

The Palgrave Handbook of Political Norms in Southeast Asia

Edited by Gabriel Facal · Elsa Lafaye de Micheaux
Astrid Norén-Nilsson

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ISBN 978-981-99-9654-4 ISBN 978-981-99-9655-1 (eBook)
https://doi.org/10.1007/978-981-99-9655-1

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The registered company address is: 152 Beach Road, #21-01/04 Gateway East, Singapore 189721, Singapore

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Foreword

The Palgrave Handbook of Political Norms in Southeast Asia encompasses an amazing repository of expertise and perspectives on important topics confronting contemporary Southeast Asia. It is a rare achievement in Southeast Asian scholarship that addresses themes of great interest to scholars, policy makers, and ordinary citizens from across different disciplines and areas of study. The book brings together nearly three-dozen prominent academics, journalists, and other experts who examine political norms in regional countries from a variety of perspectives including international and domestic law to informal norms, customs, and practices.

This collection also offers broader theoretical frameworks and insightful analyses that weave together various themes and regional jurisdictions. Its editors, Gabriel Facal, Elsa Lafaye de Micheaux, and Astrid Norén-Nilsson, have done an excellent job providing an overview of major events and a myriad of contemporary phenomena, movements, and discourses that have contributed to the deepening of authoritarianism and the transformation of political norms across Southeast Asia. They offer definitions, categories, and typologies of different normative regimes and highlight how these norms have emerged and evolved. Another chapter by Michaël Bruckert and Emmanuel Pannier outlines theoretical overviews on institutional forms that have shaped the interaction and evolution of these norms. These two chapters lay out foundations and parameters for an array of normative repertoires examined through individual case studies, comparative examples, and regional level analyses.

The authors in this collection come from a wide variety of disciplines spanning political science, anthropology, law, economics, geography, sociology, history, environmental studies, and communication sciences. Their research incorporates both bottom-up and top-down inquiry, examining states, societies, and transnational actors. Readers will not only get a flavorful taste of historical background and salient contemporary issues in Southeast Asian

countries. They will also benefit from comparative insights, theoretical implications, and policy recommendations drawn from common issues facing the region. They will learn about evolving norms and practices of the monarchy and the Buddhist sangha as well as of exploitation in Cambodia, various types of formal and informal institutional arrangements in Vietnam, official political and economic practices in Laos, the framing of protests against private companies by Indonesian farmers, prominent Islamic organizations and punk culture in Indonesia, anti-military activism in Myanmar, constitutional norms in Timor-Leste, conflicting norms of consumerism and Islamism in Brunei, and the nuances of national elections in the Philippines.

They will also learn about common themes that cut across the entire region, including constitutional practices and human rights, the manifestation of political norms in public space, the use and abuses of the concept of Asian values and its relationship with authoritarianism, the situation of indigenous peoples and Christian civil society groups, the blurring distinction between urban and rural spaces, and the importance of social media in emerging transnational movements such as the Milk Tea Alliance among younger generations. Readers will benefit from comparative case studies that examine military norms in Thailand and Myanmar, authoritarianism and transnational legal norms in Singapore and Hong Kong, and the role of China in Southeast Asia.

The book is highly accessible to ordinary audiences and is presented in a variety of formats. It incorporates journalistic and academic writings, as well as excerpts from interviews which offer insights and firsthand accounts of activists and practitioners working on challenging issues such as diplomacy and negotiations on human rights. Its subjects span democracy and authoritarian practices, religious fundamentalism, youth movements, identity politics, indigenous land conflicts, and rural–urban relationships.

This handbook will remain a valuable resource to students, teachers, and researchers in Southeast Asian studies by bringing together a wealth of issues under a single theme with extremely rich presentation and comprehensive detail.

Lowell, Massachusetts — Ardeth Maung Thawnghmung

Acknowledgements

We would like to express our warmest thanks to the many contributors to this Handbook whose intellectual commitment and solid scholarship made it possible. The quality of our exchanges over time, including during the workshop on the draft chapters, gave us valuable new insights and raised important questions for further reflection.

The Centre National de la Recherche Scientifique (CNRS), through the international research network "Asean-China Norms," has provided a framework for many of us to meet and work over the past three years. The Observatory of Political Alternatives in Southeast Asia (ALTERSEA) has also been instrumental in connecting researchers with other civil society actors.

