AN ASEAN COMMUNITY FOR ALL: EXPLORING THE SCOPE FOR CIVIL SOCIETY ENGAGEMENT

Edited by:
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FRIEDRICH EBERT STIFTUNG

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Introduction

With the Association of Southeast Asian Nations (ASEAN) Community coming into effect in 2015, the goal of strengthening its ASEAN Socio-cultural Community pillar by increasing the participation of stakeholders and the peoples of ASEAN in building this envisioned community, is clear. One crucial way to enable wider participation is the development of civil society and its relationship with ASEAN through constructive engagement processes.

Three annual ASEAN People's Assemblies and five ASEAN Civil Society Conferences or ASEAN People's Forums mark the first structural steps towards a healthy ASEAN-civil society engagement process. There is, nevertheless, room for improving civil society participation, as well as access to the ASEAN policy making and community building exercises. In order for such improvements to take place, it is important to understand that ASEAN member states are in different stages of civil society involvement, and that greater effort must be made towards information gathering.
The Friedrich-Ebert-Stiftung (FES), Office for Regional Cooperation in Asia, undertook a mapping exercise of civil society in the 10 ASEAN member states and a study on the role of regional civil society organisations (CSOs). It is through these efforts that FES supports the process of greater civil society participation in ASEAN and also tries to fill a persisting knowledge gap by providing an overview of the civil society landscape in ASEAN.

The mapping exercise identifies the strengths, challenges, gaps and development needs of the CSO sector in ASEAN member countries. It is designed to address questions on the diversity of CSOs in each country, their level of organisation and structure as well as the structural processes of consultation. It also seeks to provide a framework to present the different CSO sectors for comparison and contrast, looking primarily at two dimensions: Externally, at the legal, political and advocacy environment as well as the thematic areas in which CSOs operate; and internally, at the organisational capacity of CSOs to perform their roles.

The outcomes of the country mappings show that member countries have had different experiences in terms of civil society evolution and have therefore followed different trajectories leading to distinctive developments in each country. This makes mapping a challenge but a novelty at the same time. They also show that there is great knowledge and expertise among local CSOs, which could beneficially support the ASEAN Community building process, if taken into consideration. The outcome of this study is process-oriented with practical aspects to encourage increased engagement between ASEAN and CSOs. It is not meant to be static nor final, rather aiming to provide a snapshot of the state of CSOs in ASEAN member countries in the lead up toward 2015. By making the findings of this mapping exercise available to ASEAN decision makers, CSOs as well as donors and other stakeholders, FES hopes that with a better understanding of the specific conditions for CSOs in respective member states, current strategies for the implementation of a more structured and constructive stakeholder engagement on a regional level may be optimised.

It has been an immense pleasure to have been part of the organisation of the "Civil Society Mapping in ASEAN Countries" project. First and foremost, we would like to express our sincere thanks to the editor of the publication, Dr. Terence Chong of the Institute of Southeast Asian Studies, for his significant contributions in realising this project.

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Executive Summary

Introduction
This section highlights the key findings from the 10 chapters on civil society in the 10 member states of the Association of Southeast Asian Nations (ASEAN). It offers a broad picture of the diverse landscapes in Southeast Asia in which the relationship between civil society and state varies according to the political system, historical circumstances and societal complexion of different countries. It seeks to identify common trends and idiosyncrasies in order to provide a regional overview of civil society in Southeast Asia.

The challenging task lies in synthesising the outcomes and in generating a meaningful comparison across the region. While several studies and mappings elsewhere have been conducted on the role of civil society on a national level, this mapping is unique in terms of its regional aspect. As such, this section is not meant to be a comprehensive examination of civil society in the region, but seeks to offer selective but substantive issues with regards to the operation of civil society in different ASEAN member countries.

The Role of the State in ASEAN Member Countries
One of the key leitmotifs of the 10 country chapters is the importance of the state. Throughout the 10 ASEAN member states, the state continues to be the most crucial player in setting the conditions for civil society. The state has the power, through the institutional capacities at its disposal, to determine the character and agenda of civil society organisations (CSOs).

However, while the state is a primary player in contemporary societies, the everyday reality on the ground may not necessarily reflect this. As the country chapters indicate, in some countries, civil society has emerged as the key facilitator of public services and education. Here, civil society has either taken over or strongly supplements the state's traditional role in providing public services. The Vietnam chapter observes that "On one hand, civil society participates in providing services in areas that the state and market do not. On the other hand, with its self-management capacity, civil society participates in solving problems that lie beyond the reach of the state and market." In such cases, while the state may rely on CSOs for the delivery of public services, it continues to control the instruments of power such as the police and military.

In other cases, the state may indirectly determine the agenda of CSOs through government policies, which may further entrench economic, political, ethnic, religious or cultural divisions in society. Whether in the areas of the economy, housing, or politics, minority groups may be marginalised, resulting in the emergence of CSOs to offer representation. In such instances, civil society-state relations may be strained. The Malaysia chapter notes that "CSOs that are critical of the official discourse and state legitimacy and interests are viewed suspiciously, if not as subversive entities, by the state and are often arbitrarily hounded on 'national security' grounds."

Civil Society-State Working Relationships: Tacit Understanding, Advocacy-oriented and Mediated
Given the clear importance and power of the state, the working relationship between civil society and the state not only determines the effectiveness of CSOs but also offers an indication of the political conditions in these countries. Indeed, even the notion of civil society is popularly

defined in different ways within the political discourse of each country in order to specify its accepted role and place. For example, in Indonesia, CSOs can either be *perkumpulan* (association) or *yayasan* (foundation). In Singapore, community-based organisations (CBOs) are seen as 'junior partners of the state' that directly or indirectly support state ideology. Meanwhile, in Laos, the term 'non-profit associations' replaces 'CSOs' in state discourse thus predetermining a state-friendly civil society.

In light of the diverse conditions, there is no single ASEAN norm or regional modus operandi with regard to civil society-state collaboration or co-operation. The 10 country reports show that CSOs in the ASEAN member countries have had to adapt to and negotiate the specific political and historical terrain in their respective countries. They offer a large variety of different working relationships.

The working relationship between CSOs and the state described in some country reports may best be characterised as one of 'tacit understanding' where there is a convergence of interests between CSOs and the state, especially in the area of public service delivery. However, this authoritarian state may not have the capacity, expertise or the (political) will to effectively deliver basic public services such as health and education, and thus relies on CSOs and/or international non-government sationorganisations (INGOs) to fund and deliver such basic services. CSOs and INGOs, on their part, do not overtly champion democracy or mobilise locals, but maintain working relations with such states. Such working relationships have been vital to the nation-building process. The Laos chapter concludes that, "Modern Laos has been created to a significant degree by non-governmental organisations (NGOs). It is true that NGOs have had no direct impact on the political system but by conceiving many of the state's organs, administrative structures and processes, market institutions and the fledglings of a civil society, they are responsible for a great deal of social change in Laos."

In other country reports, the working relationship described may be characterised as more advocacy-oriented and potentially conflictive in nature where CSOs, by representing marginal groups, petition and champion the interests of these groups, usually in opposition to state or business interests. Such CSOs, particularly local non-government organisations (NGOs), may be more advocacy-oriented, and seek to highlight the plight of different marginal groups. Much of the advocacy work centres on rights issues such as human rights, indigenous rights, women's rights, sustainable development and environmental concerns. For example, the Philippines chapter notes that NGOs in the areas of asset reform and social justice "have helped establish community-based organisations or people's organisations... [These] NGOs have also played a facilitative role in helping communities navigate through the bureaucratic and oftentimes political processes required to claim and obtain their rights over land and other productive assets." In such cases, there are high levels of institutional democracy and participation where assertive society-state negotiation may unfold in the mainstream media or on the ground.

Finally, other country chapters show that the civil society-state working relationship may be perceived as a 'mediated' one where CSOs enjoy some autonomy but operate largely under the political and legal conditions set by the state. In such instances, the regulations governing CSOs are clear and abided by, while law and order concerns are generally given high priority. The working relationship is not only mediated by concrete regulations, but also by the political climate. For example, the Singapore chapter observes that 'Out of Bounds' (OB) restraints are a soft form of control on public speech. First introduced in 1994, the idea is that the government would publicly reprimand political commentators if they should question the integrity or character of individual political leaders and erode the respect accorded to them. While this cannot be judged against any provision of law, it still has the effect of chilling public speech, as intended if and when any political leader were to state that one has crossed this 'OB marker'."

It is important to note that these characterisations are neither mutually exclusive nor are they meant to typify civil society in particular countries. They are broad and common modes of civil society-state relations found across the country reports and may play out in within the same national civil society landscape.

Regulatory Frameworks: An Ideal or Invisible Civil Society

Most ASEAN member countries, if not all, have constitutions which guarantee the right of citizens to establish associations and social organisations. These enshrined rights are a clear acknowledgement of the basic human right to form and be part of social groups. Nevertheless, these rights are often interpreted and limited according to the national interests of the country as perceived by governments.

In some countries, the term 'civil society' is not yet entrenched in popular discourse and thus not directly addressed in regulatory frameworks. The Vietnam chapter observes that "The term 'civil society' is not found in the documents of the Communist Party of Vietnam. Like any concept imported from the West, it will take time for government officials to accept the notion of civil society." Meanwhile, in other countries, civil society has been reinterpreted into local concepts for legal recognition. The Indonesia chapter notes that "CSOs in Indonesia can choose to become *perkumpulan* (association) or *yayasan* (foundation) to attain legal status." By either ignoring or re-interpreting the concept of civil society, the state is not only learning to accommodate civil society interests, it is also prescribing an ideal civil society that conforms to government interests.

The conformity to government interests can also be seen in postcolonial governments' continuation of colonial practices. One common characteristic found in several country chapters is the colonial inheritance of regulations concerning law and order issues. For example, in countries like Indonesia, Malaysia, and Singapore, the registration of CSOs, or indeed other entities like leisure or hobby groups, as well as the detailed information on the CSO's mission, constitution, leadership and membership, is a colonial practice that is continued by these post-colonial states. Different political regimes, however, have different legal apparatuses and provisions to proscribe CSOs. These include the prohibition or need to declare donations from foreign funders, the withholding of registration status, or the use of laws in the name of public morality, law and order.

Nevertheless, some governments are encouraging the growth of state-recognised CSOs in specific ways. Some country chapters note that there is a gradual implementation of provisions for civil society facilities and incentives. For example, incentives like tax-exemption for foundations and tax deduction for donors who contribute to foundations are being introduced at different paces in different countries. The Indonesia chapter observes that "Towards the end of 2010, the government announced that individuals or corporations which donated to national disaster reliefs, research and development, educational facilities, sports facilities, and social infrastructure development, would enjoy deductions on income tax." Meanwhile, the Philippines chapter states that qualified NGOs are entitled "to certain tax benefits such as exemption from donors' tax and the advantage of tax deductable donations for their donors." This has come about for three reasons: Firstly, there is government acknowledgement that civil society is here to stay; secondly, the government recognises that CSOs are useful in providing public services and education programmes; and thirdly, it seeks to encourage the flourishing of approved and officially recognised CSOs.

Another common trend among less developed countries is that many local CSOs do not register with the state. This renders them officially invisible even though their work is highly evident on the ground. In the Philippines for example, "CSOs are not required by law to be registered." The Myanmar chapter states that "Most CSOs are not registered with the state and no comprehensive list could be found for the research." The report went on to observe that "Small groups like CBOs tend to have no legal basis and they have to cultivate relations with local authorities to compensate for their lack of registration..." Meanwhile, according to the Indonesia chapter, although CSO registration is necessary, "this regulation has largely been ignored because CSOs view it as anachronistic in the current political climate. As such, the number of NGOs registered with the Ministry of Home Affairs would be an underestimation of the total number in Indonesia." The reasons for not registering vary. Some CSOs are not being willing to be circumscribed by the conditions set by the state; some do not have the internal resources to provide the necessary information demanded by the registration process; while others are simply unwilling to be transparent in their activities.

CSO Numbers: An Educated Guess

The number of CSOs in many ASEAN countries is fluid. There are several reasons for this. As we have seen, many NGOs are not officially registered, thus inviting estimations and contrasting numbers. Official numbers may also be outdated. Furthermore, there are many NGOs which are dormant, existing only in name but largely inactive; while others cease to exist after a short duration or merge with other NGOs. In some cases, there is no distinction between NGOs; international NGOs (INGOs), national NGOs (NANGOs) or professional associations in the registration process, thus conflating the numbers greatly. In short, collating the number of CSOs in Southeast Asia is not more than an educated guess.

Nevertheless, these following figures serve to offer a broad picture. According to the respective country reports, Brunei has about 727 registered societies; Cambodia has 1495 registered NANGOs; Indonesia has about 9000 registered CSOs; Laos has around 250 NGOs and NANGOs; Malaysia has approximately 58,738 registered societies; Myanmar estimates the number of NANGOs to be between 300 and 2000; Philippines has 115,331 registered CSOs; Singapore has about 7111 registered societies; Thailand has an estimated number of 13,179 CSOs; and finally Vietnam has around 4157 professional associations.

CSO Interests: Key Trends

Given the different stages of economic development across the region, it is unsurprising to find a wide variety of CSO themes and interests. The numerous, sometimes overlapping, social spaces that stretch from the rural to the urban found in a typical Southeast Asian country is a key reason for the great diversity of CSOs found in any single national space. Moreover, the proliferation of such CSOs attests to the profound levels of social change taking place, as well as the increasing vulnerability of the marginal and disenfranchised. While the experiences of one country cannot be assumed to mirror those of its neighbour, there are several trends that are worth highlighting.

Firstly, CSOs, especially those concerned with *agricultural, climate change, environmental, and sustainable development issues* are ubiquitous across the region. A typical scenario would be that of Myanmar where "A number of CSOs have been working on environmental issues for about a decade, promoting sustainable development, environmental conservation and adaptation to climate change notably through community forestry, the creation of natural reserves and the plantation of mangroves in coastal areas." In such cases, these CSOs may be seen as custodial-oriented whereby the livelihood of farmers, miners, fishermen, or natural resources like forests and minerals are to be safeguarded.

Secondly, *human rights CSOs* are active across the region regardless of economic development and political regime. Such CSOs may engage in the championing of political and gender rights, sexuality issues, and personal freedom issues. The Philippines chapter notes that "The experience of human rights abuses under the Marcos dictatorship had resulted in many human rights sationorganisations. These sationorganisations have continued even after the fall of the dictatorship because human rights abuses persist.... Human rights organisations together with the media play a crucial role in exposing and attracting attention to these abuses, both at the national and international level." Meanwhile the Indonesia chapter observes how global trends influenced local movements – "In the 1990s, coinciding with global discourses on democratisation, there emerged in Indonesia, NGO movements for human rights and democracy advocacy. They advocated popular demands like the restoration of civil and political rights for citizens, fought against human rights violation by the state, and demanded political liberalisation and democratisation." Even in economically advanced Singapore, the country report highlights the work of "CSOs such as Maruah and Think Centre [which] focus their efforts on the ASEAN Track III civil society pathway on the issue of human rights, and groups such as AWARE and UNIFEM [which] tend to focus on more gender-specific issues."

Thirdly, *credit and microfinance* is growing in importance among CSOs. There are also a number of CSOs engaged in *livelihood programmes* and, more recently, *social enterprises*. The Philippines chapter shows that "livelihood, social enterprises and microfinance are actively championed. Co-operatives and non-profit microfinance institutions have been providing financial services to citizens and organisations that would have otherwise been unable to access loans from existing banking institutions." Meanwhile, the Vietnam chapter points out that "Microfinance programmes implemented by the Women's Union and Farmers' Association are important tools to help the poor access official credit. A survey conducted in 2005 showed that microfinance programmes have delivered approximately US$550 million to 12 million farmers, with microfinance programmes implemented by the Women's Union being particularly successful in reaching the poorest people."

Fourthly, health and safety concerns regarding sex workers have also become important CSO themes. Increased travel networks and globalisation have compounded this issue. As the region's economies become more intertwined the outflow of migrant workers and sex workers from less developed countries into more developed ones has made it necessary for CSOs to tackle accoutring problems such as abuse, contractual violations, and health and safety concerns. The Thailand chapter notes that "Although the national government has made the verbal commitment to combat human trafficking by increasing law enforcement, it has been criticised for failing to develop effective measures for victim protection and welfare, as well as providing insufficient support for children who have been victims of trafficking." However, CSOs have been making headway. According to the Cambodia chapter, "There has been a major reduction of the HIV/AIDS prevalence rate, better education of sex workers and greater success in communication with and creating space for people living with HIV/AIDS."

Finally, above and beyond these trends, it is also important to note that *INGOs play a crucial role* in many countries across the region. In such cases, the state is either *unwilling or unable to deliver public services* such as education and health, and must thus rely on international agencies or donors to supply expertise and funds. Many local CSOs also may not have the infrastructure or staff to deliver such services. In Cambodia, for example, INGOs make up nearly 30 per cent of CSOs. This figure becomes more significant because of this 30 per cent, 93 per cent are active, while only 45 per cent of NANGOs in Cambodia are active. The Cambodia chapter goes on to note that many INGOs have signed MOUs with relevant ministries. Meanwhile the Thailand chapter

observes that "INGOs play a big role in Thailand. Most INGO projects are in the area of human rights, human security, human development and environmental sustainability." Nevertheless, the relationship between INGOs and the state or other local interests may be fraught with political sensitivity, regardless of the former's good work. The Vietnam chapter highlights the fact that "INGOs are not recognised as part of civil society in Vietnam. However, their activities over several decades demonstrate their important role in promoting the development of civil society, especially through their support of local NGOs and CBOs." In other cases, state restrictions placed on INGOs have resulted in partnerships between the latter and NANGOs. This is so for Myanmar where "NANGOS sometimes have access to areas where INGOs are banned. Consequently, a diplomatically termed 'partnership' approach has developed where INGOs contract NANGOs to implement projects or project activities."

CSO Funding: State, International and Membership

Funding, in general, is a perennial challenge for many CSOs in the region. The country reports show that the capacities of CSOs vary according to the type of CSO it is and its interests. In contrast to most NGOs, state-supported NGOs (or NANGOs) would have access to financial support and other administrative assistance from the state. In contrast, because funding is limited for most CSOs, they have to rely on a variety of different funding sources.

Securing funds from foreign donors or international agencies is a common practice among some CSOs in the region. The Cambodia chapter states that "All NGOs in Cambodia receive funding from foreign sources. The focus on external donors and low interest in local sources of funding reflects the way the civil society sector has emerged in Cambodia." As the Laos country chapter observes "Some organisations are locally funded by returned exiles or comparatively wealthy people who, in such cases would also run the organisation. However, greater numbers of organisations work at the grassroots level, both in the rural and urban areas, and have to rely on foreign support." This overreliance however can lead to adverse consequence. The Laos chapter continues, "Fund-raising skills are virtually non-existent because of overreliance on foreign donors."

Nevertheless, some countries are experiencing a gradual reduction in international funding. As the Philippines chapter notes, "The amount of foreign development assistance directed to the Philippines has steadily decreased since the mid 1990s, affected by the shift in geopolitical priorities of donor countries." The Thailand chapter concurs: "Thai CSOs used to rely on foreign funds which are now being gradually reduced. Most foreign donors believe that the country is able to raise local funding support." This suggests that international funding is not always consistent and is dependent on the global strategic objectives of these international funding agencies as well as their governments.

Membership fees are another common source of funding. The Philippines chapter shows that a number of different types of CSOs secure funds this way: "labour unions, homeowners' associations and professional associations source their funds mostly from membership fees."

CSO Human Resource: Competing for the Middle Class and the Regeneration Process

In addition to inadequate funding, human resource continues to be a key challenge for CSOs in Southeast Asia. Without the requisite number of staff or the efficient allocation of expertise, CSOs cannot function, and may even become a hindrance to the community. In terms of human resources, CSOs in the region face three general challenges.

The first challenge is the lack of staff and skills to train, develop and nurture qualified members to run NGO programmes in a clear and efficient manner. According to the Indonesia chapter "the majority of NGOs (61 per cent) have staff with fewer than 10 persons." This is in contrast to state-linked CSOs. The Malaysia chapter underlines the fact that "While CSO resources are scarce, state supported or linked associations generally do not face staffing and material resource problems since they would have access to financial support from the state."

Secondly, although the middle class is gradually expanding in Southeast Asia, engaging members from this middle class remains a big challenge for CSOs. This is because CSOs compete with the private sector which offers better career opportunities and higher wages. The Malaysia chapter notes that "Recruiting socially motivated members from the middle class remain a big challenge because they face tough competition from the private sector which offers better remuneration. This problem is compounded by the fact that many advocacy CSOs are set up on a voluntary basis and rarely do they provide career prospects." An added obstacle to the recruitment of the middle class is the fear of negative state response. The chapter goes on to observe that "Also, because of their sometimes tenuous relationship with the state, the risk of getting into 'trouble' discourages people from joining them." Nevertheless, there are exceptions. For example in Laos the return of overseas citizens has been a major shot in the arm for local CSOs. According to the Laos chapter, "Many members and especially founders of the new NPAs [non-profit associations] have spent some time abroad, either as exiles or as students. They developed their capacities outside of Laos, which in some cases includes fund-raising skills. It can be observed that these people share their capacities and train others in their organisations. Returned exiles and intellectuals seem to form the backbone of the new civil society movement in Laos..."

The third challenge is regeneration. Even if NGOs manage to employ full time staff or hiring the required expertise to conceive and implement their programmes, many of these NGOs struggle to retain them and nurture future NGO leaders. The Philippines chapter notes that "A major constraint faced by Philippine CSOs is the high level of staff turnover as well as the lack of a successor generation to replace the first generation CSO leaders that emerged during the post-martial law period. Many of the first generation leaders have now moved on to other jobs in government or international consultancy." The situation is no different in Malaysia as the chapter observes that "For many of the more established CSOs which can afford to employ full time staff, they face the difficulty of keeping their staff and developing the next generation of leaders."

CSO Transparency: Culture of Professionalism and Need for Downward Accountability

Many CSOs often demand transparency and accountability from governments and businesses. Such demands are legitimate and important, and should not only be made of governments and business, but of CSOs themselves too. CSOs function more effectively when they demonstrate institutional commitment to transparency and accountability in their internal decision-making process and administrative operations.

The 10 country chapters generally note that more can and should be done to improve transparency and accountability among CSOs. In many cases, there is little or no transparency or accountability at all, as is with the case of Vietnam. The Vietnam chapter states that "Only a few local NGOs have financially transparent accounting systems, while many others are reluctant to make their financial reports public for fear of revealing their inefficiencies." Nevertheless the ten chapters show several trends with regards to greater transparency and accountability.

One broad trend is the absence of the culture of professionalism from many CSOs. Very often decisions are made through personal contact and informal means, with very little documentation. Contractual documentation is rare as transactions may take place based on personal understandings. For example, the Indonesian chapter highlights the fact that surveys

on local NGOs "revealed that only about one-fourth of NGOs currently operating in Indonesia have made financial reports and that less than 50 per cent of them have provided information about their funding sources." And while many NGOs have their own websites, the chapter goes on to note that "almost all the information on websites are not regularly updated, while much of the information is only on their programmes and activities, and generally do not pertain to financial reports or funding sources."

Another trend, linked to the first, is that many local NGOs are driven by strong personalities, often resulting in the lack of institutionalised transparency or oversight in decision-making processes. In many cases, prominent individuals have become the face of NGOs, and are synonymous with them, thus tying the fortunes of these NGOs to their own career highs and lows. According to the Malaysia chapter, these NGOs "are overwhelmingly associated with their leaders regardless of how large their staff or how wide-ranging and decentralised the activities of the group may be... The lack of transparency in the hiring and promoting of personnel in advocacy CSOs have also led to allegations of favouritism and, worse, cronyism." The Philippines chapter adds, in practice many NGOs recruit board members who are friends, relatives or acquaintances of the founder. In addition, many board members are not oriented on their roles, responsibilities and functions as board members."

In addition, many CSOs are not registered and are thus not subjected to accountability procedures. Even for the ones that are registered, the information submitted is general and not detailed, while the sheer number of CSOs make it unlikely that the state would follow-up on the accuracy of the information submitted by these CSOs. Furthermore, transparency is often narrowly defined by NGOs as the yearly issuance of broadly worded annual reports while accountability is narrowly defined as financial accountability. This is perhaps where local umbrella organisations or formal national CSO networks may help. Such organisations or networks may formulate best practices for CSO administration and offer a conducive platform on which smaller CBOs, FBOs or NGOs may share experiences and resources in order to work towards greater accountability.

Lastly, CSOs which receive funds from INGOs or international donor agencies are more likely to be subjected to processes of transparency and accountability. Many international donor agencies demand transparency and accountability – at least to donors or stakeholders – from NGOs as a basic prerequisite for funds. With regards to the accountability of INGOs themselves, while they generally display upward accountability to their stakeholders and headquarters overseas, it has been observed that they may not always show downward accountability. As the Cambodia chapter notes, "few INGOs are consciously making the effort to increase their downward accountability to target groups, local partners, communities such as inclusion in partnership agreements with local partners, seeking feedback from local partners during annual meetings or reflection sessions. In general, however, there is very little understanding what downward accountability is."

CSOs' Contribution to Governance: Expertise, Public Awareness and Checks on Government

Governance, simply put, is the act of decision-making and the process in which these decisions are translated into public policies and implemented in society. Such decision-making and implementation processes may take place at the national or local level. CSOs' contribution to governance may come in a variety of forms such as offering expert information on specific issues, providing ground support when implementing policy, or monitoring the consequences of such policies. The 10 chapters collectively suggest that CSOs in the region have contributed to governance in three general ways.

One of the most common ways is by *providing expert or technical information to refine policies.* In some cases, the government find it beneficial to consult NGOs with deep working experience and technical knowledge in certain areas or industries. For example, the Indonesian chapter highlights the fact that "the government, including local governments, is open to consulting NGOs and leveraging on their expertise to facilitate state programmes such as those related to public services, reproductive health, eradication of HIV/AIDS, and gender equality." The chapter goes on to note that NGOs play a part in "offering input for the improvement of public services, undertaking joint monitoring, acting as facilitator, providing new methodologies in designing government strategic plans, among others." Nevertheless, it must be noted that far from being the norm, most CSOs continue to struggle to find platforms to engage the state and its institutions on equal terms.

Another important way CSOs contribute to governance is by *raising public awareness on pertinent issues such as health, education, or environmental degradation.* Such modes of contribution may sometimes antagonise the state if public awareness programmes run counter to state interests. One such example was, as the Philippines chapter underlines, "the push for the passage of the Freedom of Information Act. Together with CSOs, business groups, the Church and media strongly pushed for the passage of this law, which was seen as a crucial tool in the combat against corruption. The strong support from media managed to raise public awareness on the issue in the span of a few weeks."

Offering feedback to government on its performance and efficiency is also another form of contribution to governance *in certain ASEAN countries.* In certain ASEAN countries, such feedback is conveyed in a structured, mediated and non-confrontational way, with great deference for authority. According to the Vietnam chapter, "NGOs offer conveyance of the concerns to government authorities, recommendations for improving existing programmes or developing new ones, and identification of shortcomings and misbehaviour of particular officials or agencies." In other countries where advocacy driven CSOs play a bigger role, they may see themselves as responsible for monitoring government agencies or state institutions. Whether monitoring for corrupt practices, not fulfilling political or contractual promises to constituents, or surveying the impact that policies have made on the ground, such modes of contributions are usually the most common role that CSOs take for themselves. According to the Thailand chapter, "After the 1997 political reform, there was a period when CSOs were encouraged to register in order to obtain funding and be able to work with independent state organisations; for example to monitor elections under the supervision of the Election Commission, to work on human rights protection under the National Human Rights Commission and to conserve the environment under the Ministry of Natural Resources and Environment."

CSOs' Role in Social Change: Rights, Environment and Public Service Delivery

Social change comes in many forms. In some instances it could be in the form of profound ideological transition from authoritarianism to democracy or from socialism to capitalism. In others it could be the more modest delivery of public services in the areas of education or health that could alleviate the lives of rural communities in real and down-to-earth ways. Such change, it must be underlined, is also fluid. After all, change can be incremental, good work can be undone, or groundwork may not bear fruit until years down the road. As such a broad and contextual definition of social change is necessary given the diverse political and economic scenarios in the region.

CSOs play a variety of roles in social change. Human rights and women's rights NGOs, and environment and sustainable development NGOs have, according to the country chapters, made the most impact in Southeast Asian societies. While different in size, impact and issues, these NGOs have one thing in common – they are both a product and response to the specific political conditions under which they emerge.

Human rights NGOs are often cited as instrumental in identifying and highlighting political and social injustice in marginal communities. In Indonesia for example, human rights and democracy groups emerged in the 1990s, coinciding with global discourses on democratisation, to demand political change. The Indonesian chapter notes that these groups "advocated popular demands like the restoration of civil and political rights for citizens, fought against human rights violation by the state, and demanded political liberalisation and democratisation."

Women's rights CSOs are also influential in countries like Indonesia, Thailand and the Philippines. These CSOs not only face challenges from the state in pushing for legislative measures to protect women's rights and health but, in the case of the Philippines, from the Church as well. According to the Philippines chapter, these CSOs are "engaged in the on-going advocacy for the reproductive health bill, which has met stiff resistance from the powerful Catholic Bishops Conference of the Philippines. In addition to legislative advocacy, many women's groups are also undertaking education and information programmes with regards to gender equity and women's rights at both the national and local level." Such rights-based NGOs have been highly visible both on the streets and in the media. They have not only been influential in calling for reform but have contributed much to raising public awareness as well as monitoring government agencies and the ground situation.

Environmental and sustainable development NGOs have also been instrumental to social change. These NGOs have been engaged with environmental concerns like rapid deforestation, illegal logging, removal and compensation of indigenous communities, climate change, carbon emissions and the dangers posed to wildlife by industrial projects and poaching. The overarching goal of these NGOs is to ensure the equitable and sustainable use of the environment and natural resources for the benefit of the present and future generations. Such NGOs have not only have had to face challenges from state bureaucracy but also from corporations as well. Given the complex issues entangled in environmental and sustainable development concerns, it is not unusual for such NGOs to delve simultaneously into different areas all at once. According to the Malaysia chapter, "For example, while the core focus of environmental groups is still environmental concerns, several of them are also engaged in women, indigenous peoples land rights struggle and other issues."

Public awareness, education and coherent missions are key planks for social change. Many NGOs have organised amongst themselves in order to provide clear roadmaps for various issues. The Philippines chapter observes that "In the first half of the 1990s, many CSOs were engaged in the crafting of Philippine Agenda 21 - a roadmap for sustainable development. Sustainable development also covers issues of sustainable growth and equity, aside from environmental concerns. More recently, given the series of natural calamities experienced in the Philippines and around the globe, there has been a heightened awareness and interest among CSOs with regard to issues of climate change adaptation and mitigation, as well as disaster risk reduction management." Environmental and sustainable development NGOs continue to make useful contributions to positive social change by understanding the positions of different agents and institutions. They not only seek for the best ways to accommodate trade-offs between economic growth and environmental degradation, but must also address the specific political and corporate forces that shape local and national environmental and development policies in order to bring about positive social change.

In some countries the thrust of social change has come from NGOs that engage in the delivery of public services. For a variety of reasons, some states in the region have not been able to provide basic public services to citizens. Whether it is lacking in resources, infrastructure or political will, such states rely on both local NGOs and INGOs for the delivery of public services in the areas of health and education. These NGOs either complement the state or aid it in its public service delivery role. According to the Laos chapter, "Due to the nature of the state and the level of development, service delivery is by far the most important task of CSOs in Laos, both international and local." In the Philippines, the importance of public service delivery has resulted in formal arrangements between government and NGOs. The Philippines chapter notes that "The local government code also allows local governments to enter into partnerships with NGOs and POs [people's organisations] for service delivery, capacity-building and livelihood projects, allowing them to provide financial and other forms of assistance to NGOs and POs." The chapter goes on to observe that many of these NGOs "provide invaluable services for the poor who would otherwise not have been able to access them."

Such NGOs have also made their mark in health education. This is especially evident in the area of HIV/AIDS. According to the Laos chapter, because of these NGOs "There was been a major reduction of the HIV/AIDS prevalence rate, better education of sex workers and greater success in communication with and creating space for people living with HIV/AIDS." The chapter also goes on to shed light on the work done by NGOs in the area of education delivery to the poor: "In terms of education, most of the NGOs surveyed had implemented their own education projects and were working directly with the poor and marginalised. Several NGOs were working closely with Ministry of Education, Youth and Sports (MOEYS) to develop education policies that benefitted the poor."

Finally, the major role of INGOs in some countries must be acknowledged. INGOs have provided a variety of resources from funds, technical expertise, logistics and personnel, to international awareness. INGOs have served in two general areas – public service delivery and humanitarian aid, and their presence in Southeast Asia, though not without tensions, has generally been vital to development. In countries like Cambodia, INGOs make up one third of NGOs, while in others like Myanmar, the figure is much higher. The Thai chapter underlines the fact that "INGOs play a big role in Thailand. Most INGO projects are in the area of human rights, human security, human development and environmental sustainability." Another contribution that INGOs make is the capacity building and knowledge transfer to local NGOs. According to the Vietnam chapter, INGOs' "activities over several decades demonstrate their important role in promoting the development of civil society, especially through their support of local NGOs and CBOs."

Concluding Remarks: Challenges for the Future

The 10 country chapters here provide a broad overview of the state of civil society in the ASEAN member states. Though diverse in experience, civil society in Southeast Asia may be said to have played a variety of roles from doing advocacy work, delivering public services, shouldering custodial responsibility, and monitoring state institutions. CSOs have also been crucial to the representation of marginal communities, the protection of the environment, and the raising of public awareness over issues such as gender, education and health.

Looking into the future, the chapters also suggest several challenges that may affect the way CSOs perform their different roles. Firstly, as countries experience a broadening of the middle

class, the impending challenge would be to attract more highly educated and skilled individuals into civil society work in the hope that some may emerge as leaders and key personnel of CSOs. This is important given that CSOs have to engage more frequently with the state and cosmopolitan shareholders who may be outside the community. CSOs, however, face stiff competition from the private sector. The better educated middle class will more naturally be attracted to global capital and increasing business opportunities which may offer higher remuneration.

The second challenge is the on-going competition for funds. This challenge is more serious for CSOs that have long been dependent on international funding. Changing geopolitical interests have meant that international donor agencies have re-prioritised their allocation of funds. Furthermore, countries like the Philippines and Thailand, long dependent on international funds, have found that their changing status from 'recipient' country to 'emerging donor' country has ramifications on the amount and frequency of international funds they receive.

Finally, many CSOs can afford to do better in the area of transparency and accountability. Whether they lack the personnel to organise and present information and accounts, or that their non-registration with the state relieves them of the responsibility, or that they do not want to reveal administrative and organisational inefficiencies, many CSOs still have a long way to go before they reach international norms of transparency and accountability. Transparency and accountability concerns more than financial dealings but also decision-making processes and responsibility to disadvantaged communities. In light of better educated and more demanding citizens and stakeholders, CSOs will face growing pressures to be transparent and accountable. CSOs without a strong culture of professionalism or clear decision-making processes will find it increasingly difficult to secure funds, both national and international, as well as support from other CSOs.

In conclusion, these challenges will have profound impact on the effectiveness and support for CSOs in the near future. CSO leaders in the region will not only have the considerable task of sustaining high levels of NGO work, but they will also need to deal with the challenges of regeneration, funding and transparency in the years to come.

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Civil Society Organisations: Definitions and Concepts

'Civil society' is a widely used term, often for a variety of purposes and meanings. For example, 18th century British philosopher Adam Ferguson saw civil society as a regulatory and socialising force meant to curb man's unstable nature in order to protect market practices and property rights.[1] Meanwhile Hegel viewed civil society as inherently volatile because it comprised of conflicting interests, in contrast to the state which was stable and capable of true citizenry representation.[2] Nevertheless, contemporary writers endow civil society with a more critical and independent purpose. According to Robert Fine, it is

> *a mature form of critical self-reflection, which marks the transition from a 'conventional' orientation [of] fixed rules, unreflective duty and respect for authority, to a 'post-conventional' critical attitude towards identity construction.*[3]

Today the general consensus is that civil society organisations (CSOs) are those that operate outside the market and the state. John Keane describes contemporary civil society as

> *a complex and dynamic ensemble of legally protected non-governmental institutions that tend to be non-violent, self-organising, self-reflexive, and permanently in tension with each other and with state institutions that 'frame', constrict and enable their activities.*[4]

Others like Lester Salamon and Helmut Anheiers see civil society as the 'third sector' with the government and business being the first and second sectors.[5] Third sector organisations are those with formal or organised structures such as meetings or coherent agenda; separate from government even if some do receive public funds; non-profit with surpluses feeding back into the organisation; and who are able to practice independent self-governance.

Civil Society in Southeast Asia

The post-independence character of civil societies in Southeast Asian countries is very much contingent on the economic, social and political landscape left behind by their respective European colonisers. From the late 1960s and mid1970s onwards, Thailand, Indonesia, Malaysia, Singapore, and to some extent, the Philippines, experienced major economic and social transformations which led to more class-stratified and urban societies. Open to the inflows of global capital, urban centres in these countries witnessed tremendous population growth, industrialisation, overcrowding, social injustice, as well as higher levels of education, reception to cosmopolitan values, and consumption of commodities. Such conditions were fertile ground for the emergence of social movements such as human rights, women's rights, workers' rights, and student movements within respective civil societies.[6]

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1 Ehrenberg, J. 1999, *Civil Society: The Critical History of an Idea*, New York University Press, New York.

2 Alagappa, M. (ed.) 2004, *Civil Society and Political Change in Asia*, Stanford University Press, California.

3 Fine, R. 1997, 'Civil Society: Theory, Enlightenment and Critique', in Fine, R. and Rai, S. (eds.), *Civil Society: Democratic Perspectives*, Frank Cass, London, p. 12

4 Keane, J. 1998, *Civil Society: Old Images, New Visions, Polity Press*, Cambridge, p. 5

5 Salamon, L. and Anheier, H. 1999, 'The Third Sector in the Third World', in Lewis, D. (ed.), *International Perspectives on Voluntary Action: Reshaping the Third Sector,* EarthScan, London.

6 See Chong, T. 2005, 'Civil Society in Singapore: Popular Discourses and Concepts', in *SOJOURN* Special Focus: Democracy and Civil Society: NGO Politics in Singapore, Vol. 20 No. 2 (October), pp. 273-301; Lee, H. G. (ed.) 2004, *Civil Society in Southeast Asia*, Institute of Southeast Asian Studies, Singapore.

Nevertheless, despite the relatively strong presence of civil society in Southeast Asian societies, it has had a limited impact on the democratisation process in the region. If civil society is generally understood as the organisation of groups outside the state and the market, then the particularity of Southeast Asian societies may lie in the fact that such groups have to straddle urban centres and rural terrain (and the socio-economic politics that accompany them) content with a centralised, even authoritarian state, which, more often than not, enjoy strong links with global capital.

Operationalising Civil Society

Although there are a myriad of finely-nuanced academic definitions of civil society in general literature, often dependent on specific historical experiences, the operationalisation of the term often requires breath and flexibility. This breath and flexibility is crucial for two reasons - realities on the ground often conspire against rigid theoretical descriptions, while the capturing of the vastly different experiences of various Southeast Asian societies demand some definitional suppleness.

As such, civil society is operationalised as follows. Firstly and most broadly, civil society is taken to mean organisations that have emerged beyond the spheres of the public (state), the private (family networks), and the market (profit-driven entities). Secondly, such organisations have formal structures such as meetings and coherent agenda. Thirdly, while clearly distinct from the state and the market, some may receive public funds but are primarily non-profit by nature. Financial surpluses are typically ploughed back into the organisation to better further their objectives. Fourthly, such organisations are able to practice independent self-governance.

Finally, during the workshop sessions, it was decided that trade unions would not be included in the country reports unless they were perceived to play conventional community-based organisation (CBO) roles. There are several reasons for this exclusion. Trade unions in Association of Southeast Asian Nations (ASEAN) countries run across a spectrum of independent associations, on one hand; to strongly state-linked organisations, on the other. For example, on the national level, trade unions may play a major role when it comes to labour-society related issues in the local context, while on the regional level, they may collaborate with CSOs to strengthen greater collaboration and engagement between the government and civil society organisations for example in examining labour issues and migrant rights. To include them would hence require devoting precious space to conceptual definitions and operational histories.

Types of CSOs

The terms 'NGO' and 'CSO' are often interchangeable. However, CSO is generally understood to be a broader umbrella term that includes non-government organisations (NGOs), among other organisations. Below are just some of the most frequently used CSO labels.[7] And though it is important to have a firm grasp of definitions, it is crucial to remember that, in reality, many of these definitions are not clear-cut, and in many cases, they overlap.

7 Sources: Muhangi, D. 2004, 'Mapping of Civil Society Organizations in Uganda', in *Uganda Program for Human and Holistic Development, Phase One Study Report* (Revised) (Unpublished); Asian Development Bank 2009, *CSO Sourcebook: A Staff Guide to Cooperation with Civil Society Organizations,* ADB, Manila; United Nations Development Programme 2006, *UNDP and Civil Society Organizations: A Toolkit for Strengthening Partnerships*, American Printing International, New York.

NGO	(non-government organisation): These are non-government and non-profit organisations that are established for a specific or set of specific purposes. They do not belong to any government or state apparatus although short-medium term collaborations are not unusual if there are shared goals and objectives. NGOs may be further differentiated as: 1. INGO (*international non-government organisation*): INGOs are not limited by geography. They typically establish their headquarters in the country of their formation while having subsidiary offices and operations in several others. Most INGOs are from Europe, the United States, and Scandinavian countries, with subsidiary offices in developing regions. 2. NANGO (*national non-government organisation*): NANGOs are formed and operate in a particular country. They usually have representatives in most provinces or districts of a country. 3. Local/district-based NGO: These NGOs have operations that are restricted to a particular locality or district in a country.
CBO	(community-based organisation): CBOs are typically established for a particular group or community for specific and shared interests. They usually comprise members whose interests are directly at stake. They are able to represent and mobilise communities by articulating their concerns to large corporations and state or development institutions with regards to a wide range of social, cultural, economic or environmental issues. Many CBOs do not employ paid staff and function on a voluntary basis, thus distinguishing them from the paid staff of NGOs or INGOs.
FBO	(*faith-based organisation*): These are groups organised around common religious or supernatural-based concerns. FBOs may have emerged formally from places of worship such as a church, a mosque or a temple, or informally as a loose community of people. FBOs may also be seen as CBOs or NGOs.
Foundations	These are typically philanthropic or charitable organisations set up by wealthy individuals or families as legal entities (such as an estate or trust). Foundations generally support causes or projects that are consistent with the visions or interests of their benefactors such as the arts or education.
Professional Associations	These groups are organised around specific professional, vocational or occupational interests. Their purpose may be to keep abreast of the latest developments in their profession, demand better regulation or minimum standards.

Methodology

The aim of the mapping exercise was to gather country specific information, and for this information to be presented in a comparative manner. To achieve the first aim, academics, researchers and civil society leaders known for their work on their respective civil society organisation (CSO) communities were selected to research and write country chapters. When the list of writers was confirmed, two methodology workshops were scheduled for 16 November 2010 and 24 February 2011.

The first workshop sought to identify the issues and challenges of the mapping exercise. Country-specific challenges and definitional problems were discussed among those who attended the workshop. A variety of issues such as differing understandings of civil society, civil society-state relationships, and historical-political national trajectories were examined. Also discussed were ethical issues such as naming and describing the resources of non-government organisations (NGOs) under authoritarian regimes. These issues were thoroughly debated and resolved by the end of the workshop.

In order to achieve the second aim, country reports had to be standardised without sacrificing local specificity. After much discussion, it was decided at this workshop that all country reports would carry the same sub-headings, namely,

1. Overview of Political and Civil Society Landscape
2. Legal and Regulatory Framework
3. Size, Number, Patterns and Types of Organisations
4. Thematic Foci and Interests
5. Capacity and Resources
6. Transparency and Accountability
7. Contribution to Governance
8. ASEAN Involvement
9. Role in Social Change
10. Conclusion

The second workshop was dedicated to addressing operational challenges. It provided the opportunity to discuss the challenges of conducting fieldwork and procuring information. Issues such as unreliable data, both from governments and private agencies, the role of trade unions, and the gaps in ground knowledge were addressed.

Country chapters were edited for clarity upon submission. After which they underwent an external peer review process. The panel of external reviewers for each country was jointly decided upon by the writers and the Friedrich-Ebert-Stiftung (FES), and consisted of academics and civil society leaders. This peer review took either the form of a workshop or written format, after which the chapters were re-submitted and edited once more.

Civil Society and the ASEAN Community

Introduction

With the deadline to achieve an Association of Southeast Asian Nations (ASEAN) Community by 2015 drawing near, there has been an increased urgency to ensure that ASEAN leaders' commitment to "promote ASEAN peoples to participate in and benefit fully from the process of ASEAN integration and community building"[1] does not go unfulfilled. Participation and dialogue is of particular importance to the ASEAN Socio-Cultural community.

Unfortunately, there are still gaps in our knowledge that need to be filled if policymakers are to make better-informed decisions about how to improve the quality and impact of dialogue between ASEAN and civil society organisations (CSO). The country chapters here offer an assessment of each ASEAN country and the region by a single group of researchers conducted in the same time frame.

This chapter's objective is to identify the opportunities and challenges for ASEAN-CSO engagement. It will utilise the findings of the 10 country and regional chapter in order to offer pragmatic, policy-oriented recommendations. This will be done in the context of existing and developing ASEAN processes (such as the ASEAN Socio-Cultural Community Roadmap).

ASEAN-CSO Engagement to Date

ASEAN engagement with CSOs is currently at a crossroads as the work by member states laid out in the ASEAN Socio-Cultural Community Roadmap accelerates. CSOs have also taken strides in developing their own discursive processes, with the three traditional tracks of CSO discussions, namely, the ASEAN-ISIS network's ASEAN People's Assembly (APA), the ASEAN Civil Society Conference (ACSC), and the ASEAN People's Forum (APF), now amalgamated into what is currently known as the ACSC/APF.

Unfortunately, recent events between the ASEAN Secretariat (ASEC) and CSOs have shown that there is still work to be done to improve the relationship between these two actors. At an ASEAN-CSO interface session in February 2009 following the ACSC/APF, one government official protested the inclusion of a particular CSO representative.[2] At the next ACSC/APF in October of the same year, five out of 10 civil society representatives (selected by their peers) were rejected from another official interface session between ASEAN and CSO representatives and their ASEAN heads of government. This issue was compounded by the fact that among the five representatives refused entry to the session, two were replaced by government-sanctioned representatives.[3]

1 *Roadmap for an ASEAN Community 2009-2015* (2009), ASEAN Secretariat, Jakarta.

2 Moe, W 2009, 'Civil Society Representatives Challenge Asean Leaders on Burma' in *The Irrawaddy*, viewed 4 Octtober 2011, <http://www.irrawaddy.org/article.php?art_id=15212>.

3 Think Centre 2009, *Statement from the organisers of the Asean People's Forum/Asean Civil Society Conference*, viewed 4 Octtober 2011, <http://www.thinkcentre.org/article.cfm?ArticleID=3014>.

The actions of ASEAN officials were seen as undermining the democratic efforts of civil society to speak for their constituents.[4] Unfortunately, the interface session was not offered in 2010 under Vietnam's chairmanship of ASEAN. Under Indonesia's chairmanship, nomination of CSO representatives continues to be a contested issue, although the ACSC/APF continues to convene annually.[5]

The difficulties of ASEAN-CSO engagement since 2009 could be considered a blessing in disguise, as it spurred both CSOs and ASEC into recognising the potentially damaging consequences if the broken relationship was left to fester, thus galvanising CSOs and ASEC into taking steps to mend and enhance their relationship The ASEC together with the Friedrich-Ebert-Stiftung (FES) brought together about 90 participants in ASEAN's CSO community in a confidence-building symposium in December 2009, where participants assessed the state of ASEAN-CSO engagement, sought to understand the processes involved, including observations on the current state of ASEAN and CSO interactions, and their hopes for future interactions.[6]

As such, we can observe an openness in ASEAN to improve the existing engagement tracks, and a heightened awareness from the CSOs that they play no small role in the reshaping of their sphere of influence on ASEAN-level policies. ASEAN CSOs have continued to convene the annual ACSC/APF, and since 2009, their participation in the ASEAN meetings has been noted by their country officials and media alike.

Opportunities, Challenges and Recommendations

While the 10 country chapters results note that there seemed to be poor or no involvement from national CSOs in ASEAN or on ASEAN-related issues, there are positive signs that civil society is growing in national and regional stature. Researchers observed that there are avenues for CSO involvement within the existing framework of civil society engagement and dialogue. This section consolidates the observations by researchers, and offers recommendations for policymakers' consideration.

Expanding Existing Processes

The first opportunity of note is that existing processes and arrangements could be expanded. It has been observed that CSOs have been asked to mobilise resources for ASEAN issues, and have been doing this via existing processes such as the ACSC and the APF. Instead of reinventing the wheel and developing new processes to improve CSO-ASEAN engagement, this process, which also includes an interface session with ASEAN officials during the ASEAN Meeting, could be expanded and strengthened.

This move to expand current discussion efforts could also include existing institutional arrangements such as the ASEAN Foundation, the ASEAN CSR network, the defunct ASEAN People's Assembly (APA), the ASEAN Country Permanent Representatives (CPR), and others. These processes could be expanded, strengthened, and leveraged into a gestalt to create a better platform for dialogues to occur. Some suggestions to this effect include making the ASEAN Foundation the facilitator for CSO-ASEAN dialogue, redefining the CPR role to be more strategic, and expanding the ASEAN Intergovernmental Commission for Human Rights (AICHR)'s reach to encompass other actors.

Establish Platforms for Common Thematic Issues

The interests and foci of ASEAN CSOs are broad, and align at all levels of CSOs, from those working at a local and national level, and those working at a regional (or even international) level. Some noted themes that civil society have adopted are: human rights - including women and child rights; indigenous peoples; labour and migrant workers; trade issues; extractives industries (mining, gas, oil); the environment; climate change and climate justice; freedom of information; Myanmar; disability; agriculture; credit and microfinance; and health and safety (particularly concerning sex workers).

These concerns mirror those listed in all ASEAN Community Blueprints. For example, one of the aims of the ASEAN Economic Community Blueprint is to help build a region of 'equitable economic development', and concerns itself with improving trade-related issues such as free flow of skilled labour, managing food, agriculture and forestry, and building infrastructure.[7] These are parallel to the issues discussed by CSOs, such as migrant worker rights, the environment and climate change, and microfinancing.

