent meetings among like-minded Southeast Asian institutes finally resulted in the creation of an ASEAN-ISIS as a formal network of international and strategic institutes in key Southeast Asian countries. It was at the fourth meeting of these institutes in Singapore in June 1988 that the ASEAN-ISIS was formally launched.<sup>21</sup>

ASEAN-ISIS has become the key actor in developing the concept of Track 2 diplomacy, or the policy dialogue between government officials, think-tanks, and policy analysts. According to Carolina Hernandez, one of the leading figures in the ASEAN-ISIS, the relative success of the ASEAN-ISIS in penetrating the foreign and security policy-making processes at the regional level can be seen in “(1) the institutionalization of meetings between ASEAN-ISIS and the ASEAN Senior Official Meeting (SOM); (2) the acknowledgement of the role of ASEAN ISIS in the Joint Communiqués of the AMM since 1991; [and] (3) the solicitation by ASEAN SOM of the views of ASEAN ISIS on issues they wish to be studied further prior to making official policy.” Another important role of ISIS

<sup>19</sup> Hadi Soesastro, Clara Joewono, and Carolina Hernandez, ‘Introduction’, in *Twenty Two Years of ASEAN ISIS: Origin, Evolution and Challenges of Track Two Diplomacy*, eds. H. Soesastro et al., (Jakarta: Centre for Strategic and International Studies and ASEAN Institutes for Strategic and International Studies 2006), 1- 15.

<sup>20</sup> Soesastro et al., op. cit., p. 5.

<sup>21</sup> The signatories of the Statutes of ASEAN-ISIS were Jusuf Wanandi (Indonesian Centre for Strategic and International Studies – CSIS), Noordin Sopiee (Malaysian Institute of Strategic and International Studies – ISIS), Carolina Hernandez (Center for Integrative and Development Studies – CIDS), Lau Teik Soon (Singapore Institute of International Studies - SIIA), and Kusuma Snitwongse (the Thai Institute of Security and International Studies – ISIS).

is its attempts to act as a bridge between ASEAN policy-makers (Track 1) and the rest of civil society, particularly NGOs (or Track 3).<sup>22</sup> In its Report of the Eighth Southeast Asian Forum, which was submitted to the ASEAN SOM in July 1998, ASEAN-ISIS urged ASEAN to allow the participation of civil society groups in its decision making processes<sup>23</sup>. This and similar efforts facilitated the launching of the APA.

SAPA is another important network. It is a new network of South and East Asian civil society groups, particularly NGOs, with a specific working group on ASEAN and the ASEAN Charter. The network itself was a result of the Strategic Action Planning for Advocacy meeting that was organised by several regional NGOs in Bangkok on February 3-4, 2006. The Bangkok meeting was held as a result of informal consultations between the regional CSOs that attended the Kuala Lumpur ACSC in December of the previous year. The participants at that informal meeting felt the need to come up with a new mechanism, either a forum or a platform, where information and resources could be shared in order to enhance the effectiveness of civil society engagement with the various inter-governmental processes that have rapidly risen in the region in recent years<sup>24</sup>. Shortly after, five regional and international NGOs, including Forum Asia, the Southeast Asian Committee for Advocacy (SEACA), the Third World Network (TWN), and the Asian Partnership for the Development of Human Resources in Rural Asia (AsiaDHRRA), agreed to initiate and facilitate the creation of SAPA. During the Bangkok meeting, working groups were established to discuss specific issues, such as the WG on Human Rights Education, the WG on the Asian People’s Charter and World Social Forum

<sup>22</sup> See, for example, Hernandez, op. cit., p. 20.

<sup>23</sup> ASEAN-ISIS, Report of the Eighth Southeast Asian Forum (Kuala Lumpur: Institute of Strategic and International Studies, 1998).

<sup>24</sup> Solidarity for Asian People’s Advocacy, *SAPA: Background and Context*, (Bangkok, Unpublished SAPA documentation, 2006).

(WSF), and the WG on ASEAN and the ASEAN Charter. To date, however, it is only the WG on ASEAN that is fully functional.

During its Consultation Meeting in Singapore on September 19, 2006, SAPA members agreed that the network should serve as an open platform for consultation, co-operation, and co-ordination among Asian social movements and civil society organizations, including NGOs, people's organizations, and trade unions who are engaged in action, advocacy, and lobbying at inter-governmental processes and organizations.<sup>25</sup> The network also aims to enhance co-operation among its members and partners to increase the impact and effectiveness of their engagement with inter-governmental bodies. The main areas of engagement for SAPA include issues of democracy and human rights, peace and human security, sustainable development and environment, as well as globalization and trade, finance and labour. Apart from ASEAN, therefore, SAPA's main targets include the South Asian Association for Regional Co-operation (SAARC), the Asian Development Bank (ADB), the Asia-Europe Meeting (ASEM), the United Nations (UN), etc.

Unlike the ASEAN-ISIS and its APA, both ACSC and SAPA are not mentioned in any existing formal ASEAN documents. The initiative to set up both ACSC and SAPA was due partly to increasing dissatisfaction with APA's slow progress. In fact, many CSOs that participated in APA later attended the ACSC and subsequently joined SAPA. APA was, indeed, successful in building a bridge between ASEAN bureaucracy and the region's CSOs, two worlds that had been apart for far too long. But in spite of APA, little actual engagement has taken place between ASEAN and regional CSOs. After all, APA is only a general meeting place for CSOs, NGOs, and

<sup>25</sup> Solidarity for Asian People's Advocacy, Agreement and Decisions: 2nd SAPA Consultation Meeting, Singapore, 19 September 2006 (Singapore, Unpublished SAPA documentation, 2006).

civic organizations; it provided little opportunity to directly influence the agenda-setting of the Association. Another reason for the emergence of alternative forums for CSOs is the differences of opinion between academics, such as the ASEAN-ISIS and ISEAS, and the rest of civil society, about the way ASEAN integration should be pursued. With regard to economic integration, for example, ASEAN-ISIS supports an open economy for ASEAN and favors trade liberalization<sup>26</sup>. National and regional NGOs, on the other hand, are more cautious, fearing the possible adverse effects of trade liberalization and open economies.

### ASEAN-RECOGNIZED CIVIL SOCIETY FORUMS

APA is "a general meeting of civil society organizations, non-government organizations, and civic organizations from the ten member-states of ASEAN." ... [It] aims to serve as a vessel for articulating and conveying the people's view and interests outside of the formal political channels"<sup>27</sup>. It was convened on the rationale that the process of community-building in ASEAN must include all layers of society to make the Association more relevant to the ordinary citizens.<sup>28</sup> Prior to the launching of APA, ASEAN-ISIS—the core of this initiative—already argued that interaction between Track 1 and Southeast Asian NGOs (or Track 3) should be enhanced.<sup>29</sup> When the Thai

<sup>26</sup> See, for example, Hadi Soesastro, "ASEAN Economic Community: Concept, Costs, and Benefits", in *Roadmap to an ASEAN Economic Community*, ed D. Hew (Singapore: ISEAS 2005), 13-30; Dennis Hew, R. Sen, L. P. Onn, M. Sellakumaran, S. Mentreevat, and N. K. Jin, 'ISEAS Concept Paper on the ASEAN Economic Community', in *Roadmap to an ASEAN Economic Community*, ed. D. Hew (Singapore: ISEAS, 2005), 293-310.

<sup>27</sup> C. G. Hernandez, "Introduction and Summary: ASEAN People's Assembly 2003", in *Towards an ASEAN Community of Caring Societies*, ASEAN Institute of Strategic and International Studies (ASEAN-ISIS) and Institute for Strategic and Development Studies (ISDS) (Manila: ISDS, 2003), 1-9.

<sup>28</sup> E. T. C. Cheow, "Socioeconomic Challenges for the ASEAN People's Assembly", *The Jakarta Post*, (24 July 2004); available from <[http://www.csis.or.id/regpart\\_news.asp?tab=0&nid=17&id=2](http://www.csis.or.id/regpart_news.asp?tab=0&nid=17&id=2)>; Internet.