We are also sincerely grateful to our publisher Vishal Daryanomel at Palgrave Macmillan in Singapore for his strong and constant support as well as Uma Vinesh for her help throughout the delicate process of publication.

Finally, we thank our respective institutional homes: the Research Institute on Contemporary Southeast Asia (IRASEC, Bangkok, Thailand), the Center on Southeast Asia (CASE, Paris, France), and the Centre for East and South-East Asian Studies (Lund University, Sweden).

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PART I

Introductory Part



CHAPTER 1

Introduction—Political Norms in Southeast Asia: Overlapping Registers and Shifting Practices

Gabriel Facal, Elsa Lafaye de Micheaux, and Astrid Norén-Nilsson

Introduction

Political norms in Southeast Asia are undergoing major and rapid reconfigurations. This has been thrown into sharp relief in connection with recent global affairs, including responses to and engagements with the redefinition of power relations in the Indo-Pacific, the Covid-19 pandemic, civil war in Myanmar/Burma, and Russia's war in Ukraine. Even more readily manifest are these shifts in upheavals particular to the region, such as deepening authoritarianism across mainland Southeast Asia, and illiberalism in much of the archipelagic region.

The normative landscape in today's Southeast Asia is marked by a diversity of competing, but also intersecting and interpenetrating normative registers. Circulation of political norms between different and diverse parts of Southeast Asia, heterogeneous and connected—and with the world beyond, through the

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_1

crossroads position of the region—has increased the porosity between normative regimes. The territorial differentiation that governments exercise within national spaces (Ong, 2002) also conditions interactions between a plurality of normative registers.

This Handbook aims to constitute a reference point on political norm dynamics in Southeast Asia, by bringing together an array of normative repertoires that frame the possibilities for citizens to participate in, make decisions, set agendas for, and contest not only electoral and institutional politics but also informal and imaginary political spaces. It seeks to shed light on intersecting political and social transformations and their consequences from the vantage point of political norms. While chapters in this Handbook lay out and analyse how political norms across Southeast Asia have been shaped in successive historical phases, the core of the Handbook is formed by the current dynamics involved in defining and transforming political norms.

What Are Political Norms?

The concept of norms is characterised by plasticity. This plasticity results from its wide range of meanings, rooted in the different ways in which a variety of social science disciplines have studied norms. Our starting-point is that this plasticity makes the concept useful for the study of contemporary Southeast Asia, given the region's heterogeneity in terms of regime types, political party trajectories, and daily lives of its governed and participatory populations.

Different research fields have approached norms employing considerably different definitions thereof. The legal norm is a set of prescriptions and prohibitions institutionally defined (Boudon & Bourricaud, 1982: 418). In law, both the law, as well as the rule of law, are norms. For economists, norms are institutions, whose definitions range from a set of rules considered as the rules of the game of the society (North, 1990), to the "codification of fundamental social relationships" (Boyer, 2022). Douglas North distinguished between norms and conventions (called "social structures"), which define informal incentives, and formal ones, referring to property rights. In the economic field, norms have been studied since the inception of economic institutionalism in the early 1900s. The norm assumes even greater significance in sociology and anthropology, where the concept refers to recurrent rules, constraining rules, or values and principles. Norms selectively control the development of aptitudes and preferences of members of society (Veblen, 2007 [1899]). In political science, norms are additionally interpreted as a set of international treaties and national rules.

As a consequence of this pluri-disciplinary embrace of norms, there are many approaches to studying them. Studies may focus on the legitimacy of norms, including who accepts a norm and under what conditions. Others may investigate their function, which may include reducing uncertainty; allowing action and coordination; or framing and naturalising existing social, political, and economic structures. Norms are also studied in terms of their diffusion

patterns and the circulation of normative models between social and geographical spaces. The question of how norms operate should not be treated in the abstract, but has to be related to structures of socialisation and the exercise of power (Macherey, 2014). The norm always "carries […] a claim to power" (Foucault, 1999), and is intimately related to conflicts. Thus, its genesis is rooted in struggles of power: far from being linked only to *normality*, the fixed norms whose implementation is mechanical, it also features the modality of *normativity*, a dynamic of plasticity, enabling the contestation of established norms, and even the invention of new norms, these "vital patterns in search of the conditions of their realisation" (Macherey, 2009: 127). This paves the way for normative pluralism (Bruckert & Pannier, Chapter 2). Norms might also be loosely formalised and the concept of "practical norms" accounts for "the various implicit regulations (informal, de facto, tacit or latent) that underlie the practices of actors which diverge from explicit norms (official or social norms)" (Olivier de Sardan, 2021: 121). These practical norms are only rarely disconnected from ideas and values (Dumont, 1983). Finally, norms are both *descriptive* in that the norm captures what is normal, or in a statistical sense, what exhibits a normal distribution; and *prescriptive*, in that norms state or reiterate what has to be done, or what should be. In the book, chapters navigate between these two poles.