Comparing other blueprints show that there is an opportunity to align the work that CSOs and ASEC are doing so that resources can be shared and the work aligned. The ASEAN Political-Social Community Blueprint counts among its foci, human rights, developing institutional frameworks for free flow of information between ASEAN states, promoting good governance, and strengthening ASEAN humanitarian assistance.[8] The Socio-Cultural Community Blueprint envisages the characteristics of (a) human development; (b) social welfare and protection; (c) social justice and rights; (d) ensuring environmental sustainability (e); building the ASEAN identity; and (f) narrowing the development gap.[9]

Some synergies have already borne fruit. For example, much work has been put into the establishment of the AICHR in 2009, which would not have been possible without the sustained voices of ASEAN CSOs, and the co-ordinated efforts of ASEAN officials, individual governments and policymakers. This example could be used as a pilot for improving the process of co-ordinating issue-based discussions across ASEAN.

The 10 country chapters also note that CSOs contribute to local/national governance through providing expertise (such as medical or technical), raising public awareness of issues (such as health, education or environmental), and by offering feedback to the government on its performance. It also noted that many international NGOs and CSOs play a crucial role in many countries where governments are unwilling or unable to deliver public services. The chapters have also noted that these contributions have a role to play in the rate and reach of social change in ASEAN, and efforts by CSOs to participate in this process should be encouraged. Establishing platforms between CSOs and ASEAN policymakers for common thematic issues to be discussed and resources shared will help boost this effort beyond what has already been accomplished by the broad-based conferences, which are already in place.

4 Johnston, T. and Brown, K. 2009, 'First Day of ASEAN Summit Hits Snags on Human Rights, Other Issues, in *The Washington Post*, viewed 4 Octtober 2011, <http://www.washingtonpost.com/wp-dyn/content/article/2009/10/23/AR2009102303710.html http://www.washingtonpost.com/wp-dyn/content/article/2009/10/23/AR2009102303710.html>, and Chongkittavorn, K. 2009, 'Split between ASEAN Leaders and Civil Society Groups Widens in *The Nation,* viewed 4 October 2011, <http://www.nationmultimedia.com/2009/10/12/opinion/opinion_30114237.php>.

5 *Bangkok Post 2011*, 'Asean Civil Society Battles Government Domination, viewed 4 Octtober 2011, <http://www.bangkokpost.com/news/asia/235321/asean-civil-society-struggling-to-proceed>.

6 ASEAN 2010, *Constructive Engagement: Building a People-Oriented Community*, ASEAN Secretariat, Jakarta.

7 *ASEAN Economic Community Blueprint* 2009, ASEAN Secretariat, Jakarta.

8 *ASEAN Political-Security Community Blueprint* 2009, ASEAN Secretariat, Jakarta.

9 *ASEAN Socio-Cultural Community Blueprint* 2009, ASEAN Secretariat, Jakarta.

Enhancing Local Communications

A key finding in the country chapters is the important role played by the state (or government) in determining the character and agenda of CSOs. Unfortunately, discussions with CSOs and academics have also shown that there seems to be no structured process for consultations between civil society and governments when it comes to ASEAN issues.

The lack of a common *modus operandi* has been to the detriment of both CSOs and governments, as both groups try to navigate unchartered waters of communication. In high power-distance societies as most ASEAN countries seem to be, the observed forms of negotiating CSO-government relationships – such as tacit understanding and petition-oriented discussions – could limit the effectiveness of development efforts. Although the state of government-CSO relations vary between ASEAN countries, we should encourage governments to educate themselves about CSOs, and install a process to aid in discussing their own country-based issues with local CSOs. This process should also be taken further to include the ASEAN CPRs in order that conclusions from discussions can be taken to the next (regional/ASEAN) level, possibly similar to the thematic discussions, which were suggested above.

Strengthening the ASEAN Secretariat

More also needs to be done to strengthen the ASEAN Secretariat (ASEC). Some observations which have been made of the ASEC are that there are organisational issues which should be looked into, such as high staff turnover and language difficulties. Due to the enthusiastic input from ASEAN CSOs eager to participate in the process of community-building, ASEC staff also face an intimidating amount of incoming resources and knowledge.

There is also the perception that the ASEC could benefit from further empowerment. As mentioned earlier, governments tend to overlook ASEAN agreements as they are not legally binding. A way forward for the ASEC would be to shore up its internal organisational structures and processes, in order to better communicate and implement its agreements and policies.

Pertaining to CSOs, the ASEC has no observed guidelines for communication, mechanism for involvement, nor any structured process for consultations. There seems to be no clear understanding of the nature of CSOs in ASEAN, and their possible contribution to the process of building an ASEAN Community. Although there have been improvements in the communications between CSOs and the ASEC, processes to establish CSOs as a recognised entity within ASEAN processes should be put in place.

Confidence-Building: Improving CSOs' Co-ordination, Capacity, and External Relations

Many issues plague CSOs, from problems with co-ordinating themselves regionally, the limits of their institutional capacities, and the cumulative effects on their external relations with other actors, as well as each other. This next section will discuss a number of recommendations to build confidence in the CSO sector.

Organisational Co-ordination

There are a number of thematic platforms that have been built-up over the years, which function well to consolidate CSO efforts to consult, organise events and campaigns, and submit recommendations for ASEC consideration. For example, the Solidarity for Asia Peoples' Advocacies (SAPA) Task Force on ASEAN and Human Rights and the Working Group for an ASEAN Human Rights Mechanism contributed to the establishment of the AICHR.

Other thematic platforms exist, such as the ASEAN Trade Union Council (ATUC), the ASEAN Services Employees Trade Union Council (ASETUC), the Task Force on ASEAN Migrant Workers (TF-AMW), the Southeast Asia Women's Caucus on ASEAN, and the SAPA Task Force on Freedom of Information. These groups and task forces convene regularly, and advocate for their cause to governments and ASEAN.

However, there are limits to the reach of these platforms as they only form when a critical mass for a particular topic or theme has been achieved, and their lobbying is limited to the networking capacity of the group in question. No central agency co-ordinates all CSO efforts to engage – thematic, geographic or otherwise. Moreover, no structured mechanisms for such engagement exists so far. This limits the influence that CSOs have on other CSOs, their national governments, and the ASEC. This lack is compounded by the poor communication between local CSOs and regional CSOs. There is a limited number of leading organisations to consolidate discussions between CSOs, and to engage governments on ASEAN issues.

To date, regional meetings such as the ACSC/APF have functioned as broad-based discussions where statements on various concerns are formulated and presented to policymakers in an interface session between CSO representatives and their government leaders. Unfortunately, these broad-based discussions risk overlooking important issues due to the lack of resources or time. Even if all CSO interests were represented, the current arrangement does not guarantee that the outcomes of discussions will be effectively distributed to policymakers and/or heard by the right person(s), if at all.

The creation of a central, co-ordinating structure or body, and an accreditation process for CSOs would be a step in the right direction. Although the ASEC does keep a list of ASEAN-accredited organisations, the application processes, guidelines and requirements are opaque. A thorough online accreditation process for thematic discussions could also be created, similar to the one managed by the United Nations (UN) Economic and Social Council (ECOSOC) or the European Union (EU) Transparency Register for Open Consultations.

The setup of the co-ordinating body and the accreditation process should be initiated by ASEAN CSOs, and run independent of influence from other actors, such as governments and the ASEC. These stakeholders could be involved under an open and inclusive partnership framework which is acknowledged by all.

Further to this, a suggestion to draft guidelines for CSO terms of reference (ToR) with the help of CSOs has been mooted, which would greatly aid in improving the process of organising CSOs on a regional scale. Another suggestion is to develop an ASEAN CSO Roadmap which extends across all three Community Pillars, and which complements the ASEAN Roadmap. This CSO Roadmap would be developed in consultation with all interested CSOs. This would involve an interpretation of the ASEAN Community from the CSOs perspective, providing a more nuanced understanding of the ASEAN Community as defined by these representatives of ASEAN Peoples.

Self-Organisation on the National Level

These processes of co-ordination could be undertaken at different levels simultaneously. On the national level, an accreditation process could be initiated by CSOs to register themselves within their country, taking into account the differing working relationships between ASEAN countries and their CSOs (as has been noted by the 10 country chapters). This could incorporate improvements and clear guidelines on other internal institutional processes that have been

found lacking, such as guidelines on transparency, governance and reporting. Some suggested guideline include agenda setting, accreditation/registration methods, guiding principles, clear decision-making processes, organisation structure, and resource mobilisation.

Regional Level Co-ordination Efforts

On the regional level, the ASEAN accreditation process should be revised and guidelines/rules for listing and participation updated. These could be based on the accreditation process used for the ACSC/APF registrations (which already exist), and the ASEC and CSOs could work together to establish joint agreements on codes of conduct for registration.

Further to this, an online accreditation process could also be developed to aid the thematic discussions (noted earlier in this chapter), possibly using the EU model for consultation, and establishing an Advisory Council under the UN ECOSOC. This would be a self-organised process by CSOs, inclusive and democratic in nature, involving all levels of CSOs – from small, community-based organisations, to international NGOs.

Once these institutional frameworks can be established, the abovementioned draft guidelines for ASEAN CSOs and perhaps a ToR for CSO engagement and involvement in the various aspects of the ASEAN Community can be formalised.

Building Internal/Organisational Capacity

Beyond co-ordinating efforts of CSOs on a national and regional level, a large part of the critique on CSOs rests on the fact that in many cases, they are their own worst enemy. Organisational issues are often the bane of many institutions and CSOs are no exception. Criticisms of CSOs include a lack of governance, professionalism, and fundraising. CSOs are also plagued with issues of leadership transition, organisational regeneration and succession.

Building the capacity and professionalism of CSOs should be one of the first institutional steps that all CSOs should take. The 10 country chapters have observed that there are differing levels of trust between CSOs and governments, as well as different levels of official acknowledgement of the sector by governments. This lack of confidence stems from the fact that there are differences in political agendas between governments and local CSOs, but CSOs should work on elevating their institutional standing by improving institutional processes, such as:

i. Develop formal ways of documenting and communicating internal decision-making processes and administrative operations (such as hiring processes);
ii. Build robust accounting systems;
iii. Improve professionalism and staff retention by training staff well;
iv. Creating feedback, reporting and accountability mechanisms to engage their stakeholders.

These efforts in building internal capacity and professionalism should bolster confidence in the ability of CSOs to monitor and govern themselves, which will in turn build trust between CSOs and other players. Such trust is needed to influence governments or funding institutions.

Sustaining the development of the CSO sector should be a strategic keystone for ASEAN CSOs, and thus there should be plans to educate and increase the ability of CSOs to raise funds for their causes. Although there are a number of funding opportunities which are available from the state, foreign donors/international agencies, or philanthropists, funding sources are decreasing.

Raising Awareness on ASEAN

Unfortunately, the knowledge of ASEAN is not very widespread in the region. More countries could follow the example of current ASEAN Chair Indonesia by running ASEAN awareness workshops to educate their people on the purpose and function of ASEAN. With the acknowledgement of the ASEAN Secretariat, CSOs such as the Southeast Asian Committee for Advocacy (SEACA) and SAPA have also organised or conducted country sensitisation workshops on ASEAN and ASEAN issues such as Myanmar.[10]

CSOs should be included in these education efforts so that they may better understand the avenues they have for participating in community-building efforts within and beyond their country.

Governments and Country Permanent Representatives Working with CSOs

While CSOs should be continuously self-critical about their role and relationships to the government, governments should, in turn, be fair to the process and provide feedback mechanisms to do justice to the participatory process of community-building. While ASEAN agreements are not legally binding, governments could improve their own accountability mechanisms for deliverables which have been developed in the ASEAN process. This could involve the CPRs, who could work with civil society and other ombudsman watchdogs to monitor and identify critical gaps in public service.

Greater Media Participation

A small but influential player, the media's role in the process cannot be understated. ASEAN TV (hosted by Thailand's *Nation Multimedia Group*) is one effort by ASEC to communicate ASEAN's purpose and message to the general public. Unfortunately, besides a small number of editors personally interested in the ASEAN process, not many journalists report on ASEAN.

There are some efforts to redress this lack of interest in ASEAN activities and educate journalists on what ASEAN is and what it does for the region. The Southeast Asian Press Alliance (SEAPA), which is affiliated with SAPA, has been conducting annual workshops on ASEAN with journalists and editors from within the ASEAN region. A fellowship open to all ASEAN citizens is also available, and involves field trips and visits to the different ASEAN countries to familiarise them with reporting on the region.[11]

Two iterations of the ASEAN Media Forum have also been organised by the Asian Media and Communication Centre (AMIC). The first Forum in 2009 discussed "Harnessing the Media for ASEAN Integration", and the next in November 2010 examined the theme "Developing Regional Media Collaborations for ASEAN Community Building".[12] These are efforts to reach out to key people in the Asian media to aid in broadening the knowledge of media representatives on current ASEAN affairs. This platform could be further enhanced to be more prominent and to provide more continuity in order to be more conducive for the outreach purposes of ASEAN.

10 Legaspi, E.P. 2009, *SEACA holds Burma/Myanmar Country Processes on ASEAN*, viewed 4 October 2011, <http://seaca.net/viewArticle.php?aID=1042>.

11 SEAPA 2011, *SEAPA Fellows Concluded Field Trips*, viewed 4 October 2011<http://www.seapabkk.org/seapa-fellowship/fellowship-2011-program/100491-seapa-fellows-concluded-field-trips-.html >

12 AMIC 2010, *2nd ASEAN Media Forum*, viewed 4 October 2011, <http://amic.org.sg/blog/2010/11/08/2nd-asean-media-forum/>. The ASEAN Media Fora were co-organised by the Friedrich-Ebert-Stifung.

Conclusion

The role of building an ASEAN Community is shared among many groups of interested ASEAN peoples, also represented by CSOs. Although there have been advancements in improving discussion platforms and feedback mechanisms to ASEAN and other government policymakers within the last three years, much remains to be done to strengthen and improve these processes in order to work towards a broad and constructive engagement with civil society in the region. The recommendations made in this paper are threefold: strengthen CSOs' internal processes for the purposes of sustainability and credibility; to build the capacity of both CSOs and other stakeholders to trust and engage each other in a meaningful manner; and to develop a more robust structure and environment for future engagement to occur.

These recommendations will take time and political will to implement, and policymakers have considerable challenges before them. Further discussions similar to those already held may be needed to replot and remap the CSO sector after a number of years. These discussions and difficulties will make the foundations for a stronger, inclusive ASEAN Community for all ASEAN peoples.

Lim May-Ann

COUNTRY CHAPTERS

Civil Society in Brunei Darussalam

Hajah Sainah Haji Saim

1. Overview of the Political and Civil Society Landscape: Civil Society and the Monarchy

Brunei Darussalam is a sultanate with Islam as its official religion. Its political system is based on an absolute monarchy with a ministerial structure where the sultan has absolute power in the state; he is King, the head of state, head of religion, the head of government, the Prime Minister, the Minister of Finance and the Minister of Defence. The government comprises twelve ministries, including the Prime Minister's Office. Ministers are appointed by the sultan and are answerable to him. The sultan is assisted by four councils: the Privy Council, the Council of Succession, the Religious Council and the Council of Cabinet Ministers.

The presence of civil society organisations (CSOs) in Brunei Darussalam and their involvement in the country's development is necessary for easing and balancing the government's role in implementing policy programmes

As a fast developing country, Brunei Darussalam, like many other countries in the region, has to address social and economic changes wrought by development. In this context, it is not left to the government alone to cope with the shifting social relations and expectations among the population. The presence of civil society organisations (CSOs) in Brunei Darussalam and their involvement in the country's development is necessary for easing and balancing the government's role in implementing policy programmes. Citizens constitute about two-thirds of the total population of the country while the rest are temporary residents. The overall population of the country is about 420,000 today. Bruneian society is a homogenous society, predominantly based on Malay culture and the Islamic religion.

CSOs include voluntary and non-voluntary organisations operating in the country. Voluntary organisations are those which exist without government funding but with funds generated from membership. Non-voluntary organisations are those established by the government with specific objectives and public funding. Some are set up by the government but left to operate on their own. Voluntary and non-voluntary organisations cannot exist without the government's approval and are thus regulated by law. Accordingly, it is a prerequisite for every association or society in Brunei Darussalam to be registered.

2. Legal and Regulatory Framework: The Societies Act

Associations exist in Brunei Darussalam legally through the provisions of two acts: the Cooperative Societies Act and the Societies Act. The acts are different in content and context, although they both provide the legal basis for associations whose activities are not detrimental to the stability of the state. The following discussion will focus on the Societies Act.

The Societies Enactment of 1933 was introduced during the British residency period, thus making registration compulsory for associations. Later in 1948, this enactment was replaced by the Societies Act. In 1951, the Societies (Amendment) Enactment made provisions prohibiting the affiliation of a society with any other society outside the state. The act was later revised after the birth of Brunei Constitution in 1959. After independence in 1984, the Societies Act was later legally provided for under Chapter 66 of the Laws of Brunei Darussalam 1985. In 2005, a Societies Order was in place under the Constitution of Brunei Darussalam. The act was revised and based on the new changes, many inactive associations were deregistered.

The legal definition of a society or association is provided in Section 2 which states that a 'society' includes any club company, partnership or association of 10 or more persons, whatever its nature or object. However, the definition is not applicable to a society whose sole purpose is to carry out any unlawful business or to regulate trade unions or to regulate schools (including committees). To enable these associations to execute their functions and activities, their first course of action is to notify the Registrar of Societies of their existence within one month of their formation. According to the Act (Section 11), a registered association may be required by the Registrar of Societies to submit a true, complete and written copy of its constitution and rules at the date of such an order.

At the same time, a complete list of the office bearers of the society and the number of its members has to be furnished to the Registrar. In relation to Section 12 and 31 of the act, an association may be ordered to submit written information regarding the compliance of rules and fees prescribed by His Majesty in Council under the act. This also means that the Registrar of Societies, on behalf of the council, is empowered to inspect all documents submitted by the association.

One apparent flaw in the Societies Act, in comparison to the Co-operative Societies Act, is the absence of a section on the minimal age for membership. Section 21(a) of the Co-operative Societies Act firmly states that only a person aged 18 and above can be a member of a co-operative society but there is no such provision in the Societies Act. In practical terms, any association registered under the Societies Act has the prerogative to determine the minimum age limit of its members. However, the minimum age for members of youth associations, registered under the Societies Act, is 15 years.

The power invested in the Registrar of Societies by the act is also a clear indication of the government's sensitivity to external influences and interference in Brunei Darussalam's internal affairs. The Sedition Act of 1948, amended in 2005, restricts freedom of expression. The act was invoked in June 2007. The amended act makes it an offence to criticise the sultan or the royal family while Sections 3(1), (iv) and (v) makes it an offence "to raise discontent or disaffection amongst the inhabitants of Brunei Darussalam." These provisions are vague and may expose individuals and the media to prosecution for peacefully exercising their right to freedom of expression. The act also makes it a punishable offence to have in one's possession, a 'seditious' publication. Under Sections 3 and 4 of the law, persons convicted of such crimes, or any publishers, editors, or proprietors of a newspaper publishing matters with seditious intention, face fines of up to US$3000 and up to three years' imprisonment.

According to Section 8 of the Societies Order 2005, public gatherings of 10 or more persons, irrespective of their purpose, require a government permit or advance approval, with the police having the authority to stop any unauthorised assembly. Police may also arrest individuals without a warrant under Section 39 of the same order.

Registration can be refused by the Registrar of Societies or Commissioner of Police. The government may also suspend the activities of a registered NGO if it deems such activities to go against public interest. Section 31 again broadly defines circumstances under which the state may declare a society unlawful. This includes any circumstances where, in the relevant minister's opinion, the society "is being used or is likely to be used for any unlawful purposes or purposes prejudicial to or incompatible with the peace, public order, security or public interest of Brunei Darussalam." The final decision of the sultan with regard to this is not subject to any form of judicial review and is deemed to be final under sub-Section 31(5).

3. Size, Number, Patterns and Types of Organisations: Little Public Data

The Chief Police Officer (later the Police Commissioner) has been the Registrar of Societies since 1985. There is little official publication or information available on the country's list of CSOs. Data received from the Registry of Societies Unit at the Royal Brunei Police Force in February 2011 show that registered societies were identified according to their categories and numbers, namely: 'ethnicity', 21; 'culture', 8; 'youth', 25; 'education', 26; 'women', 12; 'religion', 15; 'politics', 1; 'sports', 100; 'professional', 64; 'welfare', 66; 'foreign nationals', 14; 'business', 33; and 'social & recreation', 44. According to the police, on March 2011, the total number of organisations listed under the Societies Act (Chapter 203) was 727.

4. Thematic Foci and Interests: Welfare, Gender and Youth

The main interests of Bruneian CSOs are in the areas of welfare and charity. Among the many welfare associations, the Society for the Management of Autism Related Issues in Training, Education, and Resources (SMARTER) and the Learning Ladders Society are active in providing assistance to children with mental disability despite the presence of the special children section at the Ministry of Education Special Education Unit. In addition, the Persatuan Orang-orang Cacat Berkerusi Roda dan Orang-Orang Cacat (PAPDA) and Pertubuhan Kanak-Kanak Cacat (KACA) provide assistance to the disabled, and work hand-in-hand with the government agency, Community Development Department (JAPEM).

There are several women-related CSOs in the country. These women institutions such as the Women Institution (WI), the Pertiwi Association, the BISTARI, and the Women Graduates Associations, are all members of the Brunei Darussalam Women's Council. The Women's Council (WC), under the patronage of Her Majesty the Raja Isteri Pengiran Anak Hajah Saleha, is the most well-known because of its activities, locally and abroad. It is also a member of the international women's body at the UN. They deal mainly with issues of the family, women and children.

For the young, there are many associations engaged in activities for the youth – generally defined as being between 15 to 40 years old. Nonetheless many of such associations also include schoolchildren at kindergarten and retirees above 60 years old. Many CSOs are found at schools. Some clubs are branches of associations in the national and international arena. The Cub Scouts, Boys Scouts, Girls Guides, Brownies, Red Crescents, Military Cadet Corp, Police Cadet Corp and Brunei Nature Society are among the common ones found in the country. Many of these youth-focused clubs and societies are also working in partnership with the Brunei Youth Council.

5. Capacity and Resources: State Funds and Membership Fees

The Ministry of Culture, Youth and Sports is the government ministry responsible for encouraging and supporting the development of youth, welfare and sports in Brunei Darussalam. The government of Brunei Darussalam has, since 1964, allocated an annual budget to assist selected associations in carrying out their activities. Data on government expenditure obtained were those from 1964 up to 1990. According to the government, it committed a total of US$596,000 to societies, namely: US$143,800 to the Boy Scouts; US$314,100 to the Belait Community Service Council; US$33,400 to the Girl Guides; US$4,600 to the Asterawani (Brunei Writers' Association); US$86,800 to the Brunei Youth Council; and US$13,300 to the Brunei Students' Union in the United Kingdom.

A society or group must write to the Ministry of Home Affairs (MHA) to seek approval to carry out projects or programmes meant to obtain funds or donations from the public. The society should have a proposal endorsed by its leadership, which will then be attached to a letter to MHA for permission to carry out the collection of funds. The MHA also requires the names of collectors and terms of references, after which approval is granted. Upon the completion of fund raising activities, the society has to submit a report on the revenue and expenditure. The requirement of transparency to the police and MHA on activities is to safeguard national interest and security.

Most of CSOs obtain their funds from membership fees in the form of registration fees, annual fees or monthly fees. Some CSOs receive grants if they are part of international organisations or hold membership of a regional or an international organisation. Others may secure funds from their joint-activities with charities.

6. Transparency and Accountability: Insufficient Information and Protecting Confidentiality

Upon receiving grants or financial support, CSOs are subject to financial scrutiny, transparency and accountability. CSOs must hold a yearly general meeting to discuss their activities and spending. Their accounts are subject to auditing by a recognised and certified auditor. As such, CSOs are required to be transparent and accountable to their members and their sponsors as well as the government through the Royal Brunei Police Force with regards to their activities.

Failure to submit the required information is the main reason why many CSOs are eventually deregistered. Confidentiality issues often prevent CSOs from submitting their minutes of meeting and auditor's report. There may be fears within the CSO of proposed projects or programmes being made known to others outside their membership or shareholders before they are approved. Being a small nation and with a tight CSO network, confidentiality is an issue. Another problem is the CSO's inability to complete reports because it lacks an office where the leadership can gather all at once to provide the information required by the report. CSOs with an office and proper setup do not have this problem.

CSOs are required to be transparent and accountable to their members and their sponsors as well as the government through the Royal Brunei Police Force on their activities

Only CSOs with a large membership and those funded by reputable donors publish annual reports as part of their commitment to accountability and transparency. Depending on the nature their of organisational intent, all CSOs, in general, are accountable to the community and/or their shareholders. Short reports may either be published in the media, circulated via handphone messages, or on the CSOs' website.

7. Contribution to Governance: Co-opting the Grassroots

The Bruneian District Administrative System is the most important structure of representation and participation at the grassroots level. This system combines the efforts of the public sector, private sector and civil society. The district offices act as a link between the government and the people of the district in general and civil society in particular. Their role is crucial to the development planning process, facilitating effective communication, and allowing for active public participation at the grassroots level as channeled through the penghulu mukim (district chief) or ketua kampong (village head) and their respective consultative councils.

Before 1992, the Penghulu Mukim and Ketua Kampong positions were occupied by grassroots leaders. Since 1992 they have become paid positions where individuals are screened by the government and situated within the structure of the district offices. The appointment of ketuas in the past was based on the influence and individual status of a person in the society. In 1930, the penghulu was responsible for a particular mukim (ward) which comprised several villages or kampongs. The position and roles of the *penghulus/ketuas* within the community are no less important than those of other civil servants or other leaders in the community. They are considered the voice of the people and the agents of change. The consultative council is comprised of the chairman and other community-elected members, all of whom are endorsed by MHA via the district offices.

The *penghulu mukim* and *ketua kampong* may influence villagers' attitudes and behaviour on public policies or government initiatives in different ways and at varying degrees. At the mukim level, influential residents such as the imams of mosques, headmasters of schools, government officials at the commune level, traders, and other prominent or influential villagers, have a major share in community leadership. As stakeholders in their district, they influence the implementation of social or welfare programmes and activities in order that they may benefit from them.

At the community level, CSOs are also stakeholders in the decision-making process. In recent years, the government has sought participation from CSOs and different segments of society in the development of the country. This move towards greater public consultation is further enhanced with the expansion of the national development committees to include representatives from the private sectors and civil society. For instance, the city development plans have been developed in stages to incorporate views and comments from not only members of the advisory committee but also those of the general population. It is also increasingly common for the government to issue both close and open invitations to people to participate in the decision-making process, as well as to conduct public surveys to compile public opinion on national development projects.

In recent years, the government has sought participation from CSOs and different segments of society in the development of the country

Another example of CSO contribution is in the area of the environment. The Muara Beach is one of the most frequented picnic areas in the country. Its natural surroundings, however, had been laden with litter from picnickers, waste washed ashore, flies and other unsanitary concerns. Environmental groups, such as the Beach Bunch, sponsored by the local Hong Kong and Shanghai Banking Corporation through its corporate social responsibility programme, have taken up the challenge to raise awareness and conduct beach-cleaning campaigns all over the country. Similarly, air pollution from open burning or forest fires was an important environmental concern for the public especially those with asthma problems. These environmental groups created enough awareness to compel relevant government agencies to be more vigilant and accountable in their functions and services for the public. To be more transparent, the government has launched 'Customer Day' that includes various activities such as meetings and dialogues with the public. CSOs therefore play the role of watchdogs to check on the activities of the government and other sectors.

The contributions of the CSOs in Brunei Darussalam have been recognised and acknowledged by the leaders in the country. This is evident in His Majesty's 65th Birthday message, where His Majesty consented to the provision of special assistance in terms of land, design and permit for buildings and provision of infrastructure, and annual financial assistance for operational costs.

8. ASEAN Involvement: Selected Sports and Youth Events

CSOs in Brunei Darussalam are mainly national in orientation. However, there are few which have engaged stakeholders regionally and internationally. For example, the sports-related CSOs have participated in the ASEAN Games and in competitions in neighbouring countries. Other CSOs have also indirectly promoted the interests of the country regionally and internationally. They have also established networking links with other similar CSOs abroad. For example, the Persatuan Tanjong Maya (PERTAMA) from the Tutong district in partnership with the Brunei Youth Council won the ASEAN Youth Award at the 12th ASEAN Youth Day at Semarang, Indonesia, in 2005. Similarly, recently two youth representative of local CSOs have attended an ASEAN meeting in Indonesia.

9. Role in Social Change: Public Health and Environment Awareness

It may be said that the spirit of volunteerism shifted to newly created voluntary CSOs from the traditional social structures of *penghulu* and *ketua kampong* became paid positions within the district administrative system in 1992. The change in the two positions has made individuals formally answerable to the government while still accountable to the villagers. This development has prompted social change. For example, in making villages more self-sufficient, the local CSOs have embarked on agricultural projects such as the One Product, One Kampong initiative.

A few successful CSO programmes have raised public awareness on certain health and environmental issues and have received public support. Such programmes include healthy lifestyle campaigns, tree planting campaigns and cleaning campaigns. The Brunei AIDS Council, for instance, has created and promoted public awareness of the disease through talks in schools and colleges.

The national media is another important mechanism for social change in Brunei Darussalam. The media not only serves to inform the public on current happenings, but also provides analysis in the form of opinion columns in newspapers. The media also promotes society-state dialogue by publishing comments, questions, and grievances from the public, as well as responses from appropriate institutions. The increasing use of the Internet has also helped raise awareness in its equitable distribution of information.

10. Conclusion

There are fewer CSOs in Brunei Darussalam compared to the rest of ASEAN but they do network and collaborate in the regional and international arena. All CSOs are registered with the Registrar of Societies at the Royal Brunei Police Force as stipulated and guided by the Societies Order of 2005 and Societies Act, 2010 (Chapter 203). CSOs have contributed to public service and the governance of Brunei Darussalam in many ways. Many CSOs have been valuable for their efforts in fundraising for charity inside and outside the country. Others have been more active in the areas of education, health, natural disasters and community projects. Overall, the CSOs in Brunei Darussalam share a non-confrontational relationship with the government, with many engaged in public service delivery to previously unreached segments of the population.

Despite being an absolute monarchical government, Brunei Darussalam has been gradually adopting the principles of good governance. The institutionalisation of collaboration between the government, private sector and civil society has also increased. Good governance in Brunei Darussalam is perceived as the attempt by the government to bring in stakeholders, beneficiaries and CSOs alike into the decision-making, implementation and evaluation process, thus making them partners in development, with mutual accountability, and full commitment and respect towards each other.

Civil Society in Cambodia

Jane Banez-Ockelford

1. Overview of Political and Civil Society Landscape: Society in Transition

Cambodian society is still recovering from the consequences of civil war and social upheaval. Since the early 1980s, and through the UN supervised peace process of the early 1990s, Cambodia has undergone transition from civil war to peace, from one-party rule to multi-party democracy, and from economic isolation to (regional and global) integration. Over the last decade, far-reaching and challenging reforms in all sectors have resulted in important progress towards ensuring peace and security, rebuilding institutions and establishing a stable macroeconomic environment.

Over the last decade, far-reaching and challenging reforms in all sectors have resulted in important progress towards ensuring peace and security, rebuilding institutions and establishing a stable macroeconomic environment

Cambodian civil society has, invariably, been influenced by the recent conflict, political and socio-cultural factors, as well as the nature and history of the relationship between citizens and the state. The Khmer Rouge period has left the country's economy, physical infrastructure and political and social institutions severely disrupted, while years of conflict have corroded public trust and weakened social cohesion.[1] Thirty years after the Khmer Rouge's fall, the Extraordinary Chambers in the Courts of Cambodia (ECCC) was established to bring to trial senior leaders of Democratic Kampuchea and those who were responsible for international and domestic crimes committed in Cambodia from April 1975 to January 1979. The ECCC is assisted by the UN (UN Assistance to the Khmer Rouge Trial). Human rights NGOs have been actively participating and monitoring the progress of various processes through advocating for transparency and good practices by the courts. Ou Virak of the Cambodian Centre for Human Rights said: "[This] will be a cathartic moment for all Cambodians. While the crimes of the Khmer Rouge were committed over a quarter of a century ago, they remain ingrained in Cambodia's collective psyche. I hope that this trial – coming as it does so many years after the crimes alleged against the accused were committed – provides all victims with some sense of justice, however delayed that justice may be."[2]

There are a number of political factors relevant to civil society organisations (CSOs). Firstly, multi-party democracy is emerging but is still new and underdeveloped in Cambodia. Secondly, although political structures are undergoing significant change, the Cambodian administration continues to be influenced by patrimonial traditions and patron-client relationships. Thirdly, political power tends to be highly centralised, steeply hierarchical and personalised rather than institutionalised. And finally, the current processes of political reform and decentralisation offer important opportunities for enhanced civic engagement and social accountability.

It has been noted that power relations between state officials and citizens are characterised by steep power differentials which inhibit the ability of the latter to claim rights and freedoms.

1 Malena, C. and Chhim, K. 2009, *Linking Citizens and the State: An Assessment of Civil Society Contributions to Good Governance in Cambodia*, The World Bank, Phnom Penh.

2 Buncombe, A. 2011, 'Khmer Rouge Trial Begins Despite 'Political Pressure' in Asia Respondent, 27 October.

Meanwhile, for civil society, it has been observed that "most professional NGOs [non-governmental organisations] in Cambodia today owe their existence more to the influence and financial support of international donors than to the gradual opening up of democratic space, the natural scaling up of grassroots organisations, the emergence of a culture of volunteerism/social activism or the organised charity of an established middle class. … Because they have been externally created, rather than internally grown, most NGOs lack grassroots links and social embeddedness."[3]

Most professional NGOs in Cambodia today owe their existence more to the influence and financial support of international donors than to the gradual opening of democratic space

The NGO sector in Cambodia comprises approximately 72 per cent local NGOs (LNGOs) and 28 per cent international NGOs (INGOs). Civil society in Cambodia has had a relatively short history. INGO presence emerged around 1979 while the first LNGO started in 1991, with the numbers increasing rapidly from 1993 onwards. Over the period, three major roles have evolved: basic social service delivery, advocacy and provision of support services such as capacity development, research and microfinancing. Service delivery roles remain the dominant with about 70 per cent of the NGO sector focusing on this. The sector's performance of its three roles is facilitated as well as constrained by both the conditions in the external environment in which it operates. The NGO sector has grown not only in number but also in its organisational capacity to deliver in its roles, although there are still constraints to the latter.[4] Another constituent of CSO are unions. Following the promulgation of the Labour Code, which allowed freedom of association and right to collective bargaining, a multiplicity of unions emerged, characterised by a mix of unions with close ties to major political parties and those that seek to establish themselves as independent organisations. The trade union situation is in a state of flux with new groupings being formed frequently by those breaking away from existing ones. About one per cent of the total workforce is organised into unions or associations, with the vast majority in the garments industry, whereas about 60 per cent of workers are unionised. Unionisation is on the rise in the building and construction, transport, hotel and tourism, and rubber plantation industries. Civil servants and informal economy workers are not allowed to organise into unions but can form associations. At the moment, a very small percentage of them are organised, thus making little change. The organising of labour is also missing in a number of key sectors like health care, transportation, telecommunication, and banking.

2. Legal and Regulatory Framework: Towards NGO Laws

A variety of legislation, directives, Memorandum of Understandings (MOUs), and local authority guidelines define the rights, obligations and restrictions of NGOs at the national and sub-national levels in Cambodia. They include the Constitution, the civil code, the tax and labour laws, the penal code, directives requiring the registration of local NGOs at the Ministry of Interior (MOI) and their international counterparts at the Ministry of Foreign Affairs (MFA), and activity registration at the Council for the Development of Cambodia (CDC), and MOUs between INGOs and relevant ministries.

3 Malena and Chhim 2009, p. 8.

4 Bañez-Ockelford, J. and Catalla, A. P. 2010, *'Reflections, Challenges and Choices: 2010 Review of NGO Sector Cambodia'*, Cooperation Committee for Cambodia, Phnom Penh.

Key legislation and regulations in Cambodia include the civil code, adopted in 2007. It recognises registered NGOs as legal entities and subjects them to its provisions.[5] LNGOs have to also formally register and come under the regulation of the MOI or the Council of Ministers, while INGOs have to register and come under regulation of the the MFA. Both LNGOs and INGOs have to register their project activities with the CDC. Self-regulation is practiced through the Code of Ethical Principles and Minimum Standards for NGOs in Cambodia, while the state has a positive obligation to protect NGOs and community-based organisations (CBO) rights as recognised in the constitution. Finally, Article 42 of the Constitution states that Cambodian people have the right to form organisations

In addition, a draft NGO law has recently been issued for consultation. UN conventions and instruments, to which the Cambodian government is a signatory, also help provide a legal framework and protection to NGOs and the implementation of their programmes. Current legislation allows NGOs to operate in any sectoral interests or issues, and geographical areas of their choice.

Self-regulation is practiced through the Code of Ethical Principles and Minimum Standards for NGOs in Cambodia, while the state has a positive NGOs and community-based organisations (CBO) rights as recognised in the constitution

NGO rights in Cambodia include the right to advocacy work and public education. They are permitted to organise public fora, seminars, broadcast media, participation in marches and rallies (although there are some restrictions on sensitive issues such as land and resettlement), and to participate in the development of laws, policies and national plans. NGOs also have the right to provide basic socio-economic services such as health, education, microfinance; and support services such as training and other methods of capacity building, and undertake research.

NGOs have several obligations. All registered NGOs are required to provide regular financial reports. They also have to conform to MOUs, tax laws and labour laws and MOI directives. Some ministries and local authority guidelines define obligations such as seeking permission to organise forums, demonstrations, research activities and formal invitations to government officials to attend NGO activities. There are some restrictions too. LNGOs and INGOS are not allowed to support political parties. There are also a number of legal avenues used by the courts to curtail the freedom of expression in the country, namely through charges of defamation, disinformation and incitement.

A law on NGOs and associations, in preparation for some time under the Cambodian government, will define and regulate the role of NGOs and CSOs. In November 2010, the Cooperation Committee for Cambodia (CCC), the NGO Forum and MEDICAM, held the 'NGO National Consultative Workshop on NGO Law'. The draft law was released on December 2010 and a public consultation workshop on the draft law was hosted by the Ministry of the Interior on January 10, 2011. More than 200 national NGO (NANGOs) and INGO representatives attended. There were several key concerns with the draft law, namely, that the draft limits eligible founding members of both associations and NGOs to Cambodian nationals; the draft law requires a high minimum membership for associations; the draft law outlines an inadequate

5 International Centre for Not-for-Profit Law 2010, 'Cambodia Country Report', viewed 19 Feburary 2011, <http://www.icnl.org/knowledge/ngolawmonitor/cambodia.htm#reports>.

registration process, likely to impede associations and NGOs from attaining legal entity status; the draft law prohibits any activity conducted by unregistered associations and NGOs; the draft law provides inadequate standards to guide the government's determination of suspension or termination of an association or NGO; and finally, the draft law erects barriers to registration and activity of foreign NGOs. Robust consultations among NGOs on the draft law were carried out and served to strengthen collaboration and solidarity among NGOs which to date, continue to lobby the government to address their major concerns. A joint statement from by the NGOs asked the government to incorporate the key recommendations they put forward and to share the final draft with the public before approval by the Council of Ministries.

In addition to the government's legislation and regulations, the CCC has established its own Code, the Minimum Standards, and the Certification System for NGOs for voluntary certification. This sets standards for a variety of areas including an NGO's vision, mission and values; its governance; its relationships and communication; its financial management; its accountability and transparency; its quality assurance; and finally, its human resource management. As of December 2010, 24 NGOs out of the 79 that applied have been certified.[6]

3. Size, Number, Patterns and Types of Organisations: Evolving Local NGOs

CSOs in Cambodia fall into several principal groups. They are traditional associations; 'modern' CBOs; NGOs; trade unions; youth organisations; and other categories such as think tanks and independent research organisations; independent institutions of higher learning; students' associations; independent media organisations and associations; business associations. A survey in 2006 indicated significant recent growth of the NGO sector in Cambodia, with 1495 registered NANGOs and 337 INGOs (at the end of 2005). The survey suggested, however, that many registered LNGOs were not significantly active, estimating that only 45 per cent of NANGOs and 93 per cent of registered INGOs were active.[7]

NGOs employ about 24,000 Cambodian staff and about 1,200 international staff. NGOs are concentrated in urban areas and, in particular, in the capital – 70 per cent of national NGOs have their base in Phnom Penh and the rest are in Battambang, Kandal and Siem Reap. NGOs concentrate on service delivery, though there are signs that they are diversifying. In their registration documents, 70 per cent of national NGOs describe their mission as providing services in social affairs, while only 7 per cent declared democracy and human rights as their objective.

4. Thematic Foci and Interests: Health, Social Welfare, Rights and Development

The CCC regularly publishes two directories of NGOs, one for Cambodian NGOs (CNGOs) and one for INGOs.[8] These classify NGOs under a number of sectors. The highest number of INGOs is found in the education and training sector (62 INGOs); health and nutrition sector (53 INGOs); community development sector (39 INGOs); and agriculture and animal health sector (29 INGOs). The highest number of CNGOs is found in the education and training sector (116 CNGOs); community development sector (74 CNGOs); health and nutrition sector (51 CNGOs); HIV/AIDS sector (48 CNGOs); and the human rights and democracy sector (40 CNGOs).

6 NGO Good Practice Project, 2010, 'Guidelines for Application for the Voluntary Certification System for NGOs in Cambodia (3rd Revision)', Cooperation Committee of Cambodia, Phnom Penh.

7 CDC/NREP 2006, 'Report on Mapping Survey of NGO/Association Presence and Activity in Cambodia', Council for the Development of Cambodia, Phnom Penh.

8 Cooperation Committee for Cambodia 2010a, 'Directory of Cambodian NGOs: 2010-2011', Phnom Penh; Cooperation Committee for Cambodia (2010b), 'Directory of International Non-Governmental Organisations in Cambodia', CCC, Phnom Penh

It is estimated that the most active sectors by funding are health, community and social welfare, education and HIV/AIDS. Nevertheless, several caveats should be borne in mind for such directories – they generally rely on NGO self-reporting; NGOs may be working in more than one sector; NGOs may not be active in the sector even though they are reportedly attached to the sector and not all NGOs provide a report or register their activities.

Meanwhile, a recent review of Cambodian civil society broadly classified INGO activities into five main categories.[9] They are, firstly, providing service delivery in conjunction with government institutions. Here, INGOs work through local structures and provide institutional capacity building, especially at the provincial, district and commune levels. Second are INGOs that engage in community development activities. Such activities are carried out by well-established INGOs with experience in working at the village level to tackle the basic causes of poverty. Third are INGOs that work towards the development of LNGOs and CBOs. Such INGOs encourage and support LNGOs and CBOs with direct funding and capacity building through training and mentoring. Fourth are INGOs that are involved in research and other analytical work related to a range of development topics and issues. And finally, large-scale service delivery dependent on bilateral and multilateral funding are implemented by large INGOs with experience in reconstruction and infrastructure development.

The civil society sector is losing some of the more experienced and skilled staff to bilateral and multilateral agencies, others to higher paying organisations and, in many cases, within the sector itself – from LNGOs to INGOs

According to the same review, LNGOs can be broadly classified into four main categories. The first includes development LNGOs involved in education, health, credit and income-generation programmes. Such LNGOs are concerned with rural and urban development activities aimed at improving the lives of poor people. Second are support service LNGOs that focus on human resource and organisation development training activities. These LNGOs may also engage in facilitating networking and advocacy-related activities. Third are democracy and human rights LNGOs committed to promoting democratic principles and respect for human rights through policy, training and other advocacy work. Finally are CBOs and associations that take on a more active role in participating and directly managing their own development processes.

5. Capacity and Resources: Limited Competencies with Heavy Reliance on International Funds

Despite an increasing availability of professional and experienced staff, most NGOs still claim not to have an adequate number of staff with the right qualifications to fill certain roles. The civil society sector is losing some of the more experienced and skilled staff to bilateral and multilateral agencies, others to higher paying organisations and, in many cases, within the sector itself – from LNGOs to INGOs.

A recent assessment of NGOs in Cambodia defined the basic sets of knowledge and skills needed to perform the roles in advocacy, service provision and provision of support services.[10] Several observations were made about the increased capacity of NGOs. For one, the expertise in issues like health, HIV/AIDS, human rights, women and child rights, microfinance, land rights,

9 Bañez-Ockelford and Catalla 2010.

10 Ibid.

community development, forestry, fishery, agriculture has developed over the years. This is partly due to accumulated experience in implementing socio-economic projects, partly due to the capacity-building efforts of NGOs themselves, and partly due to the increasing number of Cambodians with university education and formal training. Another observation was that knowledge and skills in project development (including proposal writing) and implementation are higher than knowledge and skills in strategic planning. However, the level of skills in monitoring and evaluating programmes is low. In addition to this, NGO staff have a relatively good understanding and analysis of local realities and problems. They are able to identify causes and effects of problems they are dealing with, and how these relate to other problems in the community or the country. However, they may not necessarily be able to link these micro-level issues to macro issues such as linking illegal logging and deforestation to climate change, global warming and lifestyle preferences of developed countries. Another observation was that many INGOs had greater skills in strategic planning, developing governing boards, financial management, and fund raising than most LNGOs. Very often, such activities are contracted out to expatriate consultants. And finally, research skills, particularly those that provide sound evidence for advocacy work, are still relatively underdeveloped. The practice of participatory research is quite new and knowledge is limited to staff that have undergone training courses. However, few of such training opportunities are provided by NGOs

All NGOs in Cambodia receive funding from foreign sources. The focus on external donors and the low interest in local sources of funding reflect the way the civil society sector has emerged in Cambodia. INGOs brought their own resources with them during the phase of emergency and economic embargo. LNGOs later emerged largely as a result of funding from INGOs resources. The heavy reliance of NGOs on foreign/external funding and the limited resources that can be tapped locally, threaten not only the financial sustainability of the NGO sector but more importantly, its freedom to determine its own strategic direction and development. This relationship of dependence mirrors of traditional patron-client relationships and if allowed to continue, renders the concept of empowerment and participatory approaches as espoused by many development NGOs, both foreign and local, simply rhetoric. At present, where the NGO sector in Cambodia still comprises both INGOs and LNGOs, and where some INGOs have already moved away from direct implementation to capacity development roles and partnership approaches, this situation could indicate a lack of effective collective efforts to address issues of sustainability and organisational autonomy, particularly of LNGOs. Although their sources could be more diverse, INGOs are themselves dependent on institutional funding. This weakens their credibility as 'donors' within the sector to promote genuine partnerships with LNGOs and communities unless they themselves challenge their own donors and governments to change their funding policies and practices. NGO co-ordinating bodies and advocacy groups, need a longer time to achieve their objectives. The nature of project-based funding forces them to think and plan short term and unless alternative resourcing are explored, their ability to effectively achieve their core mandate becomes compromised. LNGOs also lack fundraising skills comparable to INGOs.

Information collected on the online NGO database of CCC "shows that their disbursement of core funds excluding the funds that are delegated to them by other development partners, amounted to US$ 103 million in 2009, representing 10 per cent of total aid. By far, the greater share of NGO support is provided at the provincial level, resulting in NGOs accounting for almost 20 per cent of aid disbursements at the sub-national level in 2009, levels that are similar to those recorded in 2007 and 2008."[11]

11 CRDB and CDC 2010, p. 12.

6. Transparency and Accountability: Credibility and Trust at Stake

In Cambodian civil society, it is the donors and development partners who are most active in imposing practices of transparency and accountability on NGOs. Nevertheless, these NGOs do have, albeit limited, existing mechanisms for transparency and accountability. For example, the revised Code and Standards for NGO voluntary certification includes standards for accountability and transparency.[12] Here, NGOs should provide members of the public, the target population, donors and government with accurate information about their activities, finances and other relevant information. They should ensure the participation of the target groups and population in development processes. And they should have a written conflict of interest policy that applies to all board and staff members.

Definitions of 'accountability' are highly varied in Cambodia, with some people arguing that there is no equivalent word in Khmer. The term is 'mainly equated to accounting practices' (such as a transparent use of public funds). In addition, many Cambodian civil servants tend to link the word with traditional Khmer values of governance, such as responsibility, honesty, helpfulness or serving people."[13] The concept of transparency is sometimes confused with the concept of confidentiality by some NGOs, particularly when it comes to disclosure of salaries or remuneration and benefits. Most NGOs do not have clear procedures or working practices which define different decision-making levels and who should be involved at each level. Among LNGOs, there are blurred boundaries in decision-making between Executive Directors, Management or Executive Committees and sometimes with Board of Advisors.

There have been several observations of accountability practices by NGOs. Most NGOs inform the public and the government of their achievements through annual reports, websites and the sharing of strategic plans with relevant partners. While most INGOs have governing boards based in their headquarters overseas, many LNGOs have governing boards on paper and very few are fully functional. Furthermore, few INGOs are consciously making the effort to increase their downward accountability to target groups, local partners and communities such as through inclusion in partnership agreements with local partners, seeking feedback from local partners during annual meetings or reflection sessions. In general, however, there is very little understanding of what downward accountability is. Finally, transparency is mainly understood in financial terms and rarely in terms of decision-making processes. The practice of democratic or participatory decision-making is limited and focuses mainly on collecting information from grassroots or target groups, local partners and sometimes, local authorities during strategic planning, project designing, monitoring and evaluation.

> NGOs find that transparency and accountability processes increase the capacity of those that are involved, while clear vision and mission, policies, strategic plans, promote a stronger commitment from staff to the organisation and its work

Nevertheless, NGOs have identified a number of benefits derived from improving their transparency and accountability. They find that there is increasing credibility and trust with donors and other stakeholders. NGOs find that transparency and accountability processes increase the

12 NGO Good Practice Project 2010.

13 Eng, N and Craig, D. 2009, 'Accountability and Human Resource Management in Decentralised Cambodia', CDRI Working Paper Series No. 40, Phnom Penh, p. 14.

capacity of those that are involved, while clear vision and mission, policies, strategic plans, and organisational structure promote a stronger commitment from staff to the organisation and its work.

7. Contribution to Governance: Opportunities for Engagement

The Royal Government of Cambodia has a number of formal mechanisms to involve NGOs in national development strategy formulation and policy implementation. In practice, though, NGOs have limited influence on government strategy and policy, as well as limited space for dialogue. There are various formal and informal communication channels between NGOs and the Cambodian government and its ministries. The NGO sector is important to the government for its service delivery and capacity development roles, in providing inputs into policies, and in developing some project proposals to submit to donors. NGOs are, however, less appreciated when working in the fields of advocacy, human, legal, land and housing rights, and democracy.

