



Inter-regional Cooperation in Democracy Building: Prospects for Enhanced ASEAN-EU Engagement

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Layout by: Bulls Graphics

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Abstract

This paper reviews the promotion of democracy and human rights by the Association of South East Asian Nations (ASEAN). It traces the development of EU-ASEAN relations and contrasts the history of the European Union with that of ASEAN, as well as the histories of their respective member states. The paper makes recommendations on how the EU should engage ASEAN as a partner organization, as well as on how to enhance the EU's perception of ASEAN efforts at democracy building and ASEAN's perception of the EU's intentions in seeking cooperation for democracy building. Since the 1990s, ASEAN-EU relations have been affected by human rights issues. It is important for both parties to clarify their perceptions of each other's positions on human rights. Such a clarification would be timely, especially now that both sides recognize each other's strategic importance in the midst of worsening global economic, environmental and security crises.

Summary of Recommendations

In its engagement of ASEAN, the EU would benefit from proceeding from the following premises:

1. It is necessary for the European Union to engage ASEAN in a manner that recognizes the cultures of ASEAN member states. This means that the EU should not be seen as imposing its world view as it offers its cooperation and assistance in democracy building.
2. A programme for capacity enhancement in democracy building must be developed in close consultation with the cooperating member states. The EU must present itself not as a mentor but as an organization that wants to listen and learn in order to strengthen and sustain partnership.
3. Knowing that education for democracy cannot succeed amid disempowering economic and social deprivation, the EU's democracy building programme must

be part of a development assistance and trade facilitation package that addresses the economic, environmental, health and educational needs of partner states and organizations.

To ensure the success of international cooperation on human rights promotion and education, especially in its initial stages, it will be necessary to avoid controversial issues. Collegial interaction rather than direct training would be more appreciated.

It would benefit the ASEAN human rights body if EU and ASEAN resources were to share technical skills such as report writing and evaluation methods. Because the ASEAN secretariat will be servicing the ASEAN human rights body, it would perhaps welcome 'sensitization' of its staff on human rights and their legal aspects.

Beyond official ASEAN-EU cooperation, the EU could initiate people-to-people exchanges among educators, students, young professionals, businessmen, artists and journalists to demonstrate how democratic institutions positively contribute to national development and regional integration.

At the non-state level, the EU could conduct special training programmes on constitution-making, electoral reform, international humanitarian law, human rights and human security, cultural management, parliamentarianism and good governance, the use and management of the new media for public outreach, legal services and legislation, managing regional integration and globalization, conserving the environment, and so on, with facilitators from both the EU and South East Asia using case studies drawn from various regions. This kind of 'good-neighbourly' engagement will prove more effective, given the predispositions, needs and circumstances of the new and aspiring democracies among the EU's regional partners.

1. Introduction

The objectives of this paper are to examine Association of South East Asian Nations' (ASEAN) promotion of democracy and human rights, and to make recommendations for enhancing EU's perception of ASEAN efforts in democracy building and ASEAN's perception of EU intentions in seeking cooperation for democracy building.

ASEAN was founded by Indonesia, Malaysia, the Philippines, Singapore and Thailand on 8 August 1967. The aims and purposes of the organization enunciated in the ASEAN Declaration are: to accelerate economic growth, social progress and cultural development in the region; and to promote regional peace and stability through abiding respect for justice and the rule of law in the relationships among countries in the region and adherence to the principles of the United Nations Charter. The Treaty of Amity and Cooperation in South East Asia, signed in 1976, sets out fundamental principles in the relations of ASEAN states:

- mutual respect for the independence, sovereignty, equality, territorial integrity and national identity of all nations;
- the right of every state to lead its national existence free from external interference, subversion or coercion;
- non-interference in the internal affairs of one another;

- settlement of differences or disputes by peaceful means;
- renunciation of the threat or use of force; and
- effective cooperation.

Brunei Darussalam joined ASEAN in 1984. After the end of the Cold War, further enlargement included Vietnam in 1995, Lao People’s Democratic Republic (Laos) and Myanmar in 1997 and Cambodia in 1999. Realizing the goal of a ‘South East Asia 10’ means that the ASEAN region now has a population of almost 600 million, a total area of 4.5 million square kilometres, a combined gross domestic product (GDP) of almost USD 1,100 billion, and total trade of around USD 1,400 billion.

The ASEAN Vision 2020, adopted in 1997, offered a shared concept of ASEAN as ‘a concert of South East Asian nations, outward looking, living in peace, stability and prosperity, bonded together in partnership in dynamic development and in a community of caring societies.’ Since 2003, ASEAN has comprised three pillars: the ASEAN Security Community, the ASEAN Economic Community and the ASEAN Socio-Cultural Community. In 2007, ASEAN leaders set a target date of 2015 for the realization of an ASEAN Community.

