



**PROCESS OF INSTITUTIONALISATION AND
DEMOCRATISATION IN ASEAN:
FEATURES, CHALLENGES AND PROSPECTS OF
REGIONALISM IN SOUTHEAST ASIA**

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Abstract:

The challenge to the relevance of ASEAN lies on its incapacity to reform its institutional structure to respond to various crises especially to issues that have regional implications. The paper argues that regionalisation will be realised only through bolder attempts to institutionalise democratic norms as well as enhanced mechanisms pooling sovereignty. The delicate balance between respecting national sovereignty and empowering regional autonomy needs to be considered in implementing these reforms. Although the political and economic reforms are intertwined, they are two separate efforts to be done by the ASEAN community.

Keywords: ASEAN; norms; regional economic cooperation; democratisation; institution-building.

Resumen:

El desafío a la relevancia de ASEAN reside en su incapacidad para reformar su estructura institucional para responder a las crisis, especialmente en cuestiones con implicaciones regionales. Este trabajo argumenta que la regionalización sólo tendrá lugar mediante intentos más decididos de institucionalizar las normas democráticas, así como mecanismos reforzados para compartir la soberanía. El delicado equilibrio entre el respeto a la soberanía nacional y el refuerzo de la autonomía regional necesita ser considerado al implementar estas reformas. Aunque las reformas políticas y económicas están interrelacionadas, son dos esfuerzos separados que debe realizar la comunidad ASEAN.

Palabras clave: ASEAN; normas; cooperación económica regional; democratización; institution-building.

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Introduction

Until 1997 the Association of Southeast Asian Nations (ASEAN) enjoyed a reputation in the international community as the most successful model of inter-state cooperation and conflict management next to the European Union (EU) through the promotion of South-South relations on development and security. Whilst its role has been to establish common norms in managing inter-state cooperation, the Association is also known for its elitist nature in decision-making, state-led integration, and lack of institutionalisation. More importantly, democratisation which swept the world seemed to have weak effects in deepening democratic principles in the region as persistence of authoritarian practices pervade in many countries. The recurrent political participation of the military in Thailand, Indonesia and the Philippines – three of the countries in transition to democracy – are the manifestations of this weak impact. In addition, the recent clampdown of Buddhist monks protesting against the Burmese junta shows how international norms of democracy have yet to penetrate closed regimes in the region. Notwithstanding these legitimacy challenges, other problems have substantially reduced the credibility of ASEAN both as a security community and as an economic bloc. These include the untimely expansion of ASEAN, the 1997 Asian Financial Crisis (henceforth ‘1997 Crisis’), and the East Timor Independence Movement. The pressures of globalisation and democratisation have influenced ASEAN leaders to take reforms seriously, one that subscribes to a change in regional mechanisms and a re-examination of the guiding norms and principles of the organisation. This means greater institutionalisation by empowering supranational institutions (pooling of sovereignty), implementing economic and political reforms separately, and creating effective mechanisms such as a regional human rights mechanism – all of which contribute to greater effectiveness in regional governance of Southeast Asian affairs.

This paper investigates the key forces driving the institutionalisation (or the lack thereof) in ASEAN, specifically the impacts of global structures and processes on regionalism. Given that democratisation has limited impact in the region, I argue that the biggest challenge to ASEAN is to reinvent itself as a responsive regional actor through the adoption of more inclusive/participatory approaches and bold reforms towards rules-based, formal mechanisms of decision-making. Although it looks at political and economic issues together, I note that the reforms to respond to both issues must be dealt with separately. Democratic reforms from domestic levels will have impacts on the regional level and are prerequisites for regional mechanisms on human rights or civil society participation. Further, economic cooperation will be best handled by greater cohesiveness in policy coordination, and this requires institutionalisation to avoid duplication of functions and agreements in Asia Pacific. These are critical for ASEAN to achieve its goal of ‘promoting a common regional identity and creating a community of caring societies’.²

The research aims to evaluate the process of institutionalisation in ASEAN and the implications of democratisation to this process. It hopes to shed light in the theoretical debate on the impact of global forces and structures on shaping the future of Southeast Asia. It aims to answer two key questions: (a) how has democratisation affected regionalism in Southeast Asia; and (b) what are the prospects of new regionalism along the lines of democracy and institutionalism? This will help practitioners to draw some policy lessons regarding the problems of the ‘ASEAN way’ and the future of ASEAN norms, principles, and mechanisms. Finally, it will explain the strengths and pitfalls of regional cooperation in ASEAN by

² This clause appeared in several documents of ASEAN but was pronounced at the *Declaration of ASEAN Concord II in Bali*, Indonesia in 7 October 2003, accessed on 3 September 2005.



offering a historically specific account of the move from interstate cooperation to regional integration. Since the EU has always dominated the scholarship on regionalism, this study aims to show how ahistorical and universal models patterned after the EU do not necessarily explain the processes in developing countries including Southeast Asia since it does not adequately capture the nuances and context by which the organisation has flourished. The paper will be divided into four parts: first, a discussion of the impact of democratisation to regionalism; second, a historical analysis of regional cooperation in Southeast Asia; third, a discussion of the regional mechanisms and norms and the challenges raised by various trends related to democratisation and changing global order; and finally, some insights on the directions of regional integration with some reflections on the current developments in the region.

1. Concepts in Tension: Democratisation and Regionalism in the Asian Context

What affects institutionalisation of particular sets of norms within a region? What is the relationship between democratisation and regionalism in Asia? These are the primary questions that this conceptual framework aims to address. Democratisation refers to the process of creating political changes moving towards a democratic direction. The 'extent of democracy' is defined by state-civil society relations where 'state is defined as institutional patterns and political organisations with the monopoly on the legitimate use of physical force' and civil society defined as the 'space of uncoerced human association and set of relational networks-formed for the sake of family, faith, interests and ideology- that fill this space'.³ The minimalist standard is the existence of formal democratic institutions, such as a working constitution, civilian supremacy over the military, separation of powers particularly the dissolution of executive control in decision making, and the establishment of a party system. The hypothesis is that deepening democracy from the national level will significantly affect foreign policies of ASEAN states towards a more (politically) open regionalism project. Institutionalisation, in Hund's definition (2002), is synonymous to community-building. From an informal, personal relations-based, and distrust of definite and legally-binding commitments, the region is undergoing institutionalisation if there are manifestations of changing mechanisms to one that is more centralised and rules-based with formal and coherent institutions deciding for regional policies. Hence, regional governance consists of regional mechanisms, institutional norms, and values which constitute the way regional affairs are being managed. It comprises the rules on which actors abide to and the emerging identity of the region. In ASEAN, governance is done through the institutionalisation of the 'ASEAN way' where regional affairs is being guided by non-interference, sanctity of state sovereignty, consensus-building, consultations, non-binding rules, and informal decision-making. ASEAN regional governance can also be characterised as elite-centred and state-led, both of which dominate the pace of integration in the Association.

Any discussion of democratisation and ASEAN integration must look at the dynamics between domestic and regional politics. Domestic coalitions and socio-political contexts at the national level are more important factors in regional governance than rigid structures and

³ Potter, David, Goldblantt, David, Kiloh, Margaret and Lewis, Paul (eds.) 1997, *Democratization*, Massachusetts, Polity Press and Open University Press,



external forces/processes.⁴ Domestic politico-economic features are salient in determining the outcomes of the regional project. For instance, the proliferation of free trade agreements, privatisation schemes, and financial deregulation in the region demonstrate the extensive national support for the free market principle as a development model. Contrary to the experience of the countries in the Global South, many countries in East Asia (defined as Northeast and Southeast Asia) adopted the developmental state model. East Asia has been the most dynamic region in the world with countries sustaining growth rates from 3 – 7% for decades, reducing absolute and relative poverty, and undergoing smooth transition from agriculture to industrial-based societies.⁵ Such model is based on the pivotal political and economic roles that the state played in directing the market towards growth.⁶ As an interventionist and authoritarian state, it limited political liberalisation and managed the industrial and trade policies through a competent bureaucracy and a distinctive state-business alliance. Although countries in other regions adopted an interventionist state model, the success of Asia has been attributed to the flexibility of the state to shift from import-substitution to export-oriented strategy. Hence, the selective implementation of free market policies has led to the so-called *East Asian Miracle*. The combination of authoritarianism and capitalist development in Asia has challenged the argument on the positive relationship between democracy and development. In fact, the Asian experience shows that the free market can thrive better if an authoritarian government with social control mechanisms can temper resistance on the negative consequences of liberalisation. With limited political liberalisation, economic policies opening the national economies to the global market became possible. In addition, regional norms of non-interference, consensus-building, and informal decision-making are by-products of the efforts of ASEAN leaders to deflect criticisms of their undemocratic practices. At least until the 1997 crisis, ASEAN states have conveniently ignored Indonesia's occupation of East Timor, the military rule in Myanmar, and the massive human rights violations during the communist suppression and dictatorial rule.