<sup>29</sup> M. Caballero-Anthony, 'ASEAN ISIS and the ASEAN

Foreign Minister called for the establishment of the congress of ASEAN people during the ASEAN Ministerial Meeting (AMM) in Brunei in 1995, ASEAN-ISIS responded by introducing the idea of an assembly of the peoples of ASEAN, which transcended the idea of ASEAN officials at the time to set up a regional inter-parliamentary union. ASEAN-ISIS wanted a more broadly representative people's assembly that would include representatives from various elements of civil society.

After confronting various setbacks, such as lack of funding and the reservation of ASEAN officials towards the idea,<sup>30</sup> the first APA was finally launched in Batam, Indonesia on November 24-25, 2000. Currently, APA and the ASEAN-ISIS are seen in the VAP as initiatives to bring the people of the region closer to the Association, along with the ASEAN Business Advisory Council (ABAC), the ASEAN Parliamentary Organization (AIPO), and the ASEAN University Network. There had been three additional APA meetings after the first one in Batam. The second APA was held in Bali, Indonesia in 2002, and the third and fourth in Manila, Philippines in 2004 and 2005 respectively. The fifth APA will again be held in Manila in December 2006.

The First ACSC, on the other hand, was the initiative of the Malaysian government, which commissioned the ASEAN Study Center of the Universiti Teknologi MARA (UiTM) to hold the event parallel to the 11th ASEAN Summit in Kuala Lumpur, Malaysia in December 2005. The event was supported by the ASEAN Secretariat, as well as another Malaysian NGO, the Third World Network (TWN). Although UiTM, an academic organization, took the co-ordinating role, the difference between ACSC and APA was

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People's Assembly (APA): Paving a Multi-Track Approach in Regional Community Building', in *Twenty Two Years of ASEAN ISIS: Origin, Evolution and Challenges of Track Two Diplomacy*, eds. H. Soesastro et al. (Jakarta: Centre for Strategic and International Studies and ASEAN Institutes for Strategic and International Studies, 2006), 53-73.

<sup>30</sup> Caballero-Anthony, op. cit., p. 65.

that NGOs also played a role in the formation of ACSC. The ACSC, which was attended by more than 120 participants from CSOs throughout Southeast Asia, produced a statement to be presented to the ASEAN heads of state. This was the first time that ASEAN Leaders had invited to hear representatives from civil society groups in the region on their views on the process of ASEAN community-building. Initially, ACSC was meant to be a one-off event, with no follow-up events planned for the subsequent ASEAN Summit. However, during meetings between ASEAN leaders and representatives of civil society groups at the 11th ASEAN Summit, ASEAN leaders recognised the ACSC and supported its annual convening.

### **THE ASEAN CHARTER, EMINENT PERSONS' GROUP, AND CIVIL SOCIETY**

At the 11th ASEAN Summit, with the theme "One Vision, One Identity", ASEAN Leaders announced the drafting of an ASEAN Charter which would serve as the legal and institutional framework for ASEAN. The Charter would codify all ASEAN norms, rules, and values, as well as reaffirm many other agreements that ASEAN signed prior to the ASEAN Charter.<sup>31</sup> An Eminent Persons Group, composed of highly distinguished and well respected citizens from ASEAN member countries, was set up to examine and provide practical recommendations in the making of an ASEAN Charter.<sup>32</sup> Recommendations from the EPG

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<sup>31</sup> For the Declaration on the Establishment of the ASEAN Charter, see ASEAN Secretariat Kuala Lumpur Declaration on the Establishment of the ASEAN Charter (2005); available online: <<http://www.aseansec.org/18030.htm>>.

<sup>32</sup> For Terms of Reference of the Eminent Persons Group (EPG) on the ASEAN Charter, see ASEAN Secretariat, Terms of Reference of the Eminent Persons Group (EPG) on the ASEAN Charter (2005); available from <<http://www.aseansec.org/18060.htm>>; Internet; Members of EPG include: Pehin Dato Lim Jock Seng (Brunei), Dr. Aun Porn Moniroth (Cambodia), Ali Alatas (Indonesia), Khamphan Simmalavong (Laos), Tan Sri Musa Hitam (Malaysia - also the Chairman of the EPG), Dr. Than Nyun (Burma), Fidel V. Ramos (Philippines), Prof. S. Jayakumar (Singapore), Kasemsomorn Kasem-

will be taken into consideration during the next ASEAN Summit and forwarded to a High Level Task Force responsible for drafting the ASEAN Charter. Since December 2005, the EPG has met seven times: the first time in Kuala Lumpur after the 11th ASEAN Summit; the second time in Bangkok on February 14-15, 2006; the third in Ubud, Bali, on April 17-19, 2006; the fourth in Singapore on June 27-29, 2006; the fifth in Kuala Lumpur on August 22-24, 2006; the sixth in Siem Reap on September 24-26, 2006; and, finally, the seventh in Brunei Darussalam, on November 28-29, 2006. EPG members and civil society representatives met during the aforementioned Bali and Singapore meeting, concentrating on issues pertaining to political and security cooperation and economic cooperation respectively. Subsequently, Southeast Asian civil society groups also met with the Special Adviser to the Philippines' EPG member, Fidel Ramos, to make their submission on the socio-cultural pillar and institutional mechanism issues on November 10, 2006 in Quezon City, Philippines.<sup>33</sup> Representatives of civil society groups also submitted a letter to the members of EPG on November 24, 2006, reiterating the main elements of their three submissions<sup>34</sup>.

### **CIVIL SOCIETY SUBMISSIONS TO THE EPG ON THE ASEAN CHARTER**

As mentioned above, the first meeting took place in Ubud, Bali and concentrated on the first main pillar of the ASEAN Community: political and security co-op-

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sri (Thailand), Nguyen Manh Cam (Vietnam). For details regarding the list of members of EPG, see ASEAN Secretariat 2005, List of Members of the Eminent Person's Group (EPG) on the ASEAN Charter; available from <<http://www.asean.org/18033.htm>>; Internet..

<sup>33</sup> This section gives special attention to the inputs from members of the civil society groups that are part of SAPA. Inputs from the ASEAN-ISIS are well documented in Soesastro et al., *op. cit.*, 177-91.

<sup>34</sup> See, for example, Solidarity for Asian People's Advocacy, SAPA's Letter to the Members of EPG Reiterating the Main Elements of the Solidarity for Asian People's Advocacy (SAPA) Submissions to the Eminent Persons Group on the ASEAN Charter, Unpublished SAPA document (2006).

eration. The meeting was also attended by representatives of the ASEAN Inter-Parliamentary Organization (AIPO) and the Working Group for an ASEAN Human Rights Mechanism. Prior to that meeting, on the same day, members of the EPG held another special consultation with representatives of ASEAN-ISIS. CSO representatives, under the auspices of SAPA, submitted a joint input on ASEAN political and security cooperation. On its first submission to the members of EPG on the ASEAN Charter, members of SAPA expressed great enthusiasm for an ASEAN Charter and the opportunity to engage with ASEAN during the Charter's creation.<sup>35</sup>

The second meeting between civil society groups and EPG members took place in Singapore on June 28, 2006, and concentrated on economic issues in the ASEAN Community. The meeting, hosted by the Singaporean based think-tank, the Institute for Southeast Asian Studies (ISEAS), was attended by NGO representatives, members of the regional and national academic community based in Singapore, and the business community (with a special meeting between the EPG and an international consulting firm, McKinsey and Co., conducted later). SAPA reaffirmed its commitment to engage in the formation of an ASEAN Charter and committed to carrying on the process after the EPG's task would have been completed.

The last submission of SAPA, on the socio-cultural pillar and ASEAN institutional mechanism, was submitted in Quezon City, on November 10, 2006. For some practical reasons, the meeting was mainly attended by representatives of civil society groups from the Philippines. From the EPG side, Ambassador Rosario Manalo, special adviser to former President Ramos, received the submission<sup>36</sup>.

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<sup>35</sup> Alexander C. Chandra, "Civil Society and ASEAN Charter", *The Jakarta Post*, (10 May 2006), 6.