Box 1. The ASEAN Charter and ASEAN’s Legal Personality

ASEAN adopted its Charter on 20 November 2007. It institutionalizes ASEAN’s commitment to the principles of democracy and the protection of human rights and fundamental freedoms. ASEAN’s mandate for adherence to democracy is stated in the Declaration of ASEAN Concord II (the “Bali Concord II”), the Vientiane Action Programme and the ASEAN Security Plan of Action (ASEAN [b]; [c]; [d]).

The Charter accords legal personality to ASEAN, makes ASEAN a subject of international law and insti-

tutionalizes ASEAN’s legal status as an international organization.

Moreover, ASEAN’s legal personality helps to ensure its compliance with agreements signed by ASEAN member states among themselves and with external partners. It facilitates the development of dispute settlement mechanisms in ASEAN and reinforces the open, outward-looking approach of ASEAN to multi-lateral trade and investment.

Prospects for Democracy Building in South East Asia

It is the hope of pro-democracy advocates that the Charter will pave the way for institutions and practices that will balance and reconcile the traditional principles of consensus and non-interference with the liberal principles of democracy and human rights. Article 14 provides for the establishment of an ASEAN human rights body. A High-level Panel composed of representatives from all member states is formulating the terms of reference of this body.

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Democracy and human rights are enshrined in the ASEAN Charter. The Preamble declares adherence to ‘the principles of democracy, the rule of law and good governance, respect for and protection of human rights and fundamental freedoms.’

The ASEAN human rights body will have an impact on the development of democracy in South East Asia. Democracy is the enabling environment for human rights. The ASEAN human rights body should serve as the promoter and protector of democracy and must address democratic deficits in the region. Social and economic development must adequately incorporate the people's interests and participation. The widespread poverty and corruption that deprive people of their capacity to exercise their rights must be reduced. The violators of human rights must not have impunity and electoral fraud must be eradicated.

Given its institutional and political constraints, ASEAN has done its best to address concerns over human rights. ASEAN leaders and officials have taken steps to improve the promotion of human rights in the region, but much of their work is done behind the scenes and not announced in press conferences.

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The framers of the Charter recognize that human rights thrive best in conditions of prosperity and human security. The ASEAN Charter contains the following aims: 'To create a single market and production base which is stable, prosperous, highly competitive and economically integrated with effective facilitation for trade and investment in which there is free flow of goods, services and investment; facilitated movement of business persons, professionals, talents and labour; and freer flow of capital' (Article 1, Sec. 5); and 'To alleviate poverty and narrow the development gap within ASEAN through mutual assistance and cooperation' (Sec.6). Wealth accumulation and wealth sharing across the region, the objectives of the ASEAN Economic Community pillar, improve the prospects for democracy building in the ASEAN region.

Box 2. EU ASEAN Economic Statistics

- In 2006, EU-ASEAN trade represented 5% of total world trade.
- The EU is ASEAN's 2nd largest trading partner, accounting for 11.7% of ASEAN trade.
- 13% of ASEAN exports are destined for the EU, making the EU ASEAN's 2nd largest export market after the USA.
- ASEAN as a region represents the EU's 5th largest major trading partner, worth EUR 127 billion, just ahead of Norway and equivalent to Japan.
- ASEAN's trade with the EU has been growing on average by 4% a year over the past five years.
- On average, EU companies invested EUR 5.1 billion a year in the period 2003 to 2005.
- The EU is by far the largest investor in ASEAN countries: 27% of total foreign direct investment inflows from 2001 to 2005 came from the EU, compared to 15% from the USA.

The concept of human rights is partly participation in 'inclusive growth' that creates and improves access to opportunities for all. Human rights and democratization are effective vehicles for achieving the economic aspirations of the ASEAN community. Political and economic development complement each other (UNDP 2002: 3).

The ASEAN human rights body is relevant to the EU's offer to cooperate with

ASEAN in its democracy building efforts. Since the 1990s, ASEAN-EU relations have been affected by human rights issues. It is important for both parties to clarify their perceptions of each other's positions on human rights. Such clarification would be timely, especially now that both sides recognize each other's strategic importance in the midst of worsening global economic, environmental and security crises.