Regional integration is a deliberate outcome of the strategic position of ASEAN states, whether they will be open, resistant or developmental.⁷ The ASEAN Free Trade Area (AFTA) as a collective policy response to globalisation has been perceived as both open and developmental by domestic coalitions, namely, the alliance between domestic business class

⁴ Nesadurai, Helen ES: "Attempting Development Regionalism through AFTA: the Domestic Sources of Regional Governance", *Third World Quarterly*, Vol. 24, No. 2 (2003), pp. 235-253; Solingen, Etel: "East Asian Regional Institutions: Characteristics, Sources, Distinctiveness", in Pempel, TJ (ed.) (2005): *Remapping East Asia: The Construction of a Region*, Ithaca, Cornell University Press, pp. 31-53. Solingen, Etel (2001): *Crisis and Transformation: ASEAN in the New Era*, Singapore, Institute of Defence and Strategic Studies; Solingen, Etel: "ASEAN, Quo Vadis? Domestic Coalitions and Regional Cooperation", *Contemporary Southeast Asia*, Vol. 21, No. 1 (1999), pp. 30-53.

⁵ Yoshitomi, M. & ADBI Staff (2003): *Post-Crisis Development Paradigms in Asia*, Tokyo, Asian Development Bank Institute, pp. 13-62; Page, John: "The East Asian Miracle: An Introduction", *World Development*, pp. 22. Vol. 4 (1994), pp. 615-625; World Bank (1993): *The East Asian Miracle: Economic Growth and Public Policy*, Oxford, Oxford University Press.

⁶ Zhang, Yumei (2003): *Pacific Asia: The Politics of Development*, London and New York, Routledge; Polanyi, Karl (1957): *The Great Transformation: The Political and Economic Origins of our Time*, Boston, Beacon; Wade, Robert (1990): *Governing the Market: Economic Theory and the Role of the Government in the East Asian Industrialization*. Princeton, New Jersey, Princeton University Press; Amsden, Alice (1989): *Asia's Next Giant: South Korea and Late Industrialization*, New York, Oxford University Press.

⁷ Open regionalism aims to advance the competitive position of business and attract wealth-creating FDI with economic efficiency as the driving force. Resistant regionalism is driven by non-economic values such as distribution and social justice and seeks to preserve particular forms of domestic social/economic arrangements that are difficult to sustain individually amid globalization. Finally, developmental regionalism adopts a regional approach that expands regional market generated through inter-state cooperation and temporarily protecting domestic capital in this expanded market. See Nesadurai, 2003, pp. 235-253 for a complete explanation.



and state elites to nurture domestic-owned capital as a response to global competitiveness.⁸ Moreover, diplomatic cooperation in ASEAN is determined by domestic coalitions and their strategy, whether it uses an internationalist (free market and open competition) or a backlash (protectionist) strategy.⁹ ASEAN states came to be progressively under the control of “internationalist” coalitions and it is the grand strategy of these coalitions that explains why a cooperative regional order evolved over time.¹⁰

The second theoretical point is that global forces and structures external to the state equally influence the regionalism project. The changed global order after the fall of Soviet Union might not have led to the “triumph of liberal democracy”, but it definitely shifted the global discourse from ‘hard’ to ‘soft’ security issues, embracing concepts such as “human security”, “human rights”, and “responsibility to protect” – buzzwords that rethink the concept of security. These global values issues are incorporated in national policy making through regional mechanisms, norms, and values. Therefore, global democratisation has had several implications on the regional project: first, it alters the political climate on which regional interactions are based; second, it calls into question the legitimacy of existing regional norms and the relevance of existing institutional mechanisms; third, the transition to democracy allows for newly installed governments to adopt bold foreign policy leading to better cooperation and conflict management; fourth, it creates more domestic transparency that regional integration needs; fifth, it creates a deeper basis for regional socialization by according space to civil society and accommodating its concerns; sixth, it broadens the scope of agenda for regional institutionalization; and finally, democratisation may secure greater support for regional integration and cooperative projects with outside powers.¹¹ Overall, global democratisation puts ASEAN states in a defensive position to adopt democratic discourses in their foreign policy agendas and national policies. Although it is rather limited compared to Latin America, regional integration promoting democratisation can also facilitate pressures to reform at the national levels.

2. ASEAN’s Historical Development and Patterns of (Non) Institutionalisation

ASEAN was created at a time when regional organisations were bound to fail just like its predecessors due to interstate conflicts,¹² superpower interference in regional affairs, internal political instability, lack of common identity, and mutual distrust among neighbours.¹³ It was founded in the midst of poverty and conflict, of a looming threat from Soviet and Chinese-backed communism, and of civil strife complicated by the involvement of major powers.

⁸Ibid.

⁹ Solingen, Etel: “ASEAN, Quo Vadis? Domestic Coalitions and Regional Cooperation”, *Contemporary Southeast Asia*, Vol. 21, No. 1 (1999), pp. 30-53.

¹⁰ Ibid, pp. 31.

¹¹ Acharya, Amitav: “Democratization and the Prospects for Participatory Regionalism in Southeast Asia”, *Third World Quarterly*, Vol. 24, No. 2 (2003a), pp. 375-390.

¹² ASA and Maphilindo collapsed because the territorial dispute between Malaysia and the Philippines over Sabah combined with external interference from Britain and US has escalated tensions to the extent that diplomatic ties between them were cut. See Acharya, Amitav (2000): *The Quest for Identity: International Relations of Southeast Asia*, Oxford, Oxford University Press, Chapters 1, 3, 4 & 5.

¹³ Lyon, Peter: “Postwar Regional Cooperation”, in Siddique, Sharon & Kumar, Sree (eds.) (2003): *The Second ASEAN Reader*, Singapore, Institute of Southeast Asian Studies, pp. 16-17; Hagiwara, Yoshiyuki: “The Formation of ASEAN”, in Siddique, Sharon & Kumar, Sree (eds.) (2003): *The Second ASEAN Reader*, Singapore, Institute of Southeast Asian Studies, pp. 18-21.



Against this background, ASEAN succeeded in sustaining cooperation among its members albeit with several setbacks. ASEAN's evolution as a regional diplomatic actor can be traced on the grouping's formation in the 1960s when six ASEAN states created a loose regional arrangement to directly respond to the power vacuum left by the withdrawal of colonial powers during the decolonisation period. Since there was no intra-regional contact, a regional framework would serve as catalyst for cooperative relations among the newly independent states. It was most logical to extend efforts fostering good relations to neighbours because domestic developments may affect the region in many ways.¹⁴ Second, the Indonesian leadership albeit *primus inter pares* gave way for inter-state conflicts to be swept under the carpet and move towards workable areas of cooperation, which had been very crucial for the regional project to survive and develop into a security and economic community. The transition in Indonesian leadership was especially welcomed by Singapore¹⁵ and Malaysia. The 'New Order' gave up its *konfrontasi* policy against Malaysia and ASEAN states concentrated in solving domestic problems. Suharto defended his policy on the basis that national resilience is compatible with regional resilience, which means that national interests (economic prosperity) can be promoted through regional peace and stability. However, the price to pay was for ASEAN states to turn a blind eye on human rights violations especially that democratic norms mattered less during the Cold War days. Third, the survival of the Association can be attributed to the geostrategic and political role of the region in Cold War politics. The changing pattern of great power rivalry shaped political events in Southeast Asia, namely the escalation of Sino-Soviet rivalry, the growing influence of Soviet Union in Indochina, and the relaxation of US-Soviet and US-China relations at the expense of regional security. In a way, ASEAN was playing with great powers while gradually forging a regional security framework anchored in superpower relations.¹⁶ Hence, the members adopted a loose framework emphasising self-restraint, consensus building, and respect for state sovereignty, all written in the Bangkok Declaration. From the onset, ASEAN delineated itself from the legalistic and interventionist European project of integration.¹⁷

In the second decade of its existence, the Association was faced with the problem of uncertainty and insecurity due to the withdrawal of United States in the region and the growing influence of communism in Indochina. The US opted to support authoritarian regimes in the face of the communist success in the developing world, which basically limited the external pressure for democratic reforms. The first evidence of institutionalisation (or the lack of it) was the Bali Summit in 1976 when national leaders adopted the Treaty of Amity and Cooperation (TAC). Being the first binding treaty agreed upon by the member states, the mechanisms for regional governance were laid. The TAC was explicit in upholding: (1) mutual respect for the independence, sovereignty, territorial integrity of all nations; (2) the right of every state to lead its national existence free from external interference, subversion, and coercion; (3) non-interference from the internal affairs of one another; (4) settlement of differences and disputes by peaceful means; and (5) renunciation of the threat of use of

¹⁴ Khoman, Thanat: "ASEAN: Concept and Evolution", in K.S. Sandu et. al. (eds.)(1992): *The ASEAN Reader*, Singapore, Institute of Southeast Asian Studies, pp. xvii-xxii.

¹⁵ A change in Indonesian policy would affect Singapore's bid for international recognition and security against invasion. It is particularly vulnerable from Indonesia and Malaysia. See Acharya 2000, pp. 85.