<sup>36</sup> For further details of SAPA's submission on socio-cultural pillar and ASEAN institutional mechanism, see Solidarity for Asian People's Advocacy, Solidarity for Asian People's Advocacy (SAPA) Working Group on ASEAN Submission on the Socio-Cultural Pillar and In-

*(Editor's note: the complete set of submissions of the SAPA WG on ASEAN is included in this volume.)*

## **RESPONSES AND REACTIONS OF THE EMINENT PERSONS GROUP TO CIVIL SOCIETY INPUTS**

Participation in all ASEAN decision-making processes is a key concern for civil society. CSOs are demanding a democratic and inclusive process with clear mechanisms for participation in national and regional consultations. In general, the EPG concurred with the idea that ASEAN and the decision-making process of the ASEAN Charter should be open to civil society participation. At the first meeting between the EPG and civil society, members of the EPG appreciated civil society's contributions to the ASEAN Charter.<sup>37</sup> In fact, SAPA was the only group present at the meeting that had prepared a written submission. Others, including the representatives of the Working Group on Human Rights Mechanism and AIPO made only oral statements during the meeting. During the meeting, Ali Alatas of Indonesia stressed that the dilemma for the EPG was whether to decide on basic principles that provide norms, guidelines, and a framework for ASEAN cooperation and policy implementation; or, simply to draft a recommendation that incorporates all important issues that emerge in the region. He did, however, hint that the EPG favored the former over the latter option<sup>38</sup>. Fidel V. Ramos of the

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stitutional Mechanisms to the Eminent Persons Group on the ASEAN Charter (Quezon City: Unpublished SAPA document 2006).

<sup>37</sup> As expressed by the EPG Chairman, Tan Sri Musa Hitam of Malaysia, during the first EPG-civil society meeting in Ubud, Bali.

<sup>38</sup> In a media interview, Ali Alatas once said that civil society should definitely be involved in the creation of an ASEAN Charter. In his view, ASEAN has been accused of being a rather comfortable club for the governing elites of ASEAN for a long time. Having served under the former Indonesian Foreign Minister, Adam Malik, or in the early years of ASEAN, Alatas was aware of Malik's intention to reinvent ASEAN more as a people's organization, but with little success. He has recently come to believe that the region

Philippines also participated actively in the discussion.<sup>39</sup> Others, particularly those representing the less democratic countries of Southeast Asia, were relatively silent and appeared cautious about confronting the civil society groups. It would, of course, have been more interesting if more EPG members, particularly those from Cambodia, Laos, Myanmar, and Vietnam (CLMV countries), not to mention those from Singapore, showed more clearly their reactions to the process of civil-society engagement with ASEAN.

At the second meeting, the EPG Chairman again expressed his satisfaction with the contribution of civil society groups. There was also an interesting exchange on the issue of people-to-people engagement. In relation to the specific terminology used by SAPA, for example, Fidel Ramos felt that the term people empowerment, rather than pro-people, would be more appropriate in a Charter, as the term pro-people connotes a top-down elitist approach that civil society would rather put aside. Some EPG members, however, expressed their views in more subtle ways by throwing back the question on how CSOs propose to implement a "pro-people" policy in ASEAN.

It is clear that civil society groups are starting to show keen interest in the ASEAN regional project. However, it

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has a very active civil society. He tried to assure the audience by saying that the EPG would certainly listen not only to the views of civil society groups, but also parliaments and academic think tanks. For further details of Alatas' views on the ASEAN Charter and the EPG's engagement with representatives of civil society groups, see, for example, The Leaders, "Interview with Ali Alatas", The Leader (N/A) available online: <<http://www.the-leaders.org/library/05.html>>.

<sup>39</sup> Fidel Ramos was in fact one of the most active members of the EPG in the overall EPG-civil society engagement process. In his letter to the President of the Philippines, Gloria Macapagal-Arroyo, dated April 25, 2006, which reports his activities during the EPG and CSO meetings, former President Ramos wrote that he was the first EPG member who initiated consultations with civil society at the national level. The event took place in the Department of Foreign Affairs of the Republic of the Philippines, on March 23, 2006, and was attended by 30 NGO representatives as well as members of the ASEAN Business Advisory Council (ABAC).

remains to be seen how the recommendations from the EPG to the High Level Task Force (HLTF) will be taken up. Some CSO demands may be seen as too radical by some ASEAN member governments. The participation of civil society groups in decision-making processes in countries such as Burma is still limited while freedom of expression in some of the older ASEAN members, such as Singapore, is still constrained. Yet, the EPG-civil society consultation process is an important step in guaranteeing an ASEAN Charter that reflects the needs and interests of all Southeast Asians.

### **IS THERE A FUTURE FOR ASEAN-CS ENGAGEMENT?**

The long-term future of civil society engagement with ASEAN depends entirely on the ability of regional CSOs to come up with a united stance vis-à-vis ASEAN. Currently, civil society groups in Southeast Asia are very much fragmented. As mentioned previously, members of the academic community and many NGO representatives hold divergent views on the way in which the ASEAN integration process should be pursued. Given ASEAN's limited experience in allowing civil society groups to participate in the agenda-setting, it might be difficult for the Association to deal directly with the numerous civil society groups in the region. Another key challenge to civil society engagement with ASEAN is the Association's lack of openness to civil society participation. Less democratic member-countries are still unsure about civil society engagement in the ASEAN process. Countries such as Burma, and even Singapore, would wish to stop civil society groups from participating in the Association's decision-making processes.

ASEAN and its existing CSO network still need to familiarise local and national CSOs with the Association and its activities. Currently, only national and regional CSOs with regional and / or international interests are actively engaged with ASEAN. The task of popularising

ASEAN and its activities is therefore tremendous. Without such popularization, ASEAN will remain elitist. It is imperative to build on the recent relative success in widening the door for civil society engagement with ASEAN. Civil society participation must be expanded at the national and local level, before this new CSO engagement develops its own elitist tendencies. ■



# Engaging the ASEAN Charter Process: *Solidarity for Asian People's Advocacy (SAPA) Working Group on the ASEAN Submissions to the Eminent Persons Group<sup>1</sup> on the ASEAN Charter*

SUBMISSION ON THE SECURITY PILLAR  
17 APRIL 2006, UBUD, BALI, INDONESIA

## I. INTRODUCTION

**W**e are representatives of the Solidarity for Asian People's Advocacy (SAPA), a network of non-governmental organizations (NGOs), civil society organizations engaged in campaigns and advocacy on various issues of public interest at the national and regional levels. SAPA network members have varied competencies in the key pillars of ASEAN cooperation, with many of us working on cross-cutting issues and advocacies.

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<sup>1</sup> The members of the EPG on the ASEAN Charter are: Brunei – Pehin Dato Lim Jock Seng (Minister of Foreign Affairs and Trade II of Brunei Darussalam); Cambodia – Dr. Aun Porn Moniroth (Advisor to the Prime Minister and Chairman of the Supreme National Economic Council of Cambodia); Indonesia – Ali Alatas (Former Minister for Foreign Affairs of Indonesia); Laos – Mr. Khamphan Simmalavong (Former Deputy Minister of Lao People's Democratic Republic); Malaysia – Tan Sri Musa Hitam/Chairman (Former Deputy Prime Minister of Malaysia); Myanmar – Dr. Than Nyun (Chairman of the Civil Service Selection and Training Board of the Union of Myanmar); Philippines – Fidel V. Ramos (Former President of the Philippines); Singapore – Prof. S. Jayakumar (Deputy Prime Minister and Minister for Law of Singapore); Thailand – Mr. Kasemsamosorn Kasemsri (Former Deputy Prime Minister and Minister of Foreign Affairs of Thailand); Viet Nam – Mr. Nguyen Manh Cam (Former Deputy Prime Minister and Minister of Foreign Affairs of Viet Nam).



SAPA welcomes the move by ASEAN Leaders to develop an ASEAN Charter as a step towards deepening integration in the region through the formalization of agreements and understanding, the regional recognition of rights, and the regionalization of standards and mechanisms. The framing of an ASEAN Charter represents the transformation of ASEAN and a leap towards establishing a rules-based organization that carries the basic aspirations, values and ideals of the ASEAN people.