Communication channels at the national and sub-national levels enable NGOs to engage in debate, share information and experiences, provide inputs, and review policy guidelines. Formal communication channels include several platforms such as the NGO Liaison Office in the MOI; membership of NGOs in 14 out of 19 Technical Working Groups (sectoral groups of senior government and donors, usually chaired by a minister); the Cambodia Development Research Forum (CDRF); the Cambodia Development Coordination Forum (CDCF); provincial working groups; project monitoring committees at commune levels; workshops, public forum and meetings at provincial, commune and district levels; and finally, participation in the Annual Commune and District Integration workshops that finalise commune and district integration plans.

In a study of CBOs working with school support, forestry communities and community fisheries at the local level, it was found that although CCs [Commune Councils - the lowest tier of government] were keen to work with local associations and NGOs in their jurisdiction, partnerships remained limited. It was rare for CCs and NGOs to meet more than once a month, while some, but not all, associations send regular reports to CCs. CBOs, on one hand, perceive CCs as a formal state authority while ironically, on the other, many CBOs themselves are seen by the communities they work for as similar to a state agency and dealing with issues that should be the state's concerns. The overarching impression from the interviews, however, is that the CCs and the CBOs really try to co-operate, and that CCs do their best to be accountable.

Over the years, a total of 58 (35 Phnom Penh-based and 23 provincial-based) networks, coalitions, alliances and associations have been formed around service sectors such as agriculture, education, and health, and for specific issues such as human, environmental, and child and women rights. There are a number of NGO co-ordination groups, including the CCC, the NGO Forum, the NGO Education Partnership (NEP), MEDiCAM, the Cambodian Human Rights Action Committee (CHRAC), and End Child Prostitution, Abuse and Trafficking (ECPAT) in Cambodia. Most of these networks have both INGO and LNGO memberships but 13 networks have only LNGO members. Most networks are now led by Cambodian nationals despite the mixed nationality memberships of both INGOs and LNGOs, which indicates an increasing level of local capacity in leading and taking their own affairs forward.

For consultation and other purposes, some national networks co-ordinate with their provincial members but seldom directly with grassroots groups or committees. Communication and co-ordination between networks and coalitions, and between those that are Phnom Penh-based and provincial-based, are less frequent and less developed. There is fairly well developed co-ordination around sector wide issues and concerns such as aid effectiveness, consultations to provide feedback on various draft laws and policies, and setting up dialogues with the government and development partners at the national level.

There is also evidence of good co-ordination and communication between networks and coalitions dealing with sector-wide issues such as the NGO Forum, CCC, MEDiCAM, human rights, and women networks. Informal meetings among key leaders are occasionally held to discuss issues of the sector and to strengthen their working relationship. Similarly on the service sector level, various networks have well established structures of communication and co-ordination such as CEDAW for gender and victims of trafficking, the HIV/AIDS network, and the CCHR and CHRAC on various human rights issues.

Finally, the general population is largely aware of significant issues that affect them directly such as land issues with regards to ownership and titling, poor health services, wage issues, and corruption. Residents in urban areas are more likely to be aware of development issues. In cases where the public takes action, most of the initiatives are still NGO-led and -supported. Public awareness stems from attendance in public forums, and participation in celebrations of particular events like Labour Day, Human Rights Day, World Habitat Day, and Anti-Corruption Day. To a certain extent, the limited public awareness about national development issues and participation in NGO work can be attributed to cultural and traditional factors.

8. ASEAN Involvement: More Work Needed

It has been observed that Cambodian NGOs are increasingly active on a domestic and regional level. "With CWG, we joined the government in drafting a law on the establishment of the National Human Rights Commission (NHRC). The momentum is picking up and the time is ripe for Cambodia to be the fifth ASEAN country to have a truly independent NHRC."[14] Ou added that on regional developments, the recently created AICHR is a step forward in a region marred by human rights violations and conflict. "While the creation of the AICHR is giving hope, there is a lot of work ahead. Eyes are now on the AICHR and what it will become in the next five years."[15] However, ASEAN's role in Cambodian civil society remains limited. The Cambodian Institute for Cooperation and Peace (CICP) is one of the few NGOs dedicated to ASEAN issues. CICP has conducted various capacity building projects with government ministries, youth leaders, and the member of parliaments.

The momentum is picking up and the time is ripe for Cambodia to be the fifth ASEAN country to have a truly independent National Human Rights Commission

9. Role in Social Change: Improvement in Health, Education and Grassroots Development

Social change is the result of many actors and factors, and it is thus difficult to attribute it solely to NGOs. There are, however, a number of areas where NGOs, working singularly or in partnership, have helped to make a difference. Not least is the fact that NGOs provided 10 per cent of total aid funding and 20 per cent of the funding at the sub-national level; 37 per cent of core funding primarily in service delivery in the health sector; 30 per cent of funding to community and social welfare programmes; and 27 per cent funding to education issues. Furthermore, *The Cambodia Aid Effectiveness Report 2010*

14 *Human Rights Herald* 2010, 'Ou Virak: Advocating for the rights of the oppressed in Cambodia', A Bi-annual Publication of the Working Group for an ASEAN Human Rights Mechanism, p. 11

15 Ibid.

acknowledged this by noting that "NGOs have made significant contributions to the country's development".[16] Whether these contributions to service delivery have led to social change rather than maintenance and development of well-being is difficult to ascertain.

Nevertheless, some changes do stand out. There has been a major reduction in the prevalence of HIV/AIDS, better education of sex workers and greater success in communication with and creating space for people living with HIV/AIDS.[17] In terms of education, most of the NGOs surveyed had implemented their own education projects and were working directly with the poor and marginalised.[18] Several NGOs were working closely with the Ministry of Education, Youth and Sports (MOEYS) to develop education policies that benefit the poor. It was concluded that NGOs played an important role in supporting the work of the MOEYS and development partners in improving the education sector in Cambodia.[19] NGO programmes focused on improving the quality of education and making it accessible to all children especially those who were vulnerable and difficult to reach. These interventions have contributed to an increase in net class enrolment ratio and better promotion rates at primary schools, and a decrease in dropout rate.

Community development NGOs work in all provinces in Cambodia. The programmes implemented by these NGOs are important in working towards poverty reduction. There is now an increased awareness among NGOs of the need to work toward sustainability, and one way that this has been achieved is by integrating their programmes into commune development plans, rather than implementing projects separately. NGOs have also been pioneering new approaches to sanitation, including community-led total sanitation and social marketing of sanitation. The latter is the development of the local private sector to make and sell affordable toilets without subsidy. NGOs have also developed the manufacturing and marketing of cheap household water filters, with substantial uptake by poorer households.

NGOs have played a critical role in cultivating the development of grassroots civil society. Although this movement is still in its infancy, there are some signs that it is gaining momentum

NGOs have played a critical role in cultivating the development of grassroots civil society. Although this movement is still in its infancy, there are some signs that it is gaining momentum. Working directly with CBOs has become a standard feature of development programming for many NGOs. Furthermore, human rights NGOs have been working in a difficult environment. Their role is not well understood by society as they are often perceived as being in opposition to the government, when in fact these NGOs view their mission as that of safeguarding the rights of ordinary Cambodians as outlined in the Constitution. Some of these NGOs have made constructive efforts to co-operate with the Cambodian government or with government bodies to reach mutually agreeable compromises.

16 *The Cambodia Aid Effectiveness Report* 2010, Cambodian Rehabilitation and Development Board for the Council of the Development of Cambodia, p. 28

17 Rasmussen, K. 2010, 'NGO Contributions to Cambodia's Development 2004 – 2009', Cooperation Committee for Cambodia, Phnom Penh.

18 NGO Education Partnership 2009, '2009 Education NGO Report', viewed 2 April 2011<http://www.nepcambodia.org/userfiles/2009%20Education%20NGO%20Report%20August%2023%202010-%20Final.pdf>.

19 Ibid.

10. Conclusion

Over the years, NGOs in Cambodia have been increasing their capacity to deliver in their various roles. However, despite an increasing availability of professional and experienced staff to work in NGOs, most NGOs still claim not to have the adequate number of staff with the right qualifications for available jobs. Accountability and transparency is also a complex area. There is a growing understanding amongst NGOs for both upwards and downwards accountability, with improving good practice and understanding of the benefits. In terms of governance, self-governance is also improving, with an increasing number of NGOs meeting the Code of Ethical Principles and Minimum Standards for NGOs in Cambodia. Nevertheless, there are still weaknesses in working procedures and the boundaries in decision-making between executive directors, management or executive committees and sometimes with board of advisors that need to be overcome.

On the relationship with the Cambodian government, there are various formal and informal communication channels at the different national and sub-national levels. Specific platforms between NGOs and the government and its ministries also exist. The NGO sector is important to the government for its service delivery and capacity development roles. NGOs are crucial for providing inputs into public policies. NGOS in Cambodia have made significant contributions to social change in the areas of health, education, disabilities, community development for poverty reduction, sanitation, and human rights.

Civil Society in Indonesia

Rustam Ibrahim

1. Overview of Political and Civil Society Landscape: Democracy and Political Reform

The political reform which started after the fall of the New Order regime in 1998 has brought numerous changes in the development of the civil society in Indonesia. The 1945 Constitution of the Republic of Indonesia was amended four times within a short period of time (1999 to 2002) to better guarantee and protect the civil liberties and political rights of citizens. Freedom of association, assembly and expression, including press freedom and the right to form political parties were restored. Dozens of political parties were formed to take part in general elections under a multiparty system. The constitution was also amended to allow the president to be elected directly by citizens, as too were governors, regents and mayors. However, re-election of a president was limited to only a second consecutive five-year term.

As a result, the legislative, executive and judiciary branches began to function more independently and are relatively free from any intervention from one another. A number of new state agencies have been formed to function as balancing forces like the General Election Commission, the Judicial Commission, the Constitutional Court and the Commission for Eradication of Corruption; with some of their elected figures being from civil society. Nonetheless, the democratic progress made so far is viewed by some as being more procedural rather than a real transformation of cultural and democratic values. Indeed, democracy may have resulted in majority-elected governments, but the rights of some religious and ethnic minority groups are not yet fully guaranteed and protected. There has been an increase of sectarian violence and intolerance towards minority groups with different beliefs and views. Law enforcement is slow and anti-corruption efforts have not made any significant progress. Poverty is another major challenge. About 13.3 per cent of Indonesians live below the poverty line while about half of Indonesians still earn under US$2 per day.

Civil society in Indonesia, since the beginning of the 20th century, has existed as a rich texture of social groups and movements, religious societies, mutual assistance groups, neighbourhood organisations and many others

Civil society in Indonesia, since the beginning of the 20th century, has existed as a rich texture of social groups and movements, religious societies, mutual assistance groups, neighbourhood organisations and many others. With the rise of liberalism and modernity, such organisations formed an emergent and self-sustaining public sphere during the decade of political awakening from 1915 to 1925.[1] Hundreds of popular mass-based organisations were established based on religion, ethnicity, political affiliation and other joint concerns.

From the early 1970s, non-governmental organisations (NGOs), have played an instrumental role in development programmes under the Soeharto administration. Although the Indonesian government succeeded in keeping annual economic growth at eight per cent, widespread poverty and unemployment provided opportunities for NGOs to promote community-based economic and social development. The NGO sector in Indonesia experienced rapid growth in the 1980s mainly due to the increasing attention from the international community. More international donors realised that, in order to achieve social goals, they needed to work more closely with local NGOs (LNGOs). When the Cold War ended, the democratisation agenda became more significant. In the 1990s, coinciding with global discourses on democratisation, there emerged in Indonesia, NGO movements for human rights and democracy advocacy. They advocated popular demands like the restoration of civil and political rights for citizens, fought against human rights violation by the state and demanded political liberalisation and democratisation.

As such, civil society has contributed to the reformation process in Indonesia. It has had some success in promoting democracy and human rights, including women's rights and gender equality, empowerment of citizens, legal reform, poverty eradication and environmental sustainability.[2] Civil society organisations (CSOs) have played their role in developing checks and balances in three ways such as advocating for the poor and the powerless, including political education and mobilisation; engaging in formal participatory processes; and serving as a watchdog of public affairs[3]. However, civil society is still weak vis-a-vis the Indonesian state and the private sector, for a variety of reasons such as poor organisational and human resources management, financial dependence on outside sources, and lack of accountability and transparency.

2. Legal and Regulatory Framework: Yayasan and Perkumpulan

In various areas of law, Indonesia inherits the Dutch colonial legal system. The regulatory frameworks for civil society are no exception. CSOs in Indonesia can choose to become *perkumpulan* (association) or *yayasan* (foundation) to attain legal status. *A perkumpulan* is recognised as a legal entity by a Dutch ruling as far back as 1870 and is defined as a group of people who can act as a legal entity upon official approval from the Minister of Law and Human Rights Affairs. A *yayasan* (foundation), also recognised as a legal entity since Dutch colonial times, is an organisation which is a collection of assets and, unlike a *perkumpulan*, is not membership-based. Like *perkumpulan*, however, the initial purpose of a *yayasan* is for social, religious, educational and humanitarian support. In practice, however, there is no limitation to the activities that can be carried out by a foundation and many of them are used by their founders for profit-making activities.

In line with public demand for better governance in the wake of Soeharto's fall, the Indonesian government proposed a *Yayasan* Bill to the parliament or the *Dewan Perwakilan Rakyat (DPR)* in 2000. The draft law was later ratified on 6 August 2001 and became effective on 6 August 2002. Less than two years later, however, the law was amended because it was viewed as not being able to accommodate all the needs and legal developments in civil society. It was ratified on 6 October 2004 and put into effect a year later.

The main purpose of the new law is to promote transparency and accountability in the governance of *yayasans*. The financial report of any *yayasan* obtaining assistance funds from the Indonesian state, foreign donors, or other parties that reach IDR500 million (approximately US$58,000) or more must be audited by public accountants. These *yayasans* are also obliged to make public the summary of such financial reports through an Indonesian language newspaper. The foundation law sought to provide legal certainty and to restore the non-profit functions of *yayasans* for social, religious and humanitarian purposes.

1 Antlov, H., Ibrahim, R. and van Tuijl, P. 2006, 'NGO Governance and Accountability in Indonesia: Challenges in A Newly Democratizing Country', in Lisa Jordan and Peter van Tuijl (ed.), *NGO Accountability: Politics, Principles & Innovations, Earthscan*, London.

2 Ibrahim, R. 2006, 'A Long Journey to a Civil Society: Civil Society Index for the Republic of Indonesia' in collaboration with IDSS/ACCESS and Australian Indonesia Partnership, YAPPIKA, Jakarta.

3 Antlov, H. 2008, 'The Future of Civil Society in Indonesia', *Presentation at the conference* Indonesia Post-2014, Nanyang Technological University, Singapore.

However, the foundation law has been criticised by CSOs who view it as narrowing the scope for people to form organisations. There are two major criticisms: Firstly is seen as strong government intervention the need for official approval and regulation of the *yayasan's* organisational structure. Secondly, the law places more emphasis on control and less on the provision of facilities and incentives. For example, the law does not contain any provision on tax incentives like tax exemption for foundations and tax deduction for donors who give contribution to foundations.

However, recent developments in terms of tax incentives to the non-profit sector have been positive. Towards the end of 2010 the government announced that individuals or corporations which donated to national disaster reliefs, research and development, educational facilities, sports facilities and social infrastructure development, would enjoy tax deduction on income tax.

Meanwhile, the majority of NGOs, especially those in the provinces, have not yet adhered to the law. A survey conducted in some provincial cities in Indonesia showed that, in 2009, only around 15 per cent of the total number of *yayasans* have conformed to the foundation law. NGOs argued that conforming their administrative and organisational processes to the demands of the law was too costly for them, and were thus unable to fulfill all its provisions. Interestingly, these NGOs continue to operate despite non-adherence to the law suggesting that, in many cases, those responsible for implementing and monitoring *yayasans* were not making any serious attempt to do so. This, in turn, underscores the observation that government agencies, especially at local levels, are less interested in the accountability and regulation of NGOs, and more in controlling them to stem political dissent.

Aside from the regulation on the legal status of CSOs, there is Law Number 8/1985 on social organisations, passed under the Soeharto regime, which is viewed as highly repressive. The law made it possible for the government to, without undergoing a judicial process, liquidate CSOs whose ideologies or values it perceives as contradicting the state ideology of Pancasila and the 1945 Constitution, or which received foreign assistance without government permission. Under the law, the government also claim the authority to guide and educate CSOs. With political reform in 1999, this law has been ignored by the majority of CSOs because of they do not see its relevance in light of the current democratic developments in Indonesia. However, this law is still in effect because it has yet to be repealed or amended.

In August 2008 the Ministry of Home Affairs issued *Permendagri* (Regulation of Ministry of Home Affairs) Number 38, which regulates the receiving and distributing of NGO assistance from and to foreign parties. One requirement imposed on NGOs for receiving assistance is the need to register with Ministry of Home Affairs or other government agencies and/or the regional government. The Ministry of Home Affairs will issue a 'Registration Certificate' to the NGO which serves as an official recognition of its operation, even though the NGO may not have yet gained legal status from the Ministry of Law and Human Rights. In practice, the 'Registration Certificate' has served as one 'legal instrument' for NGOs to develop co-operation and/or obtain funding from the government or foreign parties.

3. Size, Number, Patterns and Types of Organisations: Development and Advocacy NGOs

The exact number of CSOs currently in operation in Indonesia is unknown. Any effort to make an inventory of CSOs will quickly become dated because of the speed with which CSOs grow in the country. It is often said that the total number of NGOs in Indonesia reaches tens of thousands, but the number of NGOs which operate effectively, are supported with professional staff, have an office and office facilities may not exceed a few thousands.

Although CSOs are obliged by a 1985 Soeharto-era regulation to register with the Ministry of Home Affairs, this regulation has largely been ignored because CSOs view it as anachronistic in the current political climate. As such, the number of NGOs registered with the Ministry of Home Affairs would be an underestimation of the total number in Indonesia. For the record, the total number of CSOs registered with the Ministry in 2010 was around 9,000.

It is often said that the total number of NGOs in Indonesia reaches tens of thousands, but the number of NGOs which operate effectively, may not exceed a few thousands

A non-government effort was made to collect data on the types of CSOs and social movements involved in various activities like advocacy, interfaith and human rights promotion, through a survey jointly conducted in 2003 by two international NGOs (INGOs). The survey found 465 CSOs and/or NGOs of different sorts in Indonesia.[4] Another survey conducted by LP3ES (Institute for Social and Economic Research Education and Information) succeeded in gathering information on about 445 NGOs mainly involved in community development.[5]

There are numerous types of LNGOs but most fall under two categories. The first are so-called 'development NGOs', namely, NGOs involved in community-based social and economic development. Such development includes that of basic infrastructure (clean water and sanitation), health care and basic education, informal education, population affairs and reproduction health, intermediate technology, programmes for income generating activities like small-scale farming and animal husbandry, informal sector development, microcredit and other small businesses. Environment management, social forestry, conservation, biodiversity, women in development, the development of tribal communities and so on, also fall under this category. The services of such LNGOs include education, counselling and financial assistance.

The second category comprises so-called 'advocacy NGOs' and 'social movements' which conduct advocacy works on government policies and the private sector. They include advocacy against environmental pollution by industries, the forcible taking-over of people's land for industries and large plantations, advocacy for the rights and interests of consumers, advocacy for the rights of traditional communities, advocacy for the civil and political rights that are violated by the state or other groups in the society, the rights of women and gender equality, and so on.

The difference between 'development NGOs' and 'advocacy NGOs' was prominent in the past. However, the era of democratisation has seen tremendous growth in the number of CSOs, including NGOs with diverse activities, so much so that the difference is no longer clear. A number of NGOs, known as 'developmentalist NGOs' also conduct advocacy programmes for government policy changes.

A highly remarkable development witnessed in Indonesia after the reformation was the emergence of NGOs that dealt with issues of good governance and democratisation. They included watchdog organisations which carry out anti-corruption work and highlight

4 The results of the survey carried out by Cordaid and the Catholic Relief Services (CRS), were published in *Indonesia Peacebuilding Directory*, 2003.

5 The findings of the survey were published by LP3ES in *Directory of Non-Governmental Organizations in Indonesia*, Jakarta, 2002.

undemocratic practices by state institutions and apparatus. Together with such NGOs are those that carry out civic education, empowerment of civil society, promotion of tolerance and pluralism, inter-religious dialogue, promotion of peace, conflict resolution, legal reform, formulation of public policies and others.

Finally, in various provinces and districts are NGOs that function as public service contractors or consultants. Such NGOs were established to work closely with local governments in order that they have access to small scale projects or funds allocated in the budget of local governments. These NGOs are usually known as 'NGO red plate' or 'government NGOs' (GONGO). Another phenomenon is the emergence of political NGOs that mobilise funds to support candidates who are running for governor or regent. They work like a campaign team in the hopes of greater access to funding or elevated status if their candidates win.

4. Thematic Foci and Interests: Human Rights, Community Development, Environment and Gender

The variety of themes in NGO work is wide given the diversity of CSOs in Indonesia. This section will highlight the more prominent ones. The protection and development of human rights has been a major theme among LNGOs since the 1980s. Hundreds of LNGOs throughout the country have taken part in the education and advocacy for human rights over issues. Issues addressed usually include human rights violation, the violation of social and economic rights in relation to the denial of traditional communities' claim to land and natural resources, women's rights, ethnic rights, civil rights and others.

Another major theme is community-based education. Marginal social groups in Indonesia do not have full access to quality education. The Indonesian government has not given special attention and treatment to groups like the poor in rural and urban areas, indigenous communities or disabled people. In order to balance mainstream education which leans towards formal school education, LNGOs have carried out alternative and informal education by conducting training courses and workshops to address significant issues such as healthcare, poverty reduction, reproductive health and gender equality for target groups like women, labourers, fisherfolk, indigenous communities, isolated tribal people, street children and teenage dropouts. Generally, the principle of these LNGOs is that educational programmes should be carried out systematically and in sustainable ways such that the community will become an agent of change for other communities, eventually leading to the creation of a strong, independent and educated civil society.

Environment management and preservation has become the concern of LNGOs since the 1980s. The 1982 Basic Environment Management Act, which defines and regulates the management of the environment, has, in part, led to the increased number NGOs involved in environmental protection. Such NGOs play several roles. They assist communities with environment development such as community forestry, the development of organic farming systems, micro-watershed management, lake preservation, critical land rehabilitation, mangrove reforestration, biodiversity conservation and others. They also help develop basic infrastructures such as clean water and sanitation projects, and household waste treatment projects. These NGOs also carry out public awareness and capacity-building programmes so as to improve the quality of natural resources management by the community and in turn enhance their self-reliance. Such programmes can take the form of law education and legal assistance for the people so that they can struggle for their rights in the field of environment. Finally, NGOs help alert the government and the private sector to matters like pollution, environmental destruction and biodiversity loss caused by industries and government mismanagement.

Dozens of women's rights and gender equality LNGOs emerged in Indonesia after the Fourth World Conference on Women in Beijing in 1995. These LNGOs provide education and training on women's rights and gender equality, raise awareness over gender-related issues such as domestic violence and establish women crisis centres and initiate income-generating activities for women. In an effort to mainstream gender equality into society, these LNGOs also promote the importance of drafting the national government budget and regional government budgets in a gender-sensitive manner, or drafting bills or draft regulations that defend women's rights. As such, women's rights are not ignored in government policies and programmes. One important achievement made by women movements in Indonesia was the ratification of law on the Eradication of Domestic Violence in 2004. Furthermore, upon constant pressure by women's rights LNGOs and INGOs, the law on general elections included a provision that made it compulsory for at least 30 per cent of candidates for general and local elections to be women.

In an effort to mainstream gender into society, LNGOs also promote the importance of drafting the national government budget and regional government budgets in a gender-sensitive manner

The outflow of Indonesian migrant workers to foreign countries has continued to increase. At this time it is estimated that there are 4.5 million Indonesian overseas workers. The majority of them (about 75 per cent) are women who work in the domestic sector. A number of LNGOs are making the effort to defend the rights of migrant workers who run into trouble and provide assistance to those who are victims of human trafficking. They also educate migrant female workers on labour and human rights.

5. Capacity and Resources: BINGOs and LINGOs

To better capture the capacity and resources of NGOs in Indonesia, two terms are commonly used – BINGOs (big NGOs) and LINGOs (little NGOs). BINGOs are well-established NGOs that have a relatively big professional staff and access to overseas funding. Meanwhile, LINGOs have a small staff and often do not have significant access to exernal funding, but they have, however, closer relationships at the grassroots level. Sometimes BINGOs and LINGOs have co-operated in ways where the former channels funds to support the programmes and activities are carried out by the latter.

The *Indonesia Peacebuilding Directory* found that the majority of NGOs (61 per cent) have staff of fewer than 10 persons, while 86 per cent have staff of fewer than 20 persons. Meanwhile, the funds managed by NGOs range from around US$10,000 up to millions of dollars per year. BINGOs with many years of experience generally have the capacity and resources to carry out their sectoral activities and recruit professional staff for planning and implementing their programmes. The capacity of BINGOs includes the ability to carry out community development programmes concerning small enterprises, microcredit, clean water and sanitation, community healthcare, co-operatives and others. Meanwhile, a number of NGOs have the capacity for community empowerment in the fields of law and human rights education, women's rights and gender equality, community health, HIV-AIDS, environment and conservation, peace promotion and conflict resolution. Although some NGOs have the capacity to carry out sustainable programmes, in general however, the life-span of such programmes are very much tied to the presence of the NGOs themselves.

There are three indicators used to gauge the resources at NGOs' disposal: financial resources, human resources, and technological and infrastructural resources. With regards to financial resources, Indonesian NGOs, as noted earlier, rely heavily on overseas funding. A survey on Indonesian NGOs found that 65 per cent of their funds come from foreign countries while domestic funding is derived mainly from the organisations' own income-generating activities, businesses, corporate and individual donations and others. Funding from the central government and regional governments taking the form of co-operation contracts and others, only form two per cent of the total amounts received.[6] According to a World Bank consultant "financial sustainability [is] commonly identified by CSOs themselves as the most serious issue they face. It would appear a virtual certainty that the pace of civil society growth cannot be matched, in the medium and long-terms, by availability of funds"[7]. This is certainly the case for Indonesian CSOs. The survey of Indonesian CSOs in 2007 showed that funding was at the top of CSOs' needs.[8] Unsurprisingly, the lack of financial resources has led to deficiencies in human resources and technological and infrastructural resources.

It can be generally concluded that Indonesian CSOs do not yet have adequate resources. This has impeded the achievements of their stated goals. This lack of resources has also deterred them from making medium- and long-term plans. CSOs are thus not capable of attracting and developing cadres, or maintaining human resources needed for effective functioning.

6. Transparency and Accountability: The Need for Incentives and Lack of Implementation

One working definition of NGO accountability is the act of reporting, involving and responding.[9] NGOs are obliged to provide information to stakeholders on their performances including the decisions made and actions taken. In an effort to be transparent, the majority of NGOs in Indonesia usually use simple leaflets and websites to disseminate information on their organisations. However, almost all the information on these websites are not regularly updated, while much of the information is only on their programmes and activities, and generally do not pertain to financial reports or funding sources.

Only about one-fourth of NGOs currently operating in Indonesia have made financial reports and less than 50 per cent of them have provided information about their funding sources

In Indonesia, the issue of accountability is understood merely to be financial accountability. However, it is often said that while there are thousands of NGOs in Indonesia, few have applied accounting practices that are based on standard accounting principles. There are even fewer NGOs which make financial reports that can be audited annually on a regular basis by public accountants. For the majority of NGOs, financial accountability is still 'demand-driven' -- that is, highly dependant on requests from donors or funders. A survey conducted by the Working Group on CSO Accountability revealed that only about one-fourth of NGOs currently operating in Indonesia have made financial reports and that less than 50 per cent of them have provided information about their funding sources. Evaluation exercises conducted on NGO programmes have limited success. Such evaluations may be undertaken by partners, facilitators or external observers. However, the evaluation results do not always lead to improvements in accountability as the majority of NGOs keep them only as internal documents or references, without acting on them.

Nevertheless, over the past 10 years, some initiatives for self-regulation have emerged from NGOs themselves. In 2002, LP3ES, a well-known national NGO, drafted an NGO Code of Conduct through a participatory process that involved no less than 500 NGOs from different provinces in Indonesia. Also in 2002, the USC-Satunama Foundation, in co-operation with the Tifa Foundation, prepared an instrument for self-assessment called TANGO (transparency and accountability of NGO). TANGO comprised the evaluation of six elements: an NGO's vision and mission, its governance, administrative aspects, programmes, financial management and legitimacy. In 2004, 12 leaders of national NGOs formed a Working Group on CSO Accountability. So far this group has carried out a series of activities which include the development of code of conduct instruments that aim to make it more applicable, has also carried out public campaigns promoting NGO accountability and has implemented programmes to improve NGO governance, among others.

Despite all these initiatives, significant progress has not yet been made in the improvement of NGO accountability and transparency. The Code of Conduct, TANGO and various instruments remain mere documents and have not yet been implemented adequately. Limited resources, poor stakeholder support, especially from donor communities and the government, as well as the lack of incentives are among the reasons why efforts to increase NGO accountability and transaprency in Indonesia have been largely unsuccessful. However, accountability and transparency may soon be forced on NGOs, particularly by the ratification of the 2008 law on Public Information Openness. The law stipulates that NGOs whose funding is partly or fully derived from the State Budget and/or a Regional Government Budget, public donations and/or overseas sources are obliged to make their funds public periodically. NGOs can be brought to court if they are not willing to provide the necessary information and their management can be jailed and/or fined.

7. Contribution to Governance: Greater Democratisation and Public Service Delivery

Democratisation has brought about radical changes to the relationship between state and civil society. In general, the Indonesian government is less likely to perceive CSOs as an anti-government force or intervene directly in their activities. Conversely, some CSOs believe that CSOs are now able to exist in a meaningful way and function independently, free from state intervention.[10]

Although many government institutions still perceive NGOs as vehicles for foreign interests, some may now be willing to communicate and co-operate with NGOs. Government resistance to NGOs remains primarily because of criticisms from NGOs that little of the state bureaucracy has changed, with corruption and non-transaparency still evident. Nevertheless, the government, including local governments, is open to consulting NGOs and leveraging on their expertise to facilitate state programmes such as those related to public services, reproductive health, eradication of HIV/AIDS and gender equality. The working relationship between NGOs and the Indonesian government also comes to fore in the process of designing government

6 Ibrahim, R. 2000, 'National Directory of Civil Society Resource Organizations in Indonesia', Series on *Foundation Building in Indonesia*, The Synergos Institute: New York.

7 McCarthy, P. 2002, 'A Thousand Flowers Blooming: Indonesian Civil Society in the Post-New Order Era', Paper for Canadian International Development Agency.

8 Prasodjo, I. B. 2007, 'Introduction', *in Indonesian Peacebulding Directory*, Center for Research on Inter-group Relations and Conflict Resolution, Faculty of Political Science University of Indonsia in cooperation with CORDAID and Catholic Relief Service, Jakarta.

9 Slim, H. 2002, 'By What Authority? The Legitimacy and Accountability of Non-governmental Organisations'. Paper presented *to The International Council on Human Rights Policy International Meeting on Global Trends and Human Rights* — Before and after September 11, Geneva, January 10-12.

10 Abdi Suryaningati 2003, *Tingkat Kesehatan Masyarakat Sipil: Petunjuk Penggunaan Indeks Masyarakat Sipil CIVICUS (Level of the Healthiness of Civil Society: Directives for Using Civil Society Index CIVICUS)*, YAPPIKA, Jakarta.

development programmes, offering input for the improvement of public services, undertaking joint monitoring, acting as facilitators, providing new methodologies in designing government strategic plans, among others. The success of such working relationships has been vital in changing the way the Indonesian government views NGOs.

While political democratisation has paved the way for a new relationship between the government and CSOs, the question of how the different stakeholders – the government, CSOs and the private sector – can enjoy equal standing in this relationship remains unanswered. Tension between NGOs and the state in Indonesia remains. On one hand, NGOs expect the government to encourage their active participation in state programmes while, at the same time, expecting to be allowed to hold the government and market actors accountable. On the other hand, the government expects NGOs to eschew confrontational strategies against it and market actors, and places the onus on NGOs to, instead, find means for compromises that may bridge peoples' aspirations and government policies. It is thus no surprise that the relationship between state and civil society is still characterised with less mutual trust, and genuine dialogue between state and CSOs is limited.

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A paradigm shift must accompany any new civil society-state relationship in Indonesia. Until recently, the attitude of state institutions toward civil society has been one of a political and security approach. Past cases of human rights violations by state institutions during pervious regimes have not yet been resolved, while corruption among government officials makes NGO co-operation with the state difficult.

The creation of the Indonesian NGO Council (INC) on 28 July 2010 represents an effort to forge a better and healthier working relationship with the Indonesian government at the national level. INC was formed by 93 NGOs spread across 13 provinces in Indonesia at the National Congress of Indonesian NGOs in Jakarta. INC's vision is to nurture NGOs in political and legal environments that are free and democratic, based on the rule of law and which are capable of accountability. INC is expected to represent the interests of NGOs in forums at national and regional levels that include other stakeholders like the government, funding agencies and the private sector.

8. ASEAN Involvement: Networking and Capacity-Building

A number of Indonesian CSOs have long been members of international and regional networks, and have taken part in various global and regional events in ASEAN, including the ASEAN Civil Society Conference (ACSC) and Solidarity for Asian People's Advocacies (SAPA) Working Group on ASEAN. Human rights are the main concern of Indonesian CSOs; this includes among others, migrant workers' rights, women rights and gender equality, as well as political rights and civil liberties. Migrant CARE (Indonesian Association for Migrant Workers Sovereignty), for example, has a programme for strengthening co-operation and advocacy for migrant workers. Together with other migrant worker movements in Southeast Asia, Migrant CARE carries out advocacy efforts to persuade the ASEAN Secretariat to form an agenda on migrant workers. It would be to Indonesia's benefit, which has more than 4.5 million migrant workers in foreign countries, to see the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (2007) implemented.

The women's organisation, Kalyanamitra, is Indonesia's entry point to the Southeast Asia Women's Caucus on ASEAN which comprises women's NGOs from the ten ASEAN countries, as well as East Timor. The Women's Caucus is active in providing women's perspectives for ASEAN human rights mechanisms, especially AICHR, and preparation of ASEAN instruments for the protection of migrant workers.

Another women's organisation, *Solidaritas Perempuan* (SP), has been involved in developing human rights mechanisms in ASEAN since 2007. This involvement has come with engagement with the Task Force on ASEAN and Migrant Workers (TFAMW) which resulted in the Civil Society Proposal for the ASEAN Framework Instrument on the Protection and Promotion of the Rights of Migrant Workers. This proposal served as feedback for the establishment of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW).

In early 2011, Kontras, (Human Rights Working Group) and FORUM-ASIA, on behalf of civil society networks in Southeast Asia, urged Indonesia, as chairman of ASEAN, to optimise its role in developing ASEAN'S human rights mechanisms. The roles include providing resources for developing AICHR and ACWC, urging the ASEAN to discuss about instruments for Protecting ASA's Migrant Workers, forming an ASEAN Difabel Forum and also about the work of the ASEAN Community Council (ACC).

Many Indonesian CSOs believe that there is some way to go before realising an ASEAN Community that is fully transparent, accountable and pro-people in character

Many Indonesian CSOs, however, believe that there is some way to go before realising an ASEAN Community that is fully transparent, accountable and pro-people in character. Much work still needs to be done to involve civil society, as well as institutionalising mechanisms for CSO involvement in the ASEAN decision-making processes. For the moment, many Indonesian CSOs still view ASEAN as detached from the people of the region. ASEAN continues to be perceived as an elite association of governments in which CSOs do not participate.

9. Role in Social Change: Human Rights and Women's Movements

Five types of CSOs have been observed to be influential in bringing about social change in the country, namely, socio-religious organisations; trade unions; women's movements; human rights NGOs; and environment NGOs. The influence of these CSOs was measured in terms of: (i) The impacts of the activities carried out; (ii) their financial resources; (iii) the size of their membership; (iv) their international relations; and (v) influence on public policy makers[11].

Of these five types of CSOs, it would seem that human rights NGOs movements and women's movements have made the most impact. Decades of experience in managing the problems and issues consistently through action and advocacy, in addition to resources and support from the international community, have made human rights NGOs and women's movements highly capable of highlighting and addressing issues concerning social injustices in Indonesia.

11 Rustam Ibrahim, *A Long Journey to a Civil Society: Civil Society Index for the Republic of Indonesia, op. cit.*, p. 20.

Shortly after the 1998 fall of Soeharto, human rights NGOs and women's movements suceeded in pushing for the formation of the National Commission of Anti-Violence against Women (*KOMNAS Perempuan*), which was followed by the creation of a new law on human rights. The law is viewed as one of the most comprehensive because it includes women's and children's rights.[12] One year later, Indonesia's 1945 Constitution was ammended to include a number of articles on civil and political rights, as well as social and economic rights. In the same year, the Indonesian government issued a Presidential Instruction in 2000 on gender mainstreaming in national development. This Presidential Instruction obliges all government institutions to implement and monitor national development policies and programmes with gender perspectives. The efforts of women's movements also led to the creation of a 2004 law to eliminate violence in households.

Two different laws – concerning political parties and the general election, respectively - stipulate that at least 30 per cent of the management personnel of political parties at all levels must be filled by women

With regards to the political rights of women, NGOs have succeeded in bringing about quota systems that aim to increase women's participation in politics. In 2007 and 2008, two different laws – concerning political parties and the general election, respectively - stipulate that at least 30 per cent of the management personnel of political parties at all levels must be filled by women and that 30 per cent of Member of Parliament (MP) candidates at national and regional levels also be filled by women. Currently, more Indonesian women are involved in politics and this development has yielded good results. In the 2009 General Elections, the percentage of women MP candidates at all levels accounted for 34.6 per cent of total candidates. As a result, the percentage of women parliamentarians rose to 18 per cent at the National House of Representatives (DPR), in contrast to the 2004 General Elections which saw only 11.5 per cent of women MPs elected.

10. Conclusion

Indonesian CSOs have enjoyed increased civil liberties since 1998 and they have taken advantage of it. Quantitatively speaking, the number of NGOs has also grown rapidly. The themes and interests of many of these NGOs have centred on democracy issues; human rights protection; women's rights and gender equality; good governance and anti-corruption, inter-faith dialogue and peace, and environment preservation. Other important themes also include poverty alleviation, income generation, education, basic health and minority rights.

Nevertheless, these NGOs are generally weak in areas of accountability and transparency. This is evident from the limited public information available on them as well as information on their finances and funding sources. These Indonesian NGOs rely heavily on foreign donor organisations and much less on local sources such as the Indonesian public, the government and the local private sector. The diversification of resources and the enhancement of accountability and transparency are two main challenges that must be addressed by Indonesian NGOs.

Finally, the relationship between civil society and the state has not always been positive. Mutual suspicion remains. Furthermore, the bargaining position of CSOs vis-a-vis the state in the decision-making process remains weak. This situation may spell a less-than-encouraging future for NGOs unless better relationships and meaningful interactions between CSOs and the government are developed.

12 Law No. 39 in 1999 on Human Rights, which was ratified on 23 September 1999, comprises 106 articles. Articles 45-51 contain women's rights while Articles 52-66 concern children.

Civil Society in Laos

Boike Rehbein

1. Overview of Political and Civil Society Landscape: A Young Civil Society

Before colonial rule, there was no civil society parallel to the state apparatus in Laos. State affairs mainly came under the purview of royal or princely households and, to some degree, the nobility. Village level decisions concerning the community were usually taken by the community itself[1] and though the Buddhist order played an important role in society, it did not constitute an independent institution as it overlapped with village structures in the lower ranks[2] and was controlled by the royal household on the upper ranks. Institutions like colleges, research institutes and professional associations were formed under the French in the 20th century. However, neither the French, who ruled the country until 1954, nor the Americans and the Royal Lao Government, who jointly controlled much of the country between 1954 and 1975, encouraged any type of civil society.

Non-governmental associations were practically abolished after the socialist revolution in December 1975. Laos became a one-party state – ruled by the Lao People's Revolutionary Party (LPRP) – which remains to this day. After the considerate introduction of a market-economy in 1986, non-socialist international organisations were slowly allowed to establish themselves in Laos and to exert some influence on society. The Constitution, regulatory texts, education, the health system and other components of society were conceived or aided by the international community.

However, civil society had a very small social base, as there was virtually no urban middle class. Part of the population was organised by the party structure, which extended into every village, while most of the population were farmers who continued to participate in village affairs. The social base of civil society organisations (CSOs) only began to develop in the late 1990s and is still very small. While most Lao citizens continue to be peasants or farmers, part of the pre-socialist elite has returned to Laos and continues to act according to patrimonial ties, while the socialist party structure continues to adhere to the party line.[3]

The social base of civil society organisations only began to develop in the late 1990s and is still very small

Several dimensions of a rudimentary civil society can be distinguished: historically rooted forms of community self-organisation, international NGOs (INGOs) and the first seedlings of national NGOs (NANGOs) and local non-government organisations (LNGOs). The main space for the population to participate in politics has always been the village. The village has been a somewhat democratic organ and, to some degree, this is true even today, even though the village headman and the steering committee are usually associated with the party. Their official task is to mediate between the population and the government by way of reporting to the next level in the LPRP structure and to disclose the relevant elements of the party line to the village population. In theory, the headman is also supposed to represent grassroots concerns at the higher levels but in practice this does not mean interest representation but information gathering for the higher levels.

1 Bourlet, A. 1906, 'Socialisme dans les hua-phan (Laos, Indo-Chine)', in *Anthropos* Vol. I, pp: 521-528.
2 Zago, M. 1972, 'Rites et cérémonies en milieu bouddhiste lao, Rome', Universita Gregoriana.
3 Rehbein, B. 2007, 'Globalization, Culture and Society in Laos', Routledge, Londong/New York.

The party structure and administrative structure largely overlap. Apart from the administrative levels (village headman, district chief, provincial governor, central government), the LPRP entertains several mass organisations that are supposed to be civil interest groups, among which the women's union, the senior citizens' union and the young people's union are the most prominent. Before 2009, this was virtually the only type of legally recognised CSO in Laos, apart from INGOs. However, one has to acknowledge that the LPRP was a component of the civil society movement before 1975 and therefore emerged from civil society itself. Even though the party is not a democratic organ, a substantial percentage of the population has either participated in the party's struggle or grown into mass organisations. These citizens consider the party's organs to represent their interests, at least to some degree. However, only 190,000 Lao were official party members in early 2011.

While more than half of the Lao population lives in small villages and participates in local civil society in terms of the traditional communal democracy, some of the villagers and part of the urban population are members of the socialist mass organisations. Another part of the population works inside the party/state apparatus. Many returned exiles form part of patrimonial networks, while the overwhelming majority of those who do not figure in any of these structures are not active in any type of civil or political organisation. These are mainly workers, white-collar employees and business people, mostly residing in cities but also in rural areas. This group is the conventional social base for a civil society in the modern Western sense.

2. Legal and Regulatory Framework: NPAs instead of NGOs

The existence of CSOs was acknowledged in the Lao legal framework by Article 44 of the Constitution drafted in 1991 permitting free association of citizens. The article states: "Lao citizens have the right and freedom of speech, press and assembly, and have the right to set up associations and to stage demonstrations which are not contrary to the laws." However, the constitutional provision is neither widely known nor widely utilised.

Nevertheless, CSOs were established under these conditions. In Laos, this has been possible in the form of a 'non-profit organisation' (NPA; the Lao use the term 'sammakhom' or 'association'). The first NPAs applied for official registration from the 1990s onwards. The Lao government licensed some of them but halted the process in 2006. As there had been no standard procedure and the LPRP's stance on these associations had been unclear, the Lao government decided to create a legal framework to standardise procedures. Today, around 200 known organisations exist in Laos, with many more local, informal organisations probably existing in rural areas.

The Prime Minister's Decree 115, issued in 29 April 2009, is the formal basis for the foundation and registration of non-governmental associations in Laos. It explicitly refers to NPAs and not to NGOs or civil society at large. Thereby, organisations associated with the state could technically be interpreted as NPAs. The decree also explicitly excludes the party's mass associations, religious organisations, funds and foundations from the definition of NPA. Since late 2009, more than 200 organisations have submitted applications for registration, with the Lao Patriotic Front for Reconstruction or the Prime Minister's Office and the very first was successful in its application in 2010, namely, the Life Skills Development Association. Technically, all NPAs in the country are required to register or they may be shut down.

The Prime Minister's Decree 115, issued in 29 April 2009, is the formal basis for the foundation and registration of non-governmental associations in Laos

The government agency responsible for NPAs is the Civil Society Division of the Public Administration and Civil Service Authority (PACSA). Applications – including a draft of the charter, list of committee members and their curricula vitae plus a member list – are to be submitted to the government, which should issue a temporary licence to the organisation within 30 days. However, this timeline has not yet been met, largely because the procurement and submission of documents is more complicated than it initially appears to be. Financial statements and organisational charts are also difficult to produce for many applicants. Therefore, in practice, the registration process is estimated to take at least six months, and even up to two years for some. However, many INGOs, especially Swiss and German aid organisations, have pledged and granted support to LNGOs and NANGOs in the organisational and the registration processes.[4]

Even if NPAs have acquired the skills and capacity to submit a formally correct and complete application, the registration procedure is expected to remain lengthy and somewhat arbitrary due to the nature of the Lao administration. There are no clear decision-making structures in the administration. For this reason, subordinate administrators are hesitant to make decisions. Furthermore, the politbureau may alter the party line and thereby the administrative guidelines any time, which means that an organisation that is legal today, may be illegal tomorrow.

It is important to note that the party exerts media censorship. Topics and opinions that are considered unsuitable do not figure in the media. The lack of freedom of speech extends to the public sphere at large. Even though the constitution explicitly allows demonstrations, they are never granted in practice but do take place from time to time. However, there are no reports on them whatsoever and therefore, most citizens would not be aware of their existence. People speak up freely in private interaction but everyone knows which topics to avoid in public.

3. Size, Number, Patterns and Types of Organisations: Mass Organisations and Development Focus

In terms of CSOs, international organisations and Lao NPAs are most numerous and most relevant. More than 100 INGOs are active in Laos as well as up to 250 local and national NGOs (only very few of which are registered). Both types have formed networks. The network of local and national NPAs ('NPA network'; cf. www.lao-npa-network.org), consisting of discussions groups, workshops, an Internet platform, Facebook and others, is assisted by the network of INGOs. The importance of INGOs, of course, varies according to their financial capacity. However, some of them such as organisations funded by the Japanese or the Swedish state, have given Laos priority status, while others invest less in Laos than in other countries. Local and national NPAs remain numerically small and financially weak. Most of them have to rely on external assistance.

The biggest organisations in Laos that are located between state and civil society are the LPRP's mass organisations. Among these, the Lao Women's Union is of special importance because it is very active, both in terms of research and practice. It is present in virtually every village and has produced a large number of publications. The associations of the old and of the young cover most of the country as well but are less active in terms of output. The Lao Trade Union is small and rather irrelevant for Lao society at large because its social base is negligible. The mass organisations partly represent the state and act in its interests by disseminating the party line. At the same time, they receive input at the grassroots level and have been utilised by urban and rural middle classes as fora of interest generation and representation. On the intermediate

4 Freund, S. 2010, Capacity Building of NPAs in Laos', DED, Vientiane.

level, they have actually offered space for comparatively free discussion and negotiation. It would be misleading to consider them as part and parcel of a totalitarian structure, such as in North Korea, since Laos is a much more fragmented society.

Local faith-based organisations (FBOs), foundations and professional organisations do not play an important in Lao civil society because they are subject to direct party control and a clear legislative framework is still missing for the first two. However, Christian churches, especially Pentecostals, Bahaii and Muslim groups form clusters of civil society movements that have little voice but are a strong mobilising force. All of them have worshipping and community houses. The Bahaii organisation of Laos has such influence that Bahaii was recognised as an official religion of Laos and as a partner in the legislation and regulation of religion in the country. Furthermore, international FBOs are active in Laos, from the Adventist movement to the Catholic Church. The same is true for international foundations.

The majority of organisations operating in Laos are oriented toward issues of development and are located in the capital of Vientiane

The majority of organisations operating in Laos are oriented toward issues of development and are located in the capital, Vientiane.[5] It is safe to classify most of them as operational even though some focus on raising awareness, especially in the field of health. So far, there are few CSOs that could be considered advocacy organisations, if any, because historic background and actual opportunities for advocacy outside the party are missing. As almost all organisations have a thematic agenda or are outright aid organisations, their structure is comparatively tight, functional and to a varying degree, professional. NPAs applying for registration have to present an organisational chart, while INGOs are part of a bureaucratic apparatus anyway.

4. Thematic Foci and Interests: Environment, Agriculture, Migration and Gender

Almost all typical civil society issues are represented by NPAs in Laos, with the partial exception of democracy and human rights. Human rights are an issue that is pressed by the international community. At its visit to Laos in 2010, the UN's Human Rights Commission expressed concern about the implementation of the existing human rights mechanisms. The Lao leadership reacted unfavourably to this criticism, suggesting that the international community should help rather than criticise the country. Although Laos officially calls itself a democracy and there are regular free elections where the electorate may choose between candidates, there is no competition between parties or public input in politics.

INGOs operate in different areas. One major area, due to the rural bias of economy and population, concerns agricultural issues. This is true for INGOs as well as local and national NPAs. The second area is education, especially basic schooling in remote areas, while the third area is in health. Social issues also constitute another important area for NPAs, especially with regards to family and gender issues.

An emerging field is the environment. INGOs as well as local and national NPAs pursue a great number of projects with an environmental focus. While the Lao government's role in environmental sustainability is ambivalent and combines exploitation with protection, many grassroots projects have appeared in the past years. These are not restricted to civil society but include economically-driven projects such as communal sustainable tourism. For the most part, these projects are assisted by international organisations. However, there are also innovative local initiatives, including a worm-breeding project under the Small Grants Programme (funded by UNDP's Global Environment Facility Small Grants Programme), in which locals are taught the use of worms for garbage decomposition.

5 Jersild, A./R. S. 2009, *Feasibility of Various Responses and Interventions to Build Capacity of Local Civil Society Organizations*, Swiss Agency for Development and Cooperation, Vientiane, p. 13.

Migration is a major issue in Laos, both internal migration and international emigration.[6] A substantial number of Laotians are lured into Thailand for exploitation of various kinds, while just as many migrate into the towns in Laos in search of a living. Historically, migration has always been important in Laos, as villages often migrated in search of better land, fleeing from adverse conditions or following the slash-and-burn cycle. These types of migration have greatly decreased in the past decade. New migration is linked to exploitation and/or poverty. ASEAN countries actively engage in the process and the Thai police co-operate with the Lao government in the case of Lao slave labourers in Thailand. However, there are few associations of migrants themselves in Laos and no officially registered NPA seems to exist in the field, apart from INGOS such as Agir pour les Femmes en Situation Precaire (AFESIP).