2. A Brief Background to ASEAN-EU Relations

ASEAN and the EU have had 36 years of sustained partnership. In 1972, the European Union (at the time the European Economic Community, EEC) was the first Dialogue Partner to initiate informal relations with ASEAN through the Special Coordinating Committee of ASEAN. ASEAN-EEC relations were formalized in 1977, after the ASEAN Foreign Ministers recommended that ASEAN establish ties with the Council of Ministers of the EEC and the Committee of Permanent Representatives 'through which ASEAN could make representations against the growing protectionism of the EEC countries' (ASEAN [e]). Despite the differences in history and composition, the 36 years of sustained ASEAN–EU partnership is a model in inter-regional relations.

The EU is more culturally homogeneous, rooted in the Judeo-Christian and Greco-Roman traditions. ASEAN is culturally diverse, with member states with Hindu-Buddhist, Confucian, Islamic and Christian legacies. Most EU member states have long been independent and sovereign, many dating back to the Peace of Westphalia of 1648. ASEAN member states have had their independence for an average of only 54 years.

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Strong evidence of a commitment to democracy, to human rights and to the market economy are entry requirements for membership of the EU. ASEAN has no such entry requirements. The forms of government of its 10 member states cut across the broad spectrum of the world's political systems. Moreover, the development gaps in Europe are not as wide as those in South East Asia. ASEAN counts among its membership some of the richest and some of the poorest nations in the world. The contrasting approaches to regionalism of Europe and Asia can in large measure be attributed to this disparity in economic development (Asian Development Bank 2008: 240–243).

The first ASEAN-EEC Ministerial Meeting (AEMM) was held in Brussels in 1978. The EC-ASEAN Cooperation Agreement was signed in 1980. A Joint Cooperation Committee was formed to monitor ASEAN-EEC economic and technical cooperation. Economic cooperation between the two regional partners has significantly improved. According to the Directorate for Trade of the European Commission, 'Southeast Asia's current economic strengths and its great longer-term potential continue to make it an attractive region for investment by EU economic operators.'

The EU has committed EUR 1.25 billion to development cooperation with South East Asian countries. Its financial assistance for regional integration and capacity-building has increased by EUR 10 million per year. The potential of ASEAN as a gateway to the rest of the Asia Pacific is an important dimension of the ASEAN-EU relationship (ASEAN[e]).

The 1994 European Commission Asia strategy paper 'Towards a New Asia Strategy' formed the basis of the EU's dialogue with ASEAN member states at the 11th AEMM in Karlsruhe, Germany. Development cooperation priorities shifted to the alleviation of poverty, human resources development, health and family planning, the role of women, respect for human rights, the environment and sustainable development. The Karlsruhe meeting created an Eminent Persons Group (EPG) to develop a comprehensive approach to ASEAN-EU political, security, economic and cultural relations to 2000 and beyond, and set the stage for the convening of the inaugural Asia-Europe Meeting (ASEM) in Bangkok in March 1996. Many of the recommendations of the report of the EPG, published in June 1996, were incorporated into the EC Communication 'Creating a New Dynamic in EU-ASEAN Relations' (European Commission 1996).

The Joint Declaration of the first ASEM Foreign Ministers Meeting, held in 1997, guided ASEAN-EU relations over the next decade. It emphasized the economic potential of the two regions, and advocated further EU cooperation on an ASEAN free trade agreement as well as greater ASEAN-EU private sector cooperation through business networking and joint ventures.

Relations stalled in 1997 over Myanmar's admission to ASEAN but resumed in Vientiane in 2000 after EU governments decided that their ties with ASEAN were too important to be jeopardized by disagreements with a single country.

By 2000, Asia was the EU's third largest regional trading partner and fourth-largest destination for regional investment. The European Commission published its new policy paper, 'Europe and Asia: A Strategic Framework for Enhanced Partnerships', just seven days before the events of 11 September 2001. Adjustments to the EU-Asian strategy and to resource allocations were necessary in order to include contributions to international efforts against terrorism (Stiftung Wissenschaft und Politik, n.d.).

The Council of the European Union reviewed its Asia strategy in a new Communication in September 2002. The core objective guiding the future development of EU-Asia relations in the coming decade was to focus on strengthening the EU's political and economic presence across the region, and to raise this to a level commensurate with the growing global weight of an enlarged EU. The EU moved away from a strategy based on 'aid and trade' to a recognition of the importance to the EU of a fast developing Asia, striking a better balance between economic, political, social and cultural elements. The EU also sought to contribute to the protection of human rights and to the spread of democracy, good governance and the rule of law. The EU recognized Asian countries as crucial political partners and sought to establish alliances with them to address the opportunities and challenges arising from globalization (Stiftung Wissenschaft und Politik, n.d.).