In this Handbook, scholars from different disciplinary and intellectual traditions are brought together so as to combine a variety of perspectives. As an overarching definition and common starting-point, we understand political norms as any set of rules, ways of acting, or habits of thought, which relate to the exercise of power, to the social and daily experience of being governed, of representing and participating in the polity, or of inventing alternatives. Political norms are socially defined and sanctioned and derive their legitimacy from their ability to be applied and to regulate. Produced by social struggles, by incumbent powers and authorities, or by the repetition and regularity of social and political facts, political norms might be codified (e.g. through the Constitution, rule of law, or electoral process) or not (e.g. as in the case of the "grammar" of social movements, religious symbolic forces, or patterns of corruption). They closely rely on, and are constantly reshaped by, competing political and ethical values which provide social actors with a set of common reference points and ideals. Since meaning is embedded in the common practices that shape the way we act and talk, political norms are necessarily related to "institutions of meaning" (Descombes, 2014) that are not only political, but also social, cultural and economic. Consequently, political norms are not reducible to a single principle and must be understood in their social and historical context.

We understand political norms to be elaborated in plural languages for different audiences. Intercultural and inter-class translations are handled by a range of intermediaries, facilitators, and mediators, whether they be individual agents or institutions. Taking on uncertainty and risk, these norm

brokers play the role of referees in arenas of negotiation, elaborating compromises, inventing solutions acceptable to all and finding practical arrangements, minimal convergences, and temporary accommodations. Brokers may manipulate impersonal and generic registers, such as the religious rules laid down in the Islamic sharia or the norms laid down by the Constitution. Local and interpersonal normative registers guarantee spaces for negotiation, allowing mediators to convert political, economic, religious, and social resources in a virtuous circle (Facal, 2021: 91–92).

The Handbook presents Southeast Asian cases at the crossroads of different normative regimes. Some norms have been introduced by national governments and incumbent power-holders, or are attached to more or less entrenched regimes linked to local political cultures of religious, customary, or clientelist types. Others yet are articulated in opposition or as alternatives to these. Others still reflect contemporary transnational exchanges, recently strongly marked by the rise of China. Normative registers carry their particular histories, including legacies of colonialism, and of the nation-building of the post-independence era. The book presents regional cases at the crossroads of these different normative regimes. Thus, it provides an at once comprehensive and in-depth understanding of contemporary political norm dynamics in Southeast Asia, which combines governance trends with underground developments that run through Southeast Asian political life. Taken together, the various cases demonstrate that these discrepancies are part of "institutions of meaning" that are political, but also social and cultural.

Why the Political Norms Angle?

The perspective of political norms, and their interpenetration, allows access to politics from different infra-, para-, or even extra-political angles. It reveals in-between political spaces, which are neither completely formal nor completely outside the state. Within these spaces, norms which condition legitimacies, licitness, and legality are re-produced. When different normative registers converge, they may reinforce the legitimacy of existing political arrangements and of legal enforcement. On the other hand, when they stand in contradiction with each other, they may undermine officially recognised political rights for segments of the population. Through their interaction, these registers define what is moral, ethical, and even legal. These political norms frame the possibilities for citizens to participate in, decide, represent, contest, and enforce collective action, not only in electoral politics but also in informal political spaces. Political norms shape social agents' behaviours, provide them with legitimacy or disqualify them, include and exclude, formalise and informalise. They are, in this sense, a force of social regulation, as Bruckert and Pannier demonstrate theoretically and empirically in this volume (Chapters 2 and 23). Their effects are neither general nor uniform: they respond to criteria of age, gender, social class, religion, regional identity, and political affinity, entailing inequality and exclusion but also protection and ways of escape.

Political norms may appear as instrumental tools for enacting "informal sovereignties". Hansen and Stepputat (2006) use this concept to describe grey areas of political authority. For his part, Barker shows that these informal sovereignties are the product of a cultural idiom, which combines with market and state factors. While the latter tends to formalise informal sovereignties to better control them, the actors of these sovereignties find, on the contrary, an interest in reinforcing their informality in order to better seize the market (Barker, 2016: 186–188).