Migration is increasingly caused by the scarcity of land, which had never before been a problem in Laos. Official land registration during the past two decades, the doubling of the population in the same period and the increasing use of land by China and Vietnam are the main factors leading to land scarcity. The expropriation of land for large-scale projects, mostly Chinese, is the single most important factor for unrest in Laos at the present time. This includes the formation of grassroots movements, few of which are officially registered or even accepted.[7]

Migration is a major issue in Laos, both internal migration and international emigration

Gender may be the topic with the greatest mobilising force, as it is represented by the Lao Women's Union. Not much progress has been achieved in terms of gender equality over the past decades but the issue is omnipresent in Laos, partly due to international attention but mainly due to the LWU's engagement. While apart from a few cultural heritage groups and a handful of artist associations, very few CSOs are active in the field of culture. There is a significant number of grassroots sports clubs. This is especially the case for football where clubs are established with both staff and players working on a voluntary basis. This is true up to the level of the women's national team as well as for other types of sports.

5. Capacity and Resources: International Funding and Expertise

Resources of CSOs in Laos mainly come from abroad, either directly through INGOs or indirectly by training and funding of local CSOs. Some organisations are locally funded by returned exiles or comparatively wealthy people who, in such cases would also run the organisation. However, greater numbers of organisations work at the grassroots level, both in the rural and urban areas, and have to rely on foreign support.

Mass organisations are, as expected, funded through the LPRP. However, the majority of resources come from abroad, mostly linked to specific projects. The international community understands that the Lao state considers mass organisations as representative of the citizenship at large. On this basis, mass organisations have carried out a great number of important and effective projects. Meanwhile, key personnel from mass organisations receive capacity training, ranging from accounting to organisational to thematic knowledge, and are thus best equipped to build a civil society. It comes as no surprise that individuals involved in the new NPAs are those who have been involved in mass organisations in the past.

6 Phouxay, K. 2010, *Patterns of Migration and Socio-Economic Change in Lao PDR*, Umea Universitet, Umea.

7 Khouangvichit, D. 2010, *Socio-Economic Transformation and Gender Relations in Lao PDR*, Umea Universitet, Umea.

Many members and especially founders of the new NPAs have spent some time abroad, either as exiles or as students. They developed their capacities outside of Laos, which in some cases includes fund-raising skills. It can be observed that these people share their capacities and train others in their organisations. Returned exiles and intellectuals seem to form the backbone of the new civil society movement in Laos – together with young individuals who have received training either as government employees or as members of the mass organisations.

Key personnel from mass organisations receive capacity training, ranging from accounting to organisational to thematic knowledge, and are thus best equipped to build a civil society

Fund-raising skills are virtually non-existent because of overreliance on foreign donors. As such, even though there is now a sufficient amount of wealth in Laos, this overreliance means that this wealth is often not tapped for civil society activities. An exception to this are organisations that are founded by wealthy people. However, the traditional way of sharing one's wealth with the community (to a rather limited degree) is through festivals and the Buddhist order. Donating to civil society purposes is a concept that has yet to take root in Laos.

Like its resources, many of Lao CSOs gain many of their capacities from trainings or expertise from abroad. Most capacities vital for steering an NPA hardly exist in Laos and have been provided by international organisations. INGOs have set up programmes specifically directed at the organisation of civil society, leading to the establishment of the Lao NPA network offering assistance with registration, training workshops and visits to organisations in neighbouring countries. The idea is to enable participants to build their own capacities and mobilise resources themselves.[8] This is a new development, which has already had an impact insofar as many of the new NPAs have taken part in the training programmes and the networking activities linked to them.

6. Transparency and Accountability: A Gradual Process

Not much can be said about accountability and transparency of indigenous CSOs in Laos due to their recent emergence. However, INGOs have a history in Laos, dating back to French and American domination. Until the 1990s, international organisations acting in Laos have mostly been ideological agents, first for the cause of Western democracy, then for the cause of Soviet socialism. For this reason, most Lao citizens as well as the LPRP are suspicious of INGO activities in the country. It is well-known that some international organisations operating in Laos still pursue ideological agenda and therefore conceal their true affiliation and operational mode. However, the overwhelming majority of international organisations present in Laos are fully accountable and transparent. At the same time, corruption has become a major issue in Laos, acknowledged and attacked by the LPRP Congress in March 2011.

As NPAs are expected to disclose their financial structure when applying for registration, they are considered accountable and transparent at the time of registration. Whether they continue to be so in the future remains to be seen. The quality of funding and its implementation will be important factors for determining the future of civil society in Laos: Care should be given to not overburden the Lao civil society with foreign concepts of civil society or an overabundance of funds which it cannot absorb. Current support schemes for Lao NPAs include multi-million dollar programmes. Against the increased suppression of civil society in neighbouring countries like Vietnam as a result of overtly enthusiastic support for its civil society and the very nascent nature of Lao civil society, the international community should allow Lao civil society to develop as much as possible in its own speed and on its own terms.

8 Freund, S. 2010: 'Capacity Building of NPAs in Laos', in *DED Annual Report*, DED, Vientiane.

The quality of funding and its implementation will be important factors for determining the future of civil society in Laos

7. Contribution to Governance: Service Delivery and Public Information

Due to the nature of the state and the level of development, service delivery is by far the most important task of CSOs in Laos, both international and local. NGOs have a very limited role in the policy-making process. They may serve as advisors on technical matters and are consulted at the early stages of the decision-making process. Policies, however, are entirely determined by the state, specifically the party and the politbureau. NPAs have so far had no influence on public policies and they have not been allowed to act as advocacy organs in any significant way.

Mass organisations are supposed to represent interest groups in Lao society. They have a defined role in the political process, which consists in mediating between citizens and the state by collecting citizen's input and publicising the party line. Mass organisations have a role in governance as they are expected to regulate segments of Lao society but they do so in a top-down fashion, while ordinary members have little influence on governance through these organisations.

CSOs have little influence on the national level but they have growing importance on the local level as some aspects of community life are steered by civil society rather than by party organs. CSOs are enabling communities to organise their production in ecotourism or organic farming, as well as sports activities and, with some aid, basic health and education services too. Private schools are proliferating as the state does not provide sufficient space for education. While running a private school is an economic activity, especially if it is in tertiary education, elementary schools are also founded as a service to the community. The same is true for informal education such as locally organised information technology (IT) or English classes.

CSOs are becoming more active in the field of information, even if they are still barred from political engagement and advocacy work. Most NPAs comprise aspects of training and education. However, some NPAs have been formed with the dissemination of public information as their primary goal, such as Lao 44 (alluding to the article of the constitution). The Internet has been an important locus for urban actors of civil society in the past decade. Apart from foreign websites and blogs, Lao citizens are also using the Internet for information and networking. For any political opposition, the Internet has been the most important instrument. When there still was a Hmong opposition, the Hmong in very remote places of the country were the first to use computers and the Internet to communicate with their community abroad. For the youth, the Internet is not only a medium for social networking but also a medium of free speech. In early 2011, the government announced that China would assist with the installation of Internet censorship mechanisms in Laos. This is, of course, directed against political opposition more than anything else.

CSOs are becoming more active in the field of information, even if they are still barred from political engagement and advocacy work

Lao society is beginning to be vertically and horizontally differentiated to a hitherto unknown degree. This complexity calls for differentiation of levels and types of governance. Undoubtedly, this differentiation will take place in the coming

years. Differentiation is not identical with the abolition of the one-party rule, rather, the party is not able to accommodate all social interests and regulate all social processes any more. This is certainly one of the reasons for issuing decree 115. At the same time, the government expects local NPAs to assist implementing official policies and uses its power to channel urgently needed funds to back its claims. Most NPAs seem to accept the framework of little independence from the government.[9]

8. ASEAN Involvement: A Leading Role

ASEAN plays a leading role in Laos, together with Japanese, Chinese and regional aid organisations. Virtually all organs of ASEAN are represented in the country, although very few of them concern civil society. Only a handful, such as the Asian Development Bank, have provided aid to voluntary associations even before 2009. This changed with the new government policy formulated in the Prime Minister's Decree 115. ASEAN CSOs that have been active in Laos before 2009 are now able to pursue their work more openly and actively, while new NPAs are advised and assisted by organisations from neighbouring countries.

The Lao government does not perceive ASEAN involvement in civil society as a threat to its power position as long as CSOs concern themselves with social issues, health, education and so on. These are considered to be legitimate fields of activity for domestic and transnational CSOs. The state, however, reacts adversely to human rights activities by international and regional organisations. Apart from this, there are conflicts of interests concerning issues like extractive industries or environmental protection because not all organs and members of the state act in a morally and politically sound fashion; with some illegally extracting timber or having stakes in hazardous mines or dams.

ASEAN entertains the Civil Society Conference with Lao participation as well as the Women's Caucus and the Conference on Child Rights. There is a rather pronounced co-operation, including the state, as far as migrant workers' rights are concerned, however largely excluding domestic migrants. Finally, workshops for all fledgling NGOs in Laos are offered by ASEAN.[10]

9. Role in Social Change: Poverty Alleviation and Education

On the local level, INGOs have contributed greatly to poverty alleviation, education and other forms of development. However, very little change in the area of politics has been produced. This may be the future role of national NPAs that have begun to spring up. Their social base is very small, however, as the urban middle class comprises only a tiny percentage of the population and is only to a very small degree mobilised in CSOs.

Local NPAs as well as informal associations are agents of social and economic change in the rural setting. Often, comparatively small achievements lead to important structural change on the village level such as setting up schools, organic farms or IT courses. Hereby, a village would establish links to the institutions of the state and the market, and these links enable its villagers to participate in wider social settings. There is great potential for CSOs in informal co-operation between villagers that remains untapped due to the lack of information, a low level of organisational capacities, the lack of funding and tight government control.[11]

There is great potential for CSOs in informal co-operation between villagers that remains untapped due to the lack of information

INGOs have contributed to the emergence of associations on the local level and thereby to social change. Furthermore, they have introduced the idea of civil society and provided information to the interested public. It is safe to say that the establishment of a modern, Western-type nation state is to a large degree the work of INGOs. All its typical institutions, from public transport to the Constitution, have been partly or entirely conceived, planned and implemented with the help of international organisations, especially NGOs. Modern Laos has been created to a significant degree by NGOs. It is true that NGOs have had no direct impact on the political system or political change in Laos but by conceiving many of the state's organs, administrative structures and processes, market institutions and the fledglings of a civil society, they are responsible for a great deal of social change in Laos.

The role of major and national NPAs for social change in Laos cannot be assessed yet. This is not only due to their recent creation but also to their small social base. However, this base and therefore the number and relevance of NPAs will continue to grow. A circular relationship between NPAs and social change is the result. Society is becoming more complex and calls for more levels and units of governance. At least one level of governance will be occupied by NPAs, which adds to the complexity of society and social change.

10. Conclusion

There are various types of civil society in Laos that correspond to different historical layers of Lao society, namely the village, the socialist party and the market economy. As these layers continue to persist and to inform much of everyday life, a discussion of civil society has to acknowledge their existence. As the colonial state did not contribute to the emergence of a civil society in the modern Western sense, its roots in Laos have to be dated only into the 1990s. INGOs have been active in Laos since the colonial period but national and local CSOs have begun to emerge very recently. They have been able to operate in a legal framework since late 2009.

In terms of the modern Western sense of civil society, there are informal associations by citizens, not officially recognised formal associations (often local subsidiaries of international or transnational organisations) and a growing number of recognised NPAs. All of these remain numerically and financially small but are of great local importance, both in terms of immediate necessity and in terms of long-term social change. The thematic orientation of NPAs corresponds to the configuration of development in Laos. Agricultural matters, health, education and social issues are the major concerns in citizen's everyday lives and on the agenda of NPAs.

In order to carry out their agenda, most NPAs have to rely on foreign assistance for resources and capacities. Training for self-sustenance figures prominently in the activities of international organisations in Laos and this trend will make itself felt in the near future. The engagement of returnees from abroad adds to this trend. The relevance of NPAs for everyday life, social change and governance will continue to grow.

Against this background, it could be advisable for the international community and for NPAs to stick to the path pursued so far. While political change is not imminent in Laos, the emergence

9 Jersild, A./R. S. 2009, *Feasibility of Various Responses and Interventions to Build Capacity of Local Civil Society Organizations in Lao PDR*, Swiss Agency for Development and Cooperation, Vientiane, p. 22.

10 SEACA has also organised annual conferences of Lao NPAs to mobilise their participation in the ASEAN's people's Forum (APF).

11 Social and Economic Development Association 2010, *Annual Report 2010*, SEDA: Vientiane.

of a civil society is an important component of the contemporary transformation of the country. Civil society has plenty of immediate tasks and challenges to master as well as a role to play between society and the state. The international community could continue to assist Lao NPAs as well as non-formal associations with these issues.

Civil Society in Malaysia

Lee Hock Guan

1. Overview of Political and Civil Society Landscape: Advancing Democratic Practices

Civil society organisations (CSOs) in Malaysia have persevered in a situation where the state has, for the most part, prioritised national security over citizens' political rights to freedom of speech and expression, assembly and association. Political rights provisions in the Malaysian constitution are curbed by a number of restrictions and indeed since achieving independence in 1957, major pieces of legislation have been amended or added to further curtail those rights. Existing laws thus endow the state with extensive power to decide which CSOs are to be granted legal recognition, "what funding they may seek and accept, and what they may do… and how NGOs make their case to the public and who may join".[1] CSOs that are critical of the official discourse and state legitimacy and interests are viewed suspiciously, if not as subversive entities, by the state and are often arbitrarily hounded on 'national security' grounds.

In spite of the restrictive conditions in Malaysia, a vibrant civil society has emerged and helped to advance democratic governance and practices in the country

In spite of the restrictive conditions in Malaysia, a vibrant civil society has emerged and helped to advance democratic governance and practices in the country. The emergence of advocacy groups in particular has contributed to the democratisation project and its sustenance in the country. However, the prevalence of ethnic divisions and politics in Malaysia has resulted in the deepening of ethnic and religious cleavages in civil society and consequently the proliferation of ethnic and religious associations. A number of Malay and Muslim groups strongly support the Malay-Muslim dominated state's aim of transforming Malaysia into a Malay- Muslim centric nation, even at the expense of marginalising the cultural and religious rights of the non-Malays and non-Muslims. In this way, several Malay and Muslim groups in civil society have resisted the growth of a multicultural democratic order where every ethnic and religious group is granted equal recognition and rights.

2. Legal and Regulatory Framework: A Wide Range of Powers

Freedom of association is enshrined in the Malaysian constitution but restrictions are imposed on it not only within the constitutional framework but also through other general legislations. For example, while the constitution provides for personal freedom of speech and expression in Article 10(1)(a), a host of other regulations - the Sedition Act, 1948 (and Amendments, 1971); Official Secrets Act, 1972 (and Amendments, 1986); Printing Presses and Publishing Act, 1948 (Amendment 1988); Control of Imported Publications Act, 1959 – serve to restrict it. Another example is that while freedom of peaceful assembly may be guaranteed under Article 10(1)(b), other regulations like the Public Order (Preservation) Ordinance, 1958; Police Act, 1967 (and Amendments, 1988), curtail it.

Among the legislations that have direct bearing on freedom of association are the Trade Unions Act 1959; Societies Act 1966; and University and University College Act (UCCA) 1971. Other legislations which the state can also use to control associational space are Sedition Act 1948;

1 Weiss, M. 2002, 'Malaysian NGOs: History, Legal Framework and Characteristics' in Weiss, M. and Hassan, S. (eds), *Social Movements in Malaysia: From Moral Communities to NGOs*, Routledge, New York, p. 31.

Internal Security Act (ISA) 1960; Official Secrets Act (OSA); Police Act 1967; and Printing Presses and Publications Act 1984. After 1980, new advocacy CSOs started to circumvent the difficulty in getting legal recognition under the Societies Act by registering as a business under the Companies Act 1965 which has less stringent requirements. Nevertheless, the Companies Act also provides the state with considerable discretion to keep in check CSOs which are registered as businesses and later amendments to the Act have further enhanced the Registrar of Companies' discretionary powers.

Article 10 of the Malaysian Constitution grants all citizens the political rights to freedom of speech and expression, assemble peaceably and form associations. These rights are however not absolute as Article 10(2) also stipulates that the Parliament can impose restrictions on the freedom of speech, assembly and association as "it deems necessary or expedient in the interest of national security, public order or morality and restrictions designed to protect the privileges of Parliament or of any Legislative Assembly or to provide against contempt of court, defamation, or incitement to any offence".[2] While the Parliament can amend the Constitution, it can only do so with a two-thirds Parliamentary majority. This democratic provision, included to rein in the powers of the Parliament, has virtually failed in Malaysia because the Alliance/National Front (BN) has maintained a two-thirds parliamentary majority since independence until the 12th General Election in 2008, and was able to amend the constitution at will.[3]

Article 10 of the Malaysian Constitution grants all citizens the political rights to freedom of speech and expression, assemble peaceably and form associations

The Societies Act 1966 regulates the formation and functioning of associations in civil society. Under this act[4], the Home Minister and the Registrar of Society (ROS) have absolute discretion over whether to grant or refuse to register a new society or impose conditions in registering new and registered societies in the interest of the security, public order and morality of the country. A society may also be de-registered if it, in the Home Minister's opinion, is used for purposes prejudicial to security, public order or morality. Thus the Societies Act provides the Home Minister with wide ranging powers to refuse or cancel registration of societies on a number of grounds.

In 1981, the Mahathir administration amended the Societies Act to divide the CSOs into 'friendly' and 'political' societies. CSOs labelled as 'political societies' were required to obtain from the ROS approval for foreign affiliation and fund raising. The amendment also prohibited certain categories of people from holding office in 'political societies' and granted the Home Minister and ROS absolute power to register and de-register them. However, CSO's mobilisation against and public outcry over the amendments led the Mahathir administration to introduce a new amendment bill in 1983 that removed the most controversial provisions.

Over the years, the state has often used the legal and regulatory framework to intimidate and neutralise CSOs, which defy official discourse, policies and interests. The main victims have been the advocacy-oriented CSOs that emerged in the 1970s, dealing with issues such as environment, women's rights, democratic governance and human rights groups, which attract the ire of the Malaysian state. Trade unions have also come under severe pressure from the Malaysian state.

2 Hashim, M. S. 1976, *An Introduction to the Constitution of Malaysia* (2nd edition), Government Printer, Kuala Lumpur, p. 217.

3 In 2008, the BN lost its two-thirds parliamentary majority to a coalition of opposition parties.

4 The Societies Act was first introduced by the British colonial state as the Societies Ordinance in the late 19th century to regulate and control Chinese secret societies which were perceived as a threat to public order and state legitimacy.

The most notorious example was the detention of several civil society activists under the ISA in October 1987 amid an intensive power struggle in the United Malay National Organisation (UMNO). In the 1990s, the state cracked down on Tenaganita after it exposed the inhuman conditions meted to immigrants in detention centres. Tenaganita's offices were raided and documents and other materials confiscated and its Director, Irene Fernandez, was charged for publishing 'false news', only to be judged not guilty after 13 years in 2008. Most recently, the Hindu Rights Action Force (HINDRAF) was banned as an 'unlawful society' in 2008 under the Societies Act on the grounds that it was detrimental to peace, public order, security and the moral values of Malaysia, and five of its leaders were detained under ISA.

3. Size, Number, Patterns and Types of Organisations: Ethnic and Religious Organisations

Civil society in Malaysia developed out of a wide range of largely ethnic- and religious-based associations formed in the early 20th century during British colonial rule. While most of the early associations were engaged in service and welfare activities, from the 1920s onwards there emerged a handful of Malay nationalists and Chinese progressive groups, which engaged in advocacy or political activities. Ethnic and religious cleavages have continued to prefigure decisively in civil society in post-independent Malaysia with non-ethnic and non–religious advocacy groups only starting to emerge in the 1970s. However, since the 1980s, Islamic revivalism has led to the growth of Muslim advocacy groups on the one hand and political awakening of previously non-advocacy ethnic and religious groups on the other.

While there are thousands of registered societies in Malaysia, the majority of them are community (ethnic) and religious organisations

In 2007, the number of registered societies increased from 31,985 in 1980 to 58,738.[5] Yet, the large number of registered societies is misleading because many of them may be inactive and have yet to officially to dissolve. They remain in the registry because the ROS enforcement is far from efficient in tracking such inactive societies. Also, many societies, even temporary ones, have registered simply because the Societies Act makes it mandatory for every society defined as any club, company, partnership or association of seven or more persons whatever its nature, whether temporary or permanent to register in order to gain legal recognition.

While there are thousands of registered societies in Malaysia, the majority of them are community (ethnic) and religious organisations with an estimated 100 to 200 groups, including those registered under the Companies Act, which could be classified as advocacy groups. Some estimated about 100 advocacy CSOs in the early 1990s.[6] By far, the majority of the registered societies are local clubs, sports clubs, youth groups, recreational social societies and ethnic and religious community groups where membership may range from a dozen or so members to the thousands. The Societies Act's classification scheme does not differentiate groups like the social clubs, welfare societies and credit co-operatives from the advocacy groups and neither does it differentiate the state sponsored societies from the independent societies.[7]

5 Registry of Societies 2007, Annual Report, Government of Malaysia, Kuala Lumpur. I have removed the political society category which is included in the ROS classification. It is estimated that there are, as at April 2006, 1,224 CSOs which are registered under the Registrar of Companies as business companies.

6 Tan. B. K. and Singh, B. 1994, 'The Role of NGOs in Development: Malaysian Case Study', Asian and Pacific Development Centre: Kuala Lumpur.

7 'State-sponsored' NGO describes voluntary organisations which are largely managed and run by people at the grassroots and community level, but which are at the same time conduits of government policy and located within the state bureaucracy either under a government agency or a ministry (Tan and Singh 1994:2). While state NGOs run from one of extreme total ministerial control to that of complete autonomy, nevertheless most are co-opted and are part and parcel of the state machinery (which in fact received most government-government foreign funds). State NGOs' programmes are varied and in fact more widespread at the community level than that of most NGOs primarily because they enjoy easy access to financial and human resources.

The prevalence of ethnic- and religious-based associations in Malaysian civil society is obviously due to the primacy of racial cum religious politics in the country. Identity politics have led established and new Chinese and Indian groups to mobilise to protect their culture, religion and mother tongue education from being marginalised by the Malay-Muslim dominated state's policies which are intended to transform Malaysia into a largely Malay-Muslim nation.[8] The implementation of the New Economic Policy (NEP) since 1971 has led different ethnic CSOs staking diametrically opposing stances on the NEP's system of racial preferential treatment. Most recently, threatened by the increasing non-Malay criticisms of the NEP since the March 2008 General Elections, Malay supremacists formed the Pertubuhan Pribumi Perkasa Malaysia (PERKASA) to stridently fight for the continuation of Malay entitlements.

Because of the restrictive Trade Unions Act as well as repeated state persecution of union activities, only about eight per cent of the total Malaysian workforce was unionised in 2006[9]. Although unions have tried to maintain independence from both the state and political parties, state control is pervasive, even extending to the internal affairs of a union. In fact, because the Trade Unions Act banned unions from forming general confederations, the MTUC, which covers both private and public sectors and has about 500,000 members, is not recognised as a trade union confederation in law. Instead, the MTUC is registered under the Societies Act and thus does not have the right to conclude collective bargaining agreements, nor to undertake industrial action. While MTUC has managed to remain an independent and non-ethnic association, the Congress of Unions of Employees in the Public and Civil Services (CUEPACS) has become a largely Malay group as a result of the overwhelming Malay domination of the civil service. Because of the close affinity between the Malay-dominated civil service and UMNO, CUEPACS has become largely 'friendly' with the UMNO-dominated state.

Because of the restrictive Trade Unions Act as well as repeated state persecution of union activities, only about eight per cent of the total Malaysian workforce is unionised

In the aftermath of the May 1969 ethnic riots, the advocacy groups which emerged in the 1970s were mostly consumer and environmental associations including the Consumer Association of Penang (CAP), the World Wild Fund Malaysia (WWFM), the Federation of Malaysian Consumer Association (FOMCA), the Environmental Protection Society of Malaysia (EPSM) and Sahabat Alam Malaysia (SAM). Two major exceptions were the establishment of Aliran Kesedaran Negara (ALIRAN) in 1977 by a group of reform-minded intellectuals and professionals in Penang and the Malaysian Islamic Youth Movement (ABIM) by Malay Muslim university graduates in 1972.

Before the influence of the modern feminist movements in the 1980s, women groups were largely women's wing or sections of other CSOs, trade unions and political parties. Unlike women groups influenced by the feminist movement, traditional women groups were primarily concern with welfare, religious, education and service–oriented activities. In contrast, the women advocacy groups formed in the 1980s and after, shifted their focus to the various issues raised by feminists. The Women's Aid Organisation (WAO) was established in 1982 to focus on violence against women and it opened Malaysia's first Women's Refuge to provide shelter, counselling and child support to battered women. All Women's Action Society Malaysia (AWAM), an independent feminist group committed to improving the lives of women in Malaysia, was registered in 1985 and the Penang-based Women's Crisis Centre (WCC) was officially registered as a society in 1985. Tenaganita, a group initially established to advance women workers and migrant rights, was established in 1990. In reaction to the growing enactment of laws and policies that would discriminate Muslim women in the name of Islam, a group of professional and academic Muslim women registered Sisters in Islam (SIS) in 1990.

Since the Islamic resurgence in the 1980s, a number of Islamic CSOs has been established including, Pertubuhan Jamaah Islah Malaysia (JIM, est. 1990), the Muslim Professionals Forum (MPF, est. 1980s), the Islamic Medical Association (IMAM, est. 1990), the Malaysian Islamic Chamber of Commerce (MICC, est. 1996), The World Muslim Consumer Association (TWMCA, est. 1997) and Malaysian Syariah Lawyers Association (PGSM, est. 2000). The proliferation of Muslim CSOs clearly points to the expanding influence of Islam in Malaysian politics and, more generally, in the lives and conduct of Malaysian Muslims[10].

Since the fall of the Berlin Wall in 1989, various advocacy groups focusing on advancing democratic and human rights emerged in Malaysia

In the wake of the second democratisation wave since the fall of the Berlin Wall in 1989, various advocacy groups focusing on advancing democratic and human rights emerged in Malaysia. The 1987 Mahathir administration crackdown on civil and political liberties led a group of committed activists to mobilise against the clampdown and eventually they established two human rights advocacy associations, namely, Suara Rakyat Malaysia (SUARAM) in 1989 and Malaysian National Human Rights (HAKAM) in 1991. Also, since the late 1980s, the Malaysian Bar Council (MBC) has emerged as a staunch advocate for human rights in the country. Conversely, the Malaysian state has attempted to influence and shape the human rights debate in the country by forming the Human Rights Commission of Malaysia (SUHAKAM) in 1999. With growing concern over the deteriorating condition of electoral democracy in Malaysia, democratic activists established the Malaysians for Free and Fair Election (MAFREL) in 2003 and Coalition for Clean and Fair Elections (BERSIH) in 2006.[11]

4. Thematic Foci and Interests: Race and Identity, Environment and Gender

In recent years, more Malaysian CSOs have moved beyond the cause that they were originally established for and ventured into other causes as well as serving other constituencies. For example, while the core focus of environmental groups is still environmental concerns, several of them are also engaged in women, indigenous peoples land rights struggle and other issues. Several women groups have shifted beyond women issues to other sectors, such as, democratic governance and religion in order to protect and advance their core constituency's interests. Practically, for better or for worse, most issues are today linked to the overarching concept of human rights and Malaysian CSOs now have largely framed their arguments in terms of human rights. The umbrella concept of human rights is increasingly being used to cover a

8 The Chinese educationist movement Dong Jiao Zong (DJZ) were established by Chinese school teachers and supporters in the early 1950s about the same period as the establishment of Gabungan Persatuan Penulis Nasional Malaysia (GAPENA) by Malay teachers, journalists and writers to champion the status of Malay as the sole national and official language and main medium of instruction in the national schools.

9 Ramasamy, N., *The Future of the Trade Union Movement in Malaysia*, p.3, <www.mtuc.org.my/Nagiah%20The%20Way%20Forward.pdf>.

10 Welsh, B. 2008, 'New Identities, New Politics: Malaysia's Muslim Professionals' in Hefner, R. W., Murphy, A. M. and Welsh, B. (eds.), *Muslim Professional Associations and Politics in Southeast Asia*, NBR Analysis: Washington, D.C.

11 BERSIH was initially a joint effort by both civil society groups and opposition political parties. Recently, it has been renamed as BERSIH 2.0 to signify a move by the civil society activists to decouple the association from the opposition political parties.

wide range of topics including cultural, language and religious rights, racial discrimination, environmental and consumer issues, women and workers rights, democratic governance, and so on. For advocacy CSOs, the human rights concept has become the predominant rhetoric through which they articulate their issues and arguments. There are several cluster issues that Malaysian CSOs are engaged in.

Race and identity politics have remained a perennial arena of contestations in Malaysia since political independence. Aggressive policies by the Malay-Muslim dominated state to entrench Malay language and culture since 1970s and Islam since 1990s at the expense of the minority cultures, languages and religions in the country have prompted non-Malay and non-Muslim CSOs to struggle for and protect their cultural, language and religious rights. In the field of education, the Chinese educationist movement, Dong Jiao Zong (DJZ) ,has led Chinese CSOs to fight for the community's mother tongue education and the preservation of Chinese schools[12]. HINDRAF was formed largely because of the Indian community's mounting grievances over the marginalisation of their culture, religion and economic and educational opportunities. Attempts to Islamise Malaysia have further intensified non-Muslims' feeling of being disadvantaged and they have responded by fighting for their constitutional rights to profess and practise their religion freely without any fear and interference from the state[13]. Several non-Muslim associations including the multi-religious Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism and Taoism have mobilised to struggle for the non-Muslims' right of freedom of religion as stipulated in Article 11 of the Malaysian Constitution. Various recent state actions on a number of issues affecting Christianity have aroused previously non-political established Christian CSOs to speak out for and defend their religious rights.

> Race and identity politics have remained a perennial arena of contestations in Malaysia since political independence

The environment is another key theme. There are numerous Malaysian environmental CSOs and the issues they address include improving environmental quality, capacity building for environmental protection, community participation, environmental education, sustainable agricultural practices, policy analysis and wildlife trade monitoring. In recent years, environmental groups have increasingly co-operated with pro-indigenous peoples associations to struggle against the appropriation of non-Malay natives lands for property development, logging, construction of dams and conversion to oil palm plantations. There are numerous groups of non-Malay indigenous peoples that form approximately 2.1 million or 10.2 per cent of the population of Malaysia. The major issue confronting these communities is the dispossession of land. In West Malaysia, Orang Asli Reserves lands have been or are threatened of being appropriated by both state and private interests for various developmental purposes. In Sabah and Sarawak, laws pertaining to Native Customary Rights (NCR) protect the indigenous peoples' right to land. But, in practice, the state has been able to alienate large tracts of land for logging, development projects (construction of dams) and commercial purposes (oil palm plantations).

12 Tan, L. E. 1992, 'Donjiaozong and the Challenge to Cultural Hegemony 1951-1987' in Loh, K. W. and Kahn, J. (eds.) *Fragmented Vision: Culture and Politics in Contemporary Malaysia*, Allen & Unwin, Sydney.

13 Joy, L. 2008, '*The Islamic State and Freedom of Faith*', in Tan, N. and Lee, J. (eds), Religion Under Siege?, Kinibooks, Kuala Lumpur.

Women's CSOs in Malaysia have been a driving force for the advancement of women and their rights[14]. They have played an important advocacy role in advancing legislation or mechanisms to ensure the promotion or advancement of women in society and also become catalysts for new approaches to the role of women in development. In the 1970s, women's groups engaged in a broad array of women issues including welfare and education of women and discrimination against women in terms of equal pay for equal work, job security and maternity leave. Since the 1980s, influences by the emerging international feminist movement led women's groups to focus on violence that women experience at home, on the street, at the workplace and in the media. In the 1990s, SIS began to campaign vigorously for the rights of Muslim women in light of the increasing enactment of discriminatory policies and laws in the Islamic legal framework. As a rule, non-Muslim individuals and CSOs are banned from participating in issues pertaining to Muslim women.

> Women's CSOs in Malaysia have been a driving force for the advancement of women and their rights

5. Capacity and Resources: Differences Between State-linked and Advocacy CSOs

In terms of the human and financial resources, there are many variations and disparities between CSOs in Malaysia. While CSO resources are scarce, state-supported or –linked associations generally do not face staffing and material resource problems since they would have access to financial support from the state. In contrast, because domestic funding is limited for most advocacy CSOs, they would largely have to rely on foreign funds. Transparency and democratic issues within CSOs have of late surfaced as an area of concern in Malaysia.

Among the Islamic associations, ABIM and JIM are the largest groups with mass-based membership running into the thousands while SIS has a small core of dedicated leaders complimented by a small pool of volunteers. ABIM, for example, is estimated to have more than 50,000 members. While ABIM's and JIM's leadership comes from the educated Malay middle class, their members are from all walks of life and both groups are active nationwide in both the rural and urban areas. SIS, in contrast, is led by professional Malay-Muslim women assisted by a small group of middle class Muslim female volunteers and is active mostly in the urbanised Klang valley. The other faith-based associations are of various sizes depending on the religion and the number of adherents it commands.

Similar to the faith-based associations, the ethnic-based and professional associations vary in sizes. The DJZ and various Chinese clan and business groupings are relatively large and urban-based with the core leadership coming from the Chinese professionals and the business community and membership coming from all walks of life. Among the professional associations, the two most active groups, the Malaysian Bar Council and the National Union of Journalists, are large and active nationwide. Similarly, the two biggest trade union groups, the Malaysian Trade Union Congress (MUTC) and the Congress of Unions of Employees in the Public and Civil Services (CUEPACS) are large with membership numbering in the thousands.

Of the advocacy associations, most of them are small and urban-based, concentrated particularly in Kuala Lumpur and Penang. Their small size and the preponderance of professionals – lecturers, lawyers, teachers, engineers, journalists and the like – prompt occasional accusations of elitism and irrelevance. Moreover, their memberships tend to be composed of non-Malay

14 Ng, C., Mohamad, M., Tan, B. H. 2006, 'Feminism And the Women's Movement in Malaysia : an unsung (r)evolution', Routledge, London.

Muslim middle class individuals which thus limits their communication and appeal to the Malay Muslim grassroots especially in the rural areas. Recruiting socially-motivated members from the middle class remain a big challenge because they face tough competition from the private sector which offers better remuneration. This problem is compounded by the fact that many advocacy CSOs are set up on a voluntary basis and rarely do they provide career prospects. Also, because of their sometimes tenuous relationship with the state, the risk of getting into 'trouble' discourages people from joining them. For many of the more established CSOs which can afford to employ full time staff, they face the difficulty of keeping their staff and developing the next generation of leaders.

In Malaysia, however, advocacy CSOs with few formal members and volunteers have been able to rally widespread support for particular causes or campaigns. This is partly because networking is a major strength where a small group can effectively campaign against a particular cause by forming temporary alliances with their peer groups. A study of environmental NGOs showed that the tactics used to influence policy include "conducting and presenting research results, presenting personal viewpoints, lobbying and contacting officials, are often used compared to tactics like letter-writing and telegram campaigns, grassroots lobbying, drafting legislation or organising conferences".[15]

A major recurring problem among Malaysian CSOs, especially advocacy CSOs, is financial sustainability

Interestingly, many Malaysian advocacy groups have effectively used the Internet for a variety of reasons and purposes. Capacity-building has been positively aided by the Internet to facilitate training programmes, reduce costs, raise funds, manage information, communicate with personnel, or reduce travel costs. The Internet has also been effectively used to mobilise support for campaigns to build awareness, disseminate information, organise conferences and public meetings, and for networking with other associations. Indeed, Malaysian advocacy CSOs are Internet savvy with nearly all CSOs having an online presence with regular homepage updates. The Internet has been especially exploited by small advocacy CSOs to circumvent their limited funding and human resources.

A major recurring problem among Malaysian CSOs, especially advocacy CSOs, is financial sustainability. Even though Malaysia is middle-income country, funding is limited because there is poor public awareness over the role of CSOs in society. CSOs whose orientations and activities are complementary to state policies and agenda would have greater access to state funding. In contrast, CSOs focusing on issues that come into conflict with the state's agenda and priorities would find it harder to raise funds locally and frequently would have to depend on foreign funding. Some CSOs would rather be self-financing or source funds locally instead of turning to foreign funders because the latter would open them to criticisms from the Malaysian state. In fact, Malaysian state has frequently accused advocacy groups which received foreign funding of serving foreign interests and betraying 'national interests'.[16]

In 2008, the Organization of Economic Cooperation and Development (OECD) nations' and multilateral organisations' total development assistance grants to Malaysia were US$97.7 million, out of which bilateral funds constituted US$96.1 (98.4 per cent) and multilateral organisations US$1.5 million (1.6 per cent).[17] US$83.8 million (85.8 per cent) of the total grants were bilateral grants which are government-to-government and, as such, most of these grants were channelled to state-sponsored or linked CSOs. Similarly, multilateral organisations funding are also channelled to state-sponsored or linked CSOs.

Moreover, the rest of the foreign funds are distributed to only among a handful of well known Malaysian advocacy groups while their lesser known peers were left out. For example, the interconnected group of the Third World Network, Sahabat Alam Malaysia (SAM) and the Consumer Association of Penang (CAP) received more than 80 per cent of the funds from Sweden and Norway. Most American funding went to Malaysian AIDS Council, SIS, SUARAM and a few others, while Danish grants went to environmental and indigenous groups and German funds went to a few groups working on the reduction of sexual and domestic violence to women and children.

A neglected aspect of foreign funding to Malaysian civil society is the contribution from Middle Eastern countries, especially Saudi Arabia, to Muslim CSOs. Anecdotal evidence suggests that Saudi funding has been channelled to various conservative Muslim CSOs, which are involved in educational, welfare and dakwah activities. The Saudi-funded World Assembly of Muslim Youth which, among other things, focus on dakwah activities has a Malaysian chapter that was registered in 1986.

6. Transparency and Accountability: Much Room For Improvement

Poor internal governance and lack of transparency and accountability have emerged as a major concern with the operation of Malaysian CSOs. Many advocacy CSOs are driven by strong personalities including several key ones such as CAP and SAM (S.M. Mohamed Idris), Third World Network (Martin Khor), EPSM (Gurmit Singh), Tenaganita (Irene Fernandez), Malaysian AIDS Council (Marina Mahathir) and The International Movement for a Just World (Chandra Muzaffar). These groups are overwhelmingly associated with their leaders regardless of how large their staff or how wide-ranging and decentralised the activities of the group may be. Renewal of leadership of several of these personality-driven CSOs is a major problem because the founding leaders have stayed put and have not made any effort to cultivate new leaders to take over the helm. The lack of transparency in the hiring and promoting of personnel in advocacy CSOs have also led to allegations of favouritism and worse, cronyism.

Poor internal governance and lack of transparency and accountability has emerged as a major concern with the operation of Malaysian CSOs

While the Societies Act requires that all registered societies must submit to the ROS a set of annual report including their sources of funding and a breakdown of their annual operational expenditure, these are not open to public viewing. However, there is some evidence that this legal requirement has not been complied fully with; for example, in year 2001, only 47.9 per cent of the 31,630 registered organisations in the country submitted their annual reports.[18] In a study on American foundation-funding to Malaysian CSOs, it was found that "the standards of transparency and accountability in the sector are poor, with many prominent organisations providing little if any

15 Mohd, R. and Lee, K. C. S. 1999, 'Tactics of Environmental NGOs in Influencing Public Policy in Malaysia', in *Pertanika Journal of Social Science & Humanities* 7(2), p. 71.

16 In 1981, the Mahathir administration attempted to amend the Societies Act to ban advocacy groups from receiving foreign funding. In 1997, the government investigated ways in which CSOs were being managed and insinuated they were co-operating too closely with foreign governments.

17 See http://stats.oecd.org/Index.aspx?DatasetCode=ODA_RECIP

18 Nasir, N. M. et al 2009, 'Financial Reporting Practices of Charity Organisations: A Malaysian Evidence', in *International Bulletin of Business Administration* 6, pp 19-27.

information about their governance structure, funding or performance".[19] When questioned about the lack of transparency and accountability, the CSOs cited in the study replied that they had submitted their annual reports to ROS but refused to divulge any relevant information.

7. Contribution to Governance: Raising Democracy and Racial Issues

The second democratic wave and emerging human rights discourse have led to the formation of CSOs, which focus on issues of governance and political rights in Malaysia. CSOs have launched campaigns against the Internal Security Act, Official Secrets Act, Societies Act, Police Act, Sedition Act and Printing Presses and Publications Act. Questions of transparency, accountability and corruptive practices in public governance have regularly been raised by across a wide section of Malaysian CSOs including SUARAM, HAKAM, Malaysian Bar Council, Transparency International-Malaysia and Muslim groups like SIS, ABIM and JIM. Also, in recent years, concern over the state of electoral democracy and the abuse of power by an overbearing ruling coalition has led to various efforts by CSOs to strive for fair and clean elections in Malaysia. MAFREL and BERSIH have led the way in monitoring electoral practices and abuses of the ruling coalition.

The Malaysian government's relation with civil society continues to be shaped by the prioritising of national security over citizen democratic rights. As a result, government-civil society relations have ranged from cautiously encouraging to openly hostile. There is active collaboration between government and CSOs when the issues involved are palatable to the former. They have collaborated on formulating and implementing policies on the environment, welfare, women, youths and child development when support, inputs and expertise from CSOs are needed. Over the years, the government has involved organisations such as FOMCA, Malaysian AIDs Council, MNS, WWF, SIS, AWAM, WAO and WCC on several occasions to work on a variety of activities including the formulation of policies. The best example of this is the National Council of Women's Organisations Malaysia (NCWO), which was officially established on 25 August 1963 to act as a consultative co-ordinating and advisory body to raise the status of women and their participation in national development. The NCWO brought together the government and CSOs to work on a number of issues and activities over the years. Today, many government key committees, particularly on the advancement of women, comprise representatives of various women's organisations, thereby increasing the participation of women significantly in the national decision-making process as well as in the implementation of policies on women in development. Nevertheless, while CSOs are invited to sit with representatives of the Malaysian state and business community on legislation-forming committees, they have no veto power, with the state retaining broad comprehensive control.

Contestations over racial and religious equality in society have led to Malay and Muslim associations frequently coming into conflict with their Chinese, Indian and non-Muslim counterparts

Tensions inevitably arise when state legitimacy or power is threatened by CSOs' criticisms and challenges. In particular, the government may be hostile towards CSOs when the latter seek to make the political system more transparent and accountable to public interests as is the case with advocacy CSOs like DJZ, HINDRAF, SUARAM, ALIRAN, HAKAM and BERSIH primarily because they regularly criticise the state and its various policies and actions on human rights issues.

19 Nahan, M. 2003, 'US Foundation Funding in Malaysia', Institute of Public Affairs, Melbourne, p. 1.

Unsurprisingly, tensions within Malaysian civil society are symptomatic of existing racial and religious cleavages within the larger society. Contestations over racial and religious equality in society have led to Malay and Muslim associations frequently coming into conflict with their Chinese, Indian and non-Muslim counterparts. Indeed, this conflict has created a situation where Malay and Muslim associations would frequently coalesce with the Malay-Muslim dominated state to police and restrict the democratic rights of non-Malay and non-Muslim CSOs.

Malay associations by and large have supported official policies which privilege Malay culture and language, as well as the NEP's system of racial preferential treatment. Attempts of non-Malay CSOs to struggle for their language and cultural rights and equality of educational and economic opportunities are often met with vociferous objections from Malay CSOs. The Chinese educationist group DJZ's campaign for fair treatment of Chinese language and schools would prompt Malay CSOs such as GAPENA to strongly exhort the Malay-dominated state to preserve the status quo of Malay language dominance. HINDRAF's criticism and challenge to the NEP's system of ethnic quotas favouring Malays provoked several Malay CSOs to demand for the banning of HINDRAF and detention of their leaders for sedition.

Most Muslim CSOs ardently support the existing religious hierarchy in Malaysia where Islam, as the official religion, is granted a higher standing in society. With the increasing Islamisation of society, non-Muslim associations fear that their religions are being marginalised and their constitutional right to freedom of religion is not respected and upheld by the state. Moreover, secular and non-Muslim associations' insistence that Malaysia is a secular state is challenged by Muslim groups. While some of the Muslim groups argue that the Syariah court should enjoy the same status as the common law court, there are others who insist that Malaysia should be an Islamic state. As such, efforts by non-Muslim CSOs to form an inter-faith commission were strongly objected by nearly all Muslim CSOs because it would suggest the equality of all religions contravenes the privileged position of Islam in Malaysia.

8. ASEAN Involvement: Labour and Environment

Labour migration is a growing phenomenon in Southeast Asia and Malaysia is arguably the largest recipient of migrant workers from and in the region. Malaysian officials estimate that there are around 1.9 million registered foreign workers in the country in 2010[20]. Most of the foreign workers are from Indonesia, the Philippines and Myanmar, and they work on plantations, construction sites and in factories. Undocumented migrant workers in Malaysia may, in fact, double this figure. Malaysian CSOs and MUTC have initiated cross border co-operation with their Southeast Asian counterparts for the protection of Southeast Asian migrant workers in Malaysia, and this co-operation is most developed with Indonesian CSOs.

Malaysian CSOs have been active participants in the interaction, collaboration and consultation among ASEAN national CSOs and between CSOs and the ASEAN environmental bodies on promoting environmental protection and sustainable development

Malaysian CSOs have been active participants in the interaction, collaboration and consultation among ASEAN national CSOs and between CSOs and the ASEAN

20 Devadason, E. 2011, 'Policy Chaos over Migrant Workers in Malaysia', in *East Asia Forum*, viewed 11 January 2011 <www.eastasiaforum.org/2011/01/11/policy-chaos-over-migrant-workers-in-malaysia/>.

environmental bodies on promoting environmental protection and sustainable development. The Global Environment Centre (GEC), a Malaysian NGO, assisted the ASEAN Secretariat and the Facility environmental specialist to organise and hold a consultative forum for CSOs operating in ASEAN. In particular, because of the contribution of Malaysian oil palm companies to transboundary haze pollution, Malaysian and Indonesian CSOs have collaborated in tackling this issue.

9. Role in Social Change: Environment, Gender Equality and Democracy

CSOs have played a valuable and constructive role in facilitating progressive social change in Malaysian society. In the areas of environment and women, CSOs have made valuable contributions to the crafting of a number of legislative acts towards sustainable development and gender equality. In other areas, especially on Islam and democratic governance, CSOs have being less than effective for a variety of factors.

Environmental CSOs have been recognised as influential actors in the decision-making arena either directly or otherwise on policies related to the environment in Malaysia. A few of their achievements include the Malaysia government's ratification of the Convention on Biological Diversity (1994) and the Wetlands of International Importance (1994); and the formulation of the National Policy on Biological Diversity (1998) and the Malaysian National Wetland Policy Framework (1996); major reports such Malaysian National Conservation Strategy (1993), Assessment of Biological Diversity in Malaysia (1996) and National Ecotourism Plan (1997).[21]

Women's groups have successfully lobbied for equal pay for equal work, giving women permanency and pensionable status. They have also pushed for Penal Code amendments in 1989 to enhance the punishment for rape (the imprisonment term shall not be less than five years); repealed and replaced the Children's Protection Act with the Children and Young Person's Act in 1990, under which greater protection of children is provided for and stiffer penalties are meted out to those guilty of sexually and physically abusing children; the enactment of the Domestic Violence Act of 1994 to address protection for victims of domestic violence; and amended the Guardianship of Infants Act 1961 in 1999 to give legal recognition to the equality of parental rights of both father and mother.

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However, CSOs' work on gender equality has been relevant only under common law, which is largely applicable to non-Muslim women. Various issues affecting Muslim women are under the Islamic jurisdiction and, as such, governed by different legal provisions. More generally, women and non-Muslim CSOs have not been successful in preventing the growing Islamisation of Malaysian society and a major countervailing force here comes from within civil society itself where the majority of Muslims CSOs would espouse conservative interpretations of Islam.

On democratic governance, while the various campaigns against ISA, OSA and other repressive instruments have not led to the abolishment or amendment of those instruments, they nevertheless have made the Malaysian state more cautious in using them to silence CSOs and critics. Indeed, CSOs' impact has generated an ambivalent situation in Malaysia where many characteristics of a vibrant democracy co-exist uneasily with an authoritarian state empowered with repressive legal instruments to clampdown on associational space.

10. Conclusion

A vibrant civil society has emerged in Malaysia in spite of the legal and regulatory restrictions limiting citizens' political rights. In part, this is because the Malaysian state has not completely disregarded the contributions of CSOs in tackling certain issues and problems. On the other hand, CSOs' campaigns to advance civil and political rights have brought about some positive changes in democratic participation in the society. There is more freedom nowadays to discuss issues previously designated as 'seditious' such as the NEP's system of ethnic quotas and official cultural and religious policies especially in the alternative media. However, because restrictive laws in Malaysia are still in place, the currently more open democratic space is dependent on the whim and fancy of the authoritarian state rather than guaranteed by the actualisation of substantive political rights.

The main worrying trend in Malaysia is the growth of conservative Malay and Muslim groups in civil society with their ambivalent attitudes toward multicultural democracy. Some Malay and Muslim CSOs co-operate with secular, non-Malay and non-Muslim CSOs in the struggle to remove repressive laws such as the ISA and OSA. But when it comes to matters pertaining to racial and religious equality, the majority of the Malay and Muslim groups are staunchly on the side of the Malay-Muslim dominated state policies which privileged the Malays and Islam.

21 Environmental NGOs have managed to halt several environmentally destructive projects such as saving Taman Negara from the proposed Tembeling Dam in the early 1980s, the planned development of Penang Hill into a Disney-like theme park, the development of Endau-Rompin which is today a state park and the closing down of the Asian Rare Earth factory (1985). However, NGOs were also unsuccessful in preventing the building of the most controversial dam – the Bakun Dam as well as lesser known projects like those in Pulau Redang, Trengganu and Pulau Tioman, Pahang.

Civil Society in Myanmar

Romain Caillaud and Carine Jaquet

1. Overview of Political and Civil Society Landscape: A Tolerated Existence

Defined as societal groupings outside of the state, market or family realms, civil society organisations (CSOs) have been pervasive in Myanmar since the colonial period, when the modern concept of association imported by the British but also by Chinese and Indian migrants started to spread within the Myanmar polity. With respect to associational life, Myanmar counts the development of eight such groupings from the colonial period, namely, student unions, trade unions, religious organisations, political parties and organisations, ethnic associations, social welfare organisations, professional associations, community-neighbourhood-organisations and native place organisations [1].