In 2003, the European Commission Communication 'A New Partnership with South East Asia' revitalized the EU's relations with ASEAN and its member states, promoting policy dialogue, providing expertise in regional integration, promoting regional trade and investment relations and reinforcing inter-regional economic ties. The 14th AEMM, held in 2003, showed signs of improved ASEAN-EU relations (Singapore Ministry of Foreign Affairs 2003). A process of rapprochement was completed during the meeting, which Myanmar was invited to attend – the first time since 1997 that all member states from both organizations were represented at an AEMM. The rapprochement reflected

South East Asia's importance to the EU as a strategic and economic partner (Singapore Ministry of Foreign Affairs 2003). It also signalled an 'awareness among EU Member States that they have been left out of recent progress on free trade between ASEAN and China, Japan, India and the US' (Singapore Ministry of Foreign Affairs 2003). The Ministers issued two joint declarations: one covering areas of closer economic and cultural cooperation and the other focusing on the coordination of efforts against the threat of terrorism in Asia and Europe.

The AEMM has become a forum for ASEAN and the EU to share valuable expertise and best practice. One area in particular where the EU has been able to offer advice is ASEAN's pursuit of deeper economic integration using the model of the EU's internal market.

The ASEAN-EU Programme for Regional Integration Support

Financial and technical support is provided via the ASEAN-EU Programme for Regional Integration Support (APRIS), which acts 'as a catalyst by way of sharing experience and know-how on key issues for ASEAN's regional cooperation and integration and, in particular, regional economic integration' (Singapore Ministry of Foreign Affairs 2003). APRIS is an avenue for initiating policy dialogue in areas of common interest and for undertaking joint studies on economic integration. It aims to draw lessons from the EU's experience of forging regional economic integration, to contribute to improving ASEAN mechanisms and communications systems, and to support capacity-building activities in the ASEAN secretariat and ASEAN member states. The first phase APRIS Programme, worth EUR 4.5 million, ran from September 2003 to September 2006. The second Phase, which has a budget of EUR 8.4 million, runs from November 2006 to November 2009 (APRIS 2008).

Box 3. ASEAN – EU shared values

The co-chairpersons of the 16th AEMM, held in 2007, affirmed in a joint statement that ASEAN and the EU 'share fundamental objectives in their wider global agenda and that they both promote effective multilateralism as a means of tackling global challenges, support an open and fair trade system under the World Trade Organization, seek to advance human rights and good governance, work in the area of

disarmament and non-proliferation of Weapons of Mass Destruction and their means of delivery, remain engaged in the global fight against terrorism, encourage international co-operation on migration, promote environmentally sustainable development and action on climate change and develop stable, transparent markets in energy and resources' (ASEAN [f]).

Celebrating 30 Years of Official Inter-regional Relations

Thirty years of ASEAN-EU relations has produced a broad range of EU-ASEAN cooperation, including positive developments in political and security cooperation, growth in trade and investment between the two regions and progress in numerous areas of development and technical cooperation.

The 'Report of the ASEAN-EU Vision Group: Trans-regional Partnership for Shared and Sustainable Prosperity', Ha Noi, May 2006, proposed that the economic partnership between the EU and ASEAN be taken to a higher level, stressing that 'a

reinforced partnership would be mutually beneficial and could also support the process of ASEAN integration'. ASEAN and the EU agreed in May 2007 to start negotiations on a free trade agreement. Thus far, progress has been slow. British Minister for Trade and Investment Gareth Thomas has suggested that the two sides adopt a fast-track approach. He proposed that the EU should be able to negotiate agreements with individual ASEAN states instead of talking to the 10-nation bloc as a single entity. Bilateral agreements could be developed into a regional agreement that would include more countries (*Straits Times* 2009). ASEAN is predictably unwilling to accept his proposal.

Box 4. Joint Declaration from the ASEAN-EU Commemorative Summit

The Joint Declaration from the ASEAN-EU Commemorative Summit, held in November 2007, states that ASEAN and the EU actively support the good offices mission of the UN to bring about a comprehensive

process of national reconciliation and peaceful transition to democracy. It also calls for the release of political detainees in Myanmar and the lifting of restrictions placed on political parties. (ASEAN [h]).

Recent EU policy on Myanmar

Current EU policy on Myanmar is framed by an EU Common Position in force until 30 April 2009, which includes significant assistance to the people of the country as well as some restrictive measures that 'express the EU's critical views about the absence of tangible progress with regard to the respect for human rights and fundamental freedoms' (European Union 2009). Measures attempt to avoid hitting vulnerable sections of the population. In the long term, the EU wants to focus on 'the development of civil society' as well as the Millennium Development Goals and reducing the isolation of the country. The EU uses its contacts with the Government of Myanmar in the framework of the ASEM process and of EU-ASEAN meetings to raise its concerns.

