

# YES DARHESITANT EMBRACE: PROSPECTS FOR A PEOPLE-CENTRED ASEAN

After all the misgivings and the objections of observers and academics, the ASEAN Charter was nevertheless ratified by all ten Member Countries and came into force in December 2008. As it enters its 41<sup>st</sup> year of existence, ASEAN is no longer a loose association of well-meaning neighbouring countries, but one with purpose – to create an ASEAN Community that is politically cohesive, economically integrated and socially responsible – based on clear, legally binding principles which members have to abide by or, at least, try to honour. ASEAN will no longer be functioning on the basis of declarations and joint communiqués, without the monitoring of their implementation, but will be a rules-based inter-governmental organisation, even though it is unclear what sanctions will be imposed on members who do not comply with the rules.

ASEAN intends to establish an ASEAN Community by 2015 promoting political, economic, and socio-cultural co-operation through the three pillars of the ASEAN Security Community (ASC), the ASEAN Economic Community (AEC), and the ASEAN Socio-Cultural Community (ASCC). It also wants to promote a “people-oriented ASEAN in which all sectors of society are encouraged to participate in, and benefit from, the process of ASEAN integration and community building.” How these ambitious commitments can be realised, however, is in question especially if one reads the ASEAN Charter in its present form.

## **The ASEAN Charter**

The decision to draw up a Charter was formally adopted at the 11<sup>th</sup> ASEAN Summit in Kuala Lumpur in 2005 and a ten-person Eminent Persons Group (EPG) with a representative from each of the ASEAN states was appointed to come up with “bold and visionary” recommendations for the Charter. More significantly, the EPG was encouraged by the Leaders to consult with CSOs and the private sector for input which the EPG acted on. After a series of

consultative meetings with representatives from different CSOs, as well as Track Two networks such as the ASEAN-ISIS network and ISEAS, the EPG submitted their recommendations to the leaders at the 12<sup>th</sup> Summit in Cebu, Philippines in January 2007.

The EPG recommendations were well received by observers and lauded for its progressiveness especially for its involvement of non-state actors. Optimism was high. The EPG recommended that ASEAN commit itself to recognizing “democracy, respect for human rights and fundamental freedoms and the rule of law, including international humanitarian law” which the EPG felt were indispensable for ensuring stability, peace and development in the region. The recommendations also proposed a provision for possible sanctions if member states do not fulfil their rights and obligations of membership. It was a clear move towards greater democratization in a region with a diversity of political systems, ranging from the most democratic in Indonesia to a tyrannical military junta in Myanmar, with monarchies in between.

The EPG envisaged an ASEAN that went beyond a ‘people-oriented’ organisation but one that is ‘centred’ around the peoples of ASEAN, namely by making the interests and the concerns of ASEAN’s 560 million people the priority and focal point of the association’s decisions. This would involve engaging the people in the decision-making processes of ASEAN through regular consultations directly with the leaders, thereby strengthen the people’s sense of ownership and belonging which had been waning over the years.

The EPG’s recognition of the importance of the people is nothing new. As early as in 1980, Indonesia’s Foreign Minister Adam Malik had already warned that if ASEAN did not involve the people, ASEAN would be an elitist club. And that is exactly how the association had evolved over the decades. ASEAN had become a top-down, state-centred and state-driven association, removed from the people. This time, the EPG wanted to heed Adam Malik’s warning and bring the ASEAN people into the fold as, according to Adam Malik, the involvement of the people would bring about “greater mutual appreciation and mutual trust in the ASEAN region, not only among governments and government officials, not only institutionally, but also among individuals.”<sup>1</sup>

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<sup>1</sup> Ali Alatas. “ASEAN: An association in search of people or the people’s search for an association” in the Report of the First ASEAN People’s Assembly in Batam in November 2000

When asked about the likelihood of the EPG's recommendations being accepted by the High Level Task Force assigned to draft the Charter, former Indonesian Foreign Minister Ali Alatas and member of the EPG hoped that around 80% of their recommendations would be accepted<sup>2</sup>. It turned out that many of the key recommendations made were ignored and, according to Hernandez, failed to empower the ASEAN community.<sup>3</sup> Instead of being bold and visionary, the Charter that was finally ratified by member states was a disappointment, more so because expectations had been so high. The Charter was not as progressive as the EPG's recommendations and was simply a codification of existing documents and practices, holding back the process of community building by its strict interpretation of the principle of non-interference and its affirmation of consensus-based decision making processes<sup>4</sup>.