¹⁶ The Zone of Peace, Freedom and Neutrality (ZOPFAN) was a result of the debate on the possibility of the Association being free from external interference, specifically whether ASEAN states should rely on US security guarantee. Ibid., pp. 93-94; Jones & Smith, 2001, pp. 273-274.

¹⁷ The European Project is highly interventionist even from the start. The legally binding Treaty of Rome is the foundation of the European Economic Community (EEC), which creates a free trade area with a common external tariff and supranational institutions.



force.¹⁸ This regional framework has had three implications. First, foreign ministers played a pivotal role in regional affairs. Cooperation is bound by the agreements among official policy circles, where the decisions have been conservative and nationalist lacking some form of regional perspective. Second, the non-interference principle (NIP) meant tolerance to authoritarian regimes and violation of human rights. NIP maintained political stability and the survival of elitist regimes, which paved the way for economic growth in most Southeast Asian states. For three decades, the personal ties among this generation of leaders within the organisation kept it from pressures of reforms in any way. However, the 1997 Crisis was a wake up call to institute reforms against the elitist nature of ASEAN and its lack of space for civil society participation. Regional agreements which affect the region cannot remain in the hands of a few ministers, political leaders and technocrats. Finally, the TAC institutionalised the lack of institutionalisation in ASEAN. There was no power given at all to the Secretary General of the ASEAN Secretariat. The High Council that was supposed to be a dispute settlement mechanism was completely passive if not non-existent at all. Most importantly, decision-making was very slow as it has to pass by consensus and extensive consultations. No radical reform could have been implemented since a breach of this protocol automatically meant a rejection of the proposal. Despite these criticisms to the 'ASEAN way', the organisation gained prominence as one of the most successful regional groupings in the world, especially after ASEAN successfully dealt with the Cambodian crisis in the 1980s.

In the Cold War, the founding members chose to be anti-Communist, anti-nuclear weapons, and pro-West in orientation. The ZOPFAN is its clearest manifestation, where the West supported authoritarian regimes in exchange of a communist-free Southeast Asia.¹⁹ Hence, the victory of Communist Vietnam, the withdrawal of US in Southeast Asia, and the triumph of communism in Indochina and their linkages with China or Soviet Union posed a security dilemma for the ASEAN members. The sense of insecurity among the members was fully realized when Pol Pot of Cambodia was overthrown by Vietnamese forces. ASEAN governments realised that the annexation could prompt further insurgency and stronger anti-government forces once these groups tap external support especially from superpowers. Thailand, which shares borders with both countries and fearful of its own security, spearheaded ASEAN towards a coherent foreign policy by denying international recognition to the Hanoi-installed government. ASEAN asserted that Hanoi breached the principle of non-interference in its pursuit of military adventurism and called for a withdrawal of Vietnamese troops. The Association succeeded in forcefully pulling out Vietnam in Cambodia for three reasons. First, ASEAN used all fora to isolate Vietnam through an extensive diplomatic campaign to deny legitimacy to the government, most notably in the United Nations. This included a blockade in aid until the government goes back to the negotiating table. Second, Soviet Union was experiencing internal problems which led to its decision of disengaging from regional conflicts including in Southeast Asia, which substantially weakened Vietnam as it relied primarily on super power support for territorial annexation. Finally, there was strong opposition from Beijing and Washington against the invasion, which backed up ASEAN.²⁰ The successful withdrawal was followed by an International Conference on Cambodia in 1989, which eventually led to a formal democracy through the Paris Peace Accords in

¹⁸ Acharya, Amitav (2000): *The Quest for Identity: International Relations of Southeast Asia*, Oxford, Oxford University Press, pp. 95.

¹⁹ Southeast Asia was called a 'club of dictators'. The ASEAN-5 was ruled by authoritarian regimes – Lee Kwan Yew in Singapore, Mahathir bin Mohammad in Malaysia, Ferdinand Marcos in the Philippines, Suharto in Indonesia, and a monarchy in Thailand. The sixth member, Brunei Darussalam was a sultanate which also fought communists for the regime's survival.

²⁰ Henderson, Jeannie (1999): *Reassessing ASEAN*, Adelphi Paper 328, London, Oxford Press for International Institute for Strategic Studies, pp. 18-20.



October 1991. Elections, constitution and a parliament were important features of this democratic transition. Formal democracy was in place and the path towards substantive democracy was already laid. This experience has strengthened ASEAN as a diplomatic actor because it proved that such a loose grouping of developing countries could handle major security issues through a non-confrontational manner. This success should be accorded to the commitment of Southeast Asian countries to insist on diplomacy as a tool for conflict resolution and respect to state sovereignty enshrined in the United Nations Charter as a guiding principle in inter-state cooperation.²¹ Although this led to the installation of formal democracy, ASEAN did not intend to develop some common political principles based on democracy.

The third decade of ASEAN was marked with heightened credibility and success both at the economic and security spheres. In the 1990s, the changing global order affected the regional order in Southeast Asia. Soviet Union collapsed and the United States had little interest in keeping the security umbrella in Southeast Asia – a key component of regional peace and stability. As such, discussions of a pan-Asian security community emerged where Asia will independently handle its political and security affairs through the ASEAN way.²² Second, the threat of a “fortress Europe” with institutionalised economic integration became very real as it occurred at a very fast pace.²³ A regional response was perceived as the best counter strategy to the possible inward-looking policies of EU. Increasingly, states argued that a regional framework is the way to sustain economic growth that most Southeast Asian countries have enjoyed since the 1980s. Finally, the rise of China as an economic power was seen as a threat. Not only was its liberalisation policy absorbing the foreign direct investment (FDI) in Southeast Asia, China likewise posed a threat to their manufacturing sectors. In addition, China started modernising its military simultaneously with its rapid economic growth in the 1990s. This had serious implications to the conflict management of China’s long standing territorial disputes with Southeast Asian countries, most notably the South China Sea Dispute. Hence, there was high optimism to engage with China in a cooperative case-by-case basis in economic and security matters. More importantly, ASEAN specialists seemed to have found this the right time to institutionalise reforms that would make the organization more independent from mere national interests.

To their disappointment, the ASEAN regional project did not lead to the direction towards institutionalisation in both political and economic spheres. Instead, the same mechanisms, norms, and principles were used in the post-Cold War period in managing not only Southeast Asian but East Asian affairs. Several inter-regional and intra-regional arrangements with ASEAN were formed in the 1990s showing evidence that the international community has recognised the regional importance of the organisation despite the lack of

²¹ A counter argument was forwarded by Jones and Smith, 2001, pp. 275. They argue that “ASEAN’s diplomatic manoeuvring had no impact on the resolution of the Cambodian conflict. The Association achieved credibility because of its actions coincided with that of the superpowers”.

²² An article on the possibility of a concert in Asia, where major powers peacefully resolve conflicts and maintain a multilateral forum to manage security was published. However, the irreconcilable differences and the long-standing conflicts among major regional powers in Asia make the concert more applicable in Northeast Asia rather than in Southeast Asia. Also, the form of concert will not be the same with Europe as it will probably follow a Southeast Asian model were informal discussions and consultations are the prominent features. See Acharya, Amitav: “A Concert of Asia?”, *Survival*, Vol. 41, No. 3 (1999), pp. 84-101.

²³ The EU members approved the Single European Act in 1986 establishing the ‘borderless Europe’, which allowed the freer flow of goods, capital, persons, and services in the region. The economic union in Western Europe was ratified by 12 countries through the 1992 Maastricht Treaty of the European Union. It created the three-pillar community which constitutes the highly institutionalized EU – European Community, Common Foreign and Security Policy, and Justice and Home Affairs.



institutional mechanisms.²⁴ At the security front, the ASEAN Regional Forum provided a multilateral security framework in managing security conflicts with non-interference, consultations, consensus building, and ad hoc/informal decision-making as its key features. The organisation placed ASEAN at the centre of the forum to temporarily prevent China and Japan from claiming leadership in East Asia. In terms of economic cooperation, AFTA was the most advanced and ambitious as well. It focused on the gradual reduction of tariffs under the Common Effective Preferential Tariff Scheme (CEPT) whilst simultaneously reducing non-tariff barriers (NTB).²⁵ This supposedly legally binding agreement set the timeframe for the ASEAN-6 and CMLV countries to lower their tariffs. The ASEAN Economic Ministers would likewise supervise, review, and coordinate the implementation of CEPT as well as mediate disputes among members (Hund 2002: 103). Whilst economic and security issues were extensively discussed, the probability of a regional human rights accord was not even being considered as relevant. From the very beginning, the regional mechanisms and norms were never built to accommodate a democratic regional framework. Throughout its history, the policy-making process of ASEAN remained intact among ASEAN elites (*track-one diplomacy*) and academic researchers/technocrats (*track-two diplomacy*). Not only is it personality-based, the organisation is closed from any form of participation from the citizens themselves, who ironically are represented in these formal governmental arrangements.

3. Regional Mechanisms on Trial: Evaluating the Relationship between Democratisation and Institutionalisation in ASEAN

This section is divided into three parts: first, an exploration of the ASEAN norms, principles, and processes; second, a discussion on the implications of globalisation specifically economic interdependence and expansion of political norms and ideas; and third, an examination of the impacts of democratisation in Southeast Asia.