The Post-Cyclone Nargis Recovery and Preparedness Plan (PONREPP) for Myanmar – a comprehensive planning tool for recovery in the Irrawaddy Delta after the 2008 cyclone there – was launched by the Tripartite Core Group (the Government of Myanmar, the UN and ASEAN) to coordinate immediate humanitarian needs and the delivery of relief in the post-Nargis assistance operation. PONREPP will provide the strategic policy framework for the rebuilding of livelihoods, health care and education systems, and for the elimination of food insecurity over the next three years (Europa 2009). This recent development provides reasons for optimism over the further improvement of ASEAN-EU relations. A reassessment of the mutual perceptions of both parties with respect to their human rights perspectives would be very timely.

3. The ASEAN Framework for Human Rights Promotion

Human rights remain a predominant concern of the EU's bilateral relations with ASEAN. There is thus a need for the EU to recognize that ASEAN has demonstrable achievements in human-rights promotion.

ASEAN Vision 2020 envisages ASEAN nations 'being governed with the consent and greater participation of the people with its focus on the welfare and dignity of the human person and the good of the community'.

In 1998, ASEAN Foreign Ministers recalled the decision of the 26th ASEAN Ministerial Meeting, that ASEAN should ‘consider the establishment of an appropriate regional mechanism on human rights’ in support of the international consensus achieved during the World Conference on Human Rights in Vienna in June 1993: the Vienna Declaration and Programme of Action. They also noted the establishment of the informal non-governmental Working Group for an ASEAN Human Rights Mechanism and recognized the valuable steps taken to bring to fruition the creation of a community of caring societies, as enshrined in ASEAN Vision 2020, which give particular emphasis to children, youth, women and the elderly (Joint Communiqué, 31st ASEAN Ministerial Meeting, July 1998, paras 28 and 29).

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The December 1998 Ha Noi Plan of Action includes, among other things, the task of enhancing information exchange in the field of human rights among ASEAN member states ‘in order to promote and protect all human rights and fundamental freedoms of all peoples in accordance with the Charter of the United Nations, the Universal Declaration of Human Rights and the Vienna Declaration and Programme of Action’ (para. 4).

Box 5. Landmark Achievements of ASEAN in the Area of Human Rights

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| 1. The 1998 Declaration of the Advancement of Women in the ASEAN Region; | 4. The 2004 Declaration against Trafficking in Persons, particularly Women and Children; and |
| 2. The 2001 Declaration on the Commitments for Children in ASEAN; | 5. The 2007 Declaration on the Protection and Promotion of the Rights of Migrant Workers. |
| 3. The 2004 Declaration on the Elimination of Violence against Women in the ASEAN Region; | |

The ASEAN Declaration against Trafficking in Persons, Particularly Women and Children directs member states ‘to undertake actions to respect and safeguard the dignity and human rights of genuine victims of trafficking in persons’, ‘to undertake coercive actions/measures against individuals and/or syndicates engaged in trafficking in persons’ and ‘offer one another the widest possible assistance to punish such activities’ and ‘to take measures to strengthen regional and international cooperation to prevent and combat trafficking in persons.’

In South East Asia, two trends have emerged with regard to human rights: a cultural-relativist perspective that differentiates the ‘Asian communitarian approach to democracy’ from the mainstream ‘Western-oriented’ notion of rights and freedoms; or a perspective which gives precedence to social and economic rights over civil and political rights. The assumption is that it is necessary for governments to address the basic needs of the people before they can appreciate more and safeguard their freedoms.

The ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers tasks both receiving and sending states with promoting ‘the full potential and dignity of migrant workers in a climate of freedom, equity, and stability in accordance with the laws, regulations, and policies of respective ASEAN member states.’ They will, for humanitarian reasons, ‘closely cooperate to resolve the cases of migrant workers who, through no fault of their own, have subsequently become

undocumented.’ Moreover, ‘the receiving states and the sending states shall take into account the fundamental rights and dignity of migrant workers and family members already residing with them without undermining the application by the receiving states of their laws, regulations and policies.’

ASEAN and Human Rights: A Brief History

Two trends have emerged among some ASEAN member-states with regard to human rights. The first is a cultural-relativist perspective that differentiates the ‘Asian communitarian approach to democracy’ from the mainstream ‘Western-oriented’ notion of rights and freedoms. The second perspective gives precedence to social and economic rights over civil and political rights. The assumption is that it is necessary for governments to address the basic needs of the people before they can appreciate more and safeguard their freedoms.

The first reference to human rights in an ASEAN document appeared in 1978 in the Joint Declaration of the First AEMM (Medina 2003). The Joint Declaration of the Ninth AEMM, from May 1991, states that ‘the Ministers were of the view that international cooperation to promote and encourage respect for human rights and for fundamental freedom for all without distinction to race, sex and religion should be enhanced.’