### **In search of the people**

ASEAN is now an inter-governmental organisation of 10 member countries with a total population of 560 million of diverse political and socio-economic backgrounds. The majority of its population are Muslims, but there are also active Buddhist communities in Thailand, Myanmar, Laos and Cambodia whilst in the Philippines the Catholic Church still holds sway. Economically, the disparities are huge. Singapore has a per capita GDP of US\$51,142 compared to Laos with only US\$ 2,204. The political divide is just as wide, leading Kavi Chongkittavorn, a noted observer of ASEAN, to describe ASEAN's diverse political systems as a 'Disneyland'. Creating a caring and sharing community under one vision and one identity in such a setting is no easy feat. To succeed, it needs the participation of the people. The question is, does the 'new' ASEAN allow for the inclusion of the people?

The ASEAN Charter opens boldly with "We, the peoples of ASEAN..." but who are 'the peoples' it refers to? Instead of stopping the phrase at this point, it continues with a qualification. What the bureaucrats of ASEAN mean by 'the peoples of ASEAN' are the heads of government of member states, not civil society organisations representing the diversity of the

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<sup>2</sup> "We still have very basic problems among ASEAN countries..." an interview with Ali Alatas for AsiaViews, July-August 2007 edition.

<sup>3</sup> Carolina G. Hernandez. "The ASEAN Charter and the Building of an ASEAN Security Community" in The Indonesian Quarterly Vol. 36 no.3-4 2008

<sup>4</sup> Herman Joseph S. Kraft. "A Charter for ASEAN" in The Indonesian Quarterly Vol. 26 no.3-4 2008

peoples of ASEAN. Even though Article 1.13 of the Charter states that all sectors of society are encouraged to participate in the regional integration and community building process, it does not explain how such participation can be realised. There are no procedures established to institutionalise the role of citizens and civil society organisations in this process. The Charter is therefore relevant to governments as it elaborates on how governments should interact with each other, rather than on how governments should interact with the people.

The only reference made of civil society in the Charter is in relation to the ASEAN Foundation which has been tasked to collaborate with relevant ASEAN bodies to support community building by promoting people-to-people interaction and collaboration, including among the business sector, civil society, academia and other stakeholders. The Foundation's role now is to support the Secretary-General of ASEAN to whom it is also accountable. The concern today is that the Foundation has become an internal entity serving official ASEAN agenda, instead of being a non-profit organization serving the peoples of ASEAN.

Entities associated with ASEAN identified by the Charter are listed in an annex and they include the ASEAN Inter-Parliamentary Assembly for parliamentarians; the ASEAN-ISIS Network as the only organisation representing think tanks and academic institutions; business organisations such as the ASEAN-BAC, ASEAN-CCI and the US-ASEAN Business Council; accredited CSOs ranging from ASEAN Academics of Science, Engineering and Technology to the ASEAN Kite Council and ASEAN Chess Federation. It is a strange list of organisations and the criteria used for their inclusion is unclear and, according to the Charter, how they can engage with ASEAN is prescribed by the Committee of Permanent Representatives upon the recommendation of the Secretary-General.

This hesitancy towards civil society is quite ironic. Looking back in history, the improvements to the original founding declaration of the association were made possible as a result of the lobbying by elements of civil society. The ASEAN-CCI which was established in 1974, for example, helped shape the economic direction of ASEAN, pushing it towards greater liberalisation. It was also the academics of the ASEAN-ISIS network who responded to the Thai proposal of establishing the Congress of ASEAN People in 1995. At the time, the proposal was immediately rejected by Singapore, Vietnam and Brunei but ASEAN-ISIS developed the idea

and proposed an Assembly of the Peoples of ASEAN (APA) which was recognised in the 1999 VAP as ‘an important consultative mechanism for developing people-oriented policies’.