The most significant feature of the Association's current regional governance is its non-reliance on formal dispute-resolution mechanisms and the lack of a collective security arrangement comparable to that of the EU. There is high regard to the principle of state sovereignty, non-intervention, and the rejection on the threat of the use of force in resolving conflicts.²⁶ The EU has a formal defence body activated through the Common Foreign and Security Policy (CFSP) pillar, which has the power to employ peacekeeping troops and rapid reaction forces if necessary. In Southeast Asia, defence is coordinated at bilateral levels and is usually guaranteed by major powers such as China with respect to Myanmar or the United States for the ASEAN-5. The lack of formal dispute settlement mechanisms is a function of non-intervention, defined as 'the duty of states not to interfere at the internal affairs with the internal actions of a sovereign state'.²⁷ As a core ASEAN policy, it is implemented in four ways:

²⁴ Many scholars argued that the lack of institutionalisation in ASEAN made cooperation possible which worked for the region. The evidence is the successful diplomatic record in the Cambodian conflict.

²⁵ The use of non-tariff barriers as a protectionist policy has been more widespread in Asia because tariffs are already low, such as those in the manufacturing, industrial, and textile industries.

²⁶ Solingen, Etel: "ASEAN, Quo Vadis? Domestic Coalitions and Regional Cooperation", *Contemporary Southeast Asia*, Vol. 21, No. 1 (1999), pp.45

²⁷ Kraft, Herman Joseph S: *The Principle of Non-intervention and ASEAN: Evolution and Emerging Challenges*, Working Paper No. 344 (2000c), Canberra, Strategic and Defence Studies Centre, pp. 2.



- Refraining from criticizing the actions of the governments of member-states towards their own people;
- Directing criticism at the actions of states which are perceived to constitute a breach of the principle of non-intervention;
- Denying recognition, sanctuary, or other forms of support to any rebel group seeking to destabilise or overthrow the government of a neighbouring state; and
- Providing political support and material assistance to member-states in their actions against subversive activities.²⁸

The ‘sanctity’ of this principle is kept to maintain peaceful relations among states despite the existence of long-standing inter-state conflicts and territorial disputes. It has been argued that the principle was created as a moral guarantee against super power involvement in member’s internal affairs and as a political guarantee for peaceful relations among ASEAN states (and to some extent within East Asia) whose borders are still disputed until today.²⁹ A caution to this argument is offered because non-interference has not always been followed depending on the geopolitical interests of member states.³⁰ Despite the intense critique to this ASEAN principle, NIP allowed ASEAN to move forward and cooperate by putting the contentious issues affecting other countries at the back burner and press for the immediate resolvable policy issues.

The Association developed several informal mechanisms, which include consultation (*musjawarah*), consensual decision-making (*mufakat*), accommodation among members (usually foreign ministers and national leaders), and informal diplomacy built on personal ties among the elites.³¹ Consultation and consensus are used in taking steps towards cooperation and managing conflicts. This was adopted to keep the Association cohesive and solid especially in deciding on security issues. Foreign ministers played a central role in regional cooperation, as evident in ministerial summits where foreign ministers or national leaders are the only participants. Until the post 1997 era, there was no real integration at the grassroots level most notably from actors disengaged in *realpolitik*, such as civil society groups, defence ministers, economic/financial officers and bureaucrats.

These mechanisms comprise the so-called “ASEAN way”, which is the pillar of regional governance. These have arguably worked to promote cooperation and manage conflicts at the inter-state level. Scholars point out the stark contrast between Southeast Asia in the 1960s and Southeast Asia today – war, which is unthinkable to occur today, would have destroyed the region anytime had Indonesia refused to give up its *konfrontasi* policy. The sense of

²⁸ Acharya in Ibid, pp. 3-4.

²⁹ Ibid, pp. 2.

³⁰ Henderson, 1999 & Kraft, 2000c demonstrated this to argue for a re-examination of the non-interference.

³¹ Solingen, Etel: “ASEAN, Quo Vadis? Domestic Coalitions and Regional Cooperation”, *Contemporary Southeast Asia*, Vol. 21, No. 1 (1999), pp.45.



insecurity experienced during ASEAN's formation is probably the reason why Southeast Asia was called the "Balkan of Asia"³² or that "Europe's past is Asia's future".

The experience of rapid and sustained growth in East Asia contradicts the claims of the blanket negative impact of globalisation to the developing world. The *Asian exceptionalism* refers to the selective implementation of policies from external institutions into local settings.³³ Economically, East Asia subscribes to open regionalism, which means that goods produced domestically are exported not only within the region but to the global market. Since the 1980s, the strategic planning of Thailand, Singapore, and Malaysia has been geared towards liberalisation after the failure of import substitution in the 1970s. The Philippines has been more committed towards open regionalism and economic liberalisation to dismantle crony capitalism entrenched in the Marcos presidency. Unilateral liberalisation is progressively being implemented starting in the Aquino administration. The 1990s marked the dynamism of the region through the free market policies of Southeast Asian countries. Whilst any move towards institutionalisation expectedly promoted market liberalisation, its development project remained based on a national economy model expanding trade to the world rather than reliance on a regional market to be created. Compared to the EU, ASEAN did not envision a regional common market since they produce the same products and the levels of economic development are too varied such that the principle of specialisation does not apply. Although ASEAN negotiated with China, South Korea and Japan for an East Asian model of regionalism, the rationale behind it is never based on a common market but rather to prevent these countries from ignoring ASEAN as a market. It is also based on the organisation's attempt to revive its lustre by trying to keep its middle power position in the integration project.

3.1. The Challenge of the 1997 Crisis to Institutionalisation

A key global process that affected regional integration is the 1997 Crisis. As capital becomes highly mobile, few economies can be insulated from financial shocks or sharp changes in the money market.³⁴ The banking crisis in Thailand developed into a full-blown financial crisis spreading in the region. Although Taiwan and Malaysia were spared from the full impact of the crisis, South Korea, Thailand, Philippines and Indonesia were victims of unfettered liberalisation of the financial sector especially when their banking systems were very weak and foreign reserves were insufficient to defend the currency from speculations. Whilst the interventionist state promoted development in East Asia, it is this same state with weak regulatory frameworks and protectionist policies to big businesses that caused the crisis to be blown out of proportion. Since regional cooperation at the financial sector is very weak, the absence of a regional mechanism to regulate capital in the region exposed the inherent weakness of ASEAN: *the lack of institutionalisation in dealing with any issue*.³⁵ Since there

³² There is a discussion as to why Southeast Asia did not become the 'Balkans of Asia'. See Öjendal, Joakim: "Southeast Asia at a Constant Crossroads: An Ambitious 'New Region'", in Schulz, Michael, Söderbaum, Frederik, & Öjendal, Joakim (eds.) (2001): *Regionalization in a Globalizing World: A Comparative Perspective on Forms, Actors and Processes*, London & New York, Zed Publications, pp. 147-172.

³³ Dittmer, Lowell: "Globalization and the twilight of Asian exceptionalism", in Kinnvall, Catarina & Jönsson, Kristina (eds.) (2002): *Globalization and Democratization in Asia: The Construction of Identity*, New York and London, Routledge, pp. 21-36.

³⁴ Zhang, Yumei (2003): *Pacific Asia: The Politics of Development*, London and New York, Routledge, pp.127.

³⁵ This research does not intend to determine the precise causes of the crisis as this is still widely contested until today. The purpose of explaining the generally accepted reasons is to illustrate the inadequacy of ASEAN as a regional actor in managing the crisis due to its lack of institutionalisation.



was massive influx of portfolio investments (short-term capital) in the region and investors were confident that the state will bail out these big companies in crunch time, domestic companies borrowed credits abroad at low interest rates and stable exchange rates as guarantees to lenders. Such bad corporate practices were tolerated because investors secured profits through government guarantees not to mention that a financial crisis seemed most unlikely in a region with sustained growth rates. Once the foreign reserves were drained from currency speculation attacks (with excessive domestic borrowings and very low savings), most Asian governments did not have a choice but to start implementing neoliberal reforms in exchange of loans from the IMF and WB.

The second cause of the crisis is more internal – crony capitalism in Asia manifested by the collusion between the government and business. Whilst cronyism caused the mismanagement of money (such as bailing out companies close to government), it was also the cause of selective liberalization, that is, opening certain sectors to international trade where specific businesses benefited through government intervention.³⁶ Both these weaknesses have been compounded by the absence of a regional mechanism to serve either as an early warning system or as a direct regulator of foreign capital.