Following the 1962 coup that gave the Myanmar armed forces total control over state institutions and a large swathe of Myanmar territory, CSOs were either banned when they were perceived to pose a threat to the political power of the regime, or transformed into state-sponsored organisations acting as agents of control over certain segments of society for the regime. Notably, student and trade's activities were forbidden and the political activities of faith-based organisations (FBOs) were curtailed. Peasants' and workers' unions were created under the aegis of the Burma Socialist People's Party (BSPP), the single party created by the ruling elite [2].

The 1988 pro-democracy movement led to the instalment in power of a junta controlled by a new generation of military officers. The State Peace and Development Council (SPDC) maintained a similar approach as its predecessor to CSOs, monitoring any organisation involved in political activities that they perceived as aimed at contesting authority, while setting up state-sponsored associations. However, FBOs, non-governmental organisations (NGOs) and community-based organisations (CBOs) have been increasingly tolerated as long as they keep away from partisan politics and challenges to state power. Notably, a number of national non-governmental organisations (NANGOs) have emerged in Myanmar since the mid-1990s, including in peripheral areas populated with ethnic minorities following the conclusion of ceasefires between long-standing insurgent groups and the regime [3]. In spite of the numerous constraints it has had to face over the last five decades, civil society is vibrant in Myanmar today.

2. Legal and Regulatory Framework: Organisation of Association Law and Memorandum of Understanding

The new Constitution adopted in 2008 has a provision that allows Myanmar citizens to be represented and form social organisations. It remains to be seen how this provision will be implemented and whether it will become easier for CSOs to be formed officially and work in the coming years. Currently, CSOs need to go through complex and unclear bureaucratic processes to be registered, the result of which is existence in a legal grey area. For example, a non-published survey by a local organisation of over 100 groups found that only three per cent of the NANGOs and CBOs were registered, 19 per cent said they understood the registration process and only six per cent were engaged in the process and had their application pending in 2009.

Small groups like CBOs tend to have no legal basis and they have to cultivate relations with local authorities to compensate for their lack of registration and be allowed to carry out activities such as small scale microcredit or provision of funeral services. Sometimes, civil servants or members of state-sponsored organisations will be involved by such CBOs to act as protectors and intermediates with the state, a strategy of inclusion widely practised in Myanmar.

To date, the 1988 Organisation of Association Law is the most relevant for CSOs to register with the Myanmar state. The 1988 law is applicable to "a group of persons, in accordance with their own intention, who organise a club, organisation, committee, headquarter and any other association, formed in line with the same objectives". The General Administration Department (GAD) under the Ministry of Home Affairs is in charge of the registration process under this law. It requires a number of basic information items such as name, establishment date and address of the association, objectives and work plan, activities, list of executive members and financial statement from the groupings willing to register. The application is processed at different administrative levels, from township to district to state/region and, finally, at the national level where it is submitted to the central supervisory committee for establishing organisations and associations. In a parliamentary debate in March 2011, the Minister of Home Affairs stated that there are 218 organisations registered under this law [4]. However, apart from a few large size NANGOs like Metta Development Foundation and Myanmar Council of Churches, most CSOs seem not to be registered under the 1988 law.

Organisations exempted from registering under the 1988 law are associations organised for the sole purpose of religious affairs or for business trading, any association organised in compliance with another law and any political party registered under the recent 2010 electoral laws. These organisations are presumed to be registered under other relevant laws, and, therefore, do not need to register again under this law. Organisations that "jeopardise the stability of the state and progress of the nation", or that "jeopardise the smooth functioning of the state management affairs" are explicitly forbidden[5].

Some NANGOs opt for a more precarious legal basis, a Memorandum of Understanding (MoU) that needs to be renewed every two to three years with a ministry of reference related to the sector of focus and the geographic area of intervention. It can take up to several years of negotiation to get a MoU with a ministry and MoUs can be subject to abrupt cancellation. Organisations regularly work for several months with an expired MoU while they await new one to be granted. After the signature of the MoU, regular narrative and financial reports have to be submitted to the relevant ministry. However, government controls under this regulatory framework are reported to be more flexible than under the 1988 Organisation of Association Law. Some CSOs prefer to seek registration as private companies or to simply use the umbrella of a registered organisation to avoid direct control by the government.

CSOs also tend to see registration as an advantage or as a liability depending on the type of activities they implement. Those working on issues that are not seen as threatening by the authorities such as child care or maternal health can benefit from going through the formal

1 Hlaing, K. Y. 2007, 'Associational Life in Myanmar: Past and Present', in Ganesan, N. and Hlaing, K. Y., *Myanmar: State, Society and Ethnicity* (eds.), Institute of Southeast Asian Studies, Singapore.

2 Hlaing, K. Y. 2004, 'Burma. Civil Society Skirting Regime Rules', in Alagappa, M. (ed), *Civil Society and Political Change* in Asia, Stanford University Press, Stanford.

3 South, A. 2008, 'Civil Society in Burma: The Development of Democracy Amidst Conflict', in *Policy Studies* 51, East-West Centre, Washington and Institute of Southeast Asian Studies, Singapore.

4 New Light of Myanmar 2011, 'First Regular Session of Pyithu Hluttaw Convened for Eighth Day', in *The New Light of Myanmar* 12 March, p 6-7.

5 Heidel, B. 2006, *'The Growth of Civil Society in Myanmar'*, Books for Change, Bangalore.

process of registering, whereas those dealing with social issues that are perceived as sensitive such as drug use or conflict resolution are generally more sceptical about the potential success of registration process. Registration implies communication and trust with authorities at various administrative levels, while some organisations manage to carry out activities locally without attempting to overcome these bureaucratic hurdles.

However, there are clear advantages for CSOs in operating on a sound legal basis through registration, such as the opportunity to increase the visibility of the organisation, to plan their activities for the longer term and the possibility to open a bank account. Once registered, CSOs can adopt a long term approach in their project design but also in their financial and administrative structure. Non-registered NANGOs have to handle substantial amount of cash and can hardly access large grants from donor organisations. Most do not keep archives and use precarious ad hoc administrative systems in case of an unexpected official control of their office as, *in fine*, their existence is tolerated but illegal.

CSOs tend to see registration as an asset or as a liability depending on the type of activities they implement

3. Size, Number, Patterns and Types of Organisations: Beyond State Registration

The size of CSOs varies, with their annual budget being within a range of a few thousand US dollars to several million US dollars for the biggest NANGOs. Some CBOs operate in one neighbourhood or village only, or they have national coverage as is the case for the larger – often faith-based - NANGOs.

Since 1988, the SPDC has created a number of associations whose links to the state and military establishment make them acknowledged government-organised NGOs (GONGOs). The most famous was the Union Solidarity and Development Association (USDA), to which civil servants and students had to register and that claimed more than 20 million members. In mid-2010, it was turned into a political party, and re-named the Union Solidarity and Development Party (USDP), which won more than 75 per cent of seats in the 7 November 2010 legislative elections. The USDA would notably offer trainings in English language and computer skills to its members, whose access to some scholarships or positions was easier than for non-members. In addition to the USDA, other GONGOs include the Myanmar Women's Affairs Association (MWAA), the Maternal and Child Care Association (MCCA) and the Myanmar Red Cross Society (MRCS), the latter being the GONGO with which CBOs and NANGOs have more frequently reported co-operation.

Most CSOs are not registered with the state and no comprehensive list could be found for the research. Nevertheless, it is clear that the number of NANGOs and CBOs has been increasing constantly since the fall of the BSPP in 1988 and the subsequent decrease in state welfare spending[6]. To some extent, there has been a privatisation of social welfare with the regime gradually transferring part of this function to the private sector as well as to civil society. According to the Capacity Building Initiative (CBI) NANGOs directory[7], there were 62 NANGOs in 2004, a figure that increased to 86 in 2009. Out of these, 32 were faith-based (18 Christian and 14 Buddhist). All but two had their main office in Yangon. However, the CBI directory does not include many NANGOs based outside of Yangon as well as those that wish to keep a low profile. Indeed, more than 200 NANGOs could be found on the Local Resource Centre (LRC) mailing list as of December 2010. In the HIV/AIDS sector alone, there was 120 NANGOs according to a social worker with good knowledge of the sector. Respondents' estimates of the total number of NANGOs in Myanmar ranged from 300 to 2000.

To some extent, there has been a privatisation of social welfare with the regime gradually transferring part of this function to the private sector as well as to civil society

CBOs often operate with few resources at the village level only where they provide basic social services, such as education assistance, small scale loans or funeral services. Following the humanitarian response to Cyclone Nargis, the number of CSOs delivering aid in the Ayeyarwady Division increased massively, with various degrees of sustainability. CBOs were estimated at about 214,000 in 2004[8]. This number has undoubtedly increased since, and hundreds of thousands of CBOs are likely to be operational throughout the country. According to interviewees, the number of CSOs is constantly growing and the number of registered organisations is likely to keep on increasing with time.

Since the dissolution of the BSPP and all related organisations in 1988, there are no trade unions in Myanmar. A law allowing for their formation and activities including the right to strike was being considered by the government at the time of the research[9].

4. Thematic Foci and Interests: Humanitarian Aid, Environment and Agriculture

After Cyclone Nargis hit lower Myanmar in May 2008 affecting more than two million people and killing over 140,000, "several hundred new and existing grassroots groups acted as channels for international relief as well as private donations"[10]. A high number of CSOs then focused on relief (mainly food, water and Non Food Items distribution) and recovery activities (mainly livelihoods and reconstruction) in the Ayeyarwady and Yangon Divisions. This induced local organisations to become involved in social mobilisation and with an injection of foreign aid, the disaster contributed to the creation of new CSOs and to the extension of their geographic and thematic foci.

CSOs are currently present all over the country, with small CBOs, especially FBOs, being found in almost every township. Larger NANGOs seem to be concentrated in some geographic areas: The Ayeyarwady Division where they took part in post Cyclone Nargis response; in Chin State where there are many Christian organisations, and in Kachin and Shan States where post 1988 ceasefire agreements have enabled their operations[11]. Only a few are working in Kayah State, Kayin State and Tanintharyi Region, where low intensity conflict between the government and insurgent groups is still ongoing. This also applies to Northern Rakhine State where the

6 In the 2010-2011 national budget, 1.3 per cent is allocated to the health sector and 4.13 per cent to education, while defense receives 23.6 per cent. Irrawaddy 2011, 'Burma allocates ¼ of new budget to military', *The Irrawaddy Online* 1 March. <http://www.irrawaddy.org/highlight.php?art_id=3D20856>.

7 Main criteria for a NANGO to be included in the directory are the following: Being willing to be in the directory, having an office in Yangon, being a non-profit organisation, independent and with a clear leadership. There is no need for the organisation to be registered. CBI is a NANGO that provides capacity building for Myanmar organisations.

8 Dorning, K. 2006, 'Creating an Environment for Participation: International NGOs and the Growth of Civil Society in Burma/Myanmar', in, Wilson, T. (ed), *Myanmar Long Road to National Reconciliation*, Asia Pacific Press, Canberra, pp. 188-217.

9 Voice of America 2011, 'ILO welcomes Burma's Proposed New Labor Laws', viewed 18 February 2011, <http://www.voanews.com/English/news/asia/southeast/ilo-welcomes-burmas-proposed-new-labor-laws-114145209.html>.

10 International Crisis Group 2008, 'Burma/Myanmar after Nargis: Time to Normalize Aid Relations', *Asia Report No. 161*, viewed 18 February 2011, <http://www.crisisgroup.org/~/media/Files/asia/south-east-asia/burma-myanmar/161_burma_myanmar_after_nargis___time_to_normalise_aid_relations.ashx>, p 23.

11 On the development of CSOs in ethnic areas under the control of ceasefire groups since the 1990s, see South, A 2008, op. cit.

Rohingya population is being discriminated. In the Dry Zone in Mandalay and Magwe Regions, NANGOs presence is still limited even if some recent indicators show that the government is keen to allow to remain there. Large NANGOs moved rapidly into middle Rakhine State following Cyclone Giri in October 2010, but they are still almost absent from Sagaing, southern Rakhine State and Bago Division[12].

The neglect of social sectors by the Myanmar state has led civil society to attempt to fill the gap. Education is the most obvious example: out of the 86 NANGOs mentioned in the CBI directory, 39 have education activities. CSOs focusing on education often work with religious schools, especially the ones located within the numerous Buddhist monasteries that are found in Myanmar, to improve access to education for the poor and to promote child-centred teaching methods.

Health seems to be the second main area of intervention with 16 NANGOs involved according to the CBI directory, a number that is likely to increase with the return of the Global Fund to Myanmar to support interventions on HIV/AIDS, Malaria and Tuberculosis[13]. CSOs are particularly instrumental in the prevention and treatment of HIV/AIDS and national well-organised local networks have emerged to provide better access to marginalised populations at risk and persons living with HIV/AIDS.

Livelihoods activities implemented by CSOs are on the rise as the post-Cyclone Nargis aid intervention in the Ayeyarwady Division has moved to a post-recovery phase, a rise that has been partly funded by the initiated Livelihoods and Food Security Trust Fund (LIFT) multi-donor fund in 2010. The Myanmar agriculture sector, on which 70 per cent of the population relies on for food supply and income, is largely underdeveloped and in need for support. CSOs are operating in this area and are implementing technical trainings for farmers, distribution of agricultural inputs and the setting up of small scale microcredit schemes. The impact of their activities is however limited by nationwide institutional obstacles that CSOs are still unable to surmount through advocacy, such as volatile export regulations for rice or limited availability of rural credit.

A number of CSOs have been working on environmental issues for about a decade, promoting sustainable development, environmental conservation and adaptation to climate change notably through community forestry, the creation of natural reserves and the plantation of mangroves in coastal areas

A number of CSOs have been working on environmental issues for about a decade, promoting sustainable development, environmental conservation and adaptation to climate change (notably through community forestry), the creation of natural reserves and the plantation of mangroves in coastal areas. This sector is now emerging. The CSOs have managed to establish good working relations with various ministries and a few have been associated to the drafting of the 2009 National Sustainable Development Strategy for Myanmar.

12 Myanmar Information Management Unit 2011, *Who Does What Where*, viewed 18 February 2011, <http://www.themimu.info/3W/Maps/3W.html>..

13 Deustsche Presse Agentur 2009, 'Global Fund Returns to Myanmar with 110 Million Dollars', in *DPA 15 November*, viewed 18 February 2011, <http://www.reliefweb.int/rw/rwb.nsf/db900sid/FBUO-7XTCEE?OpenDocument>.

The promotion of large scale commercial agriculture and the development of infrastructure projects by the government, sometimes with funding and technical support from neighbouring countries, have often resulted in displacement and land-related issues since the 1990s. CSOs have started to address some of these issues over the last years as they have become more widespread, but some state sensitivity to these prevents substantial programmes and advocacy with Myanmar government aimed at mitigating the social and environmental impacts of these economic undertakings.

Some CSOs working inside Myanmar or on Myanmar-related issues that are mainly staffed by Myanmar persons living in exile are based in Thailand. The political situation in central Myanmar and ongoing conflict with ethnic armed groups in peripheral areas has resulted in the creation of dozens of organisations, often along ethnic lines, on the Thailand-Myanmar border. Some deliver health or education services to populations affected by conflict while documenting abuses that they encounter when carrying out cross-border activities. These Myanmar CSOs in exile, contrary to CSOs based inside the country, are well connected with regional and international advocacy networks, human rights and media organisations.

5. Capacity and Resources: Consequences of International Sanctions

Since their inception, most Myanmar CSOs have operated with low levels of funding and under various constraints. Due to isolation of the country before 1988 and lack of visibility of existing organisations, contemporary civil society is often perceived by the international community as weak and atrophied. But the large scale emergency operation in the wake of Cyclone Nargis has demonstrated their creativity and capacity to deploy beyond a neighbourhood or village[14]. While international media were focusing on shortcomings of the relief operations after the disaster, CSOs were already delivering aid two days after the Cyclone hit[15]. The positive impact of their work has been highlighted by numerous evaluations where Myanmar civil society has generally been acknowledged as engaged and 'value – driven'[16].

Trainings as well as co-operation with INGOs seem to have a positive impact on CSOs as they are trying to meet international standards while remaining well connected with the society they stem from

A lack of human resources is a key issue, "Although there are highly skilled and trained professionals who run many organisations, they face great difficulty in recruiting additional personnel to help build capacity, which results from decades of inadequate education and constitutes the greatest hindrance to the growth of the civil society sector"[17]. Capacity building is provided by international non government organisations (INGOs), by the Capacity Building Initiative (CBI) – a local organisation - and by limited number of local training centres mainly located in Yangon. Trainings as well as co-operation with INGOs seem to have a positive impact on CSOs as they are trying to meet international standards while remaining well connected with the society they stem from.

Regarding revenues and donor relations, a prominent singularity is that annual aid per capita to Myanmar remains one of the

14 A few FBOs and 1 NANGO only implemented projects in Cyclone Nargis affected area prior to the disaster, hence all NANGOs had to recruit and deploy staff quickly in a new environment.

15 International Crisis Group, op. cit., p 7.

16 Local Resource Centre & Oxfam 2010, *Progressing through Partnerships: How National and International Organizations Work Together in Myanmar*, LRC, Yangon.

17 Callahan, M.P. 2007, 'Political Authority in Burma's Ethnic Minority States: Devolution, Occupation and Coexistence', in *Policy Studies 31*, East-West Center, Washington and ISEAS Publishing, Singapore, p 53.

lowest in the region in spite of a substantial increase in 2008, following Cyclone Nargis. In 2009, Myanmar received US$357 million in official development aid –US$ 7.1 per person, compared to US$198 million in 2007 and US$534 million in 2008. In contrast, Vietnam received US$42.8, Laos US$66.6 and Cambodia US$48.7 of aid per capita in 2009[18]. Still, the 2008 increase in aid benefited CSOs, with some growing and others being created. The post Cyclone Nargis aid effort has now receded, yet the creation of the five years livelihoods funding mechanism, LIFT, and the return of the health focused Global Fund are encouraging for CSOs, as these initiatives have mandates to co-operate with local NGOs either directly or through INGOs.

US and European Union (EU) sanctions in place against the regime since the late 1990s restrict official assistance to humanitarian aid and capacity-building, and support to 'development' is not allowed. The US Congress has also imposed political pressure on agencies and funding mechanisms, such as the Global Fund, to limit their operations in Myanmar. European government funds cannot be allocated to the training of civil servants above the township level. Overall, most CSOs do not perceive sanctions as a direct hindrance to the growth of civil society. The main impact of sanctions on their work is the difficulty in conducting international bank transfers due to the restrictions on financial transactions with Myanmar imposed by US financial sanctions; as the wiring of funds can be delayed or rejected by international banks.

Most donors disbursing funds with agreements with the government have issues to fund CSOs that are not registered and/or have limited reporting capacity. Funding mechanisms are often tailored according to international standards that CSOs cannot meet, for example, documentation in English is generally required, as well as bank accounts at the Myanmar Foreign Trade Bank which are difficult for local groups without legal status to open. Restricted access to project areas for international donor organisations due to government-imposed control is also perceived by some donors as a risk, as is low levels of transparency of some CSOs. NANGOS sometimes have access to areas where INGOs are banned. Consequently, a diplomatically termed 'partnership' approach has developed where INGOs contract NANGOs to implement projects or project activities.

CSOs can access 'small grants' from embassies and some INGOs but these mechanisms are limited and are usually short-term, hence they are not conducive to long-term strategic planning. Overall, CSOs find that donor agencies have varying levels of understanding of the Myanmar context, and they would like donors to introduce more flexibility in their agenda and procedures to better support the work of CSOs in this challenging environment. They could look for practical ways to fund non-registered organisations that do not have a bank account in the Myanmar Foreign Trade Bank. They could also support the creativity of NANGOs by respecting their diverse methodologies instead of suggesting common readymade frameworks, etc.

6. Accountability and Transparency: Limited Downward Accountability

Upward accountability seems to be encouraged in Myanmar while downward accountability still has to be institutionalised. FBOs tend to particularly disregard this concept as they often consider that good intentions prevail over actual documentation and transparent explanations to local communities. According to a study on the accountability of CBOs responding to Cyclone Nargis, upward accountability is mostly aimed at satisfying donors and has been adopted de facto as a condition for further funding, whereas downward accountability for beneficiaries of aid services, encouraged by donors, was hardly complied with[19]. In many projects, the sole feedback mechanism was in the form of complaints boxes that largely remain unused. To improve downward accountability some donors have provided financial support for CBOs to establish community feedback systems, such as the multi-donor Three Diseases Fund, which focuses on health.

After Cyclone Nargis, an Accountability and Learning Working Group (ALWG) was initiated by a number of Yangon-based NGOs. Efforts have been made to ensure ownership of this group by NANGOs; where one member takes the responsibility to give a presentation at each session and all the material is presented in Myanmar language. The concept may be slowly gaining ground, although INGOs remain the most active with 11 members represented at this group, and only six NANGOs participating. According to the group co-ordinator, downward accountability is a new notion that is being 'tried out' by the NANGOs in Myanmar, but still perceived as a foreign concept.

7. Contribution to Governance: A Question of Building Trust

In Myanmar, improved governance and the growth of civil society are mutually reinforcing incremental processes. CSOs try to influence and co-ordinate with authorities to promote projects and changes that they believe to be in the interest of the larger population.

The relations between CSOs and the government are traditionally handled with caution as both sides have limited trust in each other. Yet, in recent years many CSOs have built trust with officials at the national and local levels, often seeking out officials that are supportive of aid efforts. At the local level, for instance, community forestry projects involving co-operation between villagers, local authorities and NANGOs were started in villages of Kachin State to promote natural resources management by villagers. They are now being duplicated in other regions, while the co-operative approach that involves an increase in local authorities' knowledge and capacities is extended to other sectors. At the national level, CSOs have been able to influence policy making in a few cases. For instance, if HIV/AIDS is now recognised as a priority issue by the Ministry of Health, this is perceived as a result of donors, INGOs and NANGOs' joint lobbying and support. Similarly, the Ministry of Education decided to add Disaster Risk Reduction (DRR) in the national curriculum after Cyclone Nargis thanks to advocacy from NANGOs, INGOs and UN agencies. In such cases, the role played by NANGOs was crucial as it assured the authorities that the ideas pushed forward were not purely foreign ones.

In recent years many CSOs have built trust with officials at the national and local levels, often seeking out officials that are supportive of aid efforts

In ethnic areas where insurgents took up arms against the central government for many decades, CSOs sometimes play a role of facilitation between parties to the conflict. Also, they are authorised to conduct much needed development projects in sensitive areas - work that the government sees as contributing to the pacification of these regions. For example, a large NANGO was established in the mid-1990s by a leader who had formerly been involved with an armed group, after it concluded a ceasefire agreement with the regime. This ethnic NANGO can work in remote areas in its region of origin, unlike INGOs that are restricted to communities within a narrow radius of large towns. It is hoped that NANGOs will be able to

18 Organization for Economic Cooperation and Development (OECD) 2011, 'Aid Statistics, Recipient Aid Charts', in *Development Cooperation Directorate (DCD-DAC)*, viewed 25 March 2011 <http://www.oecd.org/countrylist/0,3349,en_2649_34447_25602317_1_1_1_1,00.html>.

19 Local Resource Centre 2009, *Study on Committees: Effective Community-based Response to Cyclone Nargis*, LRC, Yangon.

use their networks to reach out to newly elected members of regional parliaments to lobby them on some issues that directly affect local populations such as infrastructure projects and environmental degradation.

In spite of the multiplication of civil society *fora* over the last years, concrete and formal co-ordination remains a challenge. Information sharing depends on trust between organisations. There exists a degree of competition between NANGOs in regard to access to funding, but also in terms of the thematic areas they work in.

The Myanmar NGO Forum is the oldest co-ordination initiative, based on the model of the International NGO Forum that also gathers twice monthly in Yangon. After Cyclone Nargis, thematic cluster groups aimed at improving co-ordination between humanitarian actors have offered the opportunity to some of the more structured NANGOs to link with UN agencies and INGOs. But most NANGOs have not regularly attended these meetings because they considered such meetings operationally inefficient or inaccessible due to language (these meetings were conducted in English language). Some *fora* are more active than others, with the DRR thematic group and the Food Security Working Group (FSWG) being frequently mentioned by interviewed NANGOs as an effective co-ordination group.

This co-ordination issue has become more complex with the multiplication of CSOs. Also the 2010 General Elections have drawn a line between those organisations which are willing to get involved in this regime-led political process, for instance through the delivery of voter or civic education or the participation of some CSO staff members as candidates, and those that are either apolitical or opposed to the elections. In a way, this is a sound development as a homogenous civil society would, otherwise, not reflect the diversity of opinions that exists within Myanmar society.

Following Cyclone Nargis, ASEAN took a leading role in the emergency and recovery process through the initiation of and participation in the Tripartite Core Group (TCG), where it oversaw the aid effort in co-ordination with the Myanmar government and the United Nations

8. ASEAN Involvement: Seeking to Expand Co-operation

To date, the regional organisation has established very few links with Myanmar civil society, a reflection of its focus on inter-state relations. Yet, following Cyclone Nargis, the organisation took a leading role in the emergency and recovery process through the initiation of and participation in the Tripartite Core Group (TCG), where it oversaw the aid effort in co-ordination with the Myanmar government and the United Nations. ASEAN's contribution in the TCG involved facilitating access to affected areas for agencies and aid workers and supporting strategic planning through the realisation of assessments, mainly the Post-Nargis Joint Assessment (PONJA) and four Periodic Reviews. This participation in a post-disaster humanitarian intervention was a first for ASEAN, which established an ASEAN Humanitarian Task Force (AHTF) in Myanmar. An ASEAN volunteer project was set up that placed volunteers from other countries in the regional group to work with Myanmar volunteers on the relief effort.

TCG co-operation with CSOs was mainly limited to needs and impact assessments that were planned and implemented according to methodologies decided on in consultation with thematic cluster groups and that were carried out with staff support of Myanmar NANGOs. Interviewees for this study did not respond in detail on ASEAN and its participation in the post-Cyclone Nargis response, where an opportunity to develop links between the regional organisation and Myanmar CSOs seems to have been missed. ASEAN, like other international organisations working in Myanmar, seems not to have acknowledged the emergence of a strong Myanmar civil society. Another example is the fact that very few Myanmar citizens or organisations have been involved in the Asia-Europe Foundation (ASEF) activities that, since 1997, promote social, cultural and academic exchanges between partners of the Asia-Europe Meeting (ASEM) process. Myanmar attendees at the People's Forum, to which several NANGOs would be keen to participate, were reported to be officials. This lack of inclusiveness did not help to promote stronger links with CBOs at the regional level.

Some Myanmar CSOs have relations with counterparts from other ASEAN countries, most based in Thailand and Cambodia, using their own connections and/or through the support of donors. The need for more exposure and increased exchange of information at the regional level has been highlighted by all interviewees. These exchanges could be more systematically supported by ASEAN and areas where cross-learning has a potential to strengthen local capacities can be identified. Also, thanks to its privileged relations with the Myanmar government, ASEAN could call for a simplified registration process for CSOs in Myanmar after looking at best practices in the region.

9. Role in Social Change: Public Service Delivery and Moral Orientation

CSOs play a limited yet vital role in the numerous social changes that are occurring in Myanmar, where authoritarian rule and poverty have not resulted in an incapacitated and passive society. To the contrary, CSOs have been able to promote the idea of empowerment and participation in communities' decision-making processes at the local level, thus contributing to a wider effort for democratisation. Yet, CSOs also tend to work with local leaders that are already influential and reinforce patterns of authority that, in rural Myanmar, revolve around age, wealth, religion and good relations with the authorities and private sector. Some CSOs' directors or senior staff have direct access to policy makers and try to influence decisions through continued dialogue and discrete lobbying.

However, in some sectors, change has been substantial. For instance, the NANGO, Rattana Myitta, trains monks on how to raise awareness on prevention, treatment and care around HIV/AIDS using Buddhist concepts to explain the spread of the virus, that also contributes to the de-stigmatisation of affected populations. In a socially conservative country like Myanmar, promoting reforms within existing patterns of authority is a pragmatic and, often, effective approach. In the health and education sectors, CSOs usually have important positive impacts on the communities they work with, supporting social change with the spread of a more egalitarian vision of society. FBOs are also key in these processes due to their great social influence. For example, monastic schools are introducing child-centred teaching approaches that develop curiosity, critical thinking and self-led research, contrary to the state government education system that tends to be very hierarchical and control-oriented[20].

CSOs can also appease tensions and conflicts at the local level and can contribute to trust building between villagers and ethnic groups and government officials. This was observed in community forestry projects[21] in Kachin State where isolated villagers stated that, for the first

20 Lall, M. 2010, *Child Centred Learning and Teaching Approaches in Myanmar*, Pyoe Pin, Yangon.

21 Both child centered approach used by monastic schools and community forestry are using legal frameworks adopted by the government in the second half of the 1990s.

time, they felt that their interests were taken into account and that they could work together with local authorities. In Cyclone Nargis affected areas, examples of villages mobilising around common development goals and community management of aid were also frequently reported. According to the director of a NANGO, Myanmar nationals have been witness to a 'collapse of morality' over the last decade with the spread of corruption within all layers of society. In his view, CSOs are popular as they offer a venue to citizens to resist moral decay; they respond to a widespread willingness to support the development of a just society.

CSOs can appease tensions and conflicts at the local level and can contribute to trust building between villagers and ethnic groups and government officials

10. Conclusion

The future of Myanmar civil society will depend on the approach and policies of the new government that was elected in November 2010. At this point in time, uncertainty is high over the actual prerogatives of new institutions, especially in relation to CSOs. There may be opportunities for civil society growth in the context of the new regional assemblies mandated by the 2008 constitution.

International donors could play a supportive role in this growth by recognising that alleviation of poverty cannot wait for the establishment of a full-fledged democracy. Indeed, increased support for grassroots organisations that favor both bottom-up and policy level approaches would directly contribute to the democratisation process in Myanmar.

To support civil society in Myanmar, it is important to understand the role of informal exchanges among CSOs and to strengthen trust between CSOs and various stakeholders, including government officials at all levels, domestic and foreign private businesses and international donors. It is hoped that the role of civil society in both the public and private spheres will progressively be institutionalised over the coming years, and that ASEAN will be able to contribute positively to such as participation. Supporting the introduction of simplified registration procedures for CSOs could be a useful first step in this direction, while ensuring and protecting the current independence of these organisations for the government.

Civil Society in the Philippines

Patrick Wilson O. Lim

1. Overview of Political and Civil Society Landscape: Shaped by Dictatorship

The nature of Philippine civil society was transformed during the tumultuous years of the Marcos dictatorship[1] and the transition period that followed after the dictator's fall[2]. During the dictatorship, civil society organisations (CSOs) faced an oppressive environment given the government's intolerance of opposition and dissent. Many activist and advocacy organisations were forced to operate underground and/or join the armed struggle as military forces hunted down by their activist leaders. The Marcos regime only tolerated non-government organisations (NGOs) that were perceived to be non-political. However, many activists still operated above ground or legally through their established NGOs, doing primarily community organising and development work. It was during this period that those who wanted to oppose the dictatorship but did not want to participate in the armed struggle established NGOs for community-organising work and development programmes.

In light of the oppression during the dictatorship, the 1987 Constitution provided safeguards that protected citizens and CSOs' rights to participate in government. The Constitution and succeeding legislation created a legal and policy environment that was favourable to CSOs, providing the space for CSOs to engage government. Many NGOs in the last two decades of the 20th century have been engaged extensively in community-organising activities, which have given birth to people's organisations (POs) or community-based organisations (CBOs).[3] Co-operatives, another type of CBO, that revolved around addressing the economic interest and needs of communities mushroomed during this period[4]. NGOs, POs and co-operatives form the core of today's Philippine civil society.

The massive flow of foreign grants into the country after the first People Power Revolution encouraged the formation of many NGOs. However, the influx of funds created problems as not all NGOs formed during this period were legitimate. Some fly-by-night NGOs accessed foreign grants but would not implement the programmes they were expected to undertake. Since the mid-1990s, the availability of grants for Philippine CSOs has steadily decreased, leading to a decrease in the number of CSOs. Many of the NGOs that no longer operate have been delisted by the Securities and Exchange Commission from its registration database.

Aside from NGOs, POs and co-operatives, there are also other types of CSOs that form part of Philippine civil society. These include business and professional associations, sports and hobby associations, and arts and culture groups. There are also non-stock corporations which provide goods and services. However, the discussion of Philippine civil society in this chapter focuses largely on NGOs, POs and co-operatives, which are engaged in development work.

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1 Ferdinand Marcos served as President of the Philippines from 1965 until 1986. He placed the Philippines under martial law rule in 1972. He was removed from office in 1986 through the Edsa People Power revolution.

2 Many of the NGOs and people's organisations that exist today were formed during this period. However, there are many other antecedents of post-Edsa civil society work, including co-operative organisations set-up by Filipino Ilustrados who had imported the concepts and principles of modern co-operativism and the philanthropic organisations set up by wealthy families and the Catholic Church during the twilight of the Spanish colonial administration in the late 19th century, and the various welfare agencies that were set up by the American colonial government early during its administration.

3 Community based organisations are referred to as people's organisations in the Philippine context. Both terms are used interchangeably throughout this chapter.

4 Even before the 1980s, some of the large co-operative networks already existed, initially as training centres for primary co-operatives.

2. Legal and Regulatory Framework: Creating a Favourable CSO Environment

There was a drastic shift in the environment faced by CSOs in the aftermath of the 1986 People Power Revolution. The principles of empowerment and people's participation were enshrined in the 1987 Constitution creating the foundations for a policy environment favourable to CSOs.

These principles of empowerment and participation are enshrined in several provisions in the constitution. Article 2, Section 23 states that the state shall encourage non-governmental, community-based, or sectoral organisations that promote the welfare of the nation. Article 3, Section 8 states that the rights of the people, including those employed in the public and private sector, to form unions, associations and societies, for purposes not contrary to law shall not be abridged. Article 13, Section 15 states that the state shall respect the role of independent peoples' organisations to enable the people to pursue, within the democratic framework, their legitimate and collective interests and aspirations through peaceful and lawful means. And finally, Article 13, Section 16 states that the right of the people and their organisations to effective and reasonable participation at all levels of social, political, and economic decision-making shall not be abridged, and that the state shall, by law, facilitate the establishment of adequate consultation mechanisms.

Several pieces of legislation have also been passed to further strengthen and operationalise these constitutional provisions. In particular, the Local Government Code of 1991 provides for the participation of CSOs in local government planning and delivery of services. It mandates local government units to form local development councils which play a role in local planning and approves the annual investment plans of local governments. Twenty-five per cent of the council's membership should be comprised by representatives of CSOs and the private sector. Aside from the local development councils, the Local Government Code also establishes four other local special bodies: local health boards, local school boards, peace and security councils and local bids and awards committees. All four bodies also provide space for CSO participation in local governance. The local government code also allows local governments to enter into partnerships with NGOs and POs for service delivery, capacity-building and livelihood projects, allowing them to provide financial and other forms of assistance to NGOs and POs.

The Local Government Code of 1991 mandates local government units to form local development councils which play a role in local planning and approves the annual investment plans of local governments

Other participatory mechanisms have been created by law, foremost of which is the National Anti-Poverty Commission (NAPC), which is comprised of the heads of 14 government agencies, the presidents of local government leagues and an elected representative from each of the 14 basic sectors.[5] The commission is chaired by the president of the country, with a vice-chair coming from government and another vice-chair elected among the 14 basic sector representatives. This mechanism provides the venue for the different basic sectors to air their concerns with cabinet members, and the president directly if he or she attends the council meetings. Examples of other participatory mechanisms established by law are the Presidential Agrarian Reform Council (PARC) and the National Agricultural and Fishery Council (NAFC). NAPC, PARC and NAFC are found at the national level, although Agrarian Reform Councils and Agricultural and Fishery Councils are also present at the local level.

The Party-list System Act also provides for the election of representatives from marginalised sectors who will serve as members of the House of Representatives as legislators. The law mandates that party-list representatives should comprise 20 per cent of the members of the House of Representatives.

CSOs are not required by law to be registered. However, registration is necessary for an organisation to obtain a legal personality, which is necessary for opening bank accounts, entering into contracts and raising public funds. CSOs can obtain their primary registration from the four government agencies: the Securities and Exchange Commission (SEC), the Co-operative Development Authority (CDA), the Department of Labor and Employment (DOLE), and the Housing and Land Use Regulatory Board (HLURB).[6]

A more rigorous process of monitoring and evaluating NGOs is being undertaken by the Philippine Council for NGO Certification (PCNC), a self-regulatory mechanism institutionalised by NGO networks through negotiations with the Department of Finance and the Bureau of Internal Revenue (BIR)

Registered CSOs are required to submit annual reports, including financial statements to their registration agency. However, it is only the CDA which strives to supervise and monitor those registered under them. CDA personnel conduct monitoring visits to select co-operatives to check their compliance with set co-operative standards. To provide the public with information on the status of co-operatives, CDA regularly publishes a report on registered co-operatives, identifying those which are not operating. It also issues a Certificate of Operation and Certificate of Good Standing to qualified co-operatives.[7] The other three agencies, meanwhile, only look into CSOs if complaints are filed against them. However, SEC may revoke the certificates of registration of CSOs who do not submit reports for five years, after which they are deemed to be non-operational. As a result of this, the number of registered non-stock, non-profit organisations has been trimmed down to 77,000 in 2008, from 152,000 in 2002.[8]

A more rigorous process of monitoring and evaluating NGOs is being undertaken by the Philippine Council for NGO Certification (PCNC), a self-regulatory mechanism institutionalised by NGO networks through negotiations with the Department of Finance and the Bureau of Internal Revenue (BIR). Qualified NGOs that pass PCNC's stringent certification process are granted 'donee institution' status by the BIR which entitles the NGO to certain tax benefits such as exemption from the donor's tax and the advantage of tax deductable donations for their donors. From its inception in 1999 to March 2010, PCNC has received 1,311 applications

5 As defined by the Social Reform Agenda and Poverty Alleviation Act, basic sectors refer to the disadvantaged sectors of Philippine society. The 14 basic sectors include farmer and landless rural workers, artisanal fisherfolk, workers in the formal sector and migrant workers, workers in the informal sector, indigenous peoples, women, differently-abled persons, senior citizens, victims of calamities and disasters, youth and students, children, urban poor, co-operatives and non-government organisations.

6 SEC is the registering agency for all non-stock, non-profit organisations. CDA is the registering agency for co-operatives. DOLE is the registering agency for labour unions, federations, and rural workers' associations. HLURB is the registering agency for homeowners' associations. See CODE-NGO (2008), *NPO Sector Assessment: Philippine Report.* Report prepared for the NPO Setor Review Project, Charity Commission for England and Wales.

7 CODE-NGO 2008.

8 CODE-NGO 2008, p. 53-55.

for certification and has certified 1,071 NGOs.[9] However, this is a small number relative to the total number of Philippine NGOs. Only a few NGOs have sought PCNC certification primarily because the tax incentive obtained through PCNC certification is only valuable to NGOs which receive corporate donations. The majority of NGOs in the Philippines rely on grants from local and international funding institutions. In addition, the cost of applying for PCNC accreditation can be prohibitive for small NGOs. PCNC charges an application fee ranging from US$230 to US$700, depending on the value of a NGO's total assets.

3. Size, Number, Patterns and Types of Organisations: Prevalence of CBOs

One estimation of the number of registered and non-registered CSOs in the Philippines is between 249,000 to 497,000.[10] These CSOs were classified as non-stock corporations,[11] people's organisations[12] or CBOs, co-operatives and NGOs. Using the lower-end estimates, CBOs comprise the biggest proportion of Philippine civil society at 68 per cent. This would be followed by NGOs which comprise 14 per cent, followed by co-operatives at 10 per cent. Non-stock corporations would comprise the remaining balance of eight per cent.

Figures for registered CSOs are more readily available through the government agencies that register them. In 2008 there were 76,512 registered non-profit and non-stock NGOs[13]; 21,068 co-operatives; 17,021 trade unions and workers' organisations; and 730 homeowners' associations, resulting in a total of 115,331 registered CSOs in the Philippines.[14]

The number of non-stock corporations, NGOs and co-operatives all declined between 1997 and 2008. In 2002, there were over a 150,000 registered non-stock corporations with SEC. This was reduced to around 76,000 in 2008 when the SEC cancelled the registration of non-reporting organisations. But the number of SEC-registered non-stock corporations has been increasing in more recent years. For co-operatives, there are actually 70,154 co-operatives that are in the database of CDA. However, this includes 21,473 non-operating co-operatives, 15,427 co-operatives that have been dissolved and 12,286 co-operatives with cancelled registrations.

4. Thematic Foci and Interest: Service Delivery, Human Rights and Social Justice

Philippine CSOs work on varying concerns and issues. One crucial theme is the delivery of services, such as, health and education to the various communities they serve. Many provide invaluable services for the poor who would otherwise not have been able to access them. A plurality of the over 700 development NGOs surveyed by the Association of Foundations between 1999 and 2000 undertake mostly service delivery programmes, especially education and training. However, not all non-profit organisations that provide health and education services cater to the poor and marginalised. Many of the schools run by religious organisations cater to the country's elite (such as Ateneo de Manila University and De La Salle University). St. Luke's Medical Centre, which is owned by the Episcopalian Church, is also one of the best and most expensive hospitals in the country that also caters to the elite. These institutions are classified as non-profit since they do not distribute their profits.

Human rights is another key theme in Philippine civil society. The experience of human rights abuses under the Marcos dictatorship has resulted in many human rights organisations. These organisations have continued even after the fall of the dictatorship because human rights abuses persist. There was a sharp increase in the number of extra-judicial killings of leaders of left-leaning and progressive organisations as well as media practitioners during the Arroyo administration. Human rights organisations together with the media play a crucial role in exposing and attracting attention to these abuses, both at the national and international levels. Some NGOs working on this issue include the Philippine Association of Human Rights Advocates (PAHRA) and legal resource networks such as the Sentro ng Alternatibong Lingap Panlegal (SALIGAN) and the Free Legal Assistance Group (FLAG), among many others.

Human rights organisations together with the media play a crucial role in exposing and attracting attention to abuses, both at the national and international levels

Asset reform and social justice is another theme. Poverty and inequity in the Philippines have also given rise to many NGOs that work in the area of asset reform programmes. Asset reform, in the Philippine context, mainly refers to four areas: agrarian reform for landless farmers and tenants, delineation of municipal waters for small fishers[15], ancestral domain for indigenous peoples, and socialised housing for the urban poor and informal settlers. NGOs in these areas have helped establish CBOs or people's organisations composed of members from these sectors themselves as part of the empowerment of these communities. Together, they have lobbied for policies that support the interests of these sectors. NGOs have also played a facilitative role in helping communities navigate through the bureaucratic and oftentimes political processes required to claim and obtain their rights over land and other productive assets. In addition, NGOs have also piloted the implementation of innovative asset redistribution and productivity programmes to assess the viability of unexplored schemes to improve the livelihoods of marginalised sectors.[16]

Sustainable development, environment and climate change are important interests among many CSOs. In the first half of the 1990s, many CSOs were engaged in the crafting of Philippine Agenda 21 - a roadmap for sustainable development. Sustainable development also covers issues of sustainable growth and equity, aside from environmental concerns. More recently, given the series of natural calamities experienced in the Philippines and around the globe, there has been a heightened awareness and interest among CSOs with regard to issues of climate change adaptation and mitigation, as well as disaster risk reduction management.

Gender and women's rights are also prominently represented by CSOs. One of their most recent legislative successes is the passage of the Magna Carta for Women. Many are also engaged in the on-going advocacy for the reproductive health bill, which has met stiff resistance from the powerful Catholic Bishops Conference of the Philippines. In addition to legislative advocacy, many women's groups are also undertaking education and information programmes with

9 PCNC 2010, *PCNC Board Report June 2009 — May 2010*, viewed 1 March 2011, <http://www.pcnc.org.ph>.

10 Cariño, L. V. 2002, 'Size and Contours of the Sector', in Cariño, L. V. (ed), *Between the State and the Market: The Nonprofit Sector and Civil Society in the Philippines*, University of the Philippines, Quezon City.

11 Non-stock corporations refer to all organisations that are registered with the SEC as non-stock and non-profit organisations. These would include non-profit schools, non-profit hospitals, civic organisations, professional and business associations, as well as NGOs, and even some community-based organisations. The estimate presented has tried to control for the overlap among NGOs and non-stock corporations.

12 In the Philippines, community-based organisations are referred to as People's Organisations. People's Organisations are associations that represent the interest of its members unlike NGOs which serve as intermediary organisations.

13 Out of this number, 67.1 per cent of 51,363 organisations were registered between 2001 and 2008. The rest registered between 1936 and 2000.

14 CODE-NGO 2008.

15 The delineation of municipal waters is important so as to prevent big vessels from fishing in municipal waters. This protects the income of small fishers and prevents overfishing. National legislation provides for the mechanism for delineating municipal waters and regulates fishing within municipal waters However, local legislation is required to delineate municipal waters.

16 An example of such is the PhilDHRRA experience in undertaking tripartite partnerships for agrarian reform and rural development programmes.

regards to gender equity and women's rights at both the national and local level. They target ordinary citizens, CSOs and governments for such education programmes. Women's groups have also pioneered not only in legislative advocacy, but also in the implementation of programmes for women and children, such as those related to maternal health.

Access to information and good governance is another major concern. Widespread corruption has also given rise to many CSOs engaged in anti-corruption work and good governance advocacy. This includes pioneering electoral work of NAMFREL which conducts ballot watching and canvassing during elections. CSOs are also engaged in the advocacy for electoral reform, local governance reform and the participation of the marginalised groups in decision-making. There is also a rich experience of CSOs monitoring government infrastructure projects as well as assessing government performance. In the last five years, more CSOs have also begun to engage in budget monitoring as a means of curtailing corruption, as well as influencing government policy and programmes. One of the major advocacies of anti-corruption groups is the passage of the Freedom of Information Act which has faced opposition from the government. Even the current administration, which ran on an anti-corruption platform, has so far only offered lukewarm support for the legislation. The constituency for access to information has gone beyond anti-corruption CSOs to include media organisations and people's organisations that consider it important for their own advocacies.

Widespread corruption has given rise to many CSOs engaged in anti-corruption work and good governance advocacy

Finally, livelihood, social enterprises and microfinance are actively championed. Co-operatives and non-profit microfinance institutions have been providing financial services to citizens and organisations that would have otherwise been unable to access loans from existing banking institutions. There are also a number of CSOs engaged in livelihood programmes and, more recently, social enterprises.

Those listed above are only some of the interests of Philippine CSOs. Given its vibrancy and breadth, Philippine CSOs are engaged in a multitude of other issues. It should also be noted that Philippine CSOs have varied interests and principles and cannot be expected to have common positions on many issues. In fact, various segments of CSOs can often be found on conflicting sides of issues. An example of such an experience was the split among CSOs on the extension of the agrarian reform programme which was strongly supported by left-of-centre and leftist CSOs, but denounced by extreme leftist groups. The latter took the position that governments should not pay for land that it acquired for landless farmers while the former believed that such a provision would kill the bill in the congress.

Philippine CSOs have varied interests and principles and cannot be expected to have common positions on many issues

5. Capacity and Resources: Volunteers, Foreign Grants and High Turnover Rates

The capacity of Philippine CSOs varies among the different types. CSOs rely on paid staff, members and/or volunteers to function as an organisation. The number of paid staff provides an indication of the organisation and institutionalisation of a CSO. Organisations that have more paid staff would most likely have greater capacities than those with very few or no paid staff at all.

In 2009, CODE-NGO conducted the Civil Society Index (CSI) Organisational Survey of over a hundred CSOs which were randomly selected from government registration databases.[17] The survey showed that 22 per cent of the NGOs and 26 per cent of the co-operatives surveyed did not employ any paid staff, compared to 61 per cent of CBOs and 67 per cent of other types of CSOs which included hobby groups, sports clubs, trade associations and business associations. Among the trade and business associations, it was only the national level organisations and those based in major cities that had employed staff. In terms of volunteers, 60 per cent of all CSOs surveyed had volunteers in their operations. Volunteers are crucial to the operations of many CSOs, especially those that do not employ staff. NGOs had the highest percentage of volunteers at 69 per cent.

A major constraint faced by Philippine CSOs is the high level of staff turnover as well as the lack of a 'successor generation' to replace the first generation CSO leaders that emerged during the post-martial law period.[18] Many of the first generation leaders have now moved on to other jobs in government or international consultancies.

A major constraint faced by Philippine CSOs is the high level of staff turnover as well as the lack of a 'successor generation' to replace the first generation CSO

Development work in the Philippines has also experienced a push towards professionalisation, a shift from the more informal and collegial environment during the 1980s and earlier. Karina David explains that "With public legitimation [sic], external support, and the growth of the NGO community, came a push towards professionalisation which has been widely but uncritically accepted by most NGOs. For better or for worse, professionalisation has become a goal that was internally initiated as well as externally imposed. Up to the 1980s, DJANGOs (Development and Justice NGOs) operated as alternative career options based largely on commitment… Today while commitment remains high, the spirit of voluntarism has also been eroded by the view that development work is a career."[19] David further observes that the increase in size and institutionalisation of NGOs naturally resulted in higher wages and the emergence of a hierarchical bureaucracy. This has resulted in better management and financial systems. However, there is a fear that this attracts NGO workers who have no commitment and will thus undermine development work.

In addition, there are now far fewer young people going into community-organising work, which has been a fertile ground for developing NGO leaders in the past. This is partly due to the dearth of funds for community-organising because many donors have stopped supporting it. Even the development of leaders from CBOs has been affected by the decrease in community-organising work done by NGOs. Furthermore, many NGO workers now see development work as a career, and are thus looking for competitive compensation and better opportunities. Few young professionals are entering traditional CSO work in social development and community-organising also because there are now alternative paths for undertaking development work. Compared to the late 1980s and 1990s, there are more opportunities in government, corporate foundations, social enterprises and development consultancies, which young people can also join.

17 CODE-NGO 2009, *Civil Society Index Organizational Survey Results*, unpublished.

18 Abella, C. T. and Dimalanta, M. A. 2003, 'NGOs as Major Actors in Philippine Society', Paper written for the 2003 *Asia-Pacific Philanthropy Consortium Conference*, <http://www.asiapacificphilanthropy.org/files/philippines> (accessed 8 July 2010).

19 David, K. C. 1997 'Intra-Civil Society Relations: An Overview' in Ferrer, M. C. (ed), *Civil Society Making Civil Society*, Third World Studies Center, Quezon City, p. 38.