At the same time, a norms perspective also exposes the parallel existence of diverging meanings or interpretations of norms, sometimes referred to as norm polysemy. Linsenmaier et al. (2021) define ambiguity as a fundamental ontological feature of all norms. They identify four mechanisms through which social agents cope with the multiplicity of norm meanings in contemporary global governance: deliberation, adjudication, uni- or multilateral fixation attempts, and ad hoc enactment. We agree with the authors that "seeing ambiguity as an inherent feature of norms makes it possible to regard norm polysemy not just as a structural feature of international society, but also as a fundamental expression of the normative diversity of the world's human communities" (Linsenmaier et al., 2021: 525). While some social agents may find an interest in reifying political norms, other agents try to reverse, abolish, or fluidify existing norms, create new ones, or even change the modalities of political norm production.

Contribution of the Handbook

Political norms in Southeast Asia have been explored through several strands of literature. In the study of human rights in the region, accounts of norms within ASEAN from the late 1990s and early 2000s tended to take the constructivist position that norms are constitutive of identities and a driver of behaviour. Acharya, in a series of writings, interrogated the evolution of norms for intra-regional relations (Acharya, 2005), suggesting that they mattered in shaping Southeast Asia's regional order, even when they contradicted national concerns and positions (Acharya, 2005). In this vein, scholars have examined normative debates on the road to creating an ASEAN human rights mechanism and how those mechanisms in turn solidified norms (Ciorciari, 2012). Other scholars challenged the constructivist claim that norms would reconstitute the behaviour of actors. Davies (2013) points out that while ASEAN member states have strategically adopted human rights references regionally, they have violated those same norms domestically. For Poole (2015), regional norms are primarily shaped by the desire to achieve external regional legitimacy. According to Chua, rights are not only their normative meanings found in legal instruments and documents but come to life through political processes (Chua, 2022).

In the study of domestic polities, a norms approach has been less common. Weiss (1999) assessed a shift in Malaysian political culture during Reformasi

through changing norms of political interaction, transformed by transnational influences and the proliferation of alternative media. Scholars have tended to bring to light fast-changing political norms in countries across the region through analytical lenses such as those of discourse or ideology. Writing in 2014, Rodan and Hughes argued that the Southeast Asian region was marked by changing patterns of political authority, conditioned by how industrialisation, globalisation, and the influx of international capital and aid, had weakened ruling elites' ideological supremacy and produced ideological contestation, with groups across different social classes adopting new moral ideological stances (Rodan & Hughes, 2014: 3–4).

This Handbook is timely in mobilising a political norms perspective to advance our understanding of today's Southeast Asia. In the current wave of autocratisation sweeping through the region and the world (Lührmann & Lindberg, 2019), this wave has been accompanied by attempts to redraw boundaries of political action and participation by the dissemination of new political norms. Even as contemporary democratic backsliding generally takes place gradually through incumbents subverting democratic institutions while nominally adhering to the principles of democracy (Curato & Fossati, 2020), this backsliding is nonetheless typically accompanied by recast political norms, such as those of national unity and authenticity in Cambodia (Norén-Nilsson, 2022). On the other side of the barricades, alternative norms are articulated. An example is how the pro-democratic Thai youth protesters have built references for progressive change through constructing collective narratives (Sinpeng, 2021). These norms are transnational in character (Sastramidjaja, Chapter 29), championed also in neighbouring Myanmar by Gen Z youths who advocate an anti-authoritarian, anti-military regime, anti-China influence, anti-racist, and anti-sexist democratic movement (Jordt et al., 2021). Another set of transnational norms is attached to Chinese presence, investment and aid in Southeast Asia (Reilly, 2012; Frécon, Chapter 12).

This Handbook therefore aims to take stock of and to analyse a historical moment of intense contestation from a multitude of vantage points. It assembles the expertise of specialists of the region's politics and societies to critically interrogate the political norms landscape of Southeast Asia today. In gathering these assessments, this Handbook aims to make several contributions.

First, it identifies and provides insights into different key political norms and normative registers. This sheds new and significant light on weighty issues that are not commonly studied from this vantage point. The authors identify the complex processes of norm definition at work in the current context, that remain overlooked in scholarly literature. We highlight the norms advanced by bottom-up expressions of alternative politics, which are often missing in an otherwise vivid literature on civil society and citizenship in contemporary Southeast Asia.