As the association expanded its membership from the original five members to include Brunei Darussalam (1984), Vietnam (1995), Lao PDR and Myanmar (1997) and the latest Cambodia (1999) , ASEAN seemed to have grown wary of the role of citizens, CSOs and NGOs, especially when for 40 years the member states of ASEAN had succeeded in maintaining peace and stability in the region without their involvement.

Times have since changed and the inclusion of other stakeholders outside diplomats and government officials is a reality that cannot be denied. As the EPG correctly pointed out, the promotion of continued peace and stability requires the strengthening of democratic values, good governance, rejection of unconstitutional and undemocratic changes of government, the rule of law, and respect for human rights and fundamental freedoms. To realise this, it called for greater participation of and interaction with parliamentarians in ASEAN Member States, as well as with representatives of civil society organizations, private business players, human rights groups, academic institutions and other stakeholders in ASEAN. By widening its constituency, ASEAN will become more relevant and a greater sense of belonging can be attained. Unfortunately, this reality has not sunk in the minds of all the ASEAN leaders.

### **Lost opportunities for a people-centred ASEAN**

ASEAN’s reluctance to engage the people and gain their trust is reflected in the organisation’s recent treatment towards civil society and their insensitivity towards the plight of its own people.

The 14<sup>th</sup> ASEAN Summit in Hua Hin hosted by Thailand would have been the first summit under the Charter but it has been held hostage by domestic politics and its staging postponed. Thailand’s political turmoil, however, did not prevent the ASEAN Peoples’ Forum (APF) – Fourth ASEAN Civil Society Conference (ASCS IV) from meeting in Bangkok in February 2009. More than 1,000 participants from the region, representing community-based organisations, CSOs, NGOs and social movements, gathered together in Chulalongkorn

University for three days to discuss the key concerns of the people and communities of ASEAN. The discussions covered a wide range of issues under the political-security, socio-cultural, and economic clusters, including human rights violations, food and economic crises, poverty and the lack of democracy in Myanmar. It also called upon ASEAN to facilitate and recognise all forms of civil society organisations and institutionalise mechanisms of peoples' participation in ASEAN processes and policies.

In the fiasco of the aborted Summit in Hua Hin, the Thai government arranged for three different interface meetings between the Leaders and parliamentarians, youth and civil society respectively. The representatives of civil society groups participating in the interface meeting were those mandated by the APF-ACSC IV. The Myanmar representative, however, was banned from the meeting by the Myanmar government whilst the Cambodian government chose their own representative and refused to meet the representative with the mandate from the APF-ACSC IV. The representatives from Lao PDR and Brunei, fearing repercussions and state retaliation, felt compelled to withdraw from participation. Although PM Abhisit and his foreign minister met with the spurned representatives outside of the interface meeting, the episode casts doubt over ASEAN's sincerity about engaging the people and their commitment to article 1.13 of the Charter.

Another lost opportunity in proving ASEAN's commitment to its people is the case of the Rohingya refugees. Even though the Rohingya boat people were victims of political persecution by the Myanmar regime, the ASEAN leaders considered them not as refugees but as basically illegal immigrants from the Indian ocean. Thailand regarded them as part of the bigger problem of human trafficking and towed them heartlessly out to sea, leaving Indonesia and Malaysia to cope with hundreds of Rohingya washed up on their shores. Instead of tackling the issue head on with the Myanmar, it was passed on to the Bali Process, a non-binding collaborative effort geared for dealing with human trafficking, not with the politically persecuted. The result of the Bali Process was a resolution to form an ad-hoc team to determine if the Rohingyas are economic migrants or refugees seeking political asylum. According to Gus Miilat, "instead of

engaging in collection action in support of its members, ASEAN left member states on their own to cope with the consequences of the Myanmar regime's misrule.”<sup>5</sup>