SAPA acknowledges the important task placed upon the Eminent Persons Group on the ASEAN Charter and pledges its support to the EPG in this process. SAPA commends the EPG's recognition of civil society's right to participate in its deliberations, and reiterates its appeal to broaden such inclusiveness in both national and regional venues. As part of civil society, we share your ideals of cogent cooperation and mutual prosperity for ASEAN; and, of shared rights and benefits for its people, towards the construction of a community of caring societies.

Culled from the results of the various processes that civil society has initiated and participated in, including the 15-16 April meeting in Ubud, Bali, we hereby offer our initial submission to the EPG on the ASEAN Charter. In this submission we outline the broad principles and highlight civil society perspectives that we believe should be reflected in an ASEAN Charter. This initial submission also gives special focus on the aspects of people's security in line with the agenda of the EPG meeting this week. Our subsequent submissions will focus on the other aspects of regional cooperation which will be the focus of succeeding EPG meetings. We commit to engage the entire EPG process, and to pursue this process even after the EPG's task has been completed. We are consolidating our perspectives, proposals and recommendations for inclusion in the ASEAN Charter, including the more specific provisions which we hope to develop and share with the EPG

as the process progresses. Our ultimate aim is to help facilitate the development of an ASEAN thinking and action on the Charter and on the broad issue of regionalism not only among organized civil society groups but also among the ASEAN people.

## **II. PERSPECTIVES ON REGIONALISM**

Southeast Asia is a region of diverse peoples and cultures. There is uneven development between and within countries. The borders and political systems of many nation-states of Southeast Asia today were molded by colonial powers and remain colonial constructs. In a span of less than four decades, ASEAN polity has developed in leaps and bounds, with palpable successes as well as areas in need of more attention. Appreciation and realization of deeper ASEAN regionalism will contribute to the resolution of long-standing issues; facilitate the tackling of issues yet to be addressed in regional discussions; and, forge firmer regional commitments from and among ASEAN Member States and peoples.

Regionalism is a step towards the advancement of ASEAN people's interest, by stressing mutual benefit and cooperation among states and people. The articulation of a people's aspirations in a regional forum is a progressive step towards protecting and furthering those aspirations.

Regionalism should go beyond regional integration and incorporate genuine regional solidarity. The regionalism we opt for is people-centered and people-empowered. Regionalism should be a tool that will promote and strengthen ASEAN cohesion; carry provisions for catch-up mechanisms, and close the economic and political gaps among Member States and their citizens while recognizing diversity and promoting tolerance among Member States. Regional monitors and regulatory mechanisms, and a progressive and democratic regional political and security system, are important elements of regionalism. It is not a tool

by which Member States can retreat to the least common denominator but one which will facilitate the establishment of regional rights and standards aligned to internationally recognized and accepted norms. Therefore, regionalism is both an offensive and defensive tool.

Regionalism is the foundation for ASEAN's venture into external relations. ASEAN's dealings and partnerships with its neighbors and the global community should articulate and be guided by agreed regional agenda.

It is with these perspectives on regionalism and the importance of regional institutions that SAPA proposes to advance the following principles for inclusion in the ASEAN Charter.

### **III. REGIONAL RECOGNITION OF HUMAN RIGHTS AND HUMAN DIGNITY**

Human rights and dignity are part of core values and guiding principles that ASEAN has sought to uphold. Promotion and protection of human rights and dignity should be the primary goal of all efforts for regional integration and cooperation undertaken by ASEAN.

There is a need for ASEAN to explicitly recognize all human rights - civil, cultural, economic, political and social - including recently developed international human rights norms and standards, such as the Right to Development (1986) and the UN Declaration on Human Rights Defenders (1998) at the regional level by ratifying existing international human rights conventions.

The ASEAN Charter should reaffirm human and people's rights as the basic foundation for ASEAN, and articulate them in terms of the promotion and protection of human rights in accordance with the principles of universality, indivisibility, interdependence, and inter-relatedness.

The ASEAN Charter should take into account emerging regional contexts and conditions in order to develop effective working modalities which are politi-

cally and legally binding and enforceable in terms of providing practical remedies for victims.

ASEAN should recognize the urgent need to establish an effective and viable ASEAN human rights mechanism, which process has been too slow over the past decade. The ASEAN Charter should facilitate the establishment process of such a body that is compatible with globally accepted norms and standards.

The ASEAN Charter needs to recognize the rights of workers - formal and non-formal - and all migrant workers by highlighting the importance of the International Convention on the Protection of All Migrant Workers and Members of their Families and ILO core labor standards, and other relevant instruments.

The ASEAN Charter should also clearly recognize the rights of many vulnerable and marginalized groups such as ethnic minorities and indigenous peoples, farmers, fisherfolk, women, children, migrants, internally displaced persons (IDPs), refugees, people with disability, etc.

### **IV. INSTITUTIONS FOR REGIONAL POLICY AND COOPERATION**

#### ***ASEAN Security Community (ASC)***

Our submission is based on the spirit of the ASEAN Security Community, which has expressed its commitment to explore innovative ways to implement the six components and non-exhaustive list of areas of activities of the Plan of Action to ensure a coordinated process of cooperation with the ASEAN Security Community.

Our submission focuses on operationalizing principles and references with an aim to complement the current framework proposed in the ASC aiming for broader definition of Security.

## **Principle 1: Broader definition and reference to security**

### *i. Security Framework of the People:*

Current ASC definitions of conventional and non-conventional security issues are comprehensive but not inclusive in terms of perspective. References are made only to the State but not to the people.

The ASEAN Charter should have distinctive chapters that address conventional and non-conventional security issues with reference to the State as well as to the people. We have enumerated in Annex 1 a list of non-conventional security issues that ASEAN should discuss, which discussions SAPA intends to participate in.

The ASEAN Charter should define clearly that the responsibilities of the state to protect, promote and fulfill its obligations in respecting the rights of its citizens supersede the obligations it imposes on its citizens.

In addition to its recognition of women, children and migrant workers as defined in the ASC plan of action, the ASEAN Charter should also recognize the unique roles and rights of the Human Rights Defenders. In this regard, the ASEAN Charter should incorporate the norms and standards in accordance with the United Nations (UN) Declaration on the Rights and Responsibilities of Individuals, Groups and Organs of Society to Promote Universally Recognized Human Rights and Fundamental Freedoms (UN Declaration on Human Rights Defenders, 1998).

On conflict prevention, conflict resolution and post-conflict building, the ASEAN Charter should provide a framework and mechanisms to ensure the participation of civil society, especially at the grassroots level, in conflict prevention and achieving sustainable peace.

### *ii. Objective and Non-objective security threats*

Despite the effort to adopt a comprehensive conception of security, ASC's threat perception is clearly objectivist in the sense that threats exist and must be responded to. It is also important to conceive threats as risks produced by State policy. As such, the sources of threats to ASEAN security can be less external than internal.

Given the fact that perceived non-conventional security threats can also be the result of well-intentioned policies which fail to adequately define and address the root causes of such perceived threats, the ASEAN Charter should include provisions for a more holistic analysis of non-conventional security threats.

## **Principle 2: A more conducive political environment for peace, security and stability**

The ASC Plan of Action contains two conflicting statements on principle. On one hand, the plan of action declares that the ASC process "shall be guided by well-established principles of non-interference (and) respect for national sovereignty"; on the other hand it asserts that ASEAN shall not condone undemocratic regimes.

ASEAN should translate into practice its position on the ASEAN Security Community Plan of Action on political development which states that "ASEAN Member Countries shall not condone unconstitutional and undemocratic changes of government or the use of their territory for any actions undermining peace, security and stability of other ASEAN Member Countries".

ASEAN also has existing security instruments such as ZOPFAN, TAC and SEANWFZ and is also a member of the political alliance NAM.

ASEAN Charter should harmonize the norms and standards contained in these instruments that will eventually lead to a joint foreign policy to proactively create a peaceful, prosperous and independent zone that is free from all external military influences. This includes

inter alia the eventual removal and ban of any foreign military bases in ASEAN.