Second, the Handbook probes the interaction between these normative registers, tracing clashes and intersections. This dimension is addressed in some individual chapters, and through the collective enterprise which brings

the findings into conversation with each other. Political norms are themselves complex and multifaceted. This sometimes reflects how they are religiously or culturally embedded; particularly in contexts where "politics as practice" retains a foothold over formal politics. These religious and cultural contexts then condition tensions engrained in norms of authority and the distribution of power. Political actors also bring together plural norm regimes, for example through the "Asian values" discourse (Thompson, Chapter 17), which reify a set of political norms. Ideologues may also mobilise supposedly vernacular values of thrift, diligence, hard work, and discipline which reconcile the free market with the socio-political interventionism of the state (Evers, 2004: 214).

Centralised regimes (e.g. Vietnam) favour the diffusion of monolithic models of normative system, while less centralised territorial spaces, archipelagic geographies and enclaves, encourage the coexistence of parallel political normativities and polysemic national norms (e.g. Burma, Indonesia). The postmodern consumption models of the emerging middle classes illustrate the evolving intersection and intermarriage of norms. The week-end outing to the mall has become a family activity that fits in with Islamic references to frugality and restraint in Brunei (Fanselow, Chapter 10), at the same time as online shopping not only responds to the individual's shopping needs but also those of social affirmation through mechanisms of distinction and identification.

The precedence some norms take over others is in part influenced by intergenerational and gender relations. Seniority often legitimises a certain control over the maintenance, transmission, and dominance of some norms over others. This has to do with how seniority, not necessarily defined solely in terms of age but also in terms of individual behaviour and relative merit, presumes a closeness with history and memory that is intimately connected to authority. While it is difficult to generalise about gender relations in the region, politics was in many places until recently tendentially associated with masculinity, while femininity has played a role in defining structuring dimensions of politics, such as authority. The indefiniteness or polymorphism of gender can also be shown to infuse norms, not only in ideal terms but also concretely (Wieringa, Chapter 30).

Third, the Handbook interrogates the dynamics of political norms persistence and change. This is a salient issue during the current moment, marked by important norms shifts in the region without a clear benchmark (Lafaye de Micheaux, Chapter 3; interview with Froissart, Chapter 8), some of which are tied to the stagnation of democracy (Indonesia, Philippines), and authoritarian resilience and deepening (Thailand, Singapore, Malaysia, Brunei, Myanmar, Laos, Cambodia, Vietnam). Looking at history, the deterioration of democratic norms anticipated democratic breakdowns (Levitsky & Ziblatt, 2018; Bünte, 2019). The ability of polities to maintain those norms, alternatively to steer norms change, is therefore of preeminent importance.

The personalised dimension of power, prevalent in much of the region, may be as much a vector of maintenance as of normative change. The reproduction

of elites (e.g. in Cambodia) may appear to indicate the durability of normative regimes, but also necessitates their evolution and reinvention. Norms change also stems from challenges to norms disseminated by national elites. Decentralisation in Indonesia from the 2000s onwards provided an opportunity for new regional leaders to mobilise regionalist, religious or ethnic referents as a counterweight to national-level nationalist or developmentalist narratives. Marginalised segments of populations, such as punks (see Kiss, Chapter 33), challenge norms of state control, such as those of propriety and politeness, through competing norms such as incivility. Alternative normativities sometimes give new life to norms, such as the values of solidarity and sharing that some punks claim to borrow from traditional archipelagic societies. Crises may also act as triggers for normative change. The heroes of the war in Timor-Leste are still at the heart of political processes in the country today (Feijó, Chapter 11). Numerous other factors, including demographic (the rate of ageing and urbanisation, see McCargo, Chapter 28) and technological ones (the use of digital media, see Khor, Chapter 7), play a significant role for norms persistence and/or change.

The explanatory power of the political norm for political outcomes is thus tied, and sometimes subordinated, to political, social, cultural, economic, or geopolitical factors. Even as strategic interests (Bruckert & Pannier, Chapter 2) can take precedence over norms, normative regimes constitute a pool from which ideas, values, and practices may be mobilised and instrumentalised by collectives that invest them with meaning.

Organisation of the Handbook

In this volume, four dynamic spaces of norms articulation and transformation are explored. We first interrogate challenges to Southeast Asian polities and citizens stemming from transnational pressures, and the pertaining reconfiguration of political norms. National changes and transitions linked to new governmental orientations are then addressed. We thereafter move to question vernacular forces, from religious authorities to patronage politics, that contribute to the redefinition of political norms. Finally, we explore spaces that champion alternatives to the state, market, and development sectors' political norms.