Philippine CSOs have various financial sources, including foreign grants, local grants or donations, government grants or contracts, membership fees, service fees, social enterprises and investment earnings. Based on the CSI Organisational Survey, labor unions, homeowners' associations and professional associations source their funds mostly from membership fees.[20] Farmers' and fishers' organisations, and co-operatives rely on a mixture of membership fees and service fees for their funds. Service delivery NGOs and non-stock corporations such as orphanages, non-profit schools and non-profit hospitals, rely on a mixture of donations, membership fees and service fees. NGOs rely mostly on foreign grants.

Raising resources has become increasingly difficult, especially for NGOs that rely upon foreign grants. The amount of foreign development assistance directed to the Philippines has steadily decreased since the mid-1990s, affected by the shift in geopolitical priorities of donor countries. In a survey of 762 NGOs undertaken by the Association of Foundations between 1999 and 2000, 47 per cent or less than half of the NGOs considered themselves to be financially sustainable. 30 per cent were not sure while 13 per cent said that they were not stable at all.[21]

In response to the dwindling resources available for Philippine CSOs, Philippine NGOs had successfully lobbied for debt-swap agreements with the US and the Swiss government in the 1990s through which two local funding institutions were established. Through a USAID block grant and a debt-for-nature swap transaction, the Foundation for the Philippine Environment (FPE) was established with a US$22 million endowment fund. The goal of the foundation was to provide resources to local NGOs and other groups with the goal of reversing the rapid rate of environmental destruction in the Philippines. The foundation is managed by a board which is composed of CSO representatives and a representative from the Department of Finance of the Philippine Government.

Through the co-ordinated efforts of Swiss and Philippine NGOs, a US$17 million endowment fund was raised from another debt-swap agreement between the Swiss government, Swiss NGOs, Philippine government and the Philippine CSOs. The Foundation for a Sustainable Society, Inc. (FSSI) was established to manage this fund, which would support social enterprise projects of Philippine CSOs. FSSI would also have a board composed of representatives from civil society, as well as two non-voting board members from the Philippine government and the Swiss government. Unlike FPE, the goal and objectives of FSSI in supporting CSO projects was identified by Philippine NGOs, rather than the Swiss or Philippine government.

The third local funding institution set-up by Philippine NGOs is the Peace & Equity Foundation which started with an endowment fund of roughly US$26 million. The endowment fund was successfully raised by the Caucus of Development NGO Networks (CODE-NGO) through its foray in the capital markets, an out-of-the-box initiative that went beyond the confines of traditional development work.

The officers of CODE-NGO had thought of tapping the private capital markets as a means of raising funds for NGOs. It had thus obtained the services of consultants who designed zero coupon bonds or zeroes, which CODE-NGO then lobbied government to issue these as a means of raising money for its programmed borrowings. While zeroes had been issued by other governments, it was still an innovative financial instrument in the Philippine capital markets. Initially, CODE-NGO proposed for a negotiated bond sale with CODE-NGO through its underwriter, RCBC capital, which would later then resell these to the secondary markets. While government agreed to issue zero-coupon bonds, the Bureau of Treasury did not approve the proposal for a negotiated sale since the bonds were going to be issued for the first time and government could not determine its fair market value. CODE-NGO thus had to participate in the public bidding through its underwriter.

It successfully won the bidding for US$800 million worth of 10 year zero-coupon bonds, which was then resold in the secondary capital market as Poverty Eradication and Alleviation Certificates (PEACe Bonds) for a profit of US$320,000. CODE-NGO later donated US$290,000 to the Peace & Equity Foundation, which was established as an independent organisation that would manage the funds and ensure that a broader segment of CSOs, including non-members of CODE-NGO, are able to access these funds for their poverty reduction programmes.[22]

Another recently established local funding institution is the Philippine Tropical Forest Conservation Foundation, which was established under two bilateral agreements between the US and the Philippine governments under the US Tropical Forest Conservation Act. It is also administered by an NGO-led board, comprising of five NGO representatives, two representatives for the Philippine government and two representatives from the US government.[23]

6. Transparency and Accountability: Public Trust and Better Governance

According to a random population survey conducted by the Social Weather Stations with 1,200 respondents the majority of Filipinos trust Philippine CSOs.[24] Seventy-eight per cent trusted women's organisations, 72 per cent trusted charitable organisations, 70 per cent trusted environmental organisations, 68 per cent trusted people's organisations or CBOs as well as co-operatives, and 58 per cent trusted labour unions. Compared to CSOs, churches have a significantly higher trust rating at 94 per cent. On the other hand, political parties are not trusted by a majority of the Filipino people. This is understandable given that there are no real political parties in the Philippines, as the major political parties are mere coalitions between national and local politicians, and cannot speak of shared principles or a common platform of government.

Functioning boards play a crucial role in ensuring that a CSO remains faithful to its identified mission and goal. Although surveys show an overwhelming number of CSOs with boards, it has been observed that "most NGO boards are nominal, inactive and/or disinterested in their governance functions".[25] This is rooted in the practice among many NGOs to recruit board members who are friends, relatives or acquaintances of the founder. In addition, many board members are not oriented on their roles, responsibilities and functions as board members.

After the fall of the Marcos dictatorship, there was an influx of foreign donor funds, which were made accessible to Philippine NGOs. This led to the proliferation of fly-by-night NGOs

20 CODE-NGO 2009.

21 Ten per cent of the survey is unaccounted because of incomplete answers. See Association of Foundations (2001), *Philippine NGOs: A Resource book on Social Development NGOs, Association of Foundations*, Quezon City.

22 The PEACe Bonds generated controversy that divided the Philippine NGO community. Some NGOs were critical of CODE-NGO, accusing it of rent-seeking as well as increasing government debt. Supporters, on the other hand, laud CODE-NGO for successfully raising much needed funds for Philippine CSOs. They say that the entire transaction was transparent and above-board. CODE-NGO maintains that it complied with all applicable laws, regulations, policies and procedures at all times and that it acquired the bonds fairly. This has been the subject of several congressional inquiries under the Arroyo and Aquino administrations, the most recent of which concluded that government was not defrauded in the issuance and sale of the PEACE Bonds. The writer of this chapter is currently employed by CODE-NGO.

23 See www.ptfcf.org.

24 Social Weather Stations 2009, *Civil Society Index Population Survey, Social Weather Stations*, Quezon City.

25 Abella and Dimalanta 2003, p. 14.

which would access foreign grants and then disappear afterwards without implementing the project for which the grant was provided. This is less of a problem now as foreign grants have dried up and accessing funds have become more competitive. Donors have also become more rigorous in monitoring the accomplishments of partner NGOs.

Aside from fly-by-night NGOs, there are also government created-NGOs and -CBOs some of which are set up by politicians and government functionaries as a means of cornering government contracts or pork barrel funds. Pork barrel funds, currently called Priority Development Assistance Funds, are fixed budget allocations provided to members of the congress for the implementation of their identified projects. Recently, several NGOs and CBOs which received pork barrel funds were the subject of adverse audit findings by the Commission on Audit . These organisations were either not located in their declared address, did not implement the service they were supposed to provide or were involved in overpriced procurement. It would not be surprising if these organisations had ties to the politicians that had provided funds to them. These fly-by-night and government initiated NGOs operate in the periphery of the sector.

However, there have been some cases of mainstream development NGOs involved in unethical or outright fraudulent practices regarding the management of donor funds. In some cases, the financial systems of these CSOs were weak, allowing employees to divert funds for their personal use. Furthermore, many NGOs are finding it more difficult to sustain their operations because many donor agencies no longer provide for administrative expenses in their grants as they expect their NGO partners to provide it as their counterpart. Thus some NGOs have resorted to using project funds for their administrative expenses, employing creative and sometimes fraudulent accounting practices in charging their administrative expenses to their donors.

Many NGOs are finding it more difficult to sustain their operations because many donor agencies no longer provide for administrative expenses in their grants

Philippine NGOs have sought to address these governance issues. A Code of Conduct for Development NGOs was developed by the founding members of CODE-NGO and its members. This Code of Conduct has become the basis of the dismissal of 11 base-organisation members of CODE-NGO who had violated its provisions. Other NGO networks such as PHILSSA and the Association of Foundations have also developed internal processes for monitoring the governance of their members. As mentioned earlier, a mechanism for self-regulation has also been developed through the Philippine Council for NGO Certification.

7. Contribution to Governance: Advocating Reform Through Opposition, Critical Collaboration and Constructive Engagement

CSOs play an important role in Philippine governance. Cariño identifies four contributions of civil society to society at large: political socialisation, political recruitment, political communication, and interest articulation/aggregation.[27] CSOs through their community-organising, service delivery and advocacy programmes help awaken active citizenship among their members, volunteers and/or beneficiaries. Community leaders are also developed in the process. These are all part of the process of political socialisation.

27 Cariño 2002, p. 243-258.

In terms of political recruitment, civil society has also become a pool of leaders that could be recruited to serve in various appointive or elective positions in government. President Cory Aquino initiated the practice of recruiting CSO leaders for cabinet and sub-cabinet positions and every administration since has recruited cabinet members from the ranks of CSO leaders. In the administration of President Benigno Aquino III, several prominent CSO leaders have been appointed to critical posts: Sec. Florencio Abad to the Department of Budget and Management; Sec. Corazon Soliman to the Department of Social Welfare and Development; Sec. Teresita Deles as Presidential Adviser on the Peace Process; Sec. Virgilio delos Reyes to the Department of Agrarian Reform; among others. These CSO leaders are now referred to as 'cross-over' leaders.[28] This phenomenon is also prevalent at the local government level.

In terms of political recruitment, civil society has become a pool of leaders that could be recruited to serve in various appointive or elective positions in government

CSOs also play a role in communicating politically significant information to the public such as information on human rights and human rights violations, environmental issues, values education, corruption, and other issues. CSOs communicate with citizens and policy makers directly, or through mass media.

Finally, they also play a critical role in interest articulation and aggregation. Interest articulation is done when CSOs lobby for the interests of their members, such as in the case of professional associations, trade associations, co-operatives, and basic sector organisations. NGOs have also taken it upon themselves to support and represent the interests of marginalised sectors, such as farmers, fishers, indigenous peoples and others.

Aside from these functions, Philippine CSOs have also increasingly taken on the role of monitoring government. While there are existing institutions within government to provide checks and balance against graft and corruption and the abuse of power, these institutions have lost their independence and failed to prevent and prosecute cases of corruption during the Arroyo administration. The lack of trust in government institutions and civil society frustration over rampant corruption has given birth to various 'government watch' programmes, such as Pork Barrel Watch, Official Development Assistance Watch, Road Watch, election monitoring, and budget monitoring programmes.

Civil society has had varied relations with the state over the past four decades, ranging from "fear, antagonism, suspicion, caution, openness and full support."[29] Many NGOs, co-operatives and people's organisations were formed during the Marcos dictatorship as a means of responding to massive poverty and disempowerment, as well as an alternative to armed revolution. These organisations now form the backbone of Philippine civil society today. During the dictatorship, there was hardly any productive interaction between government and NGOs, as the latter were openly critical about government's human rights abuses and disregard of democracy. Since the 1986 revolution, formal mechanisms have been created to allow for CSO engagement in policy making. The Ramos administration in particular, opened up many institutionalised mechanisms within the executive branch for civil society participation between 1992 and 1998.

28 INCITEGov 2008, *Crossover Leadership in Asia: Staying Whole in Two Halves*, INCITEGov, Pasig City.
29 INCITEGov 2008, p. 22.

Aside from formal channels of engagement, civil society also strives to influence public policy or programmes through informal channels, often through informal dialogues. These informal dialogues are often helpful as they provide an opportunity for a relaxed conversation where public officials can be more candid with their views and are not forced to make public commitments on issues.

Under the current administration of President Benigno Aquino III, many civil society leaders returned to join government as key cabinet officials. There are high expectations with regard to the openness of the Aquino administration and several key agencies, such as the Department of Interior and Local Government, Department of Budget and Management, Department of Public Works and Highways, Department of Social Welfare and Development, among others, have opened up for civil society participation as directed by their respective cabinet secretaries. These departments have demanded for more CSO participation in monitoring, evaluating, and in some cases, planning for their programmes. They have created partnership offices or CSO desks to facilitate this process.

Civil society has also been able to mobilise other sectors of society for its advocacies. Recent examples include the advocacy for the extension of the Agrarian Reform Law which had met stiff resistance from legislators coming from landed families. Farmers' groups and NGOs mobilised a broad alliance with the participation of the Catholic church, students, the academe and media, which succeeded in pushing the congress to pass the Comprehensive Agrarian Reform Program Extension with Reform Law in 2009.

Another advocacy which succeeded in gaining much public support was the push for the passage of the Freedom of Information Act. Together with civil society organisations, business groups, the church and the media strongly pushed for the passage of this law, which was seen as a crucial tool in the combat against corruption. The strong support from media managed to raise public awareness on the issue in the span of a few weeks. However, the effort fell short as the House of Representatives under the leadership of then Speaker Prospero Nograles failed to ratify the bicameral version of the bill due to a lack of quorum during the last session day of the 14th Congress. The lack of a quorum was later questioned, given that several representatives who were identified as absent by the speaker's office were actually present during the roll call.

The more favourable environment for government-CSO engagement is now allowing more CSOs to shift their mode of engagement from critical collaboration to constructive engagement

Finally, both government and civil society still have much to learn about each other. Decades of civil society opposition to government have created stereotypes on how they view each other. CSOs have had a tendency to see government bureaucrats as lazy, inefficient and corrupt while government sees CSOs as fault-finders, obstructionists and rabble-rousers. But changes in attitudes and continued engagement under the current administration are helping shatter these stereotypes. The more favourable environment for government-CSO engagement is now allowing more CSOs to shift their mode of engagement from critical collaboration to constructive engagement.

8. ASEAN Involvement: Networking and Consultation

Many regional CSOs or CSO networks operating at the Asia or Southeast Asia level are based in the Philippines, such as the Southeast Asian Committee on Advocacy (SEACA), the Southeast Asia Regional Initiative for Community Empowerment (SEARICE), the Asian Partnership for Development of Human Resources in Rural Areas (AsiaDHRRA), and the Asian Farmers Association for Sustainable Rural Development (AFA).

Aside from the regional level CSOs, some Philippine CSOs are also engaged in advocacy work with the ASEAN. Many of these organisations undertake their advocacy work through the platform provided by the Solidarity for Asian People's Advocacies (SAPA), which has various working groups and task force that deal with various issues. Task Force Detainees and the Philippine Alliance of Human Rights Advocates (PAHRA) are involved with the SAPA Task Force on ASEAN and Human Rights, while the Center for Migrant Advocacy is a member of the Task Force on ASEAN Migrant Workers. In the case of PAHRA, it has raised Philippine human rights issues such as the Ampatuan Massacre to the ASEAN Inter Governmental Commission on Human Rights (AICHR), although the body has not been able to respond effectively since it has so far only engaged in the promotion, and not yet the protection, of human rights.

In 2006, Philippine CSOs were also actively involved in the preparation and conduct of the 2nd ASEAN Civil Society Conference, which was held in Cebu City. Some organisations also become engaged with ASEAN through their membership in regional networks, such as the case of PhilDHRRA which is a member of AsiaDHRRA. In 2011, AsiaDHRRA has been tapped by the ASEAN Secretariat to help conduct consultations for the drafting of its new Rural Development and Poverty Eradication (RDPE) Framework Action Plan involving governments and CSOs. PhilDHRRA will take on the task of conducting the consultations in the Philippines. This process will make it easier for Philippine CSOs to give their feedback and recommendations on the ASEAN RDPE Framework and Action Plan.

9. Role in Social Change: Social and Political Reforms

Ever since 1986, CSOs have had numerous successes in pushing for social and political reform. In terms of legislative accomplishments, CSOs have successfully lobbied for the passage of several laws that seek to promote the welfare of the poor and marginalised sectors. Several laws concerning asset reform and social justice were enacted with the strong lobby of civil society groups. These include the Urban Development and Housing Act which protects informal settlers, the Comprehensive Agrarian Reform Program Extension with Reform which extends and plugs loopholes in the land redistribution programme for landless farmers, the Fisheries Code which provides for the delineation of municipal waters, and the Indigenous Peoples Rights Act which gives indigenous peoples legal rights over their ancestral lands. NGOs and CBOs have also played a strong role in assisting communities assert the rights provided by these laws. Women's groups have also succeeded in lobbying for the passage of the Magna Carta of Women, amidst opposition from sections of the Catholic church which recognised and supported women's rights but viewed certain provisions of the bill as legitimising abortion.

In terms of legislative accomplishments, CSOs have successfully lobbied for the passage of several laws that seek to promote the welfare of the poor and marginalised sectors

Aside from legislative lobbying, CSOs have also played a role in serving as a counterbalance to the state and the entrenched political elite. Several NGOs have taken on roles of monitoring and evaluating the government budget, projects and programmes because the government institutions mandated to fulfill these functions have been ineffective. Together with

media, CSOs have sought to shed light on these anomalies and helped mobilise opposition to such, which in some instances have led to the cancellation of onerous contracts such as the ZTE-NBN deal.

The various programmes and activities being undertaken by CSOs over the past several decades have also succeeded in mainstreaming several CSO principles and values. These include the principles of gender equity and women's rights, the human rights approach, sustainable development, environmental conservation and protection, participation and people empowerment.

10. Conclusion

Philippine civil society is often described as vibrant and one of the most developed in the region. Its accomplishments over the past 25 years lend credence to this. Philippine CSOs have established pioneering and trail-blazing models in electoral monitoring, policy advocacy, government monitoring, development projects, establishment of local NGO-managed funding institutions, and establishment of self-regulatory mechanism for NGO accountability. Over this period, NGOs as a subsector have also become more professionalised.

Yet, the sector continues to face serious challenges. There is the perennial concern of sustainability, both in terms of human and financial resources. The problem of raising resources for CSOs has led to the decrease in the number of registered and operating CSOs over the past decade. There is also a need for the CSO community to more comprehensively address governance issues faced by the sector as government and other stakeholders demand greater accountability from CSOs.

At the same time, new opportunities are also opening up for CSOs. Non-traditional models of development work such as social enterprises have emerged; and these have attracted the involvement of many fresh graduates and young professionals. The environment for engaging government has also significantly become more favourable as the new administration recognises the important role of CSOs. CSOs are now invited to actively monitor government projects, as well as participate in government's planning and budgeting processes. Some officials are now also working out how government can support the organising work being undertaken by CSOs as part of its thrust to help empower citizens.

Philippine CSOs should seize and maximise these new opportunities, while continuing to address the many different challenges it faces as it forges ahead in striving to bring about greater social change.

Civil Society in Singapore

Gillian Koh and Debbie Soon

1. Overview of Political and Civil Society Landscape: Tension and Constant Negotiation

Singapore has been ruled by the People's Action Party (PAP) since the island port became a self-governing colony of Britain in 1959. Upon independence from Malaysia in 1965, it has been a one-party dominant state with effectively one level of authority centralised in the national elected government under what is broadly a unicameral Westminster Parliamentary system. The role of civil society in Singapore's modern history has waxed and waned since, depending on the PAP leadership's perception of the sector and the nature of the country's changing social structure.

In the PAP's struggle for political hegemony, its leadership was at times aligned with or has mobilised support through civil society platforms that included student organisations and labour unions.[1] However, when the leadership eventually wished to mark a clear distinction between itself and the communist elements that dominated these platforms, the activists in the latter were neutralised and the organisations were transformed into corporatist extensions of the PAP state. This is the case with the National Trades Union Congress (NTUC), the current umbrella body of labour unions, successor to the Singapore Trade Union Congress (STUC).[2] Similarly, the People's Association (PA), a statutory body re-purposed and re-branded existing grassroots organisations in 1960 to support the new government's development efforts.[3] The point is that history clearly demonstrates the harnessing of civil society by the leaders of the PAP regime.

The PAP government has built its legitimacy around its promise and ability to deliver economic and social development to this multiracial post-colonial state. Over the years, it has met the key needs of the population – jobs, housing, healthcare, education and social mobility. Civil society is, however, viewed with a cautious and skeptical eye. Given the rambunctious nature of the trade unions in the early years, limits on political freedoms of association, assembly, expression and media have been justified to secure a conducive environment for investment and economic growth.

Community-based organisations (CBOs) deemed to be able to contribute to the development imperative have been treated as 'junior partners' of the state. These include the grassroots organisations body under the PA, and many voluntary welfare organisations that deliver social services and sometimes perform an advocacy role in areas narrowly related to the work they do. This sector has previously been described by government leaders as 'civic society' with the emphasis on a social and communitarian orientation. Here, they "directly or indirectly reinforce the ideological preferences of the PAP government in terms of public policy and programmes…"[4].

1 For an account of this, read: Bloodworth, D. 1986, *The Tiger and the Trojan Horse*, Times Books International, Singapore.

2 Rodan, G. 1989, *The Political Economy of Singapore's Industrialisation: National State and international Capital*, The Macmillan Press Limited, London. Refer to chapters 1, 3 and 4.

3 Chua, B. H. 1997, *Communitarian Ideology and Democracy in Singapore*, Routledge, London; New York.

4 Chua, B. H., 2003a, 'The Relative Autonomies of State and Civil Society in Singapore', in Koh, G. and Ooi, G. L., (eds.) 2003, *State-Society Relations in Singapore*, Eastern Universities Press: Singapore, p.71.

On the other hand, there are civil society organisations (CSOs) that offer alternative perspectives of Singapore. These CSOs may dispute the PAP government's sole right to define what is best for the nation or the notion that it does so in a dispassionate, interest-free way. Such CSOs have a somewhat more adversarial relationship with the government. They view themselves as performing what is primarily a political function - they check the excesses of the state, if any, and are a necessary complement to the state. They are also a platform for the articulation of concerns that should not be overlooked in the country. Such groups either formally constituted or not (as in the case of public intellectuals, playwrights and other theatre practitioners) have become more conspicuous since the mid-1980s.

What is suggested here is that these ground-up energies do emerge and have their independent existence. Many analysts are unsure if this has had a transformative effect on the local political regime.[5] It is clear nonetheless that the story of state-civil society relations since the 1980s is one of tension and constant negotiation with civil society trying firstly, to demonstrate that it has something to lend to the definition of the nation and its interests; secondly, to suggest therefore the operating conditions are modified to allow the sector to exist and even thrive; and third, that they are able to help the general public better develop its social consciousness. As a result, there has been a liberalisation of the conditions under which civil society operates in Singapore over the past decade.

2. Legal Basis and Regulatory Framework: Laws and Soft-Restraints

The framework under which CSOs operate in Singapore consists of two parts. The first are the explicit laws enshrined in the constitution and in the legislation of the land. The second are the soft restraints that comprise 'out-of-bounds' limits on public speech set out by the PAP government, established by statements of the political leadership and practice.

Turning first to the law, the Singapore Constitution provides for the freedom of speech, assembly and association in Article 14. However, in the very same article, there are restrictions to these freedoms, which provide a preview of the flavour of the legislation that governs the various spheres of civil society.[6] The freedom to associate is subject to the need for CSOs to register as stipulated in the Societies Act. Only non-specified societies - those that vouch that their objectives bear no relation to political activity - enjoy automatic registration. The Registrar of Societies retains the discretion to refuse registration to groups outside of that category. After registration, changes to the Constitution and place of business of a registered society have to be approved by the registrar and only after the changes have been approved by its general membership. The registrar also has the discretion to order a change to the name or the rules of a society. Persons aggrieved by the registrar's decision in any of these procedures can appeal to the Home Affairs Minister, whose decision is final. Registered societies are also required to submit an audited statement of returns on an annual basis. The Home Affairs Minister has the discretion to order the dissolution of any society.[7]

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5 Rodan, G., 1996, 'State-society Relations and Political Opposition in Singapore', in Rodan, G. (ed.), *Political Oppositions in Industrialising Asia*, Routledge, London, pp. 95-127. Chua, B. H., 2003b, 'Non-Transformative Politics: Civil Society in Singapore', in Schak, D. C. and Hudson, W. (eds.) 2003, Civil Society in Asia, Ashgate Publishing Limited, Hampshire, pp. 20-39.

6 *Constitution of the Republic of Singapore 1999*, viewed 1 February 2011, <http://statutes.agc.gov.sg>.

7 *Societies Act 2010*, Chapter 311, viewed 1 February 2011, <http://statutes.agc.gov.sg>. *Societies Act: Societies Regulations* 1967, Chapter 311, Section 34, viewed 1 February 2011, <http://www.mha.gov.sg/Data/Files/Societies%20Regulations.pdf>.

There are groups that register as charities under the Charities Act. The register of charities, their administration and compliance with requirements of the act and the code of governance fall under the overview of the Commissioner of Charities. The Commissioner ensures that the public trust in charities is maintained. Charities benefit from tax exemptions for the revenue they generate. Charities whose sole mission is to benefit causes in Singapore under specified categories can apply to relevant 'sector administrators' which are government ministries, to be classified as 'institutions of public character' (IPCs). This group of organisations are then able to offer their donors tax deductions on contributions in addition to other tax benefits of being charities.[8]

There are civil society groups that register under the Companies Act as 'company limited by guarantee', which limits the liability of its members, but comes with more complex reporting requirements.[9] There is less scrutiny over the objectives of the group, but there is no prospect of achieving charity status to access any of the tax deductions or exemptions mentioned above. One group that famously registered itself as a company was the Think Centre that aimed to promote a vibrant 'political society' or political development in the country.

As for trade unions, the structure of the registration process and the relevant approval authorities mirrors that of societies, except that the discretion to withdraw or cancel the registration of a trade union lies with the Registrar of Trade Unions[10]. Unions are also governed by the Criminal Law (Temporary Provisions) Act and their members face restrictions on the conduct of and participation in strikes and lock-outs.[11]

Registration as societies has both been sought and avoided by social groups. An example of the former is Singapore's gay lobby that has tried to effect the normalisation of its social identity into mainstream society. The gay group, People Like Us, attempted to register first as a company (which would not require the declaration of the group's gay identity), then as a society since the 1990s, without success. Government leaders said they had to block the institutionalisation of the gay community to ensure they did not offend what leaders argued were the sensibilities of the broad majority of Singaporean society.[12] The Singapore government has, however, emphasised that they recognised gays' individual rights to jobs, public goods and their private lives as they would with all other citizens. The target of the advocacy of gay groups however is the legal prohibition against gay sex between two men in the Penal Code, Article 377A.

In the Internet age, civil society also exists as virtual networks. There are influential socio-political websites that focus on national issues. Such websites can be made to register as 'political associations' by the Prime Minister's Office (PMO). To comply would be the government's way of making an identifiable person or group of people responsible for the postings on their sites through the Media Development Authority's (MDA) Broadcasting (Class Licence) Scheme (referred to below) as well as to give an undertaking under the Political Donations Bill not to

8 *Charities Act 2007*, Chapter 37, viewed 22 August 2011, <http://statutes.agc.gov.sg>. Further information can be accessed through http://www.charities.gov.sg/charity/charity/viewCharities.do.

9 *Companies Act 1994*, Chapter 50, viewed 1 February 2011, <http://statutes.agc.gov.sg>.

10 It is compulsory for groups intending to form trade unions to gain registration under the Trade Unions Act. The discretion to register, refuse, cancel or withdraw registration and order a name change lies with the Registrar of Trade Unions. Persons aggrieved with the Registrar's decision may make appeals to the Manpower Minister, whose decision is final. *Trade Unions Act*, Chapter 333, viewed 25 July 2011, <http://statutes.agc.gov.sg>.

11 *Criminal Law (Temporary Provisions)* Act, Chapter 67, viewed 25 July 2011, <http://statutes.agc.gov.sg>.

12 Heng, R., c2001, 'Tiptoe Out of the Closet: The Before and After of the Increasingly Visible Gay Community in Singapore', in Sullivan, G., Jackson P. (eds. c2001), *Gay and Lesbian Asia: Culture, Identity, Community*, Harrington Park Press, New York, p.81-97.

accept foreign funding at all nor anonymous donations of a total sum of more than S$5000 or approximately US$4000. Most recently, the web portal, The Online Citizen, decided to register as a political association when ordered to do so by the PMO[13] in contrast to the actions of another site called Sintercom that chose to shut down in 2001 instead.[14]

The freedom of assembly and expression are governed by several pieces of legislation. The Public Order Act 2009 provides a consolidated regulatory framework for outdoor political activities. The act considers one person as an assembly, gives the police the power to issue move-on orders if they convince a court that there is imminent threat to public peace. It also prohibits the 'filming, communicating and exhibiting [of] films of law enforcement activities'.[15] Prior to this, the Speakers' Corner was established in 2000 as a space for demonstrations to be held. The government widened the space for 'expression and participation' in 2008 by replacing the earlier need for a permit to assemble at the Speakers' Corner that was originally set-up in 2000 as a free speech place. The only restriction on speech was that hate speech on race and religion were disallowed. There is currently no need for a permit to conduct indoor public political activities either since liberalisation of the rules in 2004, as long as speakers and organisers are not foreigners. This, however, is a situation that "can be amended as and when the Government likes" as it comes under separate regulations and not the Public Order Act.

The most punitive restraint that members of CSOs always keep in view in Singapore is the rule that allows for detention without trial – the Internal Security Act. In the struggle for independence, it was exercised against those alleged to be communists and construed as acting against the state. In 1987, it was exercised to detain people whom the government alleged were Marxists agitating forment on behalf of migrant workers. Since December 2001, it has been exercised to detain people whom the authorities alleged were 'radical Islamists' plotting terrorist activities in the country and elsewhere.

The most punitive restraint that members of civil society organisations always keep in view in Singapore is the rule that allows for detention without trial – the Internal Security Act

'Out of Bounds' (OB) restraints is a soft form of control on public speech. First introduced in 1994, the idea is that the government would publicly reprimand political commentators if they should question the integrity or character of individual political leaders and erode the respect accorded to them. While this cannot be judged against any provision of law, it still has the effect of chilling public speech, as intended if and when any political leader were to state that one has crossed this 'OB marker'. It has only ever done when it was first introduced, against political commentator Catherine Lim. She has said that it has resulted in commentators 'self-censoring' their views in order not to be criticised for crossing the line. The view on the ground was that the state had acted in a manner that seemed disproportionate to the action and reinforced the climate of fear relating to political speeches.

13 Au Yong. J. 2011, Blog Told to Register as Political Group, in *The Straits Times*, 12 January, viewed 12 January 2011, <http://www.lib.nus.edu.sg/eforms/factiva.html>.

14 Fong, T. and Leong, W.K., 'Boundaries Drawn for Political Blog', in *Today*, 12 January, viewed 28 February 2011, <http://www.lib.nus.edu.sg/eforms/factiva.html>.

15 Ministry of Home Affairs, 2009, *Overview of The Public Order Act* [press release] 23 March, viewed 20 November 2009, <http://www.mha.gov.sg/news_details.aspx?nid=MTM5OQ%3d%3d-3BtUG%2b2xe3A%3d>.

3. Size, Number, Patterns and Types of Organisations: Prevalence of CBOs and FBOs

There were 7,111 societies listed under the Register of Societies in April 2010. This registry is updated on a continual basis.[16] Not many CSOs in Singapore can be regarded as non-governmental organisations (NGOs). NGOs range from a small number of advocacy and arts groups like the Association of Women for Action and Research (AWARE), the Nature Society (NSS), The Necessary Stage, Wild Rice and TheatreWorks, an independent think-tank like the Singapore Institute of International Affairs (SIIA) and other organisations like the Association of Muslim Professionals (AMP). The thematic foci of some of these groups would be explored in greater depth in the next section.

There are also international non-government organisations (INGOs) which have a local presence. There is the World Wildlife Fund, the Wildlife Conservation Society[17], Birdlife International[18], the International Union for Conservation of Nature[19] and the Jane Goodall Institute[20] which focus on environmental conservation issues.[21] The Red Cross has always had a presence in Singapore. The United Nations Development Fund for Women (UNIFEM) and the United Nations Environment Programme (UNEP) have been the strongest organisations under the United Nations that has operations in Singapore. They do some advocacy work, provide services and develop capacity-building programmes here but most of them find Singapore a good base from which to attract financial and other resources to be directed to work in the neighbouring region. Since 2008, the government has created an international organisations (IO) hub programme with incentives under the Economic Development Board for them to set up operations in Singapore.

A good proportion of civil society consists of CBOs affiliated with or supporting the work of the government. The grassroots organisations come under the purview of the PA, a statutory board helmed by the Prime Minister and resides under the Ministry of Community Development, Youth and Sports. These include the Community Development Councils at the district level, the Community Centre Management Committees and Citizens Consultative Committees at the constituency level, and Residents' Committees at the neighbourhood level.[22]

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In the environmental sphere, the Singapore Environmental Council (SEC) for instance, is a government-sponsored organisation when it first began to help give focus to green and brown organisations in Singapore.

There are many faith-based organisations (FBOs) arising from the multi-religious landscape in Singapore. Some of these FBOs also provide social services, and there is thus some overlap with

16 Government Printers, 2010, 'Supplement to the Republic of Singapore Government Gazette', *in List of Registered Societies* as on 1st April 2010, 16 November, No. 15.

17 Chua, G. and Tham, I. 2010, 'Conservation Spells Good Business for Wildlife Reserves' in *The Straits Times*, 9 December, viewed 26 July 2011, <http://www.lib.nus.edu.sg/eforms/factiva.html>.

18 Birdlife International, *Singapore*, viewed 26 July 2011, <http://www.birdlife.org/worldwide/national/singapore/index.html>.

19 International Union for Conservation of Nature, *Members in Singapore*, viewed 26 July 2011, <http://www.iucn.org/about/union/secretariat/offices/asia/working_together/asia_members/members_list/singapore/>.

20 Jane Goodall Institute (Singapore), *Jane Goodall Institute (Singapore)*, viewed 26 July 2011, < http://www.janegoodall.org.sg/Jane_Goodall/_JGI.html>.

21 World Wildlife Fund (Singapore), *Forging Partnerships across Asia Pacific*, viewed 2 February 2011, <http://wwf.panda.org/who_we_are/wwf_offices/singapore/wwf_singapore/>.

22 Tan. K. P. 2010, 'Singapore: A Depoliticized Civil Society in a Dominant-Party System?' Briefing Paper for the *Friedrich-Ebert-Stiftung Shanghai Co-ordination Office for International Co-operation*, December 2010. No. 3, viewed 20 April 2010, <http://www.feschina.net/Files/FES%20Briefing%20Paper%20-%20No.3.pdf>.

the category of Voluntary Welfare Organisations (VWOs). These include the Ren Ci Hospital, the Thye Hua Kwan Moral Society, the Persatuan Permudi Islam Singapura (PPIS) formed by Muslim women, and the Catholic Welfare Services. Some FBOs, such as World Vision International, are also INGOs.[23]

There are a few private foundations in Singapore. To name the key ones: The Lee Foundation was set up in 1952 by tycoon Lee Kong Chian and has provided financial support for education, medical and charitable causes. The Shaw Foundation was formed in 1957 by Tan Sri Runme Shaw, an entertainment magnate in his time, and has donated to schools, institutions of higher learning, homes and hospitals, among other causes. The Hong Leong Foundation was set up in 1980s by the Kwek family to conduct 'charitable activities regardless of race, language and religion'. The Lien Foundation was set up by banker Lien Ying Chow and has donated large sums 'to support education and charities'. The Tsao Foundation was set up by the Tsao family to provide healthcare services to workers and the elderly in Singapore.[24]

Singapore also has its professional associations. These include the Law Society of Singapore, the Singapore Medical Association, the Singapore Psychological Society, the Institute of Certified Public Accountants of Singapore and the Institution of Engineers Singapore, among others.[25] Many of these professional associations have global and regional links.

With regard to trade unions, the NTUC bloc is the largest, which most employee trade unions are affiliated with. The five employee unions independent of this arrangement are the Air Line Pilots Association-Singapore (Alpa-S), the Singapore Transport Vessel Workers' Association, The Singapore Catering Services, the Staff & Workers Trade Union, The Singapore Motor Workshops Employees' Union and the Film Industrial Employees Union of Singapore.[26] Employer trade unions include the Singapore Maritime Employers Federation, the Print and Media Association, Singapore, and the Singapore National Employers Federation (SNEF).[27]

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4. Thematic Foci and Interests: From State Partnership to Public Advocacy

Civil society can be envisioned as a spectrum, with those that partner the state at one end, and the groups that conduct public advocacy in alternative orientation and resistance to existing public policy on the other. For the first category, there is the labour union, the NTUC, its constituent unions and related social enterprises; the National Council of Social Service (NCSS), which oversees the volunteer welfare organisations in Singapore; and the grassroots organisations which enjoy the support of the PA.[28] The last two organisations come under the government's framework of 'many helping hands', where such organisations and VWOs are invited to help take on the task of meeting societal welfare needs alongside state efforts.

At the other end of the spectrum are civil society organisations that directly engage and contest the government's views on public policy. Civil society groups in this category, which include advocacy groups and political parties, are closely watched by the state.[29] There are also think tanks that generate material of that nature.[30] Policy-oriented think tanks embedded in publicly-funded universities include the Institute of Policy Studies, the East Asian Institute, the Middle East Institute and the Institute of Water Policy at the National University of Singapore, and the Rajaratnam School of International Studies, at the Nanyang Technological University. The Singapore Institute of International Affairs (SIIA) is perhaps the only independent, non-government think tank focused on policy research and advocacy in Singapore at the moment. Staff and former staff of these organisations, academics in institutes of higher-learning, and professionals from other sectors also contribute their views on social, political and policy issues in their personal capacity in the mass and new media. They constitute a corpus of what can be termed 'public intellectuals', though they are not formally a group on their own by any means.

Thematically, there is an interesting cluster of groups that focus on the welfare of migrant workers which include the Humanitarian Association for Migrant Economics (HOME), Transient Workers Count Too (TWC2) and the Archdiocesan Commission for the Pastoral Care of Migrants & Itinerant People. Another cluster revolves around animal welfare issues such as the Animal Concerns and Research Society (ACRES) and the Society for the Prevention of Cruelty to Animals (SPCA) and environmental groups such as NSS.

Then there are groups that focus on environmental and heritage conservation in Singapore. Groups in the green space include, more prominently, the NSS and then the Jane Goodall institute, as well as online groups connected through websites and blogs like Wild Singapore, Hantu Bloggers, Blue Water Volunteers, Teamseagrass and the Comprehensive Marine Biodiversity Survey of Singapore. The Singapore Heritage Society (SHS) is the primary player in the local heritage conservation space. Recently the efforts of environmental and heritage conservation activists have converged with the Green Corridor proposal to lobby the government to agree to preserving the full tracts of green land along a decommissioned railway track that runs from the south to the north of the country up to Malaysia.[31]

23 Chan, T. C. 1996, 'Nongovernmental Organisations in Singapore', in Yamamoto, T. (ed.) 1996, *Emerging Civil Society in the Asia Pacific Community*, Institute of Southeast Asian Studies, Singapore and Japan Center for International Exchange, Tokyo, pp. 215-237.
Ren Ci Hospital, Ren Ci Hospital, viewed 14 June 2011, <http://www.renci.org.sg/Home.aspx>.
Catholic Welfare Services Singapore, *Catholic Welfare Services Singapore*, viewed 14 June 2011, <http://www.catholicwelfare.org.sg/>.

24 Chan, T. C. 1996, ibid.

25 Government Printers, 2010, 'Supplement to the Republic of Singapore Government Gazette', List of Registered Societies as on 1st April 2010, 16 November, No. 15.
Societies Act 2010, Chapter 311, viewed 1 February 2011, <http://statutes.agc.gov.sg>.

26 These trade unions are found on the Manpower Ministry's list and do not appear on NTUC's online directory.
Ministry of Manpower, Employee Trade Unions, viewed 27 July 2011, <http://www.mom.gov.sg/employment-practices/trade-unions/Pages/employee-trade-unions.aspx>.
NTUC Portal, NTUC-Affiliated Unions and Associations, viewed 27 July 2011, <http://www.mom.gov.sg/employment-practices/trade-unions/Pages/employee-trade-unions.aspx>.

27 Ministry of Manpower. *Employer Trade Unions*, viewed 26 July 2011, <http://www.mom.gov.sg/employment-practices/trade-unions/Pages/employer-trade-unions.aspx>.

28 Koh, G. and Ooi, G.L. 2004, 'Relationship between State and Civil Society', in Lee H.G. (ed.), *Singapore: Clarifying the Concepts, Assessing the Ground*, ISEAS Publications, Singapore, pp.167-97.

29 Koh, G. and Ooi, G.L., 2004. Ibid.

30 Koh, T.A., 2003, 'The Role of Intellectuals in Civil Society: Going Against the Grain?', in Koh, G. and Ooi, G.L., (eds.) 2003, *State-Society Relations in Singapore*, Eastern Universities Press, Singapore, pp.156-167.
Noda. M., 1996, 'Research Institutions in Singapore: From the Perspective of Asia Pacific Intellectual Exchange', in Yamamoto, T., (ed.), 1996, *Emerging Civil Society in the Asia Pacific Community*, Institute of Southeast Asian Studies, SIngapore and Japan Center for International Exchange, Tokyo, p. 429-439.

31 Chua, G. 2011, 'Parts of KTM Railway to Be Retained', in *The Straits Times*, 23 July 2011, viewed 25 July 2011, <http://www.lib.nus.edu.sg/eforms/factiva.html>.

The next category of concerns are those on gender and women's issues are represented by groups such as AWARE and UNIFEM Singapore, as well as the Women's Initiative for Ageing Successfully (WINGS) that specialises on ageing issues among women.

There are also humanitarian groups such as the Red Cross and Mercy Relief that provide disaster-relief aid. The latter also assists with capacity-building, infrastructure initiatives in developing countries.[32]

There are prominent theatre groups and arts organisations that explore societal issues through their productions. Established in 1990, the Substation is the pioneering arts space in Singapore, predating the formation of the National Arts Council. It has been, today, described as a representation of civic space in its chaos and messiness that comes from being open and flexible to different approaches.[33] Substation is "an alternative space for the arts" and offers a "home to cultivate and foster imaginations, particularly those that find other spaces inhospitable." It has empowered new actors and groups to experiment with a Black Box performance space, which stand in contrast with larger theatre spaces[34]. Theatre groups with this sort of orientation include The Necessary Stage, Wild Rice and TheatreWorks. Ad-hoc groups are formed among theatre practitioners also to protect what they feel is the freedom for artistic expression. In 2010, in response to the Censorship Review Committee's mid-term review of recommendations, such a group called ArtsEngage offered its input on the liberalisation and accountability of the censorship regime in the country.[35]

In more recent times, the space of civil society has seen the participation of online groups. Formally registered websites include The Online Citizen. Other sites which are not formally associated include Temasek Review Emeritus and Mr. Brown, in addition to online forum discussions taking place on forums like hardwarezone.com.sg, www.sammyboy.com, Facebook and Twitter. In 2007, the government formed the Advisory Council on the Impact of New Media on Society (AIMS) to look into the management of new media and its impact on society. After the AIMS committee report, the state loosened restrictions concerning party political films in the Films Act, and created a Political Films Consultative Committee instead of an independent decision-making body, to approve circulation of political films as the AIMS committee had recommended. The state also decided against lifting an existing the symbolic ban of 100 websites.[36]

In the late 1990s, individuals from various NGOs and VWOs came together to form The Working Committee (TWC). This was a first attempt at building a national network of civil society activists and organisations. The publication entitled Building Social Space In Singapore documents this initiative in the manner that captures the spirit and the achievements of the year-long effort.[37]

There are groups that are based locally but have a regional orientation although they are relatively rare. The groups that are more independent of the government include Maruah and SIIA. Groups that have a closer relationship to government include Business China, the Pacific Economic Co-operation Council (PECC), Singapore International Foundation, the National Youth Council and the NTUC.

5. Capacity and Resources: State and Corporate Funding

There has been no nationwide assessment of the capacity and resources of CSOs in Singapore. The closest is of a survey of charity sector Institutions of a Public Character (IPCs) by the National Volunteer and Philanthropy Centre (NVPC) in 2007.[38] The survey discovered that better volunteer management was required on the part of IPCs.

The NCSS and NVPC do, in their capacities as national umbrella agencies for the volunteer and welfare and philanthropic sectors, provide avenues for capability development and financial resources for the implementation of programmes. The NCSS has the Social Service Training Institute, which provides training for the social service and non-profit sector. The NCSS raises funds primarily through the Community Chest, which it then disburses to VWOs.[39] The NVPC builds capacity through a variety of programmes such as Board Match, which pairs NPOs with individuals who are committed to strengthening their boards and Social Leadership Singapore which aims to create breakthroughs for NPO participants in their non-profit work. The NVPC also provides funding for NPOs, for instance, it gives start- up NPOs or existing NPOs seed money through the New Initiative Grant.[40]

Then there are training programmes conducted by independent bodies such as the Lien Centre for Social Innovation through its iLEAP Professional Course for Non-profit Leaders.[41] CSOs have benefitted from the donations by private foundations, which include the Lee, Lien, Tsao and Shaw foundations. CSOs, especially those in the social service sector have enjoyed the volunteer participation and donations of individuals and corporations.

There are also companies that support the advocacy of some groups, or causes pursued by CSOs, for example, OCBC, and now Man for their sponsorship of the Singapore Theatre Festival; M1 and its Arts Festival; the environment by Far East Organisation.[42]

32 Singapore Red Cross Society, Our Work, viewed 26 July 2011, <http://www.redcross.org.sg/landing/social-services/>
Mercy Relief, *Provision of Safe Drinking Water and Livelihood Enhancement*, viewed 25 July 2011, <http://www.mercyrelief.org/web/contents/Contents.aspx?ContId=188>.

33 The Substation. About Us – History, viewed 25 July 2011, <http://www.substation.org/about-us/history/>.

34 Kong, L. and Yeoh, B. 2003, 'Arts (f)or Survival', *in The Politics of Landscape in Singapore*, Syracuse University Press, New York, pp.162-200.

35 Chia, A. 2010, 'Censorship Review 'Disappointing', in *The Straits Times,* 18 September, viewed 25 July 2011, < http://www.lib.nus.edu.sg/eforms/factiva.html >.

36 The Straits Times, 2009, 'Use New Media Wisely', *Vivian*, 22 February, viewed 25 July 2011, <http://www.lib.nus.edu.sg/eforms/factiva.html>.
Ministry of Information, Communication and the Arts 2009, *Speech by Dr Lee Boon Yang, Minister for Information Communications and the Arts, at Media Conference on the Government's Response to Recommendations made by AIMS*, viewed 9 January 2011, <http://www.news.gov.sg/public/sgpc/en/media_releases/agencies/mica-ccd/speech/S-20090109-2/AttachmentPar/0/file/Govt's%20response%20to%20AIMS%20recommendations.pdf>
Advisory Council on the Impact of New Media on Society, 2008, *Engaging New Media: Challenging Old Assumptions*, December, viewed 27 July 2011, <http://app.mica.gov.sg/Data/0/AIMS%20Report%20(Dec%2008)%20-%20Engaging%20New%20Media,%20Challenging%20Old%20Assumptions.pdf>.
Mahizhnan, A. and Tan, T. H., 2008, *AIMS Report: A New Assumption and a Leap of Faith*, September 13, viewed 27 July 2011, <http://journalism.sg/2008/09/13/aims-report-a-new-assumption-and-a-leap-of-faith/>.

37 Singam, C. et. al. 2002, *Building Social Space in Singapore: The Working Committee's Initiative in Civil Society Activism*, Select Publishing, Singapore.

38 National Volunteer and Philanthropy Centre 2006, *Study on Institutions of Public Character*, viewed 17 February 2011, <http://www.nvpc.org.sg/Library/Documents/ResearchReports/projIPCpublic%20(FINAL).pdf>.

39 National Council of Social Service, *About Us*, viewed 17 February 2011, <http://www.ncss.org.sg/About_NCSS/Mission.asp>.

40 National Volunteer and Philanthropy Centre, *NVPC Official Website*, viewed 17 February 2011, <www.nvpc.org.sg>.

41 Lien Centre for Social Innovation, *iLEAP 2011 Professional Course for Non-profit Leaders*, viewed 14 June 2011, <http://www.lcsi.smu.edu.sg/ileap/2011/>.

42 Singapore Theatre Festival, *The Festival and Festival Sponsors*, viewed 2 March 2011, <http://www.singaporetheatrefestival.com/>,
Nature Society, *Butterfly Trial@Orchard*, viewed 2 March 2011, <http://www.nss.org.sg/about_BTO.html> M1 Singapore Fringe Festival 2011, *M1 Singapore Fringe Festival 2011*, viewed 14 June 2011, <http://www.singaporefringe.com/>.

6. Transparency and Accountability: Measuring up to Macho-bureaucracy

CSOs are required under the Societies Act to submit an annual statement of returns. There are further requirements if they register under the Companies Act, likewise with groups registered as charities. Companies have to comply with the Accounting Standards Act.[43] There is also the Code of Governance for Charities and IPCs, which seeks to enhance governance and management capabilities over time.[44] These requirements stem from the government's relative distrust of the accountability levels and management capacity of the civil society sector, which stands in contrast with the practices of its 'macho-bureaucracy'.

The government also finds it difficult to make sense of whom the CSOs represent, and the point at which they should take heed of them. It is also challenging to get a sense of the possible impact of any given group based on the size as the political capital for mobilisation of each is contingent on a multiplicity of factors.

In addition, there is limited freedom of information concerning the work of the government; it is difficult to obtain national data with enough granularity on sensitive issues for effective public advocacy, or so the CSOs argue. CSOs find that they need to develop their own resources to create information and knowledge of the areas they are concerned about.

7. Role in Governance: A Vertical State-Civil Society Relationship

Looking back through the lens of time, civil society has long had a negligible role in governance after Singapore gained independence in 1965. The PAP was dominant and able to legislate what it felt was necessary to maintain political and social order – the conditions for economic growth. Some signs of an awaking civil society only emerged in the mid-1980s, as a direct reaction to government policies.[45] AWARE was set up in 1985 in response to the 'Great Marriage Debate' in which the first prime minister, Lee Kuan Yew, introduced programmes to promote greater procreation amongst educated women.[46] The formation of AMP was in response to sentiments that PAP's Malay MPs had not done enough to improve the standing of the Malay community in Singapore and represent its interests.[47]

The era of the second prime minister, Goh Chok Tong, from 1990 onwards, was marked by the promise that '[t]here will be greater freedom for Singaporeans to make their own choices and to express themselves, but this freedom [would not be]…extended to actions, which rock the boat'[48]. Although there was more room for civil society to operate, the space for discussion was still somewhat predetermined by the government. Then Minister for Communication and the Arts George Yeo likened the state to a 'banyan tree' of which the time might have come to 'prune judiciously'. Minister Yeo reframed 'civil society' as 'civic society'[49], drawing emphasis and lending weight to the civic republican notion of citizenship, which prioritises citizen responsibilities over rights.[50] It has also been argued that this reconceptualisation was a means of devolving the task of welfare provision to society.[51] The framing of civil society as civic society has been read by some intellectuals as the government's strategic attempt to depoliticise the advocacy aspect of civil society, in which participants hold alternative world views and challenge the state.[52]

In 1991, the government proposed the 'Many Helping Hands' strategy to encourage Singaporeans to help 'that small segment of our community who cannot keep pace with the rest of the population'[53] through the efforts of voluntary welfare organisations. In 1998, the Singapore 21 committee established 'active citizenship' as the fifth pillar of the vision for Singapore in the 21st century, further cementing the view of civil society as civic society.[54] The government has since regularised the process of public consultation on policy reviews where public intellectuals, members of civil society are invited to give their views.