### **Principle 3: Introducing Human Security**

The current ASC Framework does not contain any specific reference to Human Security based on the protection and empowerment of the people.

Human Security encompasses not only freedom from violence but also freedom from threats to people's lives, including hunger, poverty, disease, marginalization and exclusion. Human security also hinges upon environmental integrity and ecological security that safeguard against degradation and destruction that cause disease, harsh living conditions, and loss of lives and livelihoods. Competition for and over-exploitation of the environment also causes displacement and breakup of communities, and give rise to aggression and armed conflicts.

The ASEAN Charter should broadly define human security, allocate a specific chapter addressing the issue, and contain provisions that will lead to the implementation of its values.

### **Principle 4: Harmonizing existing ASEAN instruments and norms with international norms and standards**

The current ASC Plan of Action under section I.2 Shaping and Sharing of Norms does not contain adequate reference to the international human rights framework, which should serve as a common framework regardless of ideologies and historical cultural differences.

The ASEAN Charter should mainstream rights based approaches in harmony with international standards and norms in all its deliberations and in performing its collective responsibilities for the region.

The Right to Development has been the ardent framework by the majority of ASEAN members at various global platforms. In line with this spirit, the ASEAN Charter should adopt the full norms as

enshrined in the Right to Development, and further define clearly the inter-linkage of the Rights to Development and disarmament, by reducing the military expenses and increasing spending on development issues, in line with the ASC's overall goal to create a conducive political atmosphere for states to live in harmony and peace with each other.

### **Principle 5: Defining ASEAN key stakeholders**

The full realization of ASEAN Vision 2020, especially in the areas of the comprehensive security, will require the full participation of the various stakeholders with their distinctive identities. Each of these stakeholders takes on different roles and operates within a specific set of values at the various stages of the comprehensive security framework.

The ASEAN Charter should recognize clearly this diversity and the potential contributions of these key stakeholders in the full realization of the vision of the ASC. These key stakeholders include inter alia:

- i. Peoples Movements/organizations*
- ii. Trade Unions*
- iii. NGOs*
- iv. Media*
- v. Parliamentarians*
- vi. National Human Rights Institutions/ domestic human rights institutions*
- vii. Academic institutions*

The ASEAN Charter should facilitate the effective engagement of these diverse stakeholders within ASEAN mechanisms.

The ASEAN Charter should clearly provide for the participation of the people in the policy making processes which affect them.

## **V. ADVANCING A PROCESS FOR AN ASEAN CHARTER**

The ASEAN Charter outlines the responsibilities and obligations of Member States as well as the rights and freedoms of ASEAN people, and determines how

much of their national flexibilities they will yield in favor of regional agreements. As such, the ASEAN Charter will have wide ranging impacts on the citizens of ASEAN and its various institutions. The drafting of the ASEAN Charter therefore requires the broad participation of citizens from all Member States. While constructive engagement is one of our responsibilities as civil society, it is the obligation of ASEAN and its Member States to provide mechanisms for transparent and democratic participation and genuine consultation.

We propose a democratic and inclusive process for the ASEAN Charter that will include the following:

- Regional civil society consultations must be called not only by the EPG but also by the ASEAN Leadership when considering the EPG recommendations. Consultations initiated by the EPG must not supplant national processes and mechanisms for consultations and discussions meant to gather as many views and inputs on the Charter from the widest possible segment of the population.
- Civil society should be encouraged to initiate consultations and discussions among their constituents and community partners on various aspects of the Charter, and submit the results of these discussions to the designated national and/or regional mechanisms as their formal inputs to the Charter. This should give us the space to conduct our own consultations and discussions, and ensure that our inputs from such engagement are recognized as official contributions to the Charter.
- ASEAN must adopt mechanisms for consultation at the regional level. This is particularly important for countries where there is little space for civil society to engage or even be consulted at the national level.
- For both the EPG and ASEAN processes, broader national consul-

tations on the Charter must be conducted. There must be parallel national EPG consultation processes similar to the ones carried out in the Philippines.

- When mainstreaming the idea of a Charter, creative forms of communication should be employed to reach the widest segment of the ASEAN population. Such forms of communication should enable concerned citizens not otherwise able to participate directly in consultation meetings to register their views on the process and substance of the ASEAN Charter.

We in SAPA are more than willing to engage in this process, to devote time and other resources to facilitate the inclusion of various stakeholders, and to work with the EPG and ASEAN to create awareness and develop a discourse on the ASEAN Charter. We offer our distinct strengths: experience with grounded reality, engagement at the national level, commitment to regional solidarity, and global perspective.

We will be conducting national and regional civil society meetings to discuss regionalism and the ASEAN, and to gather inputs for the ASEAN Charter. In these meetings, we expect the participation of the EPG members and ASEAN related bodies, at both national and regional levels.

In addition to this initial submission, we will continue our engagement and contribute further submissions in subsequent EPG consultation processes, and our members will actively participate in parallel national EPG processes. In particular, we express our desire for a similar open consultation process to be held for the EPG meeting to discuss economy and trade in Singapore in June, and register our intention to join that process. ■

## **ANNEX**

### List of Non-Conventional Security Issues

1. Banned weapons;
2. Trans-boundary environmental issues (e.g. haze and pollution, over extraction);
3. Transnational crimes;
4. Drug trafficking;
5. Trafficking in persons (including women and children for prostitution and labor);
6. Terrorism;
7. Transnational Corporate crimes;
8. Enforced slavery;
9. Economic crimes;
10. Trans-boundary health problems (e.g. SARS, HIV/AIDS, etc.);
11. Internal conflicts (including issues on refuges and internally displaced persons);
12. People's mobility, including undocumented migration;
13. Non-objective security threats (e.g. food security, economic/structural adjustments);
14. etc.



SUBMISSION ON THE ECONOMIC PILLAR  
28 JUNE 2006, SINGAPORE

**I. INTRODUCTION**

**W**e are the Working Group on ASEAN of the Solidarity for Asian People's Advocacy (SAPA), a network of non-governmental organizations (NGOs), civil society organizations, trade unions, and participants in the First ASEAN Civil Society Conference (ACSC I, 2005), engaged in campaigns and advocacy on various issues of public interest at the national and regional levels. SAPA network members have varied competencies in the key pillars of ASEAN cooperation, with many of us working on cross-cutting issues and advocacies.



SAPA WG on the ASEAN thanks the Eminent Persons Group on the ASEAN Charter for continuing the engagement with civil society on the ASEAN Charter process. SAPA WG on ASEAN reaffirms its commitment to engage in the process initiated by the Eminent Persons Group on the ASEAN Charter, and recommits itself to engage in the process beyond the completion of the EPG's task.

This is a follow-up to our initial submission on people's security in the last meeting of the EPG on the ASEAN Charter in Ubud, Bali.

## **II. PERSPECTIVES ON ECONOMIC REGIONALISM**

The SAPA Working Group on the ASEAN reiterates its broad perspectives on regionalism, as articulated in its initial submission.

- o Regionalism is a step towards the advancement of ASEAN people's interest, by stressing mutual benefit and cooperation among states and people.

- o Regionalism should go beyond regional integration and incorporate genuine regional solidarity.

- o Regionalism is the foundation for ASEAN's venture into external relations.

Southeast Asia is an economically diverse region, with countries having variable levels of development and capacities to respond to globalization and change, and to the needs of its citizens. The development gap reduces the capability of the region to maximize its potentials and increases social tensions. Many ASEAN countries also face the challenge of unsustainable debts. Moreover, the financial crisis of 1997 showed the vulnerability of even the more prosperous countries to the impacts of the global market.

This is the backdrop against which economic cooperation and integration of ASEAN takes place. It is within this context that SAPA proposes to advance the following perspectives on economic

regionalism.

Regionalism is founded on citizen's rights and the cultivation of democratic processes. An active citizenry that participates in democratic political life promotes dynamic economic development and peaceful diversity. An accountable public leadership and efficient government should take place amidst popular mandate and legitimacy.

Economic regionalism promotes economic justice. The goal of economic cooperation is the pursuit of sustainable development, equity, inclusion, and empowerment. The pursuit of ASEAN economic development shall not be at the expense of labor, environment, and human rights standards. Regional economic initiatives should be open and transparent. It puts people at the center and seeks their participation.