The first section begins with an overview of recent historical developments that set the broader stage for political norms articulation. The region, which favoured multilateralism after the Cold War (Buszynski, 1992), has in recent years had to face the renewal of geopolitical polarity (Froissart, interviewed by Lafaye de Micheaux, Chapter 8). This is manifest in the emergence and consolidation of the Indo-Pacific concept, and in the tensions concomitant to the ambitious development strategy adopted by China in 2013, the Belt and Road Initiative (BRI) (Lafaye de Micheaux, 2020).

Against the backdrop of successive worldwide trends of liberalisation, globalisation, democratisation, and autocratisation, states in the region adapt

their constitutions, human rights provisions, and institutional architecture (Dressel & Bünte, 2017). Diplomatic agreements and development agendas impact on political norms through measures such as the establishment of international rights commissions, the setting up of supervisory bodies, and the ratification of treaties. Roughly two-thirds of the states have signed the most important human rights treaties until now (Lafaye de Micheaux, Chapter 3), and important advances have been made with the installation of an ASEAN Intergovernmental Commission on Human Rights (AICHR) and the ASEAN Human Rights Declaration (Wahyuningrum interviewed by Andrieu & Facal, Chapter 9).

Although there is a tendency to see these transnational modes of governance as purely technocratic and in this sense "above politics", they are inherently political, highly contested, and normatively ambiguous (Breslin & Nesadurai, 2020; Nguyen-Pochan, Chapter 5; Basri, interviewed by Peterson, Chapter 16). In embedding "moving sovereignties" (Pandolfi & Abélès, 2002: 7), corporate and development sectors also alter political norms (Scheer, Chapter 6). Their influence is based on the imposition of models for good development practice, sometimes through soteriological narratives (Rudnyckyj, 2010).

The second section investigates the transformation of political norms involved in the reorientation of governmental directions. Governments in Southeast Asia exhibit increasingly authoritarian tendencies, and several have steered their countries on a path of deepening authoritarianism in recent years. Of the eleven political regimes, only Timor-Leste is generally considered a liberal democracy. Here, democracy was installed in 2002, combining "elements of deep-rooted traditional political culture" with "modern forms of organising the running of the state", which generated a complex set of arrangements. The plasticity of these arrangements enabled democratic progress, although there is now ground for fears of democratic backsliding (Feijó, Chapter 11).

Authoritarian resilience in the region is predicated on norms evolution and reinvention. In Brunei, the unsustainability of the rentier "Shellfare" state has exposed contradictions in the institution and ideology of the monarchy, prompting the state to increasingly rely on normative religion for its legitimisation (Fanselow, Chapter 10). In Laos, the Lao People's Revolutionary Party (LPRP) has pursued a twin-track approach of strong economic growth and state violence and oppression ever since 1975 to maintain its model for stability; yet, Sims (Chapter 13) argues, norms of development and stability require a rethinking so as to meet current governance challenges.

In accounting for democratic backsliding in the region, the rise of illiberal leaders has been given much focus. Yet, the link between these two phenomena may be more complex, as Curato and Presto (Chapter 14) caution with reference to the Philippines. Assessing the Presidency of Duterte, they argue that

the Filipino public supported Duterte "despite of, not because of, his democratic transgressions", and outline a persisting tension between democratic and authoritarian fantasies.

The third section explores the role of vernacular institutions in norm redefinition. "Vernacular" highlights that these norms follow local grammars of power, with particular conceptions of society, citizenship, and public space. They include forces from above, such as kingship (de Vienne, Chapter 24; Prince Sisowath Thomico interviewed by Norén-Nilsson, Chapter 25); horizontal forces, such as religious actors (Arifianto, Chapter 20; Kent, Chapter 22); and grassroots forces (Inguanzo, Chapter 21). They also include militaries, that have different cultural-historical, including authoritarian, legacies, shaping military norms that continue to affect military roles (Chambers, Chapter 18). Sets of interwoven norms of economic acts tapping the "potent energies of the earth" also create different economic possibilities, which cloaked in utopian stories together constitute "the morality of exploitation" (Work, Chapter 19).