How did ASEAN respond as a regional actor? Many of the criticisms to the Association has been based on its inability to prevent the crisis despite the fact that it had an international dimension which was largely out of control by the organisation. However, ASEAN can be faulted by its lack of institutionalised mechanisms to regulate capital flow in the region or to create a surveillance system in the financial market. The response of ASEAN states have been varied to prevent the 1997 Crisis from repeating itself, which includes the following:

- Setting up an ASEAN Investment Area (AIA) to prevent the diversion of FDI from Southeast Asia to other regions while enhancing intra-ASEAN investment;
- Activating the Dispute Settlement Mechanism (DSM) where trade disputes will be adjudicated by the AEM or SEOM which will be binding and will be linked to the ASEAN Secretariat;
- Creating the ASEAN Surveillance Process (ASP) which aims to guarantee economic stability through the establishment of an early warning system and to evaluate potentially destabilizing financial and economic trouble spots in the region; and
- Fast-tracking the reduction of tariffs in the region, integrating eleven priority sectors including fisheries, electronics, healthcare and tourism, simplifying the customs procedures, harmonizing regulations and standards, and substantially reducing non-tariff barriers and other forms of trade barriers.³⁷

³⁶ Zhang, *op. cit.*, pp. 130-131.

³⁷ Ferguson, R. James: "ASEAN Concord II: Policy Prospects for Participant Regional "Development"", *Contemporary Southeast Asia*, Vol. 26 No. 3 (2004), pp. 401; Hund, Marcus: "From 'Neighbourhood watch group' to Community? The Case of ASEAN Institutions and the Pooling of Sovereignty", *Australian Journal of International Affairs*, Vol. 56 No. 1 (2002), pp. 106-109.



These mechanisms remain operational through the 'ASEAN way' of informality, personalised rather than institutionalised relations, and lack of definite and legally binding commitments.³⁸ The AFTA, which facilitates trade liberalisation, has been severely damaged due to the tendencies of states to backtrack on their commitments. Although economic liberalisation has met severe opposition from civil society groups, ASEAN's recovery as an economic bloc remains in the hands of ministers implementing the AEM. The Singaporean initiative to accelerate AFTA has also been opposed by Indonesia during the Kuala Lumpur Informal Summit. The outcome was simply another declaration espousing the need to accelerate AFTA's implementation followed by an agreement among the economic ministers in October 1998 to accelerate tariff reduction, only to be reversed three months after it was agreed in the Hanoi Summit.³⁹ The unilateral measures of liberalisation implemented by members further undermined the credibility of ASEAN since a coherent policy response was called for at that point.

The most serious attempt towards institutionalisation in the economic sphere is the AIA framework modelled after AFTA. However, the AIA Council tasked to oversee the unconditional implementation of the agreement remains under the control of national governments. Further, even if the AIA Council is independent, compliance is very difficult because there is no regional judiciary to act as an arbiter. The compliance mechanism itself is also insufficient since there are no punitive measures when states backtrack in their commitments.⁴⁰ Therefore, AIA will remain an ineffective body because bilateral arrangements still determine the outcome leaving the Council or the ASEAN Secretariat powerless. In addition, the DSM remains to be a formal rules-based procedure of dispute settlement with no power to implement its rulings vis-à-vis non-compliant members. An effective compliance mechanism is fundamental for DSM to work since it makes it more costly for member states to back down from their commitments.⁴¹ Likewise, the ASP depends primarily on the quality of information that member states are willing to give. Kraft captures the problematic reliance of peer review and economic/financial monitoring towards ASEAN states' political will:

The efficacy of an economic surveillance and monitoring system is dependent on the willingness of the ASEAN states to provide extensive amounts of data and information regarding their economy... It requires the acceptance in principle of the need for a degree of transparency that some members of the organization have found objectionable. Malaysia and Singapore have opposed turning over the kind of macroeconomic data needed to sustain this policy... Laos, Myanmar and Vietnam have likewise been reported as registering their misgivings about it. The plan bogged down even before it had a chance to be tested.⁴²

There is a general reluctance among the elites in ASEAN to cede power to centralised ASEAN bodies such as the ASEAN Secretariat, which is conspicuously instituted in the structures of ASP.⁴³ In sum, the lesson of the 1997 Crisis is that greater institutionalisation in

³⁸ This is the fundamental argument of Hund, 2002. He considers ASEAN as an intergovernmental neighbourhood watch group rather than a community (in the sense of pooling sovereignty and establishing more centralised and rules-based institutions, norms, and mechanisms).

³⁹ Rüländ, Jürgen: "ASEAN and the Asian Crisis: theoretical implications and practical consequences for Southeast Asian regionalism", *Pacific Review*, Vol. 13, No. 3 (2000), pp. 430.

⁴⁰ Hund, Marcus: "From 'Neighbourhood watch group' to Community? The Case of ASEAN Institutions and the Pooling of Sovereignty", *Australian Journal of International Affairs*, Vol. 56 No. 1 (2002), pp. 107.

⁴¹ *Idem*, pp. 108.

⁴² Kraft, Herman Joseph S: "ASEAN and Intra-ASEAN Relations: Weathering the storm?", *Pacific Review*, Vol. 13, No. 3 (2000b), pp. 458.

⁴³ Hund, *op. cit.*, pp. 110.



ASEAN is necessary to keep the organisation relevant by establishing legally-binding agreements, non-compliance mechanisms, and formal institutions with supranational powers independent from national governments. These efforts towards economic reforms require political will more than anything since building capacity for regional coordination depends on how much policy autonomy ASEAN states are willing to give up.

3.2. Challenging Institutional Norms of Non-Interference: East Timor and Democratisation Movements in Southeast Asia

The post 1997 environment in Asia placed an even bigger strain to the Association as East Timor gained independence through external intervention and Indonesia underwent a drastic transition towards electoral democracy. The failure of ASEAN to respond is hinged on the very structure of the organisation which necessitates fundamental alterations.

The process of globalisation is described as making ‘national borders more permeable than ever before, societies more sensitive to external developments, and more vulnerable to decisions made elsewhere’.⁴⁴ There are three significant changes in the international systems, which shifted the debate against non-interference. First, the rise of non-traditional issues into prominence due to the end of the Cold War (e.g., identity politics, human rights, and environment) was picked up within the ASEAN circle. The Association started discussing human rights despite its very sensitive nature in the policy-making circle. In addition, authoritarian regimes in Southeast Asia have increasingly been subjected to international scrutiny, especially Myanmar’s inability to honour the 1990 election results and its neutralisation policy towards the Burmese monks who protested last 2007. Second, the increasing interdependence of states and societies make it more rational to be concerned with the domestic affairs of other states to prevent any spill over effect of the problem. A clear example is the concern of Thailand over the flow of refugees from Myanmar due to political repression or the internal war among ethnic groups. In addition, the ASEAN Summit last November 2007 concluded a declaration supporting environmental sustainability and a fight against climate change, wherein ASEAN recognises the limitation behind environmental degradation for national development goals. Finally, there has been a rapid growth of non-governmental organizations, coalition groups and transnational activist networks working either on single or multiple issues at the regional level.⁴⁵ It shows how ASEAN must take the issues of human rights, alternative development paradigms and environmental sustainability as core transnational issues that affect both domestic and regional problems.

The case for a re-examination of non-interference can be argued in three ways. First, it has so far prevented ASEAN from creating institutions that can effectively respond to increasingly complex challenges, most importantly the economic crisis, environmental problems, and containment of internal conflicts. The principle is an impediment in strengthening the ASEAN High Council, which is tasked to discuss and coordinate states for the peaceful settlement of disputes. The ASEAN Secretariat also remains powerless in the face of regional challenges due to the severe lack of funding, staff, and centralisation.⁴⁶ Most importantly, environmental governance and economic integration remain largely under

⁴⁴ Hernandez, Carolina: “Towards Re-examining the Non-Intervention Principle in ASEAN Political Cooperation”, *Indonesia Quarterly*, Vol. 26, No. 3 (1998), pp. 167.

⁴⁵ Piper, Nicola & Uhlin, Anders (eds.) (2004): *Transnational Activism in Asia: Problems of Power and Democracy*, London and New York, Routledge; Kraft 2000c, pp. 12.

⁴⁶ Hund, *op. cit.*, pp. 114.



extensive control of national governments despite external pressures to increase policy coordination at the regional level. ASEAN fails to fulfil its security and economic functions as a regional organisation due to non-interference, not to mention the multiple pressures to take a stand with respect to minimum standards of democracy. Second, non-interference as a sacred principle is increasingly being questioned in light of the emerging human rights discourse in International Relations. De-emphasising the state and placing non-state actors in the centre of discussion allows scholars to think in terms of regionalism from below rather than from the above, i.e. from statist integration towards a participatory regional project.⁴⁷ As civil society activists claim, regional cooperation must incorporate social policies in responding to issues of poverty, discrimination, and decent labour standards – complex development issues which most ASEAN states especially transition countries face today.⁴⁸ Finally, we must re-examine non-interference because the unresolved contradictions within ASEAN may hamper the peace and stability that Southeast Asia enjoys.⁴⁹ Whilst the current security arrangements have successfully swept long standing disputes under the carpet for functional cooperation, frictions ranging from territorial disputes, religious and class conflicts up to social issues related to labour migration increasingly pressure reforms that constrain policy autonomy. These long-standing conflicts include, *inter alia*, the Malaysia-Philippines claims over Sabah, ownership of the Pedro Branca islands by Malaysia and Singapore, and the South China Sea Dispute.⁵⁰ Whilst the Pulau Sipadan and Ligitan dispute was peacefully won by Malaysia over Indonesia through the International Court of Justice ruling, it is unlikely that other disputes will neither be submitted to ICJ nor any intra-ASEAN dispute settlement mechanism in the future. In addition, internal conflicts are being fuelled by grassroots level linkages which constrain intra-ASEAN relations. The Malaysian tacit support for separatist movements most notably in the Moro Islamic Liberation Front (MILF) in Southern Philippines and the Pattani United Liberation Organization (PULO) in Thailand has strained its relations with the Philippines and Thailand.⁵¹ A regional mechanism that strengthens *constructive engagement* could resolve these conflicts as well as enhance the position of ASEAN as a diplomatic actor. No case study can best demonstrate these arguments for institutionalism in ASEAN other than the East Timor independence.