Economic regionalism promotes solidarity. Regional economic cooperation and integration facilitates greater interaction and understanding among citizens of ASEAN, helps define identity and promotes solidarity. It also brings about increased welfare that helps reduce social and border tension. Regional economic integration should prioritize people to people exchange (trade, interaction etc.) as its core principle.

## **III. INSTITUTIONS FOR REGIONAL POLICY AND COOPERATION**

### ***ASEAN Economic Community (AEC)***

#### **Principle 1: Economic Integration**

In the ASEAN region and worldwide, there are diverse markets whose linkages must be explored and creatively interconnected. A "one size fits all" economic policy of trade and financial liberalization will only lead to the greater concentration of market shares for transnational corporations and consequently marginalize other markets.

Most of the member countries of ASEAN are agricultural economies, with a primarily rural population whose livelihood depends on subsistence agriculture. Hunger, poverty and dispossession brought about by unsustainable agribusiness and industrial policies plague small-scale agricultural producers. The region is prone to natural and human-made disasters which make the agriculture sector most vulnerable.

There are significant numbers of people in ASEAN countries depending on the informal sector whose contribution to the ASEAN economy should be recognized.

#### **THE ASEAN CHARTER SHOULD:**

- Recognize a policy mix that is informed by heterodox economic thinking and policy analyses; and,
- Integrate a strong social protection element in economic development that is founded on redistributive justice, poverty eradication and growth with equity and non-discrimination.

The ASEAN Charter should enshrine the values of agrarian reform, justice, and food sovereignty. It should have provisions for institutions to safeguard capacity for social reforms like land reform, urban reform, etc. and mechanisms to level the playing field.

The ASEAN Charter should integrate a Food and Water framework that upholds every ASEAN citizen's human right to food, water and livelihood.

#### **Principle 2: Financial and Monetary Stability**

The realization of the ASEAN Economic Community will require that regional financial and monetary volatilities are addressed; the development gap between and among Member States and citizens are closed; and national potentials are fully developed through innovative approaches and exchange/sharing of finan-

cial resources and expertise.

The ASEAN Charter should have principles that protect regional currencies from the vagaries of the global dominant currency exchange system. It should also prepare the region for an independent exchange system based on mutually beneficial and acceptable values to ensure stability and encourage increased intra-regional trade. It should uphold principles that increase the capacity to generate capital from within the region, and values that guide the judicious use of such capital.

The ASEAN Charter should have specific provisions for the disciplining and regulation of the financial market, and increase the capacity of the region to monitor fluctuations and impending crises.

The ASEAN Charter should have provisions for the establishment of a workable ASEAN Development Fund for innovative home-grown initiatives, with easy access for Member Countries experiencing balance of payments problems. There should be specific provisions to develop capacity and mechanisms to assist Members with unsustainable debts.

The ASEAN Charter should envision a 'debt free' ASEAN.

#### **Principle 3: Regional Harmonization and Complementation in Industry, Agriculture and Services**

An export-oriented growth strategy based on unsustainable natural resource and unskilled labor extraction has been proven as a failure. A dynamic agro-industrial model underpinned by a strong science and technology program responds to sustainable growth and the collective good.

The ASEAN Charter should enshrine principles that:

- Move away from economic activities based largely on natural resource extraction;
- Promote economic growth anchored in and driven by rural industrialization;

- Promote appropriate sustainable industrial development based on harmonization and complementation of industries;

- Promote public investment through regional support mechanisms, example of which is the promotion of science and technology for the regional collective good.

### **ON THE ASEAN FREE TRADE AREA (AFTA):**

The ASEAN Charter should have principles that affirm the rights of Member States to implement national/regional measures that:

- Regulate/manage trade of sensitive products (e.g. food); and,
- Ensure food security and protect the livelihoods of small-scale producers and vulnerable communities.

### **ON THE ASEAN FRAMEWORK AGREEMENT ON SERVICES (AFAS):**

The ASEAN Charter should recognize the different types of labor movements and support full labor rights. It should promote equality in the development of human resources, and provide for mechanisms to develop standards and certification.

### **ON ASEAN INVESTMENT AREA (AIA):**

Strong economic integration implies the need for greater capacity to generate domestic savings and investments. It also requires the just recognition of labor's contributions and their rights, including those of migrant workers. Labor export promotion should not substitute for sound national domestic employment policy.

The ASEAN Charter should provide for mechanisms that increase Member Countries' capacity for internal savings generation, investment and job creation.

The ASEAN Charter should uphold labor rights especially in relation to inter-

ASEAN foreign direct investments.

The ASEAN Charter should strengthen the legal and policy framework that upholds the "social function of property".

### **ON INTELLECTUAL PROPERTY RIGHTS (IPR):**

A sound Intellectual Property Rights regime is a means, but is not an end in itself; the public good is the ultimate standard which IPRs must serve. As a community of developing nations, ASEAN should review and creatively adjust such IPR regimes against the benchmark of how well they achieve development goals.

### **THE ASEAN CHARTER SHOULD:**

- Uphold the Convention on Biodiversity that is a key instrument for sustainable development and poverty eradication, including strengthening regional capacity for combating bio-piracy by transnational corporations;
- Encourage research and manufacture of generic drugs and the practice of compulsory licensing and parallel importing to respond to pandemics and illnesses;
- Translate the precautionary principle into concrete pro-people policies and programs; and,
- Promote alternatives to the enclosure of knowledge by promoting Open Standards, Open Access to content, and Free/Open Source Software etc.

### **Principle 4: Human Resources**

People are not tradable commodities.

The ASEAN Charter should promote and respect the human and trade union rights of its people and formulate policies and programs on human resource development that will not infringe on these rights.

The ASEAN Charter should have specific chapters on cooperation in re-

gional human resource development. It should provide for mechanisms and incentives to ensure domestic employment in critical industries and services.

Economic integration requires that citizens of ASEAN are equipped with necessary skills and training that match the needs of their own economies first to ensure sustainable development and equitable growth. The ASEAN Charter should provide for enhanced cooperation and exchange in science and technology research and development.

### **Principle 5: Labour Rights**

Economic integration should promote decent and full employment as well as non-discrimination in labor rights.

Southeast Asia has a large population of labor migrants, many of whose rights are violated on the basis of their race, ethnicity, gender or creed. Labor migration provides significant economic contributions to both sending and receiving countries. Remittances from labor migrants can be an additional means for just and people-centered development, provided that appropriate institutional support and economic opportunity existed.

#### **THE ASEAN CHARTER SHOULD:**

- Enshrine international core labor standards: freedom of association, the right to organize and bargain collectively, elimination of all forms of forced or compulsory labor, abolition of child labor, and elimination of all forms of discrimination at the workplace.
- Provide for a mechanism for the mutual recognition and accreditation of skills by Member States;
- Enshrine the principle of equal treatment, and adopt standard employment contracts that protect the rights and well-being of native and migrant labor alike;
- Uphold the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

### **Principle 6: Harmonizing Existing Norms and Mechanisms to Address Trans-Boundary Economic Concerns**

Trans-boundary concerns in ASEAN encompass environmental, trade and human rights-related issues. These issues are often the result of unbridled economic development in the ASEAN region.

#### **THE ASEAN CHARTER SHOULD:**

- Have provisions that address cross-border economic and social issues like smuggling, dumping of toxic wastes, migration, trans-boundary pollution, transnational territorial waters, trafficking, etc.;
- Enshrine the principles for engaging the international trading system, primarily targeting the following: elimination of dumping; curbing of overproduction; regulation of transnational corporations; control of imports through various trade instruments, and the strengthening of state interventions in domestic and external trade to stabilize domestic price and supply; and ensure that the poor has access to cheap and nutritious food at all times;
- Recognize that Member States have the primary responsibility to promote, protect and fulfill human rights recognized in international as well as national law, including ensuring that all transnational corporations and other business enterprises operating in the ASEAN region respect human rights and not control the market;
- Adopt the Bangkok Declaration on Irregular Migration and the UN Optional Protocol on Trafficking of Persons, Especially Women and Children;
- Incorporate the precautionary principle (Principle 15 of the Rio Declaration) in regional development and mechanisms to address trans-boundary environmental and health issues;

- Adopt Principle 10 of the Rio Declaration (access to information, public participation in decision making processes, environmental justice) and ensure freedom of expression (media and press) to facilitate a timely regional response to trans-boundary environmental disasters;

Economic development is invariably linked to a secure and peaceful society where peoples are able to enjoy fundamental freedoms and quality of life. Regional cooperation, therefore, should not use security legislation and controls to impede the movement of workers and their families, or destroy informal cross-border trade on which rural communities depend for their livelihood.