Most of the relationships that civil society engages in with the government are vertical, while horizontal relationships with peers and citizens remain underdeveloped

Under the third prime minister, Lee Hsien Loong, who came to the helm in August 2004, there has been further liberalisation of the space in which for CSOs to operate. This process is not necessarily a linear one as seen in the comparison of the liberalisation to allow demonstrations to be held in Speakers' Corner and the establishment of the Public Order Act. In this period, the influence of the new media has increased. This has led, on the one hand, to the ruling elite's attempts to engage citizens through the use of new media with some of its ministers engaging them on government Facebook pages and, on the other, the proscription of The Online Citizen as a 'political association'.

Most of the relationships that civil society engages in with the government are vertical, while horizontal relationships with peers and citizens remain underdeveloped. The exceptions to this include informal networks between theatre groups and personalities, collaboration between migrant worker groups (for instance, TWC2 and HOME for International Migrants Day),[55] and the social movement for resistance with the gay lobby. In addition, Maruah emerged from a coalition of individuals with 'diverse backgrounds' who have come together to 'work on human rights issues at both domestic and regional levels'.[56]

In addition, a new religious right and groups with a liberal bent have been more prominent in public debates over issues concerning morality. In 2007, the gay community and its supporters

43 *Societies Act 2010*, Chapter 311, viewed 1 February 2011, <http://statutes.agc.gov.sg>. *Companies Act 1994*, Chapter 50, viewed 1 February 2011, <http://statutes.agc.gov.sg>.

44 The Charity Council 2011, *Charity Council Launches Refined Code To Uphold Governance Principles, Media Release*, 19 January, viewed 22 June 2011, <http://app1.mcys.gov.sg/PressRoom/CharityCouncilLaunchesRefinedCode.aspx>.

45 Koh, G. 2009, 'Pruning the Banyan Tree? Civil Society in Goh's Singapore', in Welsh, B., Chin, U.H.J., Mahizhnan, M. and Tan, T.H. (eds.) 2009, *Impressions of the Goh Chok Tong Years in Singapore*, NUS Press, Singapore, pp.93-106.

46 Lyons, L. 2004, 'The Women's Movement in Singapore', in Lyons, L. (ed.), *A state of Ambivalence: The Feminist Movement in Singapore*, Koninklijke Brill NV, Leiden, pp.23-39.

47 Chua, B. H. 2003b, Non-Transformative Politics: Civil Society in Singapore, in Schak D. C. and Hudson W. (eds.), *Civil Society in Asia*, Ashgate Publishing Limited, Hampshire, pp. 20-39.

48 Goh, C.T. 1990, *Deputy Prime Minister's Speech on President's Address in Parliament*, 13 June, viewed 1 March 2011 <http://stars.nhb.gov.sg>.

49 Yeo, G., 1991. 'Civic Society – Between the Family and the State', *Ministry of Information and the Arts*, 20 June, viewed 1 February 2011, <http://stars.nhb.gov.sg>.

50 Chong, T. 2005, 'Civil Society in Singapore: Reviewing Concepts in the Literature', *ISEAS Working Paper: Social and Cultural Issues No. 1*, viewed 10 January 2011, <http://www.iseas.edu.sg/sc12005.pdf >.

51 Koh, G. and Ooi, G.L. 2003, 'Achieving State-Society Synergies', in Koh, G. and Ooi, G.L. (eds.) *State-Society Relations in Singapore*, Eastern Universities Press, Singapore, pp.2-15.

52 Tan, K.P. 2009, 'Who's Afraid of Catherine Lim? The State in Patriarchal Singapore', in *Asian Studies Review 33(1)*,p.43-62, viewed 1 March 2011, <http://www.informaworld.com/smpp/content~db=all?content=10.1080/10357820802706290>.

53 The Government of Singapore, 1991, Singapore: *The Next Lap*, Times Edition, Singapore, pp.117-29.

54 Singapore 21, *Active Citizens: Making a Difference to Society*, viewed 17 February 2011, <http://www.singapore21.org.sg/menu_menu_5keys_active.html>.

55 Transient Workers Count Too, *Chronology*, viewed 2 March 2011, <http://www.twc2.org.sg/site/who-we-are/chronology.html>.

56 Maruah, *About Us*, viewed 1 February 2011 <http://maruah.org/about/>.

57 Siew, K.H. 2007, 'Updating Penal Code Provisions to Reflect Societal Norms and Values', *Singapore Parliament Reports*, 22 October, Parliament No 11, Session No 1, Vol 83, Sitting 14, viewed 12 November 2009, <http://www.parliament.gov.sg/parlweb/hansard_search_latest.jsp>.

raised an online petition of 8,102 signatures to repeal Section 377A of the Penal Code,[57] which criminalises 'acts of gross indecency between two male adults'[58]. This resulted in a counter-petition from other members of the public, which garnered more than 15,000 signatures.[59] In 2009, the contest of values between religious conservatives and the gay lobby manifested in a leadership tussle of the Association of Women for Action and Research (AWARE), more commonly known as the 'AWARE Saga'. The two factions disagreed on the stated position on homosexuality in AWARE's sexuality education programme delivered in schools.[60] These two very public episodes point to the tension between the gay community (LGBTQ) and those more socially conservative, echoing the culture wars in America. The government's position in both situations was to take action based on what they argued the majority of society would agree with. In the AWARE Saga, the government adopted the approach of being an objective referee between the liberals and conservatives. This mirrors the Hegelian framework of civil society where the government presents itself as an arbiter between rival CSOs in the best interests of the nation.[61]

There are some umbrella associations in the civil society sector in Singapore. There is the Singapore Council of Women Organisations, formed in 1980, which "co-ordinate[s] and act[s] as a federation for women's organisations"[62]; the SEC to "nurture…facilitate…and co-ordinate… environmental causes in Singapore"[63]; and more recently, the Social Enterprise Association was formed in 2008 to take on "the role of promoting social entrepreneurship and social enterprise in Singapore."[64]

8. ASEAN Involvement: Track II and III Engagement

Of the few CSOs that engage on the regional level, the most notable would be the independent think-tank, SIIA. It is involved with ASEAN on the Track II diplomacy for government officials, policy analysts, think tanks and practitioners in their private capacity. CSOs such as Maruah and Think Centre focus their efforts on the ASEAN Track III civil society pathway on the issue of human rights. Groups such as AWARE and UNIFEM tend to focus on more gender-specific issues and organisations like HOME and TWC2 look at issues of migration. The Singapore International Foundation's activities with ASEAN focus more on building positive links between Singapore and the other ASEAN countries, and do not appear to take on a cause-specific agenda. The national labour movement, NTUC engages on the ASEAN stage primarily on the agenda of corporate social responsibility.

On Track II engagement, SIIA's primary contributions on the ASEAN stage relates to its bridge-building function as part of the ASEAN-Institute for Strategic and International Studies (ASEAN-ISIS) network[65]. The ASEAN-ISIS network has facilitated Track II dialogue through the neutral platform of the ASEAN People's Assembly (APA) from 2000 for Track I policy makers, while credible Track III representatives have been drawn together to discuss issues of common interest. The first signs of success emerged with the ASEAN Civil Society Conference (ACSC) in Shah Alam, Malaysia in December 2005, which transcended all three ASEAN tracks. As time progressed, CSOs have gained greater ability to engage directly with government officials on their own platforms, such as the ASEAN Civil Society Conference, prompting APA organisers to ask if it was still necessary to continue with this platform.[66] This questioning continued until 2009 when the seventh and probably last APA took place. The most recent ACSC took place in early May 2011 alongside the 18th ASEAN summit.[67]

As time progressed, CSOs have gained greater ability to engage directly with government officials on their own platforms, such as the ASEAN Civil Society Conference

SIIA has also been involved in responding to the Indonesian Haze issue that stems from man-made forest fires[68]. The Institute organised several major regional dialogues with the first in 1998 in partnership with the SEC and four more in 2006, 2007, 2009 and 2010. The Institute has provided ASEAN policy-makers with some perspective of ground sentiment through the submission of statements from the participants and chairman of the meetings.

It is possible that their efforts have had some impact on shifting the agenda, in the manner of raising the profile of the topic and placing it on the table for discussion. On the ground, SIIA was involved in bilateral projects for instance with Indonesia on the Jambi project, which focussed on designing and implementing sustainable methods for land-clearing.[69]

Turning to Track III engagement, Maruah campaigns on human rights issues at the national, regional and even global levels.[70] The organisation 'made a commitment to help facilitat[e]… the establishment of the ASEAN Intergovernmental Commission for Human Rights' (AICHR). Helmed by social activist Braema Mathi, Maruah became the key focal point for the Working Group for an ASEAN Human Rights Mechanism in 2007, in a bid to prevent local partisan politics from hijacking the human rights agenda. Maruah was gazetted as a political association in 2010 after it decided to voluntarily register as a society to lend greater legitimacy to the organisation. This places limits on the funding it can receive from abroad, which is a challenge, as good portion of its work happens outside Singapore. Maruah has approached the Singapore Ministry of Foreign Affairs (MFA) in lieu of this and did receive financial support on two occasions to attend regional CSO meetings. This, however, raises questions on the organisation's perceived

58 *Penal Code 1985*, Chapter 224, viewed 1 February 2011, <http://statutes.agc.gov.sg>.

59 Thio, L.A. 2007, 'Updating Penal Code Provisions to Reflect Societal Norms and Values', *Singapore Parliament Reports*, 22 October, Parliament No 11, Session No 1, Vol 83, Sitting 14, viewed 12 November 2009, <http://www.parliament.gov.sg/parlweb/hansard_search_latest.jsp>.

60 Davie, S. 2009, 'New Exco members Tell of Death Threats', in *The Straits Times*, 24 April, viewed 15 June 2010, <http://www.lib.nus.edu.sg/eforms/factiva.html>.
Davie, S. and Tan, D. W. 2009, 'Why Neutral Strance on Homosexuals', in *The Straits Times*, 25 April, viewed 15 June 2010, <http://www.lib.nus.edu.sg/eforms/factiva.html>.

61 Chong, T (ed), 2011, *The AWARE Saga: Civil Society and Public Morality in Singapore*, NUS Press, Singapore.
Chong, T. 2006, 'Embodying Society's Best: Hegel and the Singapore State', *in Journal of Contemporary Asia*, 36(3), pp.283-304.

62 Singapore Council of Women's Organisations, *Our Mission and Goals*, viewed 17 February 2011, <http://www.scwo.org.sg/index.php?option=com_content&view=article&id=1&Itemid=2>.

63 Singapore Environment Council, *About Us*, viewed 17 February 2011, <http://www.sec.org.sg/about >.

64 Social Enterprise Association, *Our History; Our Philosophy*, viewed 17 February 2011, <http://www.seassociation.sg>.

65 The ASEAN-ISIS network is a loose collaboration of 10 think tanks, which represent each of the ASEAN countries.

66 In December 2006, the second ASEAN Civil Society Conference was held in Cebu, the Philippines, in the same month that the fifth APA in Manila, the Philippines took place, prompting the organisers of the APA to ask if it was still necessary to continue with the APA in the face of the increasing capacity of ASEAN civil society groups to engage directly with government officials on their own platforms. Source: Lim, M. A., 2011. Lim, May Ann., 2011. *Civil Society in Singapore*, interviewed by Gillian Koh, 11 May.

67 Lim, M. A., 2011, *Civil Society in Singapore*, interviewed by Gillian Koh, 11 May.
Tay, S., and Lim, M. A. 2009, 'Assessment and Overview: ASEAN and Regional Involvement of Civil Society', in *ASEAN Secretariat 2010: Constructive Engagement—Building a People-Oriented Community, ASEAN Secretariat, Jakarta.*

68 Tanaka, Y. 2002, 'Singapore: Subtle NGO Control by a Developmentalist State', in Shinichi S. (ed.), *The State and NGOs*, Institute of Southeast Asian Studies, Singapore, p. 207.

69 Lim, M. A. 2011, *Civil Society in Singapore*, interviewed by Gillian Koh, 11 May.
Tay, S., and Lim, M. A. 2009, 'Assessment and Overview: ASEAN and Regional Involvement of Civil Society', in *ASEAN Secretariat 2010: Constructive Engagement— Building a People-Oriented Community*, ASEAN Secretariat, Jakarta.
Singapore Institute of International Affairs, *Haze Dialogue 2010*, viewed 14 June 2011, <http://www.siiaonline.org/?q=events/haze-dialogue-2010>.

70 This essay will not delve into the global aspect of the advocacy of CSOs.

71 Mathiaparanam, B. 2011, *Civil Society in Singapore*, interviewed by Gillian Koh and Debbie Soon, 20 May 2011.

independence from the government among its peers.[71]
Maruah has submitted several position papers to the ASEAN Secretariat, which include its piece on AICHR recommending that the ASEAN Human Rights Framework be harmonised with the global Universal Declaration of Human Rights and the International Conventions on Human Rights Framework. The paper also recommends that the selection of representatives should follow a 'transparent process' and be among people who are non-partisan and have sufficient knowledge of human rights issues.[72]

Sinapan Samydorai, who heads Think Centre, was the focal point for the ASEAN Human Rights Mechanism from 2003 to 2007. Some of the recent activity of Think Centre includes opinion pieces on the local and regional political landscape which are featured on its website.[73]

Migrant worker groups TWC2 and HOME have engaged on the ASEAN stage and region. Both groups are part of the Migrant Forum in Asia (MFA) network that acts as a contact point and facilitator between member NGOs, associations, migrant worker trade unions and individual advocates across Asia. The MFA has partnered the NTUC in hosting conferences in Singapore, and has invited TWC2 to participate in them. HOME Executive Director Jolovan Wham's role on the ACSC-3 organising committee allowed migrant worker issues to be at the forefront of the debate in the 2007 conference.[74]

The NTUC and the SNEF are founding members of the Singapore Compact for Corporate Social Responsibility ('Singapore Compact'), which aims to promote the spirit of corporate social responsibility locally. The Singapore Compact is the local focal point for the Global Compact CSR, and is also a founding member of the ASEAN Compact CSR Network set up in January 2011.[75]

The broadening of ASEAN engagement beyond government level exchanges and interaction will go some way in building an ASEAN identity. CSOs could also band together across ASEAN to the benefit of those at the margins of society, especially in lesser developed countries. The feedback from CSOs on the ground is that they find it difficult to cope with their local scope of work, without even thinking about the ASEAN stage. Local CSOs can gain greater exposure through attending ASEAN Track III events to obtain a sense of how things are done. This is however, limited by the amount of funds available, and will tax the already meagre resources of CSOs.

9. Contribution to Social Change: Conservation, Women's Advocacy and Humanitarian Causes

Significant social change has occurred primarily in the areas of conservation, women's advocacy and humanitarian causes. Groups in these issue areas have raised public awareness of them and in some cases shifted policy decisions through their advocacy. On the conservation front,

72 Maruah. '*Maruah's Recommendations on ASEAN Intergovernmental Commission on Human Rights (AICHR)*', <http://maruah.org/2009/09/04/maruahs-recommendations-on-asean-intergovernmental-commission-on-human-rights-aichr/#more-396>.

73 Vasoo, S. 2001, '2 Civil Groups Gazette as Political Associations, *The Straits Times*, 31 March, viewed 14 June 2011, <http://www.lib.nus.edu.sg/eforms/factiva.html>.
Samydorai, S. 2007, *Interim Singapore Working Group for an ASEAN Human Rights Mechanism*, Think Centre, 21 September, viewed 14 June 2011 <http://www.thinkcentre.org/article.cfm?ArticleID=2887>.

74 Lyons, L. 2009, 'Transcending the Border', *Critical Asian Studies*, 41:1, 89-112, viewed 27 July 2011, < http://dx.doi.org/10.1080/14672710802631178>.

75 Singapore Compact for CSR, *Implementing Corporate Social Responsibility: An Easy Toolkit for Better Business*, viewed 27 July 2011, <www.csrsingapore.org/c/resources?download=12%3Acsr-toolkits>.
The CSR Digest 2011, 'Singapore to host regional network to promote CSR in ASEAN', 13 January, <http://www.csrdigest.com/2011/01/singapore-to-host-regional-network-to-promote-csr-in-asean/>.

Significant social change has occurred primarily in the areas of conservation, women's advocacy and humanitarian causes

NSS has been rather successful in its advocacy efforts leading to moratoriums on redevelopment of nature sites. This has been attributed to its ability to present arguments that are "well supported by scientific research and championed by the public…in a manner understood by a very pragmatic government…willing[ness] to compromise for the sake of public interest." NSS successfully lobbied for the preservation of Tanjung Chek Jawa in 2001, which the government intended to reclaim.[76] Another petition helped to put a proposed golf course at Lower Peirce on hold in 1992 with 14,000 signatures.[77] There are, however, instances where the NSS did not manage to persuade the government of its viewpoint. NSS did not succeed with a petition of 25,000 signatures to change the government's plans for the use of Senoko Bird Sanctuary for housing development in 1995.[78]

The SHS focuses on advocacy for public listing and preservation of the historical and cultural integrity of key locations and buildings in their development efforts. Some of their efforts include calls in the late 1990s to the Singapore Tourism Board (STB) to preserve the spirit of Chinatown and for greater and genuine public engagement in the redevelopment process,[79] as well as for the preservation of the National Library.[80]

On the front of advocacy by women's groups, AWARE, UNIFEM Singapore and other groups have created community support for tougher laws on sex crimes against children, which led to the amendment of the Penal Code in 2007 to reflect this.[81] Such success likely resulted from the partnership approach these groups have adopted with the government. In 2006, advocacy groups UNIFEM Singapore, AWARE and Women Make a Difference partnered the Ministry of Community Development, Youth and Sports to hand out fliers on child sex tourism at the National Association of Travel Agents Singapore (NATAS) travel fair. AWARE has successfully pushed for the equalisation of medical benefits for civil servants of both genders in 2005. In 2004, AWARE contributed to the effort that led to the constitutional amendment for the according of identical citizenship rights to the children of Singaporean women, as that of Singaporean men.[82] AWARE's advocacy has also contributed to the lifting of the quota on female students for the National University of Singapore Medical Faculty in 2003.[83] Lyons writes that AWARE has "present[ed]…itself to the government as a partner in national development…in responding to the constraints of a state-defined sphere of NGO activity." This perhaps, accounts for the

76 Kadir, S. 2004, 'Singapore: Engagement and Autonomy Within the Political Status Quo', in Alagappa, M. (ed.) *Civil Society and Political Change in Asia*, Stanford University Press, Stanford, pp.337-342.

77 Briffett, C. and Ho, H.C. 1999, 'Introduction', in Briffett, C. and Ho, H.C. (eds.) *State of the Natural Environment in Singapore*, Nature Society, Singapore, p. 1-2.

78 Ibid.

79 Yap, K.S. 1998, 'Plan Should Not Be for Tourists Only', in *The Straits Times*, 22 December, viewed 25 July 2011, <http://www.lib.nus.edu.sg/eforms/factiva.html>.

80 Tan, H. Y. 1999, 'National Library Building Will Not Be Conserved', *in The Straits Times*, 27 March, viewed 25 July 2011, <http://www.lib.nus.edu.sg/eforms/factiva.html>.

81 Association of Women for Action and Research, *History and Achievements*, viewed 13 June 2011, <http://www.aware.org.sg/about/history-achievements/>.
UNIFEM Singapore, *What Is the Law Governing Child Sex*, viewed 13 June 2011, <http://www.stopchildsex.org.sg/>.

82 Tan, T. 2006, 'Government Funds Anti-child Sex Tourism Move', in *The Straits Times*, 22 March, viewed 26 May 2011, <http://www.lib.nus.edu.sg/eforms/factiva.html>.

83 Association of Women for Action and Research, *History and Achievements*, viewed 13 June 2011, <http://www.aware.org.sg/about/history-achievements/>.

84 Lyons, L. 2004, 'Engaging the State', in Lyons, L. (ed) 2004, *A State of Ambivalence: The Feminist Movement in Singapore*,Koninklijke Brill NV, Leiden, pp.162.

successes of the organisation in its advocacy efforts.[84]

10. Conclusion

Much of the local civil society landscape hinges on its relationship with the government. The long term trend to date has been the incremental widening of space for CSOs to operate. The recent Singapore General Election held on 7 May 2011 has given way to promises from the government to be more consultative in policy decisions with the electorate. It remains to be seen if this development will spillover into greater space and role for civil society. It would be in the long term interests of Singapore for the government to partner and allow civil society to grow in the complex changing global environment. The success of CSOs in engaging the government would depend on, as has been evidenced by the likes of NSS, UNIFEM Singapore and AWARE, the ability to engage the government in its own language.

Another theme that has emerged in the course of writing this chapter is the need to continue to build the capacity of CSOs. There is room for better human resource management and training programmes to bring about a greater sense of professionalism for the non-profit sector.[85] Although there is more funding and a greater number of training avenues available for CSOs in Singapore than in other countries, it is argued that CSOs in Singapore step in to do what governments in other countries would and should therefore receive greater support.[86]

On the level of ASEAN engagement, it is important to institutionalise the role of CSOs on the ASEAN level to ensure that mechanisms that have been put in place will endure.[87] Increasing the exposure of local CSOs to ASEAN Track III events would be a good start in providing them with some idea of how things work on the regional level. This, of course, has been limited by the funding and broader resource issues like finding volunteers and leaders for that sort of engagement. Any programmes that can be developed to address these at the ASEAN level or within the ASEAN Secretariat would go a long way to ensuring that the CSO role is properly institutionalised in the system.[88]

85 Lim, M. A. 2011, *Civil Society in Singapore*, interviewed by Gillian Koh, 11 May.

86 Bruce, P. 2011, *Civil Society in Singapore*, interviewed by Gillian Koh and Debbie Soon, 2 June.

87 Lim, M. A. 2011, *Civil Society in Singapore*, interviewed by Gillian Koh, 11 May.

88 Mathiaparanam, B. 2011, *Civil Society in Singapore*, interviewed by Gillian Koh and Debbie Soon, 20 May 2011.

Civil Society in Thailand

Naruemon Thabchumpon

1 Overview of Political and Civil Society Landscape: A Crucial Role in the Democratisation Process

Civil society organisations (CSOs) are considered part of organisational life in Thai society. By networking and co-operating with local communities and people's organisations, CSOs have filled a vacuum created by the inability of political parties, trade unions and social movements to expand popular participation. For these organisations, the strengthening of Thai civil society is indispensable for the fulfilment of democracy because the latter cannot flourish without the culture of tolerance and diversity.

The strengthening of Thai civil society is indispensable for the fulfilment of democracy

The Thai political system currently operates within the framework of a constitutional monarchy, whereby the prime minister is the head of government and a hereditary monarch is head of state. The judiciary is independent of the executive and the legislative branches. The country has a political history of long periods of authoritarianism alternating with periods of 'semi-democratic' government. Since the installation of the first representative government in 1932, the military has interrupted the Constitutional order more than 18 times, with Thai citizens witnessing more than 20 changes of government and 18 written Constitutions after the abolition of absolute monarchy. The most recent coup was in September 2006, when the elected government of Thaksin Shinawatra was overthrown by the military group known as the Council of Democratic Reform (CDR).[1]

Democracy in the Thai context has been defined by the state as 'electioneering democracy', referring to the carrying out of elections and access to parliament. There are two modes of legitimacy, electoral and technocratic, that any government that wants to survive in Thai politics has to contend with.[2] The former concerns forming the government: Political parties, in order to gain the highest number of seats in the election, target the rural areas where the practice of vote-buying is rampant. The latter comes from a party's technocratic expertise in the eyes of the urban middle-classes. Several methods of electoral reform were implemented through various Constitutional mechanisms to create both kinds of legitimacy and to make the country's political system more accountable, transparent and stable. However, several independent mechanisms have been gradually subverted by the incumbent government and coalition parties while anti-vote-buying rhetoric has not been enough to uproot corruption.[3]

Although the Thai political system has been characterised as either a military government or semi-democratic government, the country's economic and social policy has been continually driven by the need for industrial development since the first national economic plan in 1961, in the hope that economic growth would trickle down to the traditional sectors through job creation and technology transfer. In doing so, successive Thai governments have turned rural agriculture from a largely self-sufficient sector into a manufacturing sector, producing export crops to gain foreign currency.[4]

1 In the beginning, the CDR was self-proclaimed as the Council of Democratic Reform for Constitutional Monarchy (CDR). Later, the word 'for constitutional monarchy' was removed to avoid international criticism.

2 McCargo, D. 2002, 'Understanding Political Reform in Thailand', in McCargo, D. (ed.), *Reforming Thai Politics*, Nordic Institute of Asian Studies, Denmark, p. 137.

3 Callahan, W. 2005, 'The Discourse of Vote Buying and Political Reform in Thailand', *Pacific Affairs*, 78, 1, Spring 2005, pp. 95–113.

4 Boonyaratanasoontorn, J. 1995, 'Globalisation and Thai NGOs Strategies', in Boonyaratanasoontorn, J. (ed.), Thai NGOs: *The Continuing Struggle for Democracy*, Bangkok: Thai NGO Support Project, p. 9.

Nevertheless it has been argued that only a small number of privileged groups enjoying access to power have been able to benefit from the country's economic success, while the majority of rural inhabitants have suffered from the adverse consequences of industrialisation and urbanisation such as poverty, environmental degradation and the dislocation of marginalised peasants in rural areas.[5] As such there has been greater demand, through Thai civil society, to enhance people's participation in economic policy decision-making and people's empowerment at the local community level as a way to change their economic and social conditions and to bring about conflict resolution by democratic means.[6]

Civil society has played a crucial role in the Thai democratisation process. The 1973 student uprising was the first time that civil society participated in Thai politics. Since then, both national and grassroots CSOs have established themselves as a major force in Thai civil society. Another key incident in the Thai democratisation process was the May 1992 democratic uprising. That year, 200,000 people demonstrated in central Bangkok against the military government calling for an elected prime minister. The subsequent military crackdown resulted in 52 officially confirmed deaths and many disappearances. The protests ended after a royal intervention, while the military government resigned from office, paving the way back for electoral democracy. As a result of Thailand's democratisation process, community-based organisations (CBOs) working in the development field and national organisations working towards political and human rights goals have begun to mobilise themselves into networks for policy advocacy objectives. The processes of networking and collaborations take place among people's organisations, social movements, CBOs and NGOs working on several issues in order to analyse the positive and negative impacts of development policies and problems of dislocation resulting from development projects as well serving as a working model for other CSOs.[7]

As a result of Thailand's democratisation process, community-based organisations have begun to mobilise themselves into networks for policy advocacy objectives

The definition of civil society in Thailand is controversial since its meaning and categorisation reflect the struggle for power among classes and social groups, and the political positions of CSOs. Examples of CSOs include those working on agriculture, children, labour, indigenous and minority groups, rural development, women's issues, religion, urban poor, health, community development, the environment, human rights and democracy, and the media. Since different Thai CSOs engage on different levels of political and citizenry participation, these modes of participation assumes a myriad of forms. Thai CSOs may be formal (registered) and/or non-formal (non-registered) at the national and local levels, and/or at the regional and international level. Very often, this somewhat *laissez faire* approach to registration is taken by many CSOs as an inherent human right, especially the right of self-determination, the right to peaceful assembly and the right to association.

2. Legal and Regulatory Framework: Registration for Legitimacy and Funding

Under Thai law, all registered non-profit organisations and/or CSOs are placed under two categories: 'Foundation' or 'association', except certain organisations set up under special laws, such as the Chamber of Commerce and the Law Society of Thailand.[8] According to the 1942 National Cultural Act, applicants have to state that they have no political objective and will not be involved in political activities if they want to register their organisation as a foundation or association.[9] Even though the 'no political objective' requirement was dropped after the May 1992 events, applicants can still be questioned by the authorities before being granted registration. Any foundation with the explicit objective of working in the public's interest also has to place a fixed deposit – US$3,300 for an association and US$16,500 for a foundation.[10] The information needed for a CSO application includes the profile of the organisation, a statement of its objectives, location, management (accounting system, capital and assets) and other data to be submitted to the Ministry of Interior. After being registered, the CSO has to submit their financial and activity reports to the National Cultural Centre and the district office annually if it wants to be recognised as a legal entity.

CSOs have to submit their financial and activity reports to the National Culture Centre and the district office annually if they want to be recognised as a legal entity

While the NGOs in the Philippines are distinguished from people's organisations (POs), with POs being membership associations of people at grassroots level organised by people themselves, there is generally not much difference between grassroots NGOs and CBOs in the Thai case. These Thai CBOs also take a variety of different names: group, project, society, network, CSO, assembly, federation and confederation. After the 1997 political reform, however, CSOs were encouraged to register in order to gain legitimacy, secure funding and be able to work with independent state organisations. Registration would facilitate working relationships between CSOs and the state in areas such as monitoring elections under the supervision of the Election Commission[11]; working on human rights protection under the National Human Rights Commission; and conserving the environment under the Ministry of Natural Resources and Environment. CSOs, whether legally registered or not, may register with the National Economic Social Advisory Council (NESAC) to participate in economic and social development policy while most CBOs and community networks may register under the Community Organisation Development Institute (CODI) and the Political Development Council respectively.[12]

3. Size, Number, Patterns and Types of Organisations: Large Agricultural Sector and 'Emerging Donor' Status

Generally speaking, the organisational size of typical CBOs in Thailand is small compared to that of CSOs. The reason for this is that most CBOs work at the village level and the number of voluntary staff is dependent on the voluntary efforts of the community members. According to the 2010 record of CODI, there are about 41,552 registered CBOs. The largest concentration of CBOs is in the northeast of the country with about 12,284 of them gathered there.

5 Thabchumpon, N. 1997, 'Economic Transition in Thailand: The Hidden Costs of Development', in Raina, V., Chowdhury, A. and Chowdhury, S. (eds.) *The Dispossessed: Victims of Development in Asia*, ARENA Press, Hong Kong, pp. 421–424.

6 Banpasichote, C. 2000, *Civil Society: A New Chapter of Thailand Reform?*, unpublished manuscript, p. 15.

7 Thabchumpon, N. 2002, 'NGOs and Grassroots Participation in the Political Reform Process', in D. McCargo, (ed.), *Reforming Thai Politics*, Nordic Institute of Asian Studies, Copenhagen, pp. 183–199.

8 Pongsapich, A. and Kataleeradabhan, N. 1997, *Philanthropy, NGO Activities and Corporate Funding in Thailand*, Chulalongkorn University Social Research Institute (CUSRI), Bangkok, p.67.

9 See more details in National Cultural Act 1942.

10 Thabchumpon, N. 1998, 'Grassroots CSOs and Political Reform in Thailand: Democracy Behind Civil Society', *The Copenhagen Journal of Asian Studies*, Vol.13, pp. 31–59.

11 The Organic Act on the Election Commission 2008.

12 Under the 2000 NESAC Act and the 2000 CODI Act as well as their internal regulations, any CSOs, CBOs or people's organisations that have continued working as a voluntary organisation for more than two years and have a reference from a registered CSO or state organisation can register as CSO under NESAC. See more details in http://www.nesac.go.th/nesac2010.html (viewed 27 May 2011).

According to NESAC, there were about 13,179 CSOs in 2011, both legally registered and non-registered.[13] The NESAC divides these CSOs according to various sectors. The highest number of registered CSOs was from the agricultural sector with about 5,300 organisations (40 per cent) while the smallest numbers were from environmental and natural resources sectors with about 501 CSOs (four per cent). Other sectors include the service sectors with 3,232 registered CSOs (25 per cent), the social sector with 3,217 registered CSOs (24 per cent) and the industrial sector with 929 registered CSOs (seven per cent).

According to the 2000 Thai Development Services Committee (TDSC), there were 451 non-legally registered CSOs in 2000 working in the development field. Examples of their work and networking areas include agriculture, children, labour, indigenous and minority groups, rural development, women's issues, religion, urban poor, health, community development, the environment, human rights and democracy and the media.[14]

In terms of international non-governmental organisations (INGOs), their roles have been gradually transforming in response to Thailand's shifting role from 'a recipient country' to 'an emerging donor', as announced in 2003.[15] Because of this change in country status, a new form of collaboration between partners from different sectors - the government, civil society, business, and academia - has been created. In a partnership, each partner brings in its own resources, such as money, knowledge, networks or labour to share risks, responsibilities and rewards. The model of multi-actor partnership for development was first developed in the form of the Trilateral Co-operation Programme, in which Thailand served as a hub for transferring technical know-how, skills, appropriate technology and best practices to the third countries from within the region and beyond.

CSOs in Thailand are viewed as an important agent for 'democratisation' and vital components of a 'thriving civil society'

INGOs play a big role in Thailand. Most INGO projects are in the area of human rights, human security, human development and environmental sustainability. Examples of these regional and INGOs include Greenpeace Southeast Asia, the Asian Coalitions for Housing Rights, the Asian Forum for Human Rights and Development (FORUM-ASIA), End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT), the Thai-German Development Foundation, The Asia Foundation, the NGO Coalition on AIDS, The Global Alliance against Traffic in Women (GAATW), World Vision International Asia-Pacific and Focus on the Global South (FOCUS). Another area of INGO's work pertains to peace building and conflict resolution, both in south Thailand and in rural areas of the country. Examples of these INGOs include Oxfam, the World Bank and USAID.

4. Thematic Foci and Interests: Democracy and Grassroots Concerns

There are two broad perceptions about the roles of CSOs in Thailand. Firstly, they are viewed as an important agent for 'democratisation' and vital components of a 'thriving civil society'.[16]

13 Under NESAC's regulations, any people's organisation that has continued working as a voluntary organisation for more than two years and received a reference from a registered CSO or state organisation can register as CSO under NESAC. For more details, see the 2000 NESAC Law and its CSO's data-base at http://www.nesac.go.th/nesac2010.html (Accessed: 27 May 2011).

14 Thai Development Support Committee, 1995, 'NGO's and People's Movements: As Reflected by Themselves and Others', *Thai Development Newsletter*, No. 29, pp. 38–45.

15 The Royal Thai government (RTG) set up a new organisation called the Thailand International Development Cooperation Agency (TICA) in 2004 to replace the Department of Technical and Economic Cooperation (DTEC). TICA put emphasis on development co-operation with other developing countries beyond neighbouring countries and the region. See more details in <www.tica.thaigovt.net> (viewed 13 June 2011).

16 Ruland and Ladavalya, *Local Associations and Municipal Government in Thailand*, op.cit., p. 60.

Here, the role of CSOs may be to act as a counter-weight to state power by championing certain causes such as protecting human rights, opening up channels of communication and participation, providing training grounds for activists and promoting pluralism. Such organisations are expected to provide an important mechanism for promoting the democratisation process and social change by mediating between the state and citizens. In the Thai case, however, there is little evidence to indicate a coalescence of community-level bodies into politically significant networks and broader independent associations. On the contrary, there have been signs of a state-led civil society where the state takes control of mass membership organisations.

CSOs and CBOs are increasingly seen as grassroots mechanisms for addressing economic and social problems

Meanwhile some scholars argue that a state-led civil society ensures that the growing number of grassroots CSOs remains fragmented and do not form a large movement independent of the ruling party.[17] For example, the relationship between the state and business associations in civil society has political ramifications in Thailand. Here, Thai civil society is used by elite reformers to engender a new public and individual morality around the neoliberal state. This conception of civil society de-legitimises the social movement approach and traditional oppositional politics of civil society. And since there no equal power distribution among the members of civil society, the interests of those who are closer to political and financial sources of power are generally more privileged than those who are further.

Secondly, CSOs and CBOs are increasingly seen as grassroots mechanisms for addressing economic and social problems. CSOs that work in the development sector would have a strong commitment to poverty alleviation in rural areas, and would thus be more likely to actively support the establishment of grassroots organisations through which peasants can express views on their needs.[18] Such CSOs are likely to work in three different ways. The first is a politics of co-operation in the process of grassroots development. In this case, the CSO's activities are confined to influencing government policy, but generally shy away from intervening directly in the political process. The second type is a politics of grassroots mobilisation where the CSO may be more explicitly critical of the government's development policy. The third is linked with empowerment from below. Here, public education and awareness over citizenry rights, laws and regulations may be emphasised to the community. These types of CSOs would believe that social and political change depend more on strong self-reliant groups than policy reform by government. Despite these differences, however, CSOs share several common objectives such as building CBOs as the basis of a 'healthy' society and as a counter-balancing force to the state.[19]

Specifically, there are two main concerns emphasised by Thai CSOs - unequal distribution of resources and the impact of development on disadvantaged groups, as well as the impact of development activities on the environment. Since 1997, the profile of many Thai CSOs, especially NGOs, has shifted from religious and ethnic organisations to rights-based development organisations, where the priority is focused on development activities that affects the livelihoods of the poor.[20]

17 Phathrathananunth, S. 2002, 'Civil Society and Democratisation in Thailand: A Critique of Elite Democracy' in Duncan McCargo (ed.), *Thai Political Reform*, Nordic Institute of Asian Studies, Copenhagen, pp. 125–142.

18 Farrington, Lewis, Satish and Miclet-Teves (eds.) 1993, *Non-governmental Organisation and the State in Asia*, Routlege, London, p. 6.

19 Eldridge, P. 1995, *Non-Government Organisations and Democratic Participation in Indonesia*, Oxford University Press, Oxford, p. 37.

20 Pongsapich, A. and Kataleeradabhan, N. 1997, Philanthropy, *NGO Activities and Corporate Funding in Thailand*, Chulalongkorn University, Social Research Institute (CUSRI), Bangkok, p. 34.

Many of these Thai CSOs working on community development, environmental sustainability and cultural diversities are unregistered. Examples of such organisations include the Thai Land Reform Network that comprises the Northern Peasants Federation, the North-Eastern Land Reform Movement, the Urban Poor Network of Four Region and the Community Network of Buntat Mountain from the South. For instance, the Northern Peasants Federation (NPF) is a farmers' network of highland and lowland peasants and indigenous groups. Its members are mainly drawn from indigenous peoples (Mong, Ahka and Karen) living in the conservation forests and the watershed basins, who were facing eviction. As these people are not entitled to Thai nationality even though they were born and bred on Thai territory, they possess no civil and political rights, including those of legal protection, education and social welfare. Because most members of this network are indigenous people who are not entitled to citizenship, their strategies employ legal methods and positive campaigns in order to avoid hostility from the local authorities. Their demands and struggles at the local and national levels are often in response to the government's policies on the land ownership and land-use.

5. Capacity and Resources: Challenges Posed by the Press and the Middle Class

Thai CSOs can be seen as a cross-class network that has adopted a dual strategy. On one hand, they engage in the issue-based politics of resources management and public policy process, while on the other, they comprise a social class-based movement for the betterment of those who are marginalised. By linking people's problems with state development policy, Thai CSOs seek to forge a relatively heterogeneous social-class-based identity throughout its voluntary networks. Members of the networks include middle class activists, radical NGOs, people's organisations, slum dwellers, small-scale farmers, and villagers affected by state development policy. Due to its horizontal networking style, each group can outline its particular problems and the actions needed for state and other stakeholders to take.

At the national level, different CSO networks may co-ordinate under one common view but may be divided into several groups in order to negotiate with state officials on the basis of their specific goals. At the local level, in comparison, the strategy of issue-based mass mobilisation is a way for local people to express their concerns with the hope of influencing local and community policy. To enhance its bargaining power viz-à-vis the state, many CSO networks rely upon alliances with academics, the urban middle class, media and other CSOs.

By linking people's problems with state development policy, Thai CSOs seek to forge a relatively heterogeneous social-class-based identity throughout its voluntary networks

However, middle class attitudes towards the poor are a challenge. There is a general middle class perception that poverty is an individual problem that can be solved with a change in livelihood. For example, it is assumed that rural poverty will disappear if villagers would change their vocational status, ceasing to be fisher-folk or farmers and becoming employed workers or entrepreneurs.[21] Another factor working against the deepening of democracy in Thai civil society relates to the limits of the Thai press. The Thai press tends to cover socio-political or popular incidents in sensational ways rather than attempting to analyse the root causes of such incidents.[22] There is also a middle class concern that popular protests and disruptive direct actions might pose a threat to the formal democratic process.

21 Thabchumpon, N. 2008, *Participatory democracy in Practice: The struggles of the Anti-Pak Mun Dam Movement*, A paper presented at the conference *Private Faces of Power and Institutions in Southeast Asia* on 11 June 2008 at Centre of East Asian Studies, Kyoto University, Japan.

22 Eawsriwong, N. 1997, *Matichon Newspaper*, 17 March 1997.

The middle class also presumes that the government's model of development will produce a trickle-down effect, and the city-based middle class tends to believe that grassroots movements are making trouble by negatively affecting the country's investment atmosphere, and that therefore, they must be subject to controls. Such constraints limit the capacity of CSOs to expand their campaign strategies and to bring their projects to full fruition.

In terms of financial resources, most Thai CSOs are not membership-based organisations but more dependent on governmental funds.[23] For example, the 1997 and 2007 Constitution of the Kingdom of Thailand allowed for the establishment of NESAC in order to fulfill the pledge to encourage public participation in the country's development and decision-making process. Under the 2000 NESAC Act, the NESAC was given the role of an independent organisation with responsibilities prescribed in public laws and to provide the cabinet with advice and recommendation on social and economic challenges. Government officials were required by law to obtain NESAC's recommendations for national development plans before implementing them. The numerous CSOs registered under NESAC are the representatives of stakeholders of economic, social and natural resources.

Most Thai CSOs are not membership-based organisations but more dependent on governmental funds

Likewise, CODI, which was established in 2000, plays an important role in supporting CBOs.[24] CODI's role is to support and co-ordinate the development of CBOs and civil groups by encouraging self-organisation on local levels as well as building public acceptance of community organisations in order to create co-operation among community organisations, development partners and policy makers. Under the 2008 Political Development Council (PDC), moreover, 76 elected provincial representatives from community organisation councils of each province were involved in the PDC. As a result, the number of registered CBOs has increased especially at the sub-district and municipality level.

Although donor organisations maintain that their role is to support not dominate the agenda of CSOs and CBOs, the relationship between funding agencies and local recipients can sometimes be challenging. Each donor provides funds in line with its interest, rather than co-ordinating to ensure comprehensive funding to support the works of CSOs. This results in gaps in the development and empowerment process of CSOs. Furthermore the desire to legitimise the struggles of the rural poor is often viewed with scepticism by the urban middle class. The relationship between CSOs and local communities may also be challenging if CSO activities are perceived to be carried out in close collaboration with individuals from outside the community, and who may not be accepted as 'genuine' members of the grassroots community or whose role in the local democratic process is difficult to justify. In the end, the overdependence on external financial resources may reduce a CSO's autonomy and capacity, especially those which are not efficient and have less bargaining power.

23 Thai CSOs used to rely on foreign funds which are now being gradually reduced. Most foreign donors believe that the country is able to raise local funding support. The EU's reallocation of funds is a prime example of this belief and this shift is also apparent in the decision of some donors to support activities of CSOs in MCVL countries (Myanmar, Cambodia, Vietnam and Laos). Under the umbrella of the development framework, moreover, the funding process is now subject to a competitive bidding process which is time consuming and will also mean that CSOs and NGOs will have to seek alternative sources of funding.

24 CODI was established by two mergers: the Urban Community Development Office and the Rural Development Fund. Under the law, the equivalent of THB 3 billion (approximately US$100 million) was transferred from the Urban Community Development Office and the Rural Development Fund to create a new development fund. This fund was managed in the form of Community Development Fund and the Revolving Fund which provided microcredit to the poor. The total amount was estimated - in the year 2000 - at two billion baht (sixty-six million USD) in total. See more details in www.codi.or.th/housing/Participatory.html

6. Transparency and Accountability: Tensions over Dependency and Autonomy

The level of civil society's transparency and accountability may be gauged from its decision-making processes. Many Thai CSOs face a variety of challenges such as financial vulnerability or being susceptible to state co-option and powerful groups. The state, in contrast, has the resources to create and implement its own agenda, with the result of dominating citizen politics in Thailand.

In Thailand, there are a number of laws concerning CSOs and CBOs. Examples include the Civil and Commercial Code (section 78 to 136); the National Cultural Act; the National Environmental Quality Act; and the Social Welfare Promotion Act, etc.[25] Since the May 1992, events and the promulgation of the 1997 Constitution, CSOs have been recognised by the Thai state with national funds increasingly used for CSO financial support. For instance, the Environmental Fund allows registered non-profit organisations to apply for funding on environmental protection while the Social Welfare Promotion Fund set up by the act provides support for public benefit organisations (such as associations and foundations) to realise their social development projects.

Under such laws, CSOs have to comply with all regulations, topics of interest and internal conditions of national donor organisations in order to access resources. Registered CSOs and CBOs are required to submit their annual reports of activities and financial budgets to related state authorities in order to demonstrate their transparency and accountability. For the example, the Act on Determining Offence related to the Registration of Partnership, Limited Partnership, Limited Company, Association and Foundation requires associations and foundations to comply with the Civil and Commercial Code (Part II and Part III). CSOs which fail to comply with these codes will be fined up to approximately US$670 or be liable to a year imprisonment.[26] Under the conditions of a state-led civil society, tensions inevitably arise over the dependency and the autonomy of Thai civil society vis-à-vis the state. Since many CSOs are not membership-based organisations, their accountability remains in question.

7. Contribution to Governance: Good Governance vs. Democracy

The issue of governance grew in importance when a group of Thai CSOs, such as the National Restoration Civic Group and the Bangchak-Lovers Club[27] argued that the 1997 financial crisis was caused by politicians' mismanagement of the economy.[28] The idea of 'good governance' was to highlight transparency, accountability and civic participation in the belief that this would help Thailand survive future crises.[29]

Several public figures support this concept, including liberal reformists, public intellectuals and leaders of community organisations. The National Economic and Social Development Board's (NESDB) 'five components' of a state-led civil society meant that 'good governance' was understood as the emphasis of 'national interest' over 'local interest'.[30] In this case, 'good governance' encompassed a variety of areas from anti-corruption campaigns, election monitoring and consumer protection to public health advocacy and environmental awareness. Despite the implications of the 'good governance' agenda, local ethnic communities still need to negotiate with the state on several policy issues that affect their livelihoods, as political or economic marginalisation.

The debate over the issue of governance has only intensified after the 2006 military coup against the Thaksin government, which polarised Thai civil society. For example, those in favour of the 2006 military coup argued that there is no other viable choice as the 1997 Constitution was not abided by in light of the government's intervention in various independent monitoring channels and autonomous agencies through its control of capital, people and the media. In the end, the politics of 'good governance' was argued to override the principle of democracy, since many scholars argued that Thai democracy faced the problem of dealing with a democratically elected government that was responsible for violence and abuse of power during its administration. One example was the divided opinions among CSOs on the justification of the 2006 military coup against the Thaksin government that faced charges on corruption over the sale of his telecommunication interests and tax evasion. The Campaign for Popular Democracy (CPD) established by a coalition of NGOs, student activists, academics and other professional associations during the political crisis of 1991 to 1992, for example, has been criticised for its contradictory role on this issue.

8. ASEAN Involvement: Trans-border and Freedom Issues

There was an initiative to incorporate the concerns and voices of people into the ASEAN process when ASEAN began work on its ASEAN Charter and roadmap towards becoming a community by 2015. This initiative was the ASEAN Civil Society Conference/ASEAN Peoples' Forum (ACSC/APF). It is a regional forum organised in connection with the annual ASEAN Summit. The ACSC/APF was initiated by Malaysia in 2005, and held in the Philippines in 2006, Singapore in 2007, Thailand in 2009, Vietnam in 2010 and Indonesia in 2011.

In the case of Thailand, the Action Network for Migrants (ANM), which is a national network of NGOs working with migrants from Burma, Laos and Cambodia in Thailand to promote safe migration and fair work, represented the concerns of two million migrant workers at the APF forum. Another example of a trans-border issue presented in the APF forum is that of human trafficking, a serious problem in Thailand. According to the 2006 National Human Rights Commission's report, it is conservatively estimated that 200,000 women and children are engaged in prostitution as part of Thailand's illegal sex tourism industry. Although the national government has made a verbal commitment to combat human trafficking by increasing law enforcement, it has been criticised for failing to develop effective measures for victim protection and welfare, as well as providing insufficient support for children who have been victims of trafficking.

Other trans-border cases include the conflicts in southern Thailand. There were 9,236 cases

25 Key legal acts related to CSOs and CBOs included the 1925 Civil and Commercial Code (amended in 2008); the 1946 National Cultural Act (amended in 2010); the 1956 Act on Determining Offence related to the Registration of Partnership; Limited Partnership; Limited Company; Association and Foundation (amended in 1992); the 1966 Chamber of Commerce Act; the 1975 Labour Relation Act (amended in 2001); the 1992 Enhancement and Conservation of National Environmental Quality Act; the 1998 National Election Commission Act; the 2001 National Human Right Commission Act; the 2000 National Economic and Social Advisory Council Act (amended in 2004); the 2003 Social Welfare Promotion Act; the 2008 Political Development Council Act; and the 2008 Community Council Act. See more details in www.thailaw.com (Accessed: 17 June 2011).

26 See more details in the 1956 Act on Determining Offence related to the Registration of Partnership, Limited Partnership, Limited Company, Association and Foundation (amended in 1992), *tlaw0003.pdf* www.thailaw.com (Accessed: 18 June 2011).

27 This first group was led by Prawase Wasi, a prominent medical doctor who used his medical practitioners' network to collect 50,000 signatures to demand reform and full disclosure of Thailand's commitments to the IMF while the latter group organised a series of forums against the government's decision to sell this state enterprise to foreigners. See more details in *Bangkok Post*, 8 July 1998.

28 They organised a demonstration asking for the disclosure of the letter of intent (LOI) provided by the royal Thai government to the IMF and published a handbook on the economic crisis and its impact on the livelihoods of the poor.

29 The idea of good governance was also promoted as a new policy agenda proposed by the IMF and the World Bank as part of a conditional package for economic loan from international institutions. See more comparative studies about foreign aid and political conditionality of other countries in Crawford, 2001.