The non-interference principle prohibited ASEAN states from meddling with Indonesia's decision to annex East Timor in 1975 where there was violence occurring as a result of Portugal's withdrawal in the country. This act was not recognized by the United Nations and called for withdrawal in the territory. ASEAN distanced itself while generally silent about the UN policy towards East Timor. In the midst of the crisis in post-Suharto Indonesia, human rights violations committed by the military in East Timor attracted international attention paving way for the independence movement to gain credibility. The international conferences discussing the prospects of independence of East Timor were barred by Malaysia, Thailand, and the Philippines. Although the conference pushed through in the Philippines, key

⁴⁷ Acharya, Amitav: "Democratization and the Prospects for Participatory Regionalism in Southeast Asia", *Third World Quarterly*, Vol. 24, No. 2 (2003a), pp. 375-390.

⁴⁸ Chavez-Malaluan, Jenina Joy: "Social Policy in ASEAN: The Prospects for Integrating Migrant Labour Rights and Protection", *Global Social Policy*, Vol. 7, No. 3 (2007a), pp. 358-370.

Chavez-Malaluan, Jenina Joy: "Civil Society challenging ASEAN", *Global Social Policy*, Vol. 7, No. 3 (2007b), pp. 260-262.

⁴⁹ Jones, David M. & Mike L. Smith: "The Changing Security Agenda in Southeast Asia: Globalization, New Terror, and the Delusions of Regionalism", *Studies in Conflict and Terrorism*, Vol. 24 (2001), pp. 282.

⁵⁰ *Ibid.*

⁵¹ *Ibid.*



personalities were prevented from coming into Manila as a response of President Ramos to Indonesia's efforts to block the conference.⁵²

The regional context of the crisis explains the diplomatic approach of ASEAN on the East Timor issue. First, Indonesia is a dominant if not the *primus inter pares* leader of the Association. It places a big dilemma for ASEAN leaders to criticise Indonesia's actions regarding East Timor. In fact, the main reason why ASEAN existed is to place regional reconciliation with Indonesia 'within an institutionalised structure of relations'.⁵³ The regional security framework served to contain Indonesia's confrontational tendencies hence serving as a containment policy for other ASEAN states towards the biggest country in Southeast Asia. For elites, the problem of East Timor is domestic by nature and needs to be resolved through Indonesia's discretions. Hence, regional socialisation of leaders reserved the right to criticise as a last resort to deal with conflictual issues. Second, there seems to be a general consensus that human rights do not play a central role in foreign policies within the region. Despite the third wave democratisation, Southeast Asian states have closed their regimes from political liberalisation by deflecting human rights discourses in the 'Asian values' debate. Until the 1990s, the success of economic policies made ASEAN countries defensive of their internal affairs through 'performance legitimacy'. The argument of Lee Kwan Yew and Mahatir Mohammed was that there is a distinctive set of Asian values, based on principles of Confucianism and hierarchical societal relations, which allows the rulers to determine what is good for society. Until today, ASEAN seems to adhere to NIP as exemplified in the case of Myanmar which protects itself from criticisms from their Western dialogue partners.

The East Timor Crisis simultaneously occurred with Indonesia's transition to democracy. While Habibie was desperately establishing political control and implementing IMF reforms, the outbreak of ethnic violence and the military's heavy involvement provided the political opportunity for East Timorese to launch a campaign for independence. ASEAN neither acted nor talked about the political crisis until President Habibie agreed to conduct a referendum of self-determination in East Timor. Whilst Western countries particularly Australia became wary when the government could not handle the situation, the quiet behaviour of ASEAN was interpreted as a legitimisation of human rights violations. An UN-sponsored transition to democracy was set up through the UN Mission in East Timor (UNAMET) consisting of 241 international staff, 420 UN volunteers, up to 280 civilian police, and some 4,000 local staff. This mission failed as violence erupted despite the presence of UNAMET and the Indonesian government's imposition of martial law. The APEC Summit took this non-economic issue into discussion as the situation worsened. Not surprisingly, the Philippines was the only ASEAN member in APEC to agree in sending peacekeeping troops whilst the Indonesian government has not yet approved of any intervention.⁵⁴ After Indonesia accepted the offer of sending troops to stabilise East Timor with the condition that Asian countries will spearhead the peacekeeping operation, APEC members discussed the possibility of participating in the UN-led force and the forms of support to be offered to the government, such as humanitarian aid. The UN Security Council adopted Resolution No. 1264 (1999) establishing the International Force for East Timor (INTERFET) to be headed by Australia. The following points were agreed:

⁵² Hernandez, Carolina G: "The East Timor Crisis: Regional Mechanisms in Trial", in APAP (2000): *Community Building in Asia-Pacific: Dialogue in Okinawa*, Tokyo, Japan Centre for International Exchange, pp. 71.

⁵³ Leifer 1995, in Dupont Dupont, Alan: "ASEAN's Response to the East Timor Crisis", *Australian Journal of International Affairs*, Vol. 54, No. 2 (2000), pp. 163 Alan 2000, pp. 163.

⁵⁴ Hernandez, Carolina G: "The East Timor Crisis: Regional Mechanisms in Trial", in APAP (2000): *Community Building in Asia-Pacific: Dialogue in Okinawa*, Tokyo, Japan Centre for International Exchange, pp. 73-74.



- Give priority to the humanitarian crisis in East Timor;
- Welcome Indonesia's decision to invite an international peacekeeping force to restore peace and security in East Timor in cooperation with Indonesia; and
- Adopt a resolution without delay to provide a framework for the implementation of this proposal.⁵⁵

INTERFET represented a multilateral military force responding to a humanitarian crisis. The results of the referendum were recognised by the Indonesian Parliament, and the UN Transitional Administration in East Timor (UNTAET) was created through Resolution No. 1272. This organizational structure was defined as:

An integrated multidimensional peacekeeping operation fully responsible for the administration of East Timor during its transition to independence... authorized to exercise all legislative and executive authority, including the administration of justice in Indonesia's former province.⁵⁶

The East Timor crisis has significant implications to the principle of non-interference, intra-ASEAN relations, and the reforms being undertaken by ASEAN. First, inflexible adherence to the self-restraining principles of the Association can undermine regional security, however it is defined. The changing global and perhaps regional context of ASEAN constrains the effectiveness of the Association as a responsive political actor. Their claims as a security community seem to be in danger of collapsing if humanitarian crises will be inadequately and belatedly answered. This intra-mural conflicts are not rare in the region because these are long-standing and historical issues that were never resolved (and not meant to be) by ASEAN mechanisms. Second, the credibility of the Association, which is at an all time low, is further dragged down by the growing differences among members especially on their views on human rights and state sovereignty. Democratisation seems to be a force able to shape foreign policies of some ASEAN members. Obviously, Myanmar, Cambodia, even Malaysia and Singapore will continue to use NIP to protect themselves from criticisms. A two-tier interpretation of non-interference will definitely hamper intra-ASEAN relations which maybe damaging for the organisation's coherence. For instance, only four countries have human rights national commission despite the existence of a Human Rights Colloquial for fifteen years now. This slows down the establishment of common standards on human rights since national human rights mechanisms are a prerequisite before a regional human rights accord can be established. This is glaring evidence of the prioritisation of ASEAN states over issues other than human rights. Finally, the East Timor Crisis questions the very logic of ASEAN as a regional actor if it is unable to effectively respond in future crises. It poses existential questions in this growing interconnected and complex global order. Whilst ASEAN identity is based on the norms and principles discussed above, the rapid changes compel greater institutionalisation and increased coherence and consistency in foreign policies and positions on issues, such as human rights.

The credibility issue is complicated by the expansion of ASEAN because members cannot simply make sweeping reforms without altering its relations with the CMLV countries. They entered ASEAN under the presumption that the rules to be followed will be the same

⁵⁵ *Idem*, pp. 75.