"Vernacular" does not imply unitary cultural values, as seen in the Asian Values debate which is best understood not as a discussion about "Asian" norms, but as "a dispute about the way in which the modern world should be constructed", as argued by Thompson (Chapter 17). As an autocratic tool, this manifestation of "reactionary culturalism" has thus been countered by democratic oppositions in the region championing narratives of "vernacularised" liberalism.

The final section examines alternative definitions of political norms to the orthodoxies promoted by the state or vernacular institutions. The heterogeneity in state approaches to human rights produces varied and contested definitions of human rights and their connection to political rights (Usman Hamid, interviewed by Estrelita & Facal, Chapter 34). In shaping notions of civil society, citizenship, and public space, many Southeast Asian governments make efforts to decouple activism from "civil society" (Jayasuriya & Rodan, 2007: 783) so as to enable projects of rule. Yet, civil society in the region still effectively shapes norms contesting violations. Weiss & Hansson (Chapter 27) argue that democratic backsliding in Southeast Asia has not been accompanied by a shrinking civil society, but that on the contrary, civil society has expanded, "becoming denser and more visible". They find that protest and activism in the region over the past two decades has profoundly reshaped norms "regarding who can participate in politics, when, how, and why". Indeed, dissatisfaction with existing norms of governance may result in rethinking not just how to govern, but also what it is that needs to be governed (Breslin & Nesadurai, 2020: 198–199).

One characteristic of the recent wave of protest is the cross-fertilisation of protest issues, repertoires, and tactics. Sastramidjaja (Chapter 29) charts contemporary youth movements, characterising them as "rhizomatic"—referring to the heterogeneous assemblages they form "connecting nodes of youth activism in novel ways". She finds that generational affinity empowers youth

not only to fight attempts at shrinking civic space, but also to reconfigure norms of democratic citizenship.

Such norms are also reconfigured beyond the streets of protest, by rural Indonesians, through the discourses they employ when making claims related to land conflicts (Berenschot, Dhiaulhaq & Saraswati, Chapter 31). Orthodoxies are also challenged by anarchists and punks (Kiss, Chapter 33) and by the LBT movement (Wieringa, Chapter 30). "Urbanised villagers", voters with hybridised urban-rural identities, form a demographic group able to shift political agendas and resources in the region (McCargo, Chapter 28).

The contributions to this Handbook present regional cases at the crossroads of a plurality of normative regimes that fall into these four broad sections. By examining these normative registers in-depth, the Handbook seeks to shed light on the conditions of congruence and dissociation between them.

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CHAPTER 2

Institutional Pluralism and Interactions Between Normative Systems: A Theoretical Overview

Michaël Bruckert and Emmanuel Pannier

Introduction

Institutions are generally approached through four questions: their definition, their transformation, their effects and their functioning. General definitions such as Douglass North's, for whom institutions are the "rules of the game in a society" (1990), contrast with more precise ones that consider their construction and spatio-temporal stability (Granovetter, 2017). Following a cultural approach, they are "prevalent habits of thought" (Veblen, 2007 [1899]: 126). While Mauss sees them as externally imposed social totalities (1971), pragmatic approaches are interested in how actors participate in their stabilisation (Boltanski, 2009). They can be construed as a system of rules and prescriptions (Ostrom, 2005; Searle, 2005) that structure, constrain and enable practices (Hodgson, 2006). This raises the question of their effects: from a functionalist perspective, their role is to reduce uncertainties and produce trust (North, 1990) or to reduce risk and transaction costs (Ménard & Shirley, 2005). Some

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_2

interpret them as an "operator of civilisation" that holds together particular, and possibly discordant, affects (Lordon, 2013). In a more encompassing view, they participate in the social construction of meaning (Giddens, 1984).

Behind this diversity of approaches to understand the institutional fact, there is a common attribute: institutions regulate interactions and structure social relations. In other words, institutions embody the political, that "space in-between people" when they act together (Arendt, 1958). If institutions and the bundles of norms that underlie them are necessary for "living together with others" (Arendt, 1958), their forms and expressions vary from one society to another. They are heterogeneous within the same society and evolve over time (Helmke & Levitsky, 2004). In other words, they are polymorphic, dynamic and contextual. In addition to theoretical approaches on what institutions are, what they do and how they do it (Lordon, 2013), it is necessary to study institutional pluralism and normative diversity in different socio-historical contexts.