However, according to the July 1991 Communiqué of the 24th ASEAN Ministerial Meeting: ‘when the issue of human rights is linked to trade, investment and finance, ASEAN cannot but view it as added conditionalities and protectionism by other means’ (para. 7). ASEAN Foreign Ministers argued that ‘while human rights is universal in character, implementation in the national context should remain within the competence and responsibility of each country, having regard to the complex variety of economic, social and cultural realities’ (para. 15). The Ministers ‘noted with concern the increasing tendencies to link the issues of environmental protection and human rights to development and commercial cooperation.’ They stressed that these issues should not be used as conditionality for aid and development financing’ (para. 59).

The Joint Communiqué of the 25th ASEAN Ministerial Meeting repeated the view that ‘environmental and human concerns should not be made as conditionalities in economic and development cooperation’ and that ‘basic human rights, while universal in character, are governed by the distinct culture and history of, and socio-economic conditions in each country and that their expression and application in the national context are within the competence and responsibility of each country.’

Particularly important was the Joint Communiqué of the 26th ASEAN Ministerial Meeting, which, as is noted above, reaffirmed ASEAN’s commitment to and respect for human rights and fundamental freedoms as set out in the Vienna Declaration of 25 June 1993. The ASEAN Foreign Ministers stressed that ‘human rights are interrelated and indivisible comprising civil, political, economic, social and cultural rights. These rights should be addressed in a balanced and integrated manner and protected and promoted

At the 10th AEMM in 1992 the Foreign Ministers of both organizations reaffirmed their ‘common commitment, in accordance with the United Nations Charter and the Universal Declaration of Human Rights, to the promotion of and respect for human rights and fundamental freedoms, development, democracy and greater social justice’ and ‘agreed to continue their dialogue and cooperation on these issues’ (para. 34).

with due regard for specific cultural, social, economic and political circumstances. They emphasized that the promotion and protection of human rights should not be politicized' (para. 16).

The Foreign Ministers agreed that 'ASEAN should coordinate a common approach on human rights and actively participate and contribute to the application, promotion and protection of human rights'. They emphasized that the protection and promotion of human rights in the international community should 'take cognizance of the principles of respect for national sovereignty, territorial integrity and non-interference in the internal affairs of the states' (para. 17).

The Foreign Ministers went a step further in stressing that 'violations of basic human rights must be redressed and should not be tolerated under any pretext.' They underscored 'the importance of strengthening international cooperation on all aspects of human rights and that all governments should uphold humane standards and respect human dignity'. In this regard and in support of the Vienna Declaration and Programme of Action, they agreed that ASEAN should consider the establishment of an appropriate regional mechanism on human rights (para. 18).

In 1997, the Joint Declaration of the 12th AEMM renewed ministers' commitment to 'reinvigorate and to intensify our long-standing dialogue and cooperation on issues of peace and security, the environment and sustainable development, trade and investment, human rights, based on partnership, shared responsibility and mutual benefit' (para. 5). Five months later, however, they echoed the concern expressed in the Ministerial Meetings of 1991 and 1992 over the tendency of countries outside the region to link human rights with the promotion of trade. The Joint Communiqué of the 30th ASEAN Ministerial Meeting, while recognizing the importance of trade in bringing about economic development to the ASEAN countries, expressed discomfort 'over the emerging trend of state, provincial and other local authorities in countries outside this region seeking to impose trade sanctions against other States on grounds of alleged human rights violations and non-trade related issues.' They warned that the International trading system would be undermined if this trend persisted (para. 35).

The sensitivity of some ASEAN member states over the issue of human rights and their defensive attitude to criticism from their dialogue partners must be seen in the context of the nature and composition of ASEAN as an intergovernmental organization. Conscious of their newly acquired sovereignty, the ASEAN member states have been protective of the organization's principles of non-interference and mutual respect for sovereignty and territorial integrity. Consensus-building is seen as an essential part of the so-called ASEAN Way.

ASEAN Human Rights Mechanisms and the ASEAN Human Rights Body

In 1995, the Working Group for an ASEAN Human Rights Mechanism was set up by the Human Rights Committee of the Law Association of the Asia Pacific Region (LAWASIA).

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The objective is eventually to establish an intergovernmental human rights commission for ASEAN. The Working Group for an ASEAN Human Rights Mechanism is a coalition of national working groups from ASEAN member states, which are representatives of government institutions, parliamentary human rights committees, academe and non-governmental organizations (NGOs) (Santiago 2008). Since 1996, the Working Group has met annually with the ASEAN Foreign Ministers.