More recently, the slow and muted response of ASEAN to the trial of Aung San Suu Kyi accused by the Myanmar authorities of breaching her house arrest because some irresponsible American swam across the lake to enter her house again questions ASEAN's sincerity to the commitments its members had made to respect human rights. When the news broke out that only a few weeks before Aung San Suu Kyi's latest six-year detention period was about to end, she was again put on the stand, the UN, US and EU quickly and strongly reacted by demanding her immediate release as well as that of other political prisoners. Japan, the Philippines, Indonesia, Malaysia and Singapore also joined in. But ASEAN as a regional bloc remained silent. Only five days after the charges against her were filed, Thailand issued a statement on behalf of ASEAN expressing 'grave concern' and demanded that she be set free. There were no condemnations and no sanctions against Myanmar but the statement did refer to Myanmar's 'responsibility to protect and promote human rights'. In its usual fashion, Myanmar reacted by accusing Thailand of deviating from the Charter's principle of non-interference.

### **Creating new opportunities**

During this early period of the Charter coming into force, it becomes even more obvious that the peoples of ASEAN need to take the initiative and be more forceful if they want their concerns heard and heeded. The pace of change is too slow, held back primarily by Myanmar and ASEAN's insistence on non-interference.

Since the launch of the ASEAN People's Assembly (APA) in 2000, Chandra noted that an 'alternative regionalism' has emerged. This alternative regionalism is a spontaneous, bottom up process which recognises the importance of a wide array of stakeholders in the making of regional systems and institutions. It places the people at the centre whilst the role of the state is to facilitate, mediate, and channel the interests of the people in the regional context.<sup>6</sup>

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<sup>5</sup> Gus Miilat, "Asean Charter Fails a First Test by Abandoning the Rohingya", Jakarta Globe, 28 April 2009

<sup>6</sup> Alexander C. Chandra. "Civil Society in Search of an Alternative Regionalism in ASEAN" in Hosei Kenkyu (2008)

The first APA, organised by the ASEAN-ISIS network, brought together representatives of NGOs and think tanks, grassroots leaders and activists to promote greater awareness of an ASEAN community, to promote the mutual understanding and tolerance for ASEAN's diversity, to obtain input on how to deal with the socio-economic problems affecting ASEAN societies and to facilitate the bridging of gaps between the different societies. It was a stimulating meeting as it revealed the many different concerns of communities around the region and how irrelevant and far removed ASEAN seemed to be for the people at the time.

As a Track 2 initiative, APA has since then played an important role in the attempt to bridge the gap between the officials of ASEAN in Track 1 and the diverse, clamorous civil society in Track 3. In 2004 APA was recognized by the Leaders in the VAP's Specific Activities for the ASEAN Security Community in promoting public participation in community building. By the time of the sixth APA in November 2007, however, APA seemed to have lost steam, almost in despair. In the Chairman's Report to ASEAN's Secretary-General it noted that the ASEAN cooperation process was still very highly bureaucratic; that a divide continues to exist between "official ASEAN and the peoples of the region"; that all three Tracks need to narrow the gap; and that "democratic space must be broadened and good governance must be promoted" with the "involvement and widening of the participation of civil society groups in all ASEAN countries". The Report also included a special reference to Myanmar, calling on ASEAN to go beyond the rhetoric and consider suspension of Myanmar's membership if no long-term settlement of the political situation could be found<sup>7</sup>.

With an ASEAN which is still state-driven and a Charter that makes no mention of what steps to take if its members do not adhere to the principles that they themselves had agreed upon, there was little mood to convene another people's assembly. Originally scheduled for October 2008, the 7<sup>th</sup> APA was postponed to February 2009 and then turned into an Assessment Conference, questioning its future role, relevance and impact.

Besides APA, other civil society networks have sprung up which includes some of the CSOs/NGOs which had been actively involved in APA. In 2005, the Malaysian government as

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<sup>7</sup> "ASEAN at Forty: Realizing the People's Expectations" Report of the Sixth ASEAN People's Assembly, Manila, The Philippines, 24-25 October 2007.



host of the 11<sup>th</sup> Summit commissioned the ASEAN Study Centre of Uitm to organise the ASEAN Civil Society Conference (ACSC). It was a modest conference, attended by 120 or so participants from around the region. What made the conference exceptional was that its representatives were given the opportunity to present a statement directly to the ASEAN Leaders at the Summit. This had never been done before and was a hopeful sign of an ASEAN that was going to be more open towards the people.