⁵⁶ *Idem*, pp. 76.



when they accepted membership. A sudden change is likely to cause tensions among members; radical reforms have raised resistance rather than rationalisation of institutions. To date, most reforms ASEAN has been undertaking are outcomes of the Association's experiences in political and security cooperation. The idea of a more interventionist ASEAN Secretariat or a formalised ASEAN Troika has only been realised after the crisis. In addition, ASEAN needs to close the development gap, which is widening as the region integrates itself in the global economy through neoliberal policies. Democratisation must come with human development policies if it is to be sustainable. In summary, political globalisation has affected the institutionalisation in ASEAN by subjecting the 'sanctity' of the non-interference to criticisms as a humanitarian crisis beleaguered the region whilst undertaking domestic reforms to recover from the economic crisis.

3.3. Democratisation and Regionalism in Southeast Asia

It is no coincidence that ASEAN was called a club of dictators and democratisation failed during the Cold War days in Southeast Asia. The failed experiments of liberal democracy during the post-colonial period were the justification of authoritarian developmental state regimes. The idea of development was more relevant and the state was seen as the primary instrument, regardless of its regime type. In addition, there came unconditional support for anti-communist rhetoric from the United States, ranging from military aid to economic preferential agreements. ASEAN was a vehicle of cooperation to further tolerate authoritarianism in the region.⁵⁷ The ASEAN processes, which are ideally democratic due to its consultative and consensual nature, were managed through close (exclusive) contacts among top leaders who shared reluctance towards a rules-based cooperation.⁵⁸

Unlike the European Union or Latin America where regional-institution building is founded on the values of liberal democracy with emphasis on human rights, civil liberties, and political rights, ASEAN does not have any ideological commitment except for anti-communism and non-use of force. ASEAN evades criticisms through regional norms as well as downplaying human rights issues as domestic concerns protected by non-interference. In addition, the stability of political regimes against organised dissent in Southeast Asia makes it difficult for substantive democracy to flourish. Such absence of consensus and interest over liberal democracy creates limited cooperation in ASEAN, wherein the existing regional institutions established and maintained by leaders of old authoritarian states lose legitimacy in member states experiencing greater domestic political openness.⁵⁹ For instance, East Timor raised the issue of international intervention for the sake of human rights among ASEAN states but there is great divide as to how and what conditions ASEAN countries must participate. In effect, democratisation may question the sanctity of existing norms and the relevance of existing institutional mechanisms, which alters the commitment of certain states to non-interference over issues with regional implications.⁶⁰ Non-democratic members will

⁵⁷ Acharya, Amitav: "Democratization and the Prospects for Participatory Regionalism in Southeast Asia", *Third World Quarterly*, Vol. 24, No. 2 (2003a), pp. 375-390, argued that culture is the reason as to why democracy broke down in Asia. I argue that it cannot be a major factor because authoritarianism cannot be sustained in the region unless there was some form of acceptance to its proliferation as a 'norm', which is what we have in Southeast Asia – a legitimization of the authoritarian regimes due to economic development and political stability – *performance legitimacy*.

⁵⁸ Idem, pp. 379.

⁵⁹ Idem, pp. 376-378.

⁶⁰ Idem, pp. 376-377.



likely resist pro-democracy reforms coming from democratic members, which could lead to polarisation and incoherence. Whilst Philippines and Indonesia have been staunch supporters of a regional human rights commission, many ASEAN states reject it immediately fearing intervention. This is best demonstrated in the case of Myanmar where ASEAN states have been under constant pressure to respond to the junta's crackdown of Buddhist monk protests. Hence, domestic reforms are crucial for democratic reforms to spread within the region.

Democratisation has affected Southeast Asia in uneven ways. The 1986 People Power Revolution in the Philippines marked the region's move towards liberal democracy. This was followed by Thailand and finally Indonesia during the late 1990s. What have been the effects of democratisation to the regional project? First, democratic transition in Indonesia led to disruptions in regional cooperation in Southeast Asia as it became largely preoccupied in handling domestic stability and economic recovery. Liberal democracy is increasingly under strains regionally as Thailand and the Philippines experience military adventurism. Since the successful coup in Thailand in 2006, the military has dominated political life from changing the constitution, deciding the date for elections, and setting regulations for protests. The ouster of democratically-elected Thaksin Shinawatra whose populist policies gained solid support from the masses signifies the continuing weakness of domestic institutions in the face of money politics. Although elections were conducted in December 2007, Thailand will continue to experience recurrent military participation in politics. In the Philippines, renegade military officials turned to electoral politics to acquire power, most notably in the Philippine Senate. Although this seems a good indication of the military supporting democratic institutions, military leaders with connections to the rank and file opt to move in and out of the formal democratic processes whenever their interests are not served. For instance, Gregorio Honasan has attempted series of coup attempts not only against the Aquino administration but also with the current Arroyo presidency. As such, institutionalisation at the regional level is impeded by domestic political constraints to strengthen democratic institutions. This is manifested by the poor implementation of the human rights clause in the ASEAN charter precisely because no country has substantively honoured human rights, including the Philippines.⁶¹ Second, it has disrupted traditional patterns of elite socialisation in ASEAN when Suharto fell into power and various states have changed their top leaders – a generational shift in the OLD ASEAN. Adjustments have been more difficult for an organisation traditionally closed to pressures from below. Although calls for democratic accountability and political participation in regional social policies have been increasing,⁶² regional democratisation will remain concentrated in countries where domestic politics are more open. It is unlikely that they will be effective pressure groups to influence domestic policies in other Southeast Asian countries. Third, democratisation promotes greater transparency which induces trust among members and mitigates intra-regional suspicions. This is especially important at a time when ASEAN states started increasing defence and military spending in the early 1990s. As governments are compelled to make public their positions on political issues, there is increased access to information making it plausible for other governments predict state behaviour. Fourth, democratisation in Thailand helped ease the conflicts with its neighbours during the 1980s. Its shift in foreign policy is noteworthy where Indochina is assured of the commitment of the new Thai government in resolving its disputes with them. Finally, the 1997 Crisis has emphasised the need for greater transparency

⁶¹ The Arroyo administration has been charged of glossing over the extra-judicial killings of journalists and left-wing activists purportedly conducted by some parts of the military. See Amnesty International (2006) and the Statement by Philip Alston (2007).

⁶² Chavez-Malaluan, Jenina Joy: "Social Policy in ASEAN: The Prospects for Integrating Migrant Labour Rights and Protection", *Global Social Policy*, Vol. 7, No. 3 (2007a), pp. 358-370; Chavez-Malaluan, Jenina Joy: "Civil Society challenging ASEAN", *Global Social Policy*, Vol. 7, No. 3 (2007b), pp. 260-262.



among the members and opened the discussion for rules-based institution. It has underscored the fact that only countries which have been open and transparent are those that are amenable to greater institutionalisation.

What are the implications to institutionalisation especially after the 1997 Crisis? There are two key institutional developments. First, there is greater engagement today of non-governmental networks – the so-called NGOs, social movements, or civil society – critically pressuring governments to make ASEAN more transparent and more open for political participation.⁶³ Social movements aim to address the deeper causes of conflict, such as socio-economic and gender inequalities, environmental degradation, and lack of political participation, focusing on alternative frames for security, called ‘human security’.⁶⁴ Rather than seeing tracks two and three as competitors, Hernandez believes that a meeting between track two and track three adherents in Southeast Asia would generate new ideas and the impetus for furthering participation in the political-security dialogue.⁶⁵ The biggest challenge towards the goals of social movements is hinged on their anti-government stance, which makes the strategies less attractive for government officials.

One historic development is the institutionalisation of Track III in the Association through the ASEAN People’s Assembly since 2000.⁶⁶ Most NGOs engaging with ASEAN deal with democratisation, promotion of human rights, environmental governance, gender and development, and policy advocacy towards fair trade– issues that ASEAN failed to discuss because the Association is run by elites who benefit from an exclusive and closed regionalism project. Moreover, ASEAN elites seem to be using APA as a mechanism for legitimization of the organization’s ‘civil society engagement’ pillar without necessary listening to the reforms NGOs and social movements offer. Civil society has therefore increasingly and critically engaged ASEAN on several issues, thereby attempting to link their national campaigns to regional norms and identity-building. A clear case is the transnational social justice movements in the Philippines where activists have sought to link their campaigns to informal regional networks that would put pressure to national governments in signing multilateral, regional and bilateral free trade arrangements. Although the target of these movements remains to be governments or international institutions, NGOs and social movements have been engaged in strategy coordination and networking to increase the policy impact of national campaigns.⁶⁷ In the future, ASEAN can become an arena for constructive dialogue between national authorities and civil society groups.

The second key development is related to the emerging important role of civil society but more specific – the on-going project of instituting a regional human rights mechanism in ASEAN. The first ASEAN People’s Assembly aimed to develop a greater role for civil society through its action plan, which involves the following:

⁶³ Idem.

⁶⁴ Kraft, Herman Joseph S: “The Autonomy Dilemma of Track II Diplomacy in Southeast Asia”, *Security Dialogue*, Vol. 31, No. 3 (2000a), pp. 351.