### **Principle 7: Increased Support to Small-Scale Producers to Build their Potential**

Small-scale producers refer to owner-cultivators with small landholdings, landless tenants, subsistence and artisanal fisherfolks, indigenous peoples, agricultural workers, home-based and informal workers, and producers. A just economic integration prioritizes and primarily benefits these sectors.

### **THE ASEAN CHARTER SHOULD:**

- Operationalize the commitments made during the 1996 World Food Summit convened by the Food And Agriculture Organization at the United Nations;
- Enshrine pro-poor policies ensuring equitable access to and ownership of markets and productive resources such as land, water, seeds, capital, and appropriate technology. The ASEAN shall also provide support services, safety nets and social protection measures to small producers; and,
- Institutionalize disaster management mechanisms.

### **Principle 8: Sustainable Production and Consumption, Energy and Development**

Countries in the ASEAN are endowed with rich and diverse natural resources, but these resources are under threat of overexploitation and extinction.

The ASEAN Charter should:

- Enshrine the principle of sustainable development espoused by the Rio Summit of 1992 and reaffirmed by the World Summit of Sustainable Development in 2002;
- Adopt the principle of sustainable food, water and agricultural system at the local and national levels;
- Envision an industrial production system that is clean, resource- and energy- efficient and sustainable;
- Establish mechanisms for the promotion of renewable energy sources; and,
- Promote sustainable consumption.

### **Principle 9: Implementation, Monitoring and Mechanisms for Adherence**

ASEAN Member Countries have adopted many regional and international agreements to promote socio-economic principles, but they have different capacities to adhere to those agreements.

The ASEAN Charter should provide mechanisms that will help member countries to adhere to the ideals of the Charter.

### **Principle 10: Social Dialogue**

Full and meaningful participation of civil society at all levels of decision-making ensures more effective and equitable benefits sharing, and strengthens economic integration.

The ASEAN Charter should uphold the principle of social dialogue and consultation with civil society and social movements.

#### **IV. MOVING FORWARD**

SAPA commits itself to enrich its inputs to a series of national consultations on the ASEAN Charter, and in the Second ASEAN Civil Society Conference to be held in the Philippines, December 2006. It is also committed to further consultation with the EPG members, and in the follow-up processes leading to the drafting of the ASEAN Charter.

SAPA expresses its continued appeal to the EPG to broaden their consultation process to include other civil society groups at the national and regional levels. SAPA also appeals to ASEAN member governments and the ASEAN Secretariat to assist the EPG to make such a process possible. ■



SUBMISSION ON THE SOCIO-CULTURAL  
PILLAR AND INSTITUTIONAL MECHANISM  
10 NOVEMBER 2006, QUEZON CITY, PHILIPPINES

**I. INTRODUCTION**

The Working Group on ASEAN of the Solidarity for Asian People's Advocacy (SAPA) thanks the Eminent Persons Group on the ASEAN Charter for continuing the engagement with civil society on the ASEAN Charter process. This is the last installment of our submission, following initial submissions on people's security and the economic pillar during the EPG on the ASEAN Charter meetings in Ubud, Bali in April and Singapore in June.



The Philippine-based members of the Working Group specially appreciate this meeting with Ambassador Rosario Manalo, Special Adviser to the Philippine EPG Member, Former President Fidel V. Ramos, at which time this submission is formally conveyed.

## **II. PERSPECTIVES ON SOCIO-CULTURAL COMMUNITY**

The SAPA Working Group on the ASEAN reiterates its broad perspectives on regionalism, as articulated in its initial submissions.

- o Regionalism is a step towards the advancement of ASEAN people's interest, by stressing mutual benefit and cooperation among states, communities and people.

- o Regionalism should go beyond regional economic integration and incorporate genuine regional solidarity.

- o Regionalism is the foundation for ASEAN's venture into external relations.

- o Regionalism is founded on citizen's rights and the cultivation of democratic processes.

- o Regionalism promotes economic justice and well-being.

Southeast Asia enjoys a diversity of cultures, peoples, religions and heritage. This diversity shapes the differing ways that people and communities respond to political and economic realities and changes within the region. It is in celebration of this diversity that SAPA proposes to advance the following perspectives on ASEAN as a socio-cultural community.

Regionalism is founded on the recognition, promotion and protection of human and community rights. The foundation of our envisioned regionalism is the increasing realization of human rights in ways that acknowledge human beings as members of socio-cultural communities in which all work together toward achieving common ethical norms and set of obligations for ensuring human dignity.

Socio-cultural community promotes tolerance and respect for diversity as it forges an ASEAN identity and celebrates common cultural heritage. Genuine regional cooperation builds social cohesion by promoting participation, dialogues and convergences thus minimizing conflict arising from political and cultural differences.

Regional integration leads to common prosperity, where everyone has a dignified place on the table. Regionalism promotes equity not just between ASEAN states and societies but also between social groups within societies. A truly functioning regional community acknowledges that the promotion and protection of social, gender, and environmental justice and equity, is a responsibility that cuts across the local, national, regional and international governance spheres.

A caring and sharing community is people-centered and people-empowered. The goal of regional integration is to promote the interest of peoples and communities through active citizenship, cooperation and democratic participation.

## **III. REGIONAL RECOGNITION OF HUMAN RIGHTS AND HUMAN DIGNITY AS FOUNDATION OF COMMUNITY**

Human rights and dignity are part of core values and guiding principles that ASEAN has sought to uphold. Promotion and protection of human rights and dignity should be the primary goal of all efforts for regional integration and cooperation undertaken by ASEAN.

There is a need for ASEAN to explicitly recognize all core human rights including recently signed international agreements that expand on human rights norms and standards.

The ASEAN Charter should strongly reaffirm human rights as its basic foundation, and articulate these through the adoption of appropriate mechanisms.

## **IV. INSTITUTIONS FOR REGION-**

## **AL POLICY AND COOPERATION**

### **ASEAN Socio-Cultural Community (ASCC)**

#### **Principle 1: Adherence to International Norms**

ASEAN states and governments commit to honor international obligations to promote human rights and sustainable development.

The principles should not be compromised by economic and trade, as well as security commitments.

#### **Principle 2: Harmony and Cultural Diversity**

The ASEAN Charter should recognize the diversity of cultures, peoples, religions and heritage of ASEAN societies. It should therefore uphold equality, inclusion, and non-discrimination, and should provide mechanisms for states to enable citizens, regardless of ethnicity, to deepen and enrich this diversity.

The ASEAN Charter should recognize the vital link between culture, language and traditional knowledge and people's ways of life to the procurement of people's basic needs and achievement of happiness and freedoms. States should protect traditional knowledge and provide the enabling environment for the preservation and enhancement of people's language, culture and heritage, in pursuit of sustainable development and vibrant democracy.

ASEAN should provide a mechanism to regulate production, consumption and distribution systems that tend to "homogenize culture" including food consumption systems, especially those that impact negatively on people's rights, people's health and the environment.

The ASEAN Charter should have principles that ensure Member States' respect for religious beliefs and practices. It should also create an enabling environment for religious dialogue and pluralism, and enable peoples to tap their cultural and religious resources for tolerance,

peace, development and regional solidarity through interfaith dialogue.