The ACSC inspired the creation of the Solidarity for Asian People's Advocacy (SAPA) in 2006. SAPA is a network of NGOs and CSOs including grassroots organisations, trade unions and the like engaged in campaigns and advocacy on issues of public interest at both national and regional levels. It seeks to improve the effectiveness and impact of civil society advocacy by improving communication, cooperation and coordination among NGOs operating regionally.<sup>8</sup> SAPA has organised subsequent ACSC, the last one being the 4<sup>th</sup> ACSC in Bangkok in February 2009 which was also the first ASEAN Peoples' Forum (APF).

The objective of the APF is to “strengthen civil society across the ASEAN region through direct people-to-people engagement in a “two-way process, in which domestic issues are escalated to higher regional forums and the local impacts of regional issues are highlighted for community level groups.” It also hopes to encourage regional civil society to “engage on critical ASEAN issues both among itself and with ASEAN institutions.”<sup>9</sup> The forum was initiated by Thai and ASEAN civil society groups with financial support of the regional civil society groups as well as the Thai Ministry of Foreign Affairs, Thailand being the host of the 14<sup>th</sup> Summit. The organiser was ISIS at Chulalongkorn University, part of the ASEAN-ISIS network which has been behind the staging of APA.

The developments within and among CSOs in ASEAN, particularly since the first APA, reveal that civil society organisations have become more aware of ASEAN as regional grouping and how ASEAN will impact their lives. Hence, their determination in getting their voices heard. CSOs are now better organised and ready to engage with ASEAN, even if ASEAN continues to be hesitant about civil society engagement in the decision-making process.

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<sup>8</sup> Refer to [http://www.asiasapa.org/index.php?option=com\\_content&task=view&id=12&Itemid=64](http://www.asiasapa.org/index.php?option=com_content&task=view&id=12&Itemid=64)

<sup>9</sup> Refer to <http://www.apf2008.org/apf-background>

While ASEAN dithers, what about the ‘ordinary people’ of ASEAN, those who are not activists in NGOs and CSOs, what have they to contribute to the community building process? Greater interaction amongst the so-called ordinary people of ASEAN helps to foster greater understanding conducive to community building but which is lacking amongst some ASEAN citizens. Prejudices, stereotyping, and hostilities remain, for example, between Indonesians and Malaysians, between Thais and Cambodians. As long as there are no open borders between all the member states of ASEAN, requiring citizens from one ASEAN country to apply for a visa to enter another, people-to-people interaction is restricted. Many opportunities are lost due to this restriction. Student and youth exchanges, professional exchanges, cultural exchanges and academic exchanges are effective means to promote understanding. Opportunities to do community service or voluntary work in different ASEAN countries would sensitize ASEAN citizens to the challenges faced by their fellow ASEAN brothers, perhaps through a program similar to the Peace Corps or the AFS. Better use of media could highlight seemingly local issues but which are common to all countries in the region thereby creating a sense of togetherness. All such initiatives require the opening up of societies.

One of the objectives of the ASEAN Foundation is to promote greater awareness of ASEAN and greater interaction among the peoples of ASEAN, as well as their wider participation in ASEAN’s activities, which are vital for the creation of an ASEAN Community. The support ASEAN gives to its own foundation is minimal, however. Since it was established in 1997, it has sustained itself on a one-time endowment of US\$ 3 million from Indonesia, Brunei and Malaysia with an additional one-time operational fund of US\$ 1.325 from the other member countries. It is reported that ASEAN governments have given more funds to the Asia-Europe Foundation than to their own foundation.<sup>10</sup> In May 1998, Japan made a contribution of US\$20 million to support ASEAN Foundation activities and between 1997-2007, 98 of the 112 projects undertaken by the Foundation are supported by the Japan-ASEAN Solidarity Fund. Even though the promotion of people-to-people contacts, including strengthening the role of the ASEAN Foundation, is included in the ASEAN Security Community Plan of Action, it does not look as if the ASEAN countries are willing and able to put their money into the effort.