⁶⁵ However, we are cautioned that the close relationship between track two and the government provide an autonomy dilemma as it limits the ability of track two people to contribute in the dialogue process critically and independently. See Idem., pp. 353

⁶⁶ A broad discussion on the creation, prospects, and challenges of the APA was given by Caballero-Anthony, Mely (2005): “ASEAN and Civil Society: Enhancing Regional Mechanisms for Managing Security” and “Conclusion: Beyond the ASEAN Way”, in *Regional Security in Southeast Asia: Beyond the ASEAN Way*, Singapore, Institute of Southeast Asian Studies, pp. 232-275.

⁶⁷ Nem Singh, Jewellord: “Framing Processes in Transnational Activist Networks: The Case of Anti-free Trade Movements in Southeast Asia”, Masters dissertation, *Lund University* (January 2008).



- Developing a human rights scorecard;
- Identifying threats to democracy by developing “democracy promoting indicators and/or democracy eroding indicators” – coordinated by CSIS Indonesia;
- Developing a framework to evaluate the progress of gender mainstreaming;
- Developing a Code of Ethics for governance in NGOs;
- Promoting co-operation in tackling HIV/AIDS;
- Promoting co-operation among media groups; and
- Developing a Southeast Asian Human Development Report.⁶⁸

This Action Plan is a work in progress towards the establishment of human rights mechanism. ASEAN through the APA II and APA III is now being forced to broaden its scope in defining human development beyond poverty to include health, protection of women and children, personal security, and political and religious freedom.⁶⁹ As such, APA is a potential institutional mechanism linking development and security – a clear digression from the narrow elite-centred, state-led co-operation that ASEAN has been known for. However, ASEAN will continually be led by national elites because domestic systems remain closed and non-transparent. Political change must first be institutionalised at the domestic level before a regional mechanism on human rights can be fully realised. Furthermore, *human security*, which is supposed to embrace comprehensively non-conventional issues of security, is defined narrowly as protection of regimes of their interest. For instance, the Philippines’ anti-terror law infamously named as the *Human Security Act*, has given more power to authorities to arrest suspected terrorists in the name of national security. In a similar vein, the Malaysian Internal Security Act remains to curtail political rights and civil liberties to protect its own turf from ‘security threats’. At the regional level, foreign ministers continue to allude to secessionists, opposition groups, and enemies of the state as primarily the target of these security measures. Any substantive move to pressure the junta in Myanmar or the military in Thailand will not be realised unless domestic policies of other ASEAN states become believably pro-democratic.

4. Prospects for Regional Governance: From Co-operation to Integration?

The process of institutionalisation in ASEAN has been slow, arduous, and inconsistent. But several authors have already answered the question as to why institutionalisation is necessary: ASEAN needs coherent, non-duplicating, and rules-based regional mechanisms to face the challenges of sustaining and distributing economic development. Future challenges may take the form of another forest fire, destruction of coral reefs, a humanitarian crisis, human rights violations, banking and financial crisis, a “terrorist” attack, or conflicts on long-standing disputes among members. Ultimately, ASEAN must make the integration project realistic by

⁶⁸ Caballero-Anthony, *op. cit.*, pp. 246.

⁶⁹ *Idem*, pp. 246.



pooling sovereignty and creating mechanisms able to force members to comply and to prevent backtracking. But like the EU, we cannot talk of institutionalisation as a package of reforms that must address all economic, security and political issues. Functional institutionalised cooperation on a case-to-case basis is the best way forward for ASEAN. For instance, regional democratic reforms must come only after institutional reforms on conflict resolution and economic cooperation have been established. Whilst there are successful regional agreements such as the Chiang Mai Initiative⁷⁰ and the ASEAN Haze Agreement, most areas retain limited cooperation as they require greater policy coordination (such as in free trade agreements in levelling tariffs) and harmonisation (such as formal dispute settlement in security).

The most important development today is the increasing role of the Expert and Eminent Persons Grouping (EEPG) in pushing for reforms in ASEAN and beyond. After Bali Concord II, ASEAN envisioned a three-pillar community creating an economic union, a political and security community, and a socio-cultural community. With a Charter and an economic community blueprint, the region may have started taking their critiques seriously. HIV/AIDS, labour migration, and agriculture/rural development are the major issues, which ASEAN intends to address for future cooperation.⁷¹ Whilst the final document states the Association's "adherence to the rule of law, good governance, the principles of democracy and constitutional government" together with "respect for fundamental freedoms, the promotion and protection of human rights and the promotion of social justice", it neither contains any operationalisation of a national human rights commission nor speaks of punitive mechanisms on violations of *vague* norms of democracy.⁷² The clampdown of the SLRC to the Buddhist monks peacefully protesting in 2007 raise several issues regarding what ASEAN can do to protect *ASEAN citizens*. Although there have been explicit criticisms from Malaysia, Indonesia, Thailand, and the Philippines, they have not been translated into concrete actions such as some punitive measures against Myanmar. As talks about suspension of membership arise, ASEAN Secretary Ong Keng Yong defended Myanmar by arguing against the policy, "Myanmar could simply walk away from ASEAN, as they are quite happy to be left alone. They are not scared, not afraid of being isolated. They can just shut the door and go into hibernation." Whilst this might be true, the merit of the suspension is to regain ASEAN's credibility as an organisation committed to democracy and human rights. At a time when the world has perceived it as irrelevant, ASEAN must build institutions that respond to political crises like in Myanmar today. Overall, it must act in a united voice in condemning human rights violations.

⁷⁰ The Chiang Mai Initiative (CMI) was announced in the APT finance ministers' meeting on May 2000, which aimed to increase cooperation in four principal areas: monitoring capital flows, regional surveillance, swap networks, and training personnel. The CMI created a network of bilateral currency swap arrangements among Asian countries in times of financial and currency distress, which would allow the country whose currency is being attacked to be able to defend itself from volatility of short-term capital. These are bilateral and therefore subject to various conditions and agreements but they follow the IMF policy conditionality ('IMF link') to be complementary to the current international financial facilities. See Henning, C. Randall: "Regional Arrangements and the IMF", Prepared for the conference on *Reform of the International Monetary Fund* organised by the Institute for International Economics, Washington, D.C., September 23, 2005; and Henning, C. Randall (2002): "The Chiang Mai Initiative", in *East Asian Financial Cooperation*, Washington, D.C., Institute for International Economics, pp. 12-31 for detailed analysis.

⁷¹ Chairperson's Statement of the 12th ASEAN Summit, HE the President Gloria Macapagal-Arroyo, "Once Caring and Sharing Community", 12 January 2007.

⁷² Au, Alex: "ASEAN still toothless after 40 years", *Asia Times Online*, (27 November 2007), downloaded 30 November 2007 at http://www.atimes.com/atimes/Southeast_Asia/IK27Ae03.html.



In the November 2007 ASEAN Summit, the members signed declarations and statements on climate change, a single regional market and production base, and development initiatives towards CMLV. Specifically, it aims to set rules towards the free flow of goods, services, investment, capital and eventually, labour by (a) eliminating intra-ASEAN tariffs and non-tariff barriers, (b) putting in place Rules of Origin (ROO) to increase intra-ASEAN trade, and (c) harmonising trade facilitation and customs procedures.⁷³ Note that all these liberalisation commitments are the same agendas in international forums like WTO and IMF, which supports my claim of a regional integration project in Asia Pacific moving towards the neoliberal model. Despite the specific actions plans set to complement all existing agreements, sceptics doubt whether ASEAN will move towards closer economic integration. The liberalisation agenda seems difficult to implement especially with the increased resistance against free trade and the widening development gap between old and new ASEAN countries. Further, there are overlapping agreements and institutional structures not to mention that ASEAN is moving towards a country by country negotiation with China, South Korea and Japan. The extent to which ASEAN can negotiate as one body vis-a-vis Japan remains to be shown as the latter makes special bilateral agreements with Malaysia, Singapore, Thailand and Philippines. In addition, the real possibility of transition countries catching up through a neoliberal agenda with industrialised economies in Asia requires careful rethinking. Institutionalisation must start with political will to wield power among elites in addition to integration of civil society forces in building the regionalism project. Overall, the bold commitments in the summit do not contain mechanisms that would prevent back tracking as well as guarantees in narrowing the development gap – two key issues in the current new regionalism debate.

If ASEAN wants to remain relevant, it needs to institutionalise by pooling sovereignty and creating formal institutions to manage regional affairs. In addition, the region increasingly feels political impacts of globalisation and democratisation. The conclusion is that ASEAN move forward only if it recognises the confluence between political and economic issues whilst accounting for the need to implement economic cooperation at the regional level and political reforms at the domestic level. For instance, ASEAN must have shared understanding of what constitutes democracy and respond to the issue of Myanmar. It is high time for the Association to take a stand on human rights and democracy; this is the only chance for it to implement all the promises laid down in the ASEAN Charter. However, economic cooperation can move forward through the APT processes especially on trade liberalisation should the development gap be properly addressed. Since East Asian institution-building is now criticised for being slow and carrying the same baggage of ASEAN, it takes more than a declaration of cooperation to substantively create a common market in Asia, a vision that is possible with enough political will.

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⁷³ *ASEAN Economic Community Blueprint*, Accessed on 21 December 2007 at <http://www.aseansec.org/21083.pdf>.



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