#### **Principle 3: Entitlements and Freedoms**

Every ASEAN citizen is entitled to enjoy all the freedoms and rights enshrined in the UN Charter, declarations, treaties, conventions, and other multilaterally agreed instruments. ASEAN states and governments are bound to honor and promote these rights and freedoms, as reaffirmed in the 2000 Millennium Declaration. The right to food, water, shelter, basic health services, essential medicines, education, and other social services should be inviolable and not subject to the vagaries of the market and negative state imposed practices.

#### **Principle 4: Environmental Sustainability**

Development of the region must be sustainable and therefore within the carrying capacity of its ecosystems and must not destroy cultures and the rights of communities to their resources.

ASEAN commits to the highest environmental standards enshrined in various multilateral environmental agreements (MEAs) by translating this into local, national and regional sustainability plans and environmental policies and programs. It shall adhere to the principle of common but differentiated responsibility in addressing past damage, and present and future efforts in rehabilitation of the environment. It commits to reverse the decline of biodiversity and to restore the rich biological diversity of the region. It commits to the stabilization of the global climate by striving for an urgent shift to clean production and renewable energy systems. It will adhere to the precautionary principle in face of uncertainty of impacts of development activities and adoption of technologies.

### **Principle 5: Rights to Shared Resources**

We recognize that certain natural, material, and nonmaterial resources are by their very nature part of a shared resource (communal resources, ancestral domains, the “commons”) which should transcend conventional property rights as they represent shared environmental resource and/or socio-cultural heritage.

A rich public domain of knowledge available to all is essential and provides the grounds for the positive development of intellectual creativity, technological innovation, and effective use of these technologies. This is threatened by the increasing privatization of knowledge production, and restrictive intellectual property rights rules that result in monopoly control over knowledge, innovations and public goods.

The ASEAN Charter should establish an appropriate regime that protects shared resources, and the intellectual and cultural rights of citizens and communities from commercial exploitation.

### **Principle 6: Recognition and Protection of Migrants**

Regardless of the reasons for movement, migration contributes to economic development, the socialization of ASEAN identity, and the fostering of greater cultural understanding, including work ethic and social interaction.

The ASEAN Charter should recognize the valuable multi-faceted contribution of migrants, and thus promote the human rights of migrants as workers and as inhabitants. Such a human rights approach to migration should not be jeopardized by security, population and labor management policies.

### **Principle 7: Women’s Socio-Cultural Rights**

The ASEAN Charter should have specific provisions that echo and implement already existing agreements signed by ASEAN Countries regarding women’s

rights, empowerment and development, in particular the International Bill of Rights for Women (CEDAW). It should upgrade the existing regional mechanism for the advancement of women, and institutionalize gender statistics in the ASEAN Baseline Monitoring Indicators.

The ASEAN Community should achieve and surpass the universally agreed minimum targets on women’s participation in decision making and leadership.

### **Principle 8: Protection of the Rights and the Development of the Full Potentials of Children and Youth**

ASEAN should provide special protection to children and youth because they are still in the dependent, formative and potentially vulnerable stage. Support from government and society is needed for them to be able to enjoy their equal rights and to be protected from violence, armed conflicts, exploitation, abuse and neglect.

The ASEAN Charter should ensure the full implementation of the Convention on the Rights of the Child as well as the Optional Protocol to the CRC on the involvement of children in armed conflict. The ASEAN Charter should explicitly prohibit the use of child soldiers in situations of armed conflict.

### **Principle 9: The Role of a Free, Independent and Plural Media**

The role of media in producing, gathering and distributing information and knowledge is integral to advancing sustainable and people-centered development, and fostering democratic governance. The ASEAN Charter should ensure media freedom and plurality, and protect the independence of media professionals and creators. Universal access programs through various means including the internet and community media should be promoted. Security and other similar considerations should not compromise freedom of expression, media freedom and diversity.

### **Principle 10: Appropriate and People-Centered Science and Technology Development**

ASEAN Member Countries have different levels of science and technology development.

Regional programs and initiatives should be adopted to facilitate the sharing of appropriate knowledge and technologies among Member Countries. Technology sharing and exchange should respond to the actual needs of the people and should empower communities. ASEAN Member States should adopt collective measures to improve the quality of education in the region.

The ASEAN Charter should promote access of people to knowledge and technologies that respond to their needs and situations.

Clear provisions should be laid down in the Charter to ensure that IPR will not be used as a tool for biopiracy and monopoly control over the commercial utilization of natural resources.

### **V. INSTITUTIONAL MECHANISMS FOR RESPONSIVE REGIONALISM**

The ASEAN we aspire for represents a community of states and nations that champions human rights, democracy, peace, human development, economic justice, tolerance, cooperation and solidarity. It is a community that strengthens the interaction and exchange between peoples and communities.

ASEAN should be an institution that recognizes universally-accepted rights and standards, including core labor standards, and provides mechanisms for monitoring and securing compliance at the national and regional levels.

In the area of human rights, the ASEAN Charter should mandate the immediate creation of a regional human rights body responsible for, among others: monitoring and reporting human rights conditions within the region; investigating human rights violations; developing

awareness on human rights among people in the region; and, providing effective compliance and redress mechanisms.

ASEAN should be an institution that is capable of addressing trans-boundary economic, social and environmental conflicts in a peaceful and just manner, through diplomacy beyond the current ineffective ASEAN Way. ASEAN should not use force or the threat of force against its Member States or any member of the community of nations.

ASEAN should be an institution that upholds people's participation. The ASEAN Charter should incorporate mandatory social dialogue and consultation with civil society, workers organizations and social movements, to ensure their access to decision making processes at all levels, and guarantee their full participation in economic, social, cultural and political life. This will help ensure responsive decisions, effective and equitable benefits sharing, and to strengthen regional cohesion and integration. Specifically, the ASEAN Charter should institutionalize the ASEAN Civil Society Conference that provides an open and accountable space for civil society to dialogue with ASEAN, even as civil society continues to pursue various tracks of engagement and employs a range of actions. It should also provide for automatic civil society observer seats in key regional decision making bodies involving economy and trade, environment, security and socio-cultural concerns.

To have credibility, ASEAN regional agreements should be subject to stringent rules of accountability and harmonization with human rights standards. Regional agreements should be affirmed by National Parliaments. ASEAN should establish mechanisms for the dissemination of and consultation on regional agreements and institute regular review clauses therein.

ASEAN should be an institution that provides institutional, political and financial support for security, economic and socio-cultural cooperation. The

ASEAN Charter should enshrine the principle of coordination and harmonization of national and regional initiatives in the different pillars of cooperation. It should clearly identify budgetary and financial responsibilities of Member States for regional initiatives.

## **V. SECURING A PROCESS FOR THE ASEAN CHARTER**

The Solidarity for Asian People's Advocacies (SAPA) Working Group on ASEAN entered the ASEAN Charter process with the view of pushing for the kind of regionalism that we want, with good faith and seeking meaningful engagement. We understand that the finalization of an ASEAN Charter may take a long time. However, while awaiting the finalization of the ASEAN Charter, SAPA WG on ASEAN maintains that the principles, perspectives and proposals advanced in this and prior submissions should already be given expression and implemented in ASEAN through the Vientiane Action Plan and subsequent ASEAN work programs, and other ASEAN regional initiatives.

On the issue of drafting the ASEAN Charter, we reiterate our call for broad-based consultations at the regional and national level. The Eminent Persons Group (EPG) on the ASEAN Charter opened up spaces for civil society to have some engagement in the process. Such engagement was made possible by the relative independence and autonomy of the EPG process from the day to day business of ASEAN and its structure. SAPA strongly recommends that the High Level Task Force that will take over from the EPG and take on the task of drafting the ASEAN Charter should enjoy a similar independence and autonomy from the ASEAN structure.

Before the ASEAN Charter can take effect, it should be ratified through referendum in all Member States. This is to ensure that the ASEAN Charter is made known to all ASEAN citizens, and that they are given the direct hand in de-

termining the future of ASEAN.

The SAPA Working Group on ASEAN thanks the EPG on the ASEAN Charter, especially Former President Fidel V. Ramos, through his adviser Ambassador Rosario Manalo, for the opportunity to make submissions. We will consolidate this and the two prior submissions and will make the consolidated submission our basis for a broad public education program on the ASEAN Charter. ■