30 The five components are 'the state' (represented by a provincial deputy governor or a district chief), 'the private sector' (represented by a member of provincial chamber of commerce), 'the media', 'NGOs' and 'representative of community groups'.

of violence in the southern provinces between 2004 and 2007, resulting in 2,623 people killed and 7,494 injured.[31] Victims include members of the security forces and militias, civilian government officials, Buddhist and Muslim civilians, and members of Muslim armed groups. According to the report, the number of Muslim victims affected by the conflicts is higher than that of Buddhist victims, which contradicts the mainstream media and public perception in Bangkok.

Freedom of expression and information also seems to have taken a backseat as a result of libel lawsuits that have been prompted by political motives. The consequence is that many newspapers have imposed self-censorship and refrained from printing any news that might offend incumbent politicians. Between 2000 and 2010, there were more than 40 libel lawsuits against academics, NGO staff, community leaders and editors of newspapers in the name of 'national security', including the lèse majesté and other related security laws. Local interests have been firmly subordinated to the national interest, especially in areas of infrastructure development and economic recovery. Very often, the rhetoric of 'national sovereignty' is invoked to protect government's cronies instead of ordinary people.

Thai CSOs argue that ASEAN needs to provide more space for civil society in order to create a 'real' ASEAN for the people in line with Vision 2020

There are several human rights cases related to the rights of marginal people, conflicts over natural resource management especially concerning the livelihood of the poor and freedom of expression. Under the regional body of the ASEAN Intergovernmental Commission on Human Rights (AICHR), prospects for increasing human rights protection for citizens of ASEAN member states have been discussed. However, since the new body has not yet resolved the conflicts, people continue to take to the streets as a means of negotiation in order for their concerns to be considered by the state, both at national and regional levels. Overall, Thai CSOs argue that ASEAN needs to provide more space for civil society rather than depending upon its member states to do so in order to create a 'real' ASEAN for the people in line with Vision 2020.

9. Role in Social Change: Grassroots Mechanism in the Public Policy Process

CSOs in Thailand are an important grassroots mechanism for addressing the economic and social challenges of marginalised people. Much of the social change brought about by Thai CSOs is through their participation in public policy processes.

One example of such CSO participation is through their role as bridge between local communities and the central government. For instance, though Thailand has had elected local governments at the municipality and sub-district levels since 2000, local government financing is still largely decided by the central government. Local communities have little opportunity to express their views other than through protests when faced by state enterprise projects that threaten to degrade both the environment and their quality of life.[32] Under such constraints, CSOs play the vital role as a grassroots mechanism in the public policy process.

In the last 10 years, Thailand has seen CSOs deploy increasingly different modes of public communication.[33] Using cultural politics, local CSOs and CBOs have been able to change the perspective of ordinary people from victims of development to development witnesses and authors of their own stories. Examples include environmental CSOs such as the Wildlife Fund Thailand working on the Thai-Malay gas pipeline project and defending local or traditional fishery, and the Chumchonthai Foundation based in Bangkok focusing on the case of Pom Mahakan. The former CSO used 'Likay Hulu'[34], a traditional Malay musical folk opera in the far south of Thailand, performed by the community's youth, as a political message emphasising the local way of living and the prospering of the ecosystem, while the latter CSO produced a short movie entitled "Be-hide the Wall" with English subtitles depicting the people's way of life around the community. Both CSOs used cultural performances to identify problems and solutions in order to pressure the government to address their grievances and to provide mutual support and solidarity.

Using cultural politics, local CSOs and CBOs have been able to change the perspective of ordinary people from victims of development to development witnesses and authors of their own stories

Another example of civic organising as a social force for change includes the Land Reform Network of Thailand (LRNT), a horizontal network of grassroots groups that embrace a wide range of CSOs in relation to its campaigns on community land deeds and substantive land reform programmes. This network argues that democracy and popular participation in public policy are interconnected, as public policy has an impact on the livelihoods of ordinary people and marginal groups. Furthermore, in the state's decision-making processes, the struggles of marginal people should be seen as a form of political and democratic engagement for those who seek to choose and control their own livelihoods. In other words, the network has tried to change the political position of the poor, from passive subordinate clients waiting for the political delivery of the state to active citizens who demand greater participation and political influence in policy processes related to their economic concerns.

10. Conclusion

Thai civil society is one of the most important agents of change, not only in the transition from authoritarian rule to democracy, but also in the consolidation of democracy. By advocating public discussion, especially from the perspective of the governed, the struggle of Thai CSOs may be interpreted as the formation of platforms on which a substantive democracy can develop. Thai civil society shows that the meaning of deepening democracy is more than a legalistic or formal process of institutional reforms such as improving political parties, elections and legislatures, but that it also involves popular participation at all levels, so that the people may have a voice in the governing process.

By developing their ability to challenge the government's previous virtual monopoly on information and resources, many Thai CSOs appear to be part of a process of increasingly extending freedoms and encouraging growing percentages of the citizenry to be engaged in the democratic process. As the role of the CSO is that of a facilitator for citizen action, it also can help democratise Thai civil society by creating an opportunity for citizen activism to drive Thai democracy forward. However, whether Thai CSOs can help in the achievement of a wider and deeper democratisation of Thai society remains to be seen.

31 See the report entitled 'Violence-related Injury Surveillance' (2007: 1)

32 Examples of such projects include the construction of dams, highways and pipelines and business concessions for rock quarries, timber extraction or the exploitation of other natural resources.

33 For examples, case studies of CSOs working on the Pak Mun Dam in the Northeast, the local fishermen along Andaman Sea, urban poor living around Bangkok's Pom Mahakan area, Thai-Malaysian gas pipeline and conflict on natural resources, showed the different modes of communication such as short movies, song albums written on CDs, plays and other performing art, photo exhibitions, tea parties, establishing several 'community institutions' such as health centres, universities, schools and mosques at the movement sites.

34 'Likay Hulu' is a traditional musical folk-opera, famously performed in the southernmost provinces of Pattani, Yala and Narathiwat. The main feature, differing from other likays in Central and Northern Thailand, is the Malay dialect used in the accompaniment of indigenous musical tunes normally found in the Mana Dance.

Civil Society in Vietnam

Bach Tan Sinh

1. Overview of Political and Civil Society Landscape: A Low but Increasing Tolerance

Until recently, civil society in Vietnam had little space for growth. Although the country has had a rich associational life in the past, civil society, as understood in mainstream experience and literature, remained underdeveloped for a variety of political reasons such as the deeply divisive war and a strong single party state. Instead, mass organisations like the Famers' Association, the Women Association and the Youth Union, have been the largest and most dominant form of social groupings and social activities.

Since the 1986 Doi Moi reform, however, the country has not only experienced a revitalisation of past civic features but has also been more open to new economic development models from abroad. This, in turn, has led to the emergence of social organisations outside the Communist Party of Vietnam. For example, in the 1970s, the state was seen as the main agent of development, while in the 1980s the private sector and the market took on the mantle of driving development. From the 1990s to the present, civil society has been increasingly important and influential in economic development. Over the decades there has been a shift from total state domination of development activities towards an acceptance of the contribution of other development actors. In other words, Vietnam is characterised by a low but increasing tolerance for autonomous civil activity with the mushrooming of associations – voluntary, non-profit, non-governmental, community-based, grassroots and co-operative – although the emergence of civil society remains a politically sensitive issue.

Vietnam is characterised by a low but increasing tolerance for autonomous civil activity with the mushrooming of associations

It is worth noting that this shift has taken place gradually. Initially, civil society organisations (CSOs) struggled simply to survive. The state subsequently allowed CSOs to join development programmes and projects in order to support CSO activities which the state had a limited budget for. CSOs have grown accordingly and may now play the role as advisor and critic of state policies. Although the concept of civil society is relatively new in Vietnam compared with other Western countries, it has begun to reflect on its essential role. On one hand, civil society participates in providing services in areas that the state and market do not. On the other hand, with its self-management capacity, civil society participates in solving problems that lie beyond the reach of the state and market. These include areas such as community relations and spiritual life.

2. Legal and Regulatory Framework: In Search of Comprehensive Regulations

The term 'civil society' is not found in the documents of the Communist Party of Vietnam. Like any concept imported from the West, it will take time for government officials to accept the notion of civil society. The development of mass organisations and associations are, however, well documented. In the first National Congress Party's document (1935), the party stressed the neccessity of developing mass organisations. In the 1990, the Central Committee of the party enforced a solution to establish voluntary and self-financing associations in order to meet the social and civic demands of the people. Between 1996 and 2006, the National Congresses and Politburo offered a number of statements to affirm the role of mass organisations in delivering services and social criticism and promote accountability of the state, while contributing to its activities and managing community life.

Although the 1946 Constitution was the first constitution to acknowledge the right of citzens to establish associations, there is yet no single legal document that comprehensively regulates the establishment and operation of CSOs in Vietnam. Instead, there are several legal documents such as the Civil Code, the Law on the Fatherland Front, the Law on the Federation of Trade Unions, the Youth Law, the Press law and the Law on Science and Technology, which not only emphasise the importance of groups outside the party's ambit but also demonstrate the piecemeal approach to CSO regulation in Vietnam.

Broadly speaking, the Civil Law recognises CSOs as legal entities that include mass organisations, professional organisations, social organisations, social funds and charity funds. However, CSOs in different sectors come under specific regulations. For example the Law on Science and Technology has some provisions for encouraging the establishment of non-profit science and technology organisations. This law is significant because science and technology organisations are self-regulated with regard to scientific activities, signing of contracts, training human resources, establishing research and development organisations and implementing scientific and technological services. Many science and technology organisations have been established and operate under this law.

Meanwhile, the number CSOs has been growing rapidly in Vietnam, making a comprehensive set of regulations necessary. The obstacle to such a comprehensive set of regulations is the lack of consensus on its scope. In this context, the government issued a decree in 2003 as a temporary solution to regulate the organisation, operation and management of associations. This decree has since been updated to reflect the supermacy of the party and the state. In accordance with the constitution, people do not have the right to associate or establish civic organisations except under certain limited conditions set by the state.

Under the current legal framework, associations wishing to establish themselves and operate in Vietnam encounter many obstacles elaborated by the the Petition to the Assembly on the Law on Associations' project. Firstly, legal documents are poorly designed and do not meet the requirements of the organisation, operation and management associations. Secondly, policies meant to encourage the participation of social work associations are not integrated with the procedures for resolving complaints, and conflicts for associations poorly defined. Thirdly, regulations on the procedures for association establishment are cumbersome and have not yet created favourable condition for citizens and organisations in forming and joining associations. Fourthly, the current legal framework does not adequately define the responsibilites of the state's management agencies, especially ministries, ministerial-level agencies and government agencies for the regulation of associations. As such, state agencies and ministries continue to struggle to manage associations and to facilitate their activities.

3. Size, Number, Patterns and Types of Organisations: Mass Organisations, CBOs and Professional Organisations

There are a number of concepts used to describe civil society in Vietnam and its relationship with the state and the market. The most commonly used concepts are mass organisations, non-governmental organisations (NGOs), community-based organisations (CBOs) and associations or professional organisations.

Before 1986, mass organisations such as the Farmer's Associations, the Women's Union and the Youth Union were the largest and most dominant form of civil society in Vietnam. Mass organisations have broad characteristics in that they are both social and political, both state and civil. In the past, mass organisations were the strongest and most active social force that supported the Communist Party in the national struggle for independence and democracy. These mass organisations have sustained themselves through large memberships (the Women's Union, for example, has about 12 million members, the Farmer Association has eight million members, the General Federation of Trade Union has 4.2 million members, the Youth Union has 5.1 million members and the Veteran Association has 1.92 million members).[1] They also have a four-level structure that includes the central, provincial, district and local levels. The key role of mass organisations is to organise and encourage people to comply with and implement government policies.

In the past, mass organisations were the strongest and most active social force that supported the Communist Party in the national struggle for independence and democracy

Activities conducted by mass organisations depend on their character. The Farmer's Union represents farmers and focuses on issues related to agriculture and rural development. The Farmer's Union activities include campaigns to encourage farmers to comply with government policy and trainings and guidance to improve the capacity of farmers. The Labour Union represents workers and is mandated to protect their rights. The Women's Union is mandated to represent and protect the rights of women. All mass organisations belong to the Fatherland Front (FLF). Currently, FLF has 44 member organisations, all of which are part of the formal state political structure. The Communist Party of Vietnam is a member of the FLF and directs the work of FLF. Primary functions of FLF include organising and encouraging citizens to comply with government policies and to direct the work of mass organisations. It is also mandated to help the government implement policies and programmes and to supervise the implementation of government activities. All mass organisations have main offices in Hanoi and branch offices in every province down to the commune level (the lowest level of formal government administration in the country).

Mass organisations are heavily dependent on state funding. The state uses mass organisations to implement certain projects and programmes, such as poverty alleviation programmes, extension programmes, or credit programmes. Mass organisations also receive funding from external sources for additional activities. For example, many donor-funded projects aimed at provision of credit and promotion of agricultural extension techniques to the rural poor were implemented through the Farmers' Union and the Women's Union.

These local NGOs are divided by their various interests and concerns. As mentioned above, there are science and technological NGOs which may or may not have governing bodies associated with the state. Other NGOs deliver diverse services and deliverables, including research and consultancy, education, the monitoring of public feedback and programme interventions. Most local NGOs share the mission of supporting the community and pay special attention to the poor, women, children and marginalised groups. Employing various methods, Vietnamese NGOs usually always give priority to the grassroots approach and develop close connections to those whom they are helping in the local communities.

1 CIVICUS, VIDS, SNV, UNDP 2006, *The Emerging Civil Society: An Initial Assessment of Civil Society in Vietnam*, Hanoi.

International non-governmental organisations (INGOs) are not recognised to be part of civil society in Vietnam. However, their activities over several decades demonstrate their important role in promoting the development of civil society, especially through their support of local NGOs and CBOs. Along with financial support for their projects, INGOs have supported local NGOs and CBOs by establishing thematic working groups and formal and informal networks to share experiences, knowledge and strategies, and through training programmes intended to enhance the capacity of local organisations.

A CBO may be described as an organisation with a formal management structure that integrates citizens for solving social and economic issues important for a particular location. A CBO in Vietnam may have a legal entity status and may include groups such as local self-governance bodies comprised of citizens; householders' associations; initiative groups; agricultural co-operative societies, ethnic cultural centers; or religious organisations. The 'informal farmers group' (IFG) has been defined as a CBO, initiated and established by farmers themselves, without external direction or incentive. IFGs can be legally recognised, as in the cases of some co-operatives, or may simply consist of a group of farmers who render mutual assistance without official recognition and formal structure. There is also the 'formal farmers group', which is a group established under direction from organisations outside the community, such as the Farmer's Union[2] [3].

Employing various methods, Vietnamese NGOs usually always give priority to the grassroots approach and develop close connections to those whom they are helping in the local communities

In addition to legally recognised CBOs, there are about 46,000 informal farmer groups. Such groups are temporarily formed for the duration of a project or by farmers for collective action in technical production, purchasing inputs and marketing outputs. These groups appear much more flexible and efficient in operations, but are not formally recognised by the government and have no legal status. This, in turn, is a constraint to their operations, especially in terms of accessing support from the public or private sectors.

There are no official statistics on the number of existing CBOs in Vietnam. Thousands of CBOs, including microfinance groups, credit co-operatives, credit and saving groups, agricultural production associations, sport clubs and art centers operate in most provinces across the country and are most concentrated in rural areas. From the late 1990s and early 2000s, CBOs in Vietnam developed rapidly and contributed to the nation's development, because these groups have become one of the key development objectives of donors and INGOs in Vietnam.

Finally, professional associations form a crucial part of Vietnam's civil society. They operate on two levels: the national and the local. In 2006 there were 364 professional associations nationwide, many of which came under broader organisations. Such organisations include the Vietnam Union of Science and Technology Associations (VUSTA), with 56 associations under it; the Vietnam Union of Literature and Art with 10 associations; and the Vietnam Union of Friendship Associations with 60 associations. Other professional associations include sport federations, charitable and humanitarian associations and foreign business associations.[4]

2 Fforde, A. 2008, *Vietnam's Informal Farmer Groups: Narratives and Policy Implications*, Principal Fellow, Asia Institute, University of Melbourne.

3 Fforde, A. 2010, *Contemporary Vietnam: Political Opportunities, Conservative Formal Politics and Patterns of Radical Change*, Melbourne.

4 Nguyen N. L. 2007,'Legal Regulations on Organization, Management of Association, and Measures of Refinement', in *LERAP* Workshop.

At the local level, these associations are registered under the local government and operate only in certain fields. It is estimated that there were 1000 of such associations in operation in 1995, not including grassroot organisations.[5] In 2001, there were 1,400 associations operating at a local level and it rose to 4,157 in 2006.[6] These professional associations can be described as social-political, voluntary, professional, community, gender and non-profit.[7]

4. Thematic Foci and Interests: Poverty Alleviation, Health and Climate Change

Poverty alleviation and community development are traditional areas of interests for NGOs and other CSOs in Vietnam. The recipients of such NGO help are typically poorer communities in remote or ethnic minority areas who depend largely on financial support from state programmes and international organisations.The work surrounding poverty alleviation and community development is vast and includes sustainable natural resource use and management, the encouragment of rural credit and livelihood development, and the construction of irrigational works and water supply infrastructure.

Poverty alleviation and community development are traditional areas of interests for NGOs and other CSOs in Vietnam

According to 2007 VUSTA statistics, there wereabout 40 organisations engaged in activities related directly or indirectly to poverty alleviation and community development through state funding or support from international organisations, embassies and co-operation programmes. Their activities were implemented mainly in mountainous, remote and ethinic minority areas of Lai Chau, Son La, Lao Cai, Lang Son, Thai Nguyen, Quang Ninh, Thai Binh, Nghe An, Quang Binh, Can Tho and An Giang.

Until recently, there have been no comprehensive studies on the performance or effectiveness of NGOs or CSOs in poverty alleviation and community development. However, such programmes have attracted participation of numerous people, especially women, village patriarchs, community leaders and farmers at local levels. NGOs and CSOs have contributed to increased awareness, improved capacity and access of local people to science and technology, new cultivation methods and increasing income.

Another major theme in Vietnam civil society is microfinance. Microfinance programmes implemented by the Women's Union and the Farmers' Association are important tools to help the poor access official credit. A survey conducted in 2005 showed that microfinance programmes have delivered approximately US$550 million to 12 million farmers, with microfinance programmes implemented by the Women's Union being particularly successful in reaching the poorest people.[8]

Community health care is also a key theme. In this area, CSOs generally focus on disadvantaged groups such as the disabled, children and people living with HIV, and have made significant contributions to these national issues. There are no up-to-date official statistics on the number of such CSOs, but the main organisations include science and technology organisations, associations and institutions under the Vietnam Red Cross, the Vietnam Central Study En couragement Associations, the Vietnam Relief Association for Handicapped Children, disabled people associations, shelters and charitable medical centres. Community health care activities also focus on certain groups such as children and include projects that improve their study environment and offer appropriate entertainment.

Climate change has become an important area for CSOs around the world in recent years, and in Vietnam, it is no different. Many local NGOs now champion climate change as a national priority. This is particularly true for members of the climate change NGO network initiated by four organisations, namely, the Sustainable Rural Development Centre (SRD), the Centre for Marine Conservation and Community Development (MCD), the Centre for Environment Research Education and Development (CERED) and Institution for Science Study (ISS). The network has attracted the participation of over 100 NGOs in Vietnam, providing an open forum for information exchange, co-operation and support for other organisations' actvities, in connection with the parliament, government agencies, social organisations and donors.

To assure the ecological and socio-economic sustainability of natural resource exploitation, local communities need to actively participate and feel responsible for resource management. There are a number of preconditions, strategies and policy instruments for this. A first condition is guaranteed property and user's rights. Customary law systems for common resources usage are in many cases disintegrating and replaced only partially by formal laws, which recognise little responsibility at local levels. Property and user's rights for individuals and community organisations need to be made more explicit in formal legislation like land reform, forest codes, or water use rights. Secondly, appropriate skills and capacity are necessary for local people to undertake activities leading to the sustainable management of natural resources. Rich indigenous knowledge and skills are often underestimated but can serve as a basis for such management. Finally, the protection and management of natural resources has to take into account the multiple interests of local people. Interests can differ in nature, ranging from religious or cultural to subsistence and economic.

Administrative procedures and the legal environment are the biggest challenges for the development of civil society in Vietnam

With such factors in mind, CSOs, particularly NGOs, have been involved in land use and resources management issues through activities such as functional education, awareness raising and strengthening of village organisations. NGOs have been instrumental in increasing the target group's abilities and claim-making capacities to change their socio-economic conditions. The transfer of appropriate knowledge and technologies for sustainable land use is another such activity. Many local NGOs facilitate the target group's experimentation and research to find solutions for technical, organisational and socio-economic problems. NGOs have to offer new technology options adapted to the target group's physical and socio-economic conditions. NGOs can also play an important role in providing the necessary training to enact appropriate responses. Finally, some NGOs serve an intermediary role. They serve as intermediaries and facilitators to acquire needed (political) support from the government, banks and other institutions in land use and management.

5. Capacity and Resources: Financial Challenges and Limited Platforms for Consultation

In general, administrative procedures and the legal environment are the biggest challenges for the development of civil society in Vietnam. The recent promulgation of a number of legal documents brings further control and constraints over the activities of CSOs. Broadly speaking, the formation of associations will now require a minimum number of individuals who must formally seek approval for registration, ranging from one hundred signatories for national

5 Helvetas 1996, *Vietnam Study on the Present Scenery of Vietnamese Organizations (VNOs)*, Hanoi and Zurich.

6 Nguyen N. L. 2007.

7 Thang V. P. 2010, 'Overview of Associations, Non-governmental Organizations and Legal Framework for Social Organization in Vietnam', in annual workshop of VNGOsVUSTA.

8 CIVICUS, VIDS, SNV, UNDP 2006, *The Emerging Civil Society: An Initial assessment of Civil Society in Vietnam*, Hanoi.

associations to 50 individuals at the provincial level, to 20 at the county level and at least ten at the township level.[9]

The government has not yet developed a regulatory framework defining the functions and responsibilities of associations and science and technology organisations As such, the exact platforms and channels for CSO consultation, criticism and supervision are limited and not well defined. By imposing state-determined structures on associations rather than based on the needs of community and local conditions, the state undermines the independence of association and NGOs, which runs contrary to the spirit of directives and decrees which prohibit the establishment of associations by state administrators. Furthermore, it the state may believe that that civil society diminishes its power, thus explaning the limited capacities of CSOs in Vietnam.

CSOs in Vietnam are struggling to recruit and retain qualified staff. This creates obstacles to effective human and financial management and for building the mission and vision of their organisations

Human resource is the locus of the development. Nevertheless, CSOs in Vietnam are struggling to recruit and retain qualified staff. Human resourcesare constantly fluctuating due to competition from INGOs and the private sector, which offer higher salaries. Very often CSOs function as 'training environments' for those who want to gather experience and build relationships. Overall, local NGOs and newly established professional associations with relatively young leaders or retired officers have little experience in managing their organisations. This creates obstacles to effective human and financial management and for building the mission and vision of their organisations.

Financial resources is another major challenge for CSOs. Financial resources of local NGOs depend much on donors. Despite existing legal provisions, CSOs struggle to bid for public service contracts due to corruption and cumbersome administrative processes in Vietnam. With regard to professional associations, the VCCI survey found that 72 per cent of business associations consider lack of funding to be the biggest challenge in their activities. Financial resources of associations come from four main sources: (i) State support; (ii) incomes from providing service; (iii) membership fees; and (iv) other sponsors.

6. Transparency and Accountability: Much Work Needed

There is no tradition of public transparency and accountability among CSOs in Vietnam. Only a few local NGOs have financially transparent accounting systems, while many others are reluctant to make their financial reports public for fear of revealing their inefficiencies. Furthermore, international donors usually focus on the end-product and deliverables and pay very little attention to the ways in which the funds are used and distributed within CSOs. The structures and mechanisms for meeting financial accountability requirements are not clear in Vietnam.[10] Lastly, mass organisations do not provide free access to their budget and accounting.

9 Sidel 2010, *Maintaining the Firm Control: Recent Developments in Nonprofit Law and Regulation in Vietnam*, <http://www.icnl.org/knowledge/ijnl/vol12iss3/art_1.htm>.

10 Bui T. C. 2004, 'Towards Good Society: Civil Society Actors, the State, and the Business Class' in workshop of the Heinrich Böll Foundation, *Southeast Asia — Facilitators of or Impediments to a Strong*, Democratic and Fair Society, p. 121.

7. Contribution to Governance: Policy Feedback, Monitoring, and Profiling Communities

Broadly speaking, there are two ways in which CSOs and organisations interact with state agencies and authorities. One is to advise the state authorities and convey opinions to influence policy-making. CSOs may also provide feedback to authorities on existing laws for revision and improvement. Through their feedback and monitoring activities, CSOs may, ideally, contribute to a cleaner, more honest, transparent government. Secondly, CSOs may assist the state in carrying out government policies, government programmes, as well as delivering services that the state, for a variety of reasons, does not.

One major CSO contribution to governance is the delivery of service in the area of poverty alleviation. Service delivery involves engagement between CSOs and the state on three levels: (i) NGO collaboration with government agencies to deliver public services under state policy; (ii) NGOs involvement in implementing projects for public services or community development that are not part of a government programme; and (iii) NGOs conveyance of the concerns to government authorities, recommendations for improving existing programmes or developing new ones and identification of shortcomings and misbehaviour of particular officials or agencies.

One major CSO contribution to governance is the delivery of service in the area of poverty alleviation

State agencies often conduct development programmes using a top-down approach of applying one policy or programme for all subjects and all areas, regardless of differences in local culture, economy and lifestyle. In contrast, NGOs in particular, and CSOs in general, implement community development and service delivery activities through a bottom-up approach, without imposition from the top or outside. This approach better addresses the needs of people and helps to ensure their maximum participation. These organisations aim to empower communities to solve their own problems following project conclusion. Through this approach, CSOs have somewhat overcome the limitations and shortcoming of the programmes and project implemented by the state.

Policy advocacy is a new activity area for CSOs in Vietnam. However, some have already achieved very positive results by engaging as expert or consultants for policymakers. Through research and organising workshops and seminars, CSOs provide scientifically credible information to assist policy development. At the higher level, some CSOs have advised the government in promulgating and correcting policies and other legal documents. In this case, NGOs and CSOs engage in policy advocacy in two ways: firstly, to convey peoples'voices to policy-makers and protect their interests understate's policies; and secondly, by helping the state to implement policies more transparently and effectively. In the mid-1990s, the Hanoi Association of Disabled People began research and investigation, which led to recommendations for revisions in contruction standards and building code to make facilities more accessible.

Monitoring government officials and holding them accountable is another key CSO contribution to governance. A fundamental principle of democracy is that citizens have the right to demand accountability and that public actors, including officials and bureaucrats, are accountable for their conduct and performance. They can and should be held accountable to the law and not abuse their powers and to serve the public interest in an efficient, effective and fair manner. In Vietnam, however, most CSOs do not engage in monitoring the government or holding government accountable. It is left to several professional associations under VUSTA which view monitoring government and industry projects, especially those using public resources, as one of their main responsibilities.

One prominent example is the Vietnam Consumer Protection Association (VCPA). VCPA has drawn public and government attention to quality deficiencies in many consumer products including fresh milk, petrol and, most recently, motorbike helmets. Following its investigation into soy sauce, which uncovered gross violations of safety standards and practices, it pressured Health Ministry officials to be more diligent about enforcing quality control from producers. The investigation also led to disciplinary action against the Ho Chi Minh City Health Department deputy director for failing to uncover the low quality, unsafe soy sauce manufacturing. Similarly, the Vietnam Federation of Civil Engineering Associations (VFCE), also affiliated with VUSTA, has uncovered corruption and waste in several government construction projects. It has also worked with various ministries to set engineering standards to which the construction industry, including the government agencies overseeing it, must adhere to. Journalists are another professional group that assists civil society in monitoring government officials. Some quality newspapers include *Labour (Lao động)*, *Youth (thanh niên)* and *Vietnam* Net.

Finally, many CSOs see it as their mission to highlight and profile the interests and concerns of specific communities, especially those of vulnerable groups. Bright Future Network (BFN) is works with HIV patients in Vietnam. Through its members' participation in public meetings, relationships with journalists and other means, BFN has conveyed the concerns and needs of HIV patients in order to receive proper medical treatment and achieve a higher level of awareness and understanding from their communities. Journalists frequently seek out BFN groups for information about HIV patients, treatments and services, as well as preventive information. BFN members have also participated in meetings with government officials, among them Ministry of Health authorities and Vietnam's Vice President, relaying their experiences and knowledge about living with HIV and offering suggestions to related policies. Many other CSOs have similar missions to conveying the voices of ethnic minorities, Agent Orange victims and homosexuals to authorities.

8. Asean Involvement: A Limited Involvement and Influence

Before 2005, there were few official forums and platforms for civil society involvement with ASEAN. Through the intiative of civil society in Malaysia in 2005, the first ASEAN Civil Society Conference (ACSC) was held on the eve of the ASEAN Summit. The aim of ACSC is to gather CSOs in the region to discuss and make recommendations for key regional issues.

ACSC was successful in creating a positive practice to promote peoples' voices and the role of CSOs in ASEAN, and to foster a favorable environmental for CSOs in the region to exchange and co-operate on regional issues. However, there are limitations to ASEAN involvement. For example, regional CSOs do not have a significant role in the preparation and organisation of the ASEAN People's Forum (APF). The discussion themes in APF may sometimes be related only to one particular nation, while common issues do not receive proper focus. Furthermore, the fact that there are so few CSOs in Vietnam means that Vietnamese civil society has limited influence in these regional forums.

9. Role in Social Change: Policy Transparency, Service Delivery and Space Creation

Vietnam civil society plays several roles in social change. Firstly, it seeks to participate in building, monitoring and critiquing state's policies. The objective is to help and enable the policy-making process become more transparent and responsive to people's needs. The second role CSOs have is service delivery. Together with the state, local CSOs strive to address issues such as poverty alleviation, social justice, public assistance and disaster risk reduction. Thirdly, the creation of new spaces for civil activities and community environments is important for social change. Such new spaces will promote interaction among members and between individuals and communities to result in a responsive and well networked civil society. The contributions of civil society in social change and social development is reflected in all fields, including rural development, health care, education and training and environment.

10. Conclusion

In conclusion, civil society in Vietnam has evolved according to its specific history and politics. Its role in Vietnamese society and its relations with the state is dynamic. While there are limitations placed on CSOs, there is little doubt that the interests, expertise and activities of CSOs in Vietnam have enabled the state and businessesto manage many socio-economic problems that have emerged as a result of the country's rapid development and urbanisation. While civil society in Vietnam is still weak, the state should endevour to create favourable condition for CSOs in monitoring, critiquing and supporting the state institutions and representatives that are participating in the development process. Within ASEAN, Vietnam is one of the few remaining post-socialist one-party states. It is thus necessary to conduct further research on the strategies and platforms for fostering a constructive relationship between civil society, the state and business in Vietnam.

ASEAN and Civil Society: A Regional Perspective

Consuelo Katrina 'Corinna' Lopa

1. ASEAN Overview: Towards Economic Integration

The Association of Southeast Asian Nations (ASEAN) was established by six Southeast Asian countries in 1967 to address political and security concerns in the region. ASEAN was founded in the geo-political context of the Cold War and was set up to address the region's perceived communist threat. ASEAN membership was later expanded to include the region's socialist governments, namely Vietnam, Laos, Myanmar and Cambodia.

In the last 44 years of its existence, ASEAN, as a regional organisation initially focused on security issues, has evolved in the context of a highly globalising world. In addition to political and security concerns, economic integration and co-operation have come to play a greater role in the life of ASEAN. Among the elements of economic integration and co-operation that are being promoted in ASEAN are the removal of national barriers to establish a free trade region, affecting the movement of capital, goods, people and labour across ASEAN's member countries.

The ASEAN Charter is seen as a positive development for ASEAN as it ensures compliance and accountability amongst its members

The ASEAN Charter, which came into effect in 2008, almost 41 years after its founding, now gives ASEAN its legal basis for existence, and provides for the legal framework that enables the process of regional integration aimed for by 2015. The ASEAN Charter codifies ASEAN's norms, agreements, treaties and declarations, and binds its members legally. The charter is seen as a positive development for ASEAN as it ensures compliance and accountability amongst its members.

2. ASEAN-Civil Society Engagement: Initiating Processes & Building Institutions

While civil society in the region has traditionally not engaged ASEAN during the first 30 years of its existence, there has been a slow but steady interest in engagement over the last decade. Research institutes and academic institutions, known as Track II actors, were among the first to engage ASEAN. Notable among these were the Institutes for Strategic and International Studies (ISIS network) which began in 1988, as well as the annual ASEAN Peoples' Assembly (APA) that was initiated in 2000. APA brought together delegates from three sectors (governments, academe, civil society) from the ASEAN member countries, to dialogue on a range of issues such as human rights, peace, Myanmar, agriculture, labour, migration, among others. APA was suspended in 2009.

The ASEAN Civil Society Conference (ACSC), initiated in 2005, has become a civil society-led and –organised process. It is neither a government process nor a formal ASEAN process. The ACSC is usually held in parallel with the annual ASEAN Summit of Leaders where year-long civil society campaigns and engagements with ASEAN are reported. It is a generally free and open process, in terms of organising, participation and agenda, and themes covered. The ACSC is complemented by both thematic and national processes. These have been held in Malaysia in 2005, the Philippines in 2006, Singapore in 2007, Thailand as ASEAN Peoples' Forum (APF) in 2009, Vietnam as APF in 2010 and Indonesia as ACSC/APF in 2011.

3. Challenges for the ASEAN-CSO Engagement Process: Difficult CSO-State Relations

Civil society engagement with ASEAN has not been without difficulties. From an institutional standpoint, there is also a clear lack of mechanisms that provide for civil society engagement with ASEAN leaders, the ASEAN Secretariat and its functional bodies. There are no rules of procedure for civil society engagement; no regular open, public hearings and consultations that enable civil society to provide formal inputs and submissions to the ASEAN. While there has been an ASEAN Business Advisory Council (ABAC), which brings together the private sector and ASEAN, no such similar body exists with civil society.

There are no rules of procedure for civil society engagement; no regular open, public hearings and consultations that enable civil society to provide formal inputs and submissions to the ASEAN

There is also a high level of distrust and discomfort between civil society organisations (CSOs) and some ASEAN member countries. Some Southeast Asian governments are uncomfortable dealing with CSOs, as the latter are seen as trouble makers, subversives, or dissidents in their home countries. Conversely, some CSOs likewise have a great distrust of governments, and view them as corrupt, undemocratic, and only protecting the interests of the elite and the private sector.

Amongst CSOs themselves, there is still lingering distrust between those who engage governments and ASEAN and those who prefer to advocate in the streets. Allegations of co-optation, of not being for and with 'the people' abound.

4. Regional Advocacy Themes: Rights, Trade and the Environment

Since 2006, Southeast Asia has seen a number of regional advocacy campaigns. These campaigns have adopted different strategies and have differing success rates. Sustaining advocacy efforts on a regional level depends on CSOs' capacity to champion relevant country constituencies, as well as the ability to mount a regional advocacy campaign that involves consultations, organising delegations, dialogues, media campaigns and organising workshops for formal submissions to the ASEAN.

It is important to view the work of civil society on the regional level as a logical extension and as complementary to civil society work on the national and community level

It is important to view the work of civil society on the regional level as a logical extension and as complementary to civil society work on the national and community level. One is incomplete without the other. After all, what becomes policy on the ASEAN level, with the ASEAN Charter coming into effect in 2008, becomes policy on the ASEAN member country level, and has implications on the lives of local communities and individual citizens. Therefore, regional civil society advocacies that are reflected on ASEAN policies, institutions and ways of working, contribute to social change on the local and national levels. Below are some of these regional themes.

Human Rights

The Regional Working Group on an ASEAN Human Rights Mechanism and the Solidarity for Asian Peoples' Advocacies (SAPA) Task Force on ASEAN and Human Rights have been most

active in the promotion of human rights in ASEAN. The Regional Working Group on a Human Rights Mechanism was formed in 1995, following ASEAN's 1993 declaration that it "should also consider the establishment of an appropriate regional mechanism on human rights." It is composed of government officials, academicians and human rights advocates, with the aim of institutionalising a human rights mechanism in ASEAN. The Regional Working Group has national working groups in Cambodia, Malaysia, Thailand, Philippines and Singapore. CSOs in the region, through the SAPA Task Force on ASEAN and Human Rights, have also contributed towards the institutionalisation of an ASEAN human rights commission and human rights court based on international standards and treaties, notably the Universal Declaration on Human Rights of the United Nations. Their advocacy has been directed towards the Eminent Persons Group and High Level Task Force on the ASEAN Charter, ASEAN Inter-governmental Commission on Human Rights (AICHR) and the ASEAN Commission on Women and Children.

Labour and Migrants

Labour and migrants concerns are another key regional theme in which ASEAN engages. Regional groupings such as the ASEAN Trade Union Council (ATUC) and the ASEAN Services Trade Union Council (ASETUC) have attempted to highlight labour issues. ASETUC, for example, underscores the impact that ASEAN economic integration has on workers and trade unions; in particular, the construction sector, financial services sector and the health care services sector. Meanwhile, following the Cebu ASEAN Summit Declaration on the Protection and Promotion of the Welfare of Migrant Workers in 2006, trade unions together with migrant organisations have championed a legally binding, regional Instrument that protects migrant workers. Among the groups engaged in migrant advocacy are the SAPA Task Force on ASEAN Migrant Workers and the Migrant Forum in Asia. Also included in their calls are the elimination of practices of violence, discrimination and other forms of stigmatisation against migrant workers.

The ASEAN Services Trade Union Council underscores the impact that ASEAN economic integration has on workers and trade unions

Trade Issues

ASEAN is actively pursuing global economic integration. To this end, it is in the process of negotiating Free Trade Agreements (FTAs) with other partners. There are, however, challenges. European Union-ASEAN FTA negotiations, for example, have been put on hold as the Europe Union (EU) does not want to negotiate with Cambodia, Laos and Myanmar, while ASEAN insists on negotiating as one with the EU. The test for civil society regional trade campaign networks is the ability to readjust from engaging the regional processes back to bilateral negotiations, which seem to be the track that most trade partners prefer.

Extractives Industries: Mining, Gas and Oil

The SAPA Task Force on ASEAN and Extractives Industries, working in close co-ordination with environmental and indigenous peoples' organisations, are advocating for ASEAN to forge standard practices for extractives industries in the region. The short-term aim is to mainstream the Extractive Industries Transparency Initiative (EITI) in the ASEAN process, while the long term objective is to draft an ASEAN framework on extractives industry practice, to include human rights standards, environmental and social standards and benefit sharing mechanisms. And for this, they hope to address their advocacy towards different ASEAN bodies and instruments: ASEAN mining associations, ASEAN oil and gas associations, Senior Level Ministers, and the ASEAN Extractives Industries Plan of Action 2010 to 2014.

Environment, Climate Change and Climate Justice

The SAPA Working Group on Environment has made a call for a fourth pillar in the ASEAN Community in order to bring together regional organisations working on the environment, climate change, climate justice and biodiversity. They advocate that the environment is a cross-cutting issue with transboundary impacts. Indeed, the desire for a fourth pillar on the environment has been expressed in two ASEAN Peoples' Forums held in Thailand in 2009 and in Vietnam in 2010.

Gender and Child Rights

In 2008, the Southeast Asia Women's Caucus on ASEAN was formed, led by Asia Pacific Women in Law and Development (APWLD) and International Women's Rights Action Watch Asia Pacific (IWRAW). Child Rights Asia, a network of organisations working on children's rights was formed in 2010. Child Rights Asia and the Women's Caucus' are interested specifically in how the ASEAN Commission on Women and Children (ACWC) will implement international human rights instruments, particularly CEDAW and CRC regionally, and in ACWC's coherence with AICHR.

Indigenous Peoples

Led by the Asia Indigenous Peoples' Pact (AIPP), the Indigenous Peoples Task Force on ASEAN seeks to highlight the plight of indigenous peoples by drawing attention to the historical denial of their distinctiveness, the denial of their right to self-determination, self-governance and cultural integrity. The calls are made to recognise indigenous peoples as distinct communities within ASEAN member countries, to respect their collective rights through the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) adopted by all member states of ASEAN, to review national legal frameworks in view of UNDRIP and to ensure free, prior and informed consent in all ASEAN programmes and projects. The AIPP and the Indigenous Peoples Task Force have made submissions to the Terms of Reference of the AICHR calling for greater corporate accountability and government regulation of corporations, and made presentations in national workshops on ASEAN and corporate social responsibility.

Freedom of Information

The SAPA Task Force on Freedom of Information, led by Focus on the Global South and Southeast Asia Press Alliance (SEAPA) seeks to establish an ASEAN Freedom of Information (FOI) Protocol. The Protocol refers to access to information held by ASEAN (and not information held by individual ASEAN member countries) based on the right to information as an international human right. As this is a relatively new campaign, initiatives are now focused on fine-tuning the advocacy calls and building unities on elements of a proposed ASEAN FOI policy and protocol.

Myanmar

Myanmar diaspora groups campaigning to ASEAN are led by Burma Partnership (composed of Myanmar democracy campaigners and Asian solidarity organisations), and by the SAPA Task Force on ASEAN and Burma. Calls are made to ASEAN member governments to support a UN-sponsored Commission on Inquiry on Burma, citing as bases, the widespread and systematic violence, and lack of legal internal recourse for victims inside Myanmar.

Disability

An initiative by persons with disabilities, Disabled Peoples' International Asia-Pacific (DPIAP) launched the 'Mainstreaming Disability Perspectives in the ASEAN Community' project in April 2010. It aims to mainstream disability perspectives and promote inclusiveness of disabled persons in the implementation of ASEAN's three Community Pillars and ASEAN human rights

mechanisms. DPIAP forwarded a proposal to establish the ASEAN Disability Forum (ADF), envisioned as a multi-stakeholder initiative proposed by disabled people's organisations. This idea was subsequently adopted in the ASEAN's Strategic Framework on Social Welfare and Development (2011 to 2015) during the ASEAN chairmanship of Thailand.

5. Capacities for Regional Advocacy: Four Capacities

Mounting regional advocacy with ASEAN has demanded a variety of capacities from regional CSOs. The first is the capacity to articulate a peoples' agenda vis-a-vis an ASEAN agenda. This requires comprehensive knowledge of the ASEAN agenda and their social consequences and the ability to articulate policy gaps and propose alternatives through education, consultation and consensus building. It also requires multi-stakeholder co-operation amongst civil society, academe and think tanks, the private sector and government officials.

Regional CSOs requires comprehensive knowledge of the ASEAN agenda and their social consequences and the ability to articulate policy gaps and propose alternatives through education, consultation and consensus building

The second capacity is the ability to root regional campaigns on the national levels. This means ensuring that discourses and advocacies are understood and owned by the community, local and national level organisations. Mounting regional campaigns entails the participation of country delegations in regional level dialogues, conferences and workshops, lobby meetings and so on.

The third capacity is the ability to convey the message and objectives of the campaign to the regional public in a concerted, co-ordinated way. One way is through the astute use of mainstream and social media.

The fourth capacity is the ability to identify champions amongst advocacy targets. Here, CSOs must be able to recognise individuals sympathetic to their interests amongst the intergovernmental and governmental institutions. Such individuals will be able to understand civil society's advocacy proposals, and in strategic positions, be able to sync such proposals with governments' agendas.

6. Resources for Regional Advocacy: Challenges and Trends

In terms of resources, a significant amount of programme resources is received by regional advocacy organisations through grants from international donors. Although membership organisations such as trade union federations and farmers' alliances receive membership fees, these are however not enough to finance regional advocacy activities.

In the last five years, there has been a great deal of resource sharing for common advocacies. For example, many of the SAPA open platform advocacies such as those on human rights, migrant workers, ASEAN and Burma, freedom of information, and extractives industries are funded through regional networks' contributions for joint action and advocacies.

In the years 2006 to 2008, the ASEAN Civil Society Conferences in the Philippines, Singapore and Thailand received significant contributions from regional civil society organisations. However, in 2009 and 2010, the ASEAN Peoples' Forum of Thailand and of Vietnam respectively, received significant funding from their governments and minimally from regional and national civil society organisations.

Relations with donors on regional advocacy have evolved over the last five years. In 2005, a number of donors expressed comfort in supporting Track II engagement activities with ASEAN and were hesitant to support direct Track III engagement, led mainly by regional CSOs. More recently, however, international donors have shown willingness in supporting civil society engagement with ASEAN. While this support is generally welcomed, it has also created tensions. In some cases, it has prompted fears from some quarters that foreign agendas are unduly influencing civil society processes.

7. Legal Standing and Accountability of Regional CSOs: Work in Progress

Regional CSOs are legally accountable to states where they are legally established. Many regional CSOs are established in Indonesia, Malaysia, Philippines, Singapore and Thailand where the legal framework has made it possible for them to incorporate themselves as non-profit organisations, foundations or associations.

Since many regional organisations are membership-based, their legal status is facilitated by their country affiliates who lend their names to the Boards of Trustees. Regional CSOs observe the statutory requirements of countries where they operate, in terms of legal registration, financial and accounting standards, labour practices, permits and licenses to operate, among others.

Regional CSOs observe the statutory requirements of countries where they operate

Regional CSOs are mainly multinational organisations. They are accountable to their multinational boards, to their members and to their partners, through regular meetings such as general forums and assemblies, board meetings, executive committee meetings, staff meetings at which evaluation, planning and monitoring are made, accomplishment reports are presented, and decisions are collectively taken. Paid staff are accountable for work mandates and are evaluated and monitored periodically.

Annual reports are produced by many regional organisations and annual accounting audits are likewise done. These reports and audits are for the benefit of regional organisations' donors, boards, constituencies, members and partners, and in compliance with statutory reporting requirements. Accomplishment and financial reports are given to donors as a matter of accountability for grants received. Strategic plans and accomplishment reports are also shared with networks, coalitions and platforms, for the purpose of joint strategising and planning, and resource sharing.

8. Civil Society's Impact on ASEAN: Building Platforms for Dialogue

One of the most tangible policy achievements of civil society is the enshrinement of human rights, as understood by international norms and standards, in the ASEAN Charter. This represents a major policy change for ASEAN and has potentially significant implications. Certainly, the long engagement by Track II actors (ASEAN ISIS) and the Regional Working Group on an ASEAN Human Rights Mechanism, with an upward push from the civil society SAPA Task Force on ASEAN and Human Rights, coupled with pressure from Western dialogue partners like the EU may be attributed to having made this possible. This has extensive positive impacts on other rights-based advocacies upheld by civil society and other sectors in society such as labour, migrants, farmers and fisherfolk, women, youth, children and the disabled, the environment and future generations, where human rights can be an over-arching principle that impacts on the security-political, economic and socio-cultural pillars of ASEAN life.

A significant contribution of civil society to ASEAN institutional change is the creation of ASEAN mechanisms. Mechanisms such as the AICHR, ACWC, ACMW, ADF and the like, are the result of concrete institutional proposals from CSOs to ASEAN. Most of these institutional mechanisms are, in fact, expressions that reflect compromises between and among the ASEAN member states and civil society. Current discussions over a possible ASEAN Civil Society Council, ACSC interface with leaders, town hall meetings and other configurations suggest that ASEAN is exploring appropriate ways of institutionalising their commitment to people's participation, as well as responding to civil society's desire to participate meaningfully in the governance of ASEAN.

Current discussions over a possible ASEAN Civil Society Council, suggest that ASEAN is exploring appropriate ways of institutionalising their commitment to people's participation

9. Conclusion

ASEAN's history is a reflection of the fast-changing, globalising world. From an organisation set up during the Cold War, it has evolved into a regional association with socialist countries as members, thus faithfully reflecting the character of the region. Furthermore, from an association of governments, ASEAN has had to confront the increasing demands from its different constituencies—academe and research institutions, the private sector, civil society and peoples' movements—to be inclusive.

We have seen the evolution and continued birthing of ASEAN mechanisms and instruments for participation—granting of legal status to organisations, accreditation processes, engagement mechanisms such as councils, assemblies, conferences, consultation mechanisms, commissions and committees, interfaces and town hall meetings, among others. Alongside development in ASEAN, we have likewise been witness to the proliferation of civil society— NGOs, community-based organisations, regional NGO networks, advocacy platforms—representing different themes, sectors and countries.

ASEAN is a space, an arena of contestation for both governments and civil society. Contending interests and perspectives are very much evident, with all sides claiming to represent the interests of the public. In this arena therefore, one will find contestations regarding democratic representation, legitimacy, historical and ancestral rights, vested interests, corrupt practices, co-optation and collaboration, among others.

The engagement of ASEAN by regional civil society is growing, both in terms of themes covered and the number of advocates. This has prompted change in habits and old practices from civil society and ASEAN. There has been undeniable evidence of creativity in the responses from both civil society and governments, and it is certain that we will witness much changes and dynamism in the ASEAN community-building process.

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Glossary

AICHR	ASEAN Inter-governmental Commission on Human Rights
ASEAN	Association of Southeast Asian Nations
ACSC	ASEAN Civil Society Conference
ABAC	ASEAN Business Advisory Council
BINGO	Big Non-government Organisation
CBO	Community-based Organisation
CSO	Civil Society Organisation
FBO	Faith-based Organisation
GONGO	Government-organised Non-government Organisation
INGO	International Non-government Organisation
ISIS	Institutes for Strategic and International Studies
LNGO	Local Non-government Organisation
LINGO	Little Non-government Organisation
NANGO	National Non-government Organisation
NGO	Non-government Organisation
NPA	Non-profit Association
Perkumpulan	Association
SAPA	Solidarity for Asian Peoples' Advocacies
UN	United Nations
Yayasan	Foundation

Friedrich-Ebert-Stiftung

Office for Regional Cooperation in Asia

The Friedrich-Ebert-Stiftung (FES) was founded in 1925 as the political legacy of Germany's first democratically elected president, Friedrich Ebert. Through its projects in over 100 countries, the FES supports building and strengthening civil society and public institutions. Central to its work are the promotion of democracy and social justice, economic and social development, strong and free trade unions, and the advocacy of human rights and gender equality.

Since the beginning of the political foundation's work in South, Southeast and East Asia for more than 40 years, FES has focused on promoting democracy and peace while strengthening social progress.

The FES Office for Regional Cooperation in Asia based in Singapore focuses on the reinforcement of social justice as a key factor for inclusive growth and as a core element of political processes in Asia. It also co-ordinates the Regional Trade Union Programme of FES. In the past few years FES has actively supported dialogue platforms and multistakeholder processes for trade unions and civil society organisations in the Association of Southeast Asian Nations (ASEAN) and the Asia Europe Meeting (ASEM) with the aim of establishing inclusive and structured mechanisms for constructive stakeholder engagement on the regional and interregional levels.

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