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<sup>10</sup> Pokpong Lawansiri. “ASEAN relevancy questioned” The Jakarta Post, February 28, 2009

## **The Way Forward**

It is clear that there is still scepticism on both the side of official ASEAN and the people's ASEAN about the role of the people in ASEAN's community building efforts. Official ASEAN can claim that all its efforts are ultimately for its people, oriented towards their interests, but as it yet it not a people-centred ASEAN. Admittedly, given the political realities of ASEAN, promoting a people-centred ASEAN is difficult to achieve but ASEAN needs to go beyond the lip-service use of 'the peoples.' If ASEAN does not live up to principles that they have agreed upon and enshrined in its Charter, it loses its credibility not only among its own people but also in the eyes of the international community. As Dewi Fortuna Anwar of the Indonesian Institute of Sciences (LIPI) remarked, "ASEAN will remain a Third World organisation with some questionable principles."

In the meantime, civil society organisations are continuing to raise the bar higher. What they are demanding for, as expressed during ACSC IV, is a "people-centred ASEAN where all policies are decided by the people, so that an ASEAN Community based on human rights, human dignity, participation and social dialogue, social and economic justice, cultural and ecological diversity, environmentally sustainable development, and gender equality can be established." CSOs want an ASEAN which is more accountable to the people and one which allows them to monitor the work of ASEAN<sup>11</sup>.

Fulfilling such demands is difficult for an association run by officials who have for decades been working within a relatively closed environment and only accountable to their leaders. It would need a drastic change in mindset for leaders to not just consider the voices from outside their cosy club, but to also consider them seriously and be more inclusive and open, upholding the principle of accountability to their own people and not just to their governments.

The most immediate test will be the Terms of Reference for the establishment of the ASEAN Human Rights Body which will be submitted to the leaders next month in July. The Charter has

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<sup>11</sup> "Advancing a Peoples' ASEAN: Statement of the ASEAN Peoples' Forum – Fourth ASEAN Civil Society Conference" in Bangkok, 20-22 February 2009

a provision for the establishment of a human rights body and this is arguably due to the persistent lobbying by the Regional Working Group for a Human Rights Mechanism. The Charter, however, gives no details regarding its rules and responsibilities or its scope of authority and already there are signs that the body may have limited power and be watered down to a 'consultative level'. The high level panel for the rights body submitted their first draft of its terms of reference to the foreign ministers in February 2009 and, again, it was below expectations. Indonesian Foreign Minister Hassan Wirajuda was very critical, stating that there should have been more provisions to protect human rights and also for monitoring, dissemination and education, and advisory services. CSOs had also hoped that the rights body would have the power to investigate and prosecute by putting pressure on recalcitrant members such as Myanmar. Instead, human rights activists have to be satisfied with the space given them to engage in a dialogue process with the human rights body.

FORUM-ASIA is currently distributing a petition urging the adoption of a TOR which will guarantee the independence of the human rights body by allowing for the appointment of independent human rights experts to sit in the body. For it to be credible, the AHRB should also have the mandate to receive complaints of human rights violations and to conduct investigations to ensure the protection, not just the promotion of human rights in the region.

Will the leaders accept this or will they re-emphasise the principle of non-interference and close ranks around their less democratic members to defend ASEAN from external interference on human rights issues? Or will they be more flexible about non-interference and be on the side of the people? SG Surin Pitsuwan urged for patience. He was quoted in *Cha-am* in February as saying "I think the point now is we have to begin somewhere. We can't be too ambitious. Let it evolve," suggesting that the decision will be made on the lowest common denominator. Indonesia has been suggesting that the high level panel look into the experience of Indonesian's Human Rights Commission. We will have to see whether this suggestion is taken up and how firmly the principle of non-interference is maintained.

On a more positive note, ASEAN community building is a work in process. The Charter is a living document and its weaknesses can still be amended. Something's got to give, as the song goes, and in this case, ASEAN has to give. ASEAN will have no future if it ignores the

aspirations of its own people who have become increasingly more assertive. The people should rightly be treated as ‘partners’ in the community-building process and the sooner the appropriate dialogue mechanisms are created to allow regular consultations with these partners, the better.

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