In 2000, the Working Group submitted a Draft Agreement for the Establishment of the ASEAN Human Rights Commission to ASEAN senior officials. The Working Group has been co-organizing workshops on this topic as part of its building-block approach.

At the same time, the Vientiane Action Programme contains specific programme areas on human rights, a number of which were taken from the workshops conducted by the Working Group. In 2005 ASEAN senior officials met in Laos and engaged the Working Group to assist with the realization of the following tasks mandated by the Vientiane Action Programme: (a) the establishment of a commission on the promotion and protection of the rights of women and children; (b) elaboration of an ASEAN instrument on the promotion and protection of the rights of migrant workers; (c) promoting education and public awareness on human rights in the region; and (d) networking among existing national human rights institutions in the region.

The adoption of the ASEAN Charter was an encouraging development for the Working Group, because it mandates the establishment of the ASEAN human rights body, subject to terms of reference that have yet to be drafted. As is noted above, ASEAN Foreign Ministers have formed a High-level Panel to draft these terms of reference.

The Seventh Workshop on the ASEAN Regional Mechanism on Human Rights, held in June 2008, was co-organized by the Working Group for an ASEAN Human Rights Mechanism, the Singapore Institute of International Affairs and the Singapore Ministry of Foreign Affairs (*Human Rights Herald* 2008). About 60 participants, representing government agencies, national human rights institutions and civil society groups from ASEAN member states, discussed how the body might relate to the human rights provisions of the Vientiane Action Programme. The Programme, which maps out goals for each pillar of the ASEAN community, ends in 2010. Participants agreed that whatever is accomplished within the time frame must be aligned with the ASEAN human rights body.

The ASEAN human rights body will be guided by the Universal Declaration on Human Rights and not by current varying conditions of human right in member-states. At the same time, the ASEAN human rights body will 'tackle human rights issues in a realistic manner.

The Working Group for an ASEAN Human Rights Mechanism recommended to the High-level Panel that the ASEAN human rights body should be institutionalized as a 'Commission'. Its members should have solid human rights expertise, and they should regularly consult with civil society organizations. The High-level Panel has set July 2009 as the

Governments must join with civil society to optimize opportunities for building or rejuvenating democracy. Civil society plays an important role in facilitating the democratization process by promoting human rights and sustainable development.

deadline for the completion of final terms of reference and aims to establish the ASEAN human rights body by December 2009.

National human rights institutions (NHRIs) exist in Indonesia, Malaysia, the Philippines and Thailand. These have formed a network – the ASEAN NHRI Forum – to address human rights issues of common concern. They are also helping Cambodia to establish its own NHRI.

The ASEAN Social Forum

The first ASEAN Social Forum was held on 27–28 November 2008 to explore ways to facilitate the participation of civil society organizations and NGOs in the various ASEAN processes and sectoral bodies.

An active civil society helps to ensure transparency and accountability in government and acts as a bridge between people in their communities and state institutions. Governments must join with civil society to optimize opportunities for building or rejuvenating democracy. Civil society plays an important role in facilitating the democratization process by promoting human rights and sustainable development. Even if this responsibility were to be left to government alone, civil society would be equally accountable for the resulting failure of democracy. It is imperative for governments to encourage and build close partnerships with civil society in order to secure stable democracies in the region.

The ASEAN Social Forum was the first official ASEAN forum in which representatives of government agencies held face-to-face dialogue with their civil society counterparts. The Asian NGO Coalition and the Asia Partnership for the Development of Human Resources in Rural Asia were closely consulted during preparations for the Forum. The Forum was a successful confidence-building exercise that identified the concerns of governments and civil society and generated specific realizable objectives for a people-oriented ASEAN.

The participants submitted recommendations on civil society and NGO involvement in ASEAN processes related to socio-cultural matters, which should pave the way for monitoring and assessment of the impact of the social cooperation mandated by the ASEAN Charter and the Vientiane Action Programme.

4. Conclusions

It is clear that ASEAN and the EU have divergent perspectives on human rights due to the different circumstances of their respective member states.

1. Most ASEAN states won their national independence less than half a century ago and thus place a premium on sovereignty and freedom from external interference.
2. The ASEAN states that serve as models for economic success are strong developmental states that have achieved economic growth and political unity through state patronage and national discipline.
3. Social unrest in many ASEAN states resulting from secessionist and rebel movements provides further convenient justification for the maintenance of authoritarian rule and the suspension of democratic freedoms and human rights.

4. There is a wide economic disparity between and within many ASEAN states, some of which belong to the ranks of the world's least economically developed countries.
5. The organizational development of ASEAN has differed from that of the EU, and it has not led to the type of supranational institutions favoured by the EU.

While it is true that European countries have also undergone periods of political instability, poverty and social inequality, they have had a head start over the countries of colonized South East Asia. They had the luxury of time to develop themselves as modern states under absolute monarchies and to engage in lucrative overseas ventures. Their accumulated wealth generated by colonialism and the Industrial Revolution empowered their people and ushered in sustainable democracies in their lands.

These observations are not meant to justify weaknesses in the promotion and protection of democracy and human rights in South East Asia. They are set out in order to provide a better understanding of why economic development is given priority over individual freedoms in most ASEAN countries. With this understanding, it is easier to generate creative approaches to inter-regional cooperation for democracy building in South East Asia.

5. Recommendations

The Democracy in Development Project of International IDEA aims to provide policy proposals for enhancing the EU's cooperation with its regional partners in the areas of democracy and human rights, and to explore avenues and modalities for more constructive and effective dialogue. In its engagement of ASEAN as a partner organization, the EU would benefit from proceeding from the following premises:

1. It is necessary for the European Union to engage ASEAN in a manner that recognizes the cultures of ASEAN member states. This means that the EU should not be seen as imposing its world view as it offers its cooperation and assistance in democracy building.
2. A programme for capacity enhancement in democracy building should be developed in close consultation with the cooperating member states. The EU must present itself not as a mentor but as an organization that wants to listen and learn in order to strengthen and sustain partnership.
3. Knowing that education for democracy cannot succeed amid disempowering economic and social deprivation, the EU's democracy building programme must be part of a development assistance and trade facilitation package that addresses the economic, environmental, health and educational needs of partner states and organizations.

The ASEAN Secretariat suggests that ASEAN-EU cooperation on enhancing the capacity of the ASEAN human rights body, once it is launched in 2010, could focus on the areas of human rights promotion and human rights education. According to the secretariat, in such engagement, 'there will be ample room for ASEAN-EU cooperation ... especially in capacity-building for the ASEAN secretariat, the Committee of Permanent Representatives (CPR) and the "entities associated with ASEAN."'

To ensure the success of bilateral cooperation on human rights promotion and education, especially in its initial stages, it will be necessary to avoid controversial issues. Collegial interaction rather than direct training would be more appreciated. For example, exchanges of views and experiences leading to a deeper and more comprehensive understanding of human rights would be appreciated by jurists, prosecutors, government officers and other senior officials. It is also important that bilateral dialogues result in a better understanding of both sides' perceptions of each other's approach to democracy building, as befits inter-regional dialogue partners.

It is important that bilateral dialogues result in a better understanding of both sides' perceptions of each other's approach to democracy building, as befits inter-regional dialogue partners.

It would also be of benefit to the ASEAN human rights body if EU and ASEAN resources were to share technical skills such as report writing and evaluation methods. Because the ASEAN secretariat will be servicing the ASEAN human rights body, it would perhaps welcome 'sensitization' of its staff on human rights and their legal aspects, as well as capacity-building.

Beyond official ASEAN-EU cooperation, the EU could initiate people-to-people exchanges among educators, students, young professionals, businesses, artists and journalists to demonstrate how democratic institutions contribute positively to national development and regional integration.

At the non-state level, the EU could conduct special training programmes on constitution-making, electoral reform, international humanitarian law, human rights and human security, cultural management, parliamentarianism and good governance, the use and management of the new media for public outreach, legal services and legislation, managing regional integration and globalization, conserving the environment, and so on, with facilitators from both Europe and South East Asia using case studies drawn from various regions.

This unobtrusive orientation is reflected in the recent International IDEA paper, *The European Union and Democracy Building*. The paper submits that the context of the EU's leadership role as a promoter of democracy is changing:

A new global architecture is emerging, with new actors and new relations; there is a new United States administration, perhaps with a different approach to external relations; there is in the global community an increased emphasis on partnerships and a growing understanding of each other's perspectives ... In the awakening after the height of the so-called war on terror, the costs of prioritizing short-term security and 'hard power' over human rights and long-term stability seem to have become apparent to European actors. They begin to remember that there are other ways to think and behave – that there is a European way that is different from other models; a 'soft-power' approach, more low-key and less visible – but still to be counted upon (Wetterqvist et al. 2009).

International IDEA believes in a 'softer and listening outlook anchored in the sharing of experience.' It is a democracy building agenda built on 'real partnerships where we together strive to improve democratic structures and culture in order to advance core principles of political equity' (Wetterqvist et al., 2009).

This kind of ‘good-neighbourly’ engagement will prove more effective, given the predispositions, needs and circumstances of the new and aspiring democracies among the EU’s regional partners.

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