In this chapter, we propose a short literature review that addresses institutional pluralism and the different modes by which various normative regimes interact and relate. We identify the main contributions, but we also point to some limitations. In Chapter 23, the approaches described here are complemented and we attempt to remedy their shortcomings by studying two cases of normative pluralism in Vietnam and by proposing a typology of the modes of relation between normative systems.

Three Types of Approaches to Normative Pluralism

Many authors from various disciplines have addressed implicitly or explicitly the issue of normative pluralism and of the interactions between normative orders. We propose to distinguish three main approaches: one that focuses on the social and institutional regulation of the economy, one that examines the existence of non-state legal norms and one that addresses the diversity of norms in their empirical expressions.

To simplify, the first approach follows a socio-institutionalist approach to economics and focuses mainly on the relationships between the social realm and the economic realm. Economic anthropology and sociology have long questioned the place of the economy in society (Weber, 2013 [1922]), the role of symbols in the process of production (Sahlins, 1976), the moral dimension of the economy (Scott, 1977; Thompson, 1971), the articulation between social relations and relations of production (Godelier, 2010 [1984]) or the interplay between economic and cultural values (Appadurai, 1986; Graeber, 2001). More recently, the new economic sociology has been interested in the embeddedness of economic action in social relations (Granovetter, 2017) and, more broadly, in the connection between the social and the economic life (Zelizer, 2005). Among economists, "earlier" institutional economics (Hodgson, 2006; Polanyi et al., 1957; Veblen, 2007 [1899]) and new institutional economics (Coase, 1992; Ménard & Shirley, 2018;

North, 1990; Ostrom, 1986, 2005; Williamson, 1985), as well as so-called "heterodox" economics, i.e., regulation school and economics of convention (Aglietta & Orléan, 1998; Lordon, 2013; Thévenot, 1995), although following different or even opposing epistemologies, aim to take into account institutions and extra-economic social norms that regulate market relations and economic systems. Nevertheless, while "earlier" institutional economics and heterodox economics have distanced themselves from the assumptions of mainstream economics, it is not always the case for new institutionalist economics.[1] The latter ultimately tends to go back to the foundations of neoclassical economics, in particular to the *homo oeconomicus* paradigm, the "rational choice theory" and coordination through market equilibrium. Authors embracing this paradigm rarely take into account structural changes (economic crises, financial collapse, political conflicts, wars) that shape the evolution of institutional regimes (Boyer, 2019), whereas "earlier" institutional economics and heterodox economics adopt a historical perspective that take into consideration the plurality of registers of action and the transformations of social relationships. Aiming at developing "grounded theories", this latter approach allows to analyse social systems as open and dynamic with malleable boundaries, to take contingency into account and to combine determinism and unpredictability (Labrousse et al., 2017). By contrast, new institutionalist economists tend to view these extra-economic forms of regulation, often referred to as "informal" (North, 2016: 74), as homogeneous, static and entangled in traditional values. According to Olivier de Sardan, "[o]nce they have mentioned institutions or informal norms, and highlighted their importance, they stop there and go on to something else. Informal institutions or informal norms basically remain black boxes" (Olivier de Sardan, 2013: 286). As a result, new institutionalist economists ignore the heterogeneity of these informal norms. Contrary to what economic anthropology and heterodox economics do, they rarely address the conflicts, power relations, fragmentations, disruptions and crisis that are internal to societies.[2] Nor do they analyse the concrete ways in which the economy is embedded in the social sphere, as the historical institutional economics and the new economic sociology. The worth of the latter is to deal with the social processes at work in market exchanges and to move away from the market/society dichotomy (what Zelizer calls the "hostile worlds" theory) by reconnecting the various normative systems within which actors interact (the "connected lives" theory) (Zelizer, 2005: 22). However, some of these interpretations tend to focus only on the non-economic social aspects characteristic of interpersonal networks

[1] Even if they initially "aimed to radically alter orthodox economics" (Ménard & Shirley, 2018: 1) and to "provide an alternative to the theory of substantive rationality developed by neoclassical theory, by taking into account uncertainty and transaction costs" (Boyer, 2019).

[2] With some recent exceptions; see Ménard and Shirley (2018).

and intimate relationships (Chantelat, 2002). This bias may lead to understate the social dynamics specific to the construction of markets, such as the processes of "economisation" (Çalışkan & Callon, 2009) or the ritual frameworks that enable market transactions but do not originate from a surrounding or pre-existing social sphere (Weber, 2000). In other words, it may miss ad hoc social norms, created in situ, that lie within the very heart of economic and market relations.

The second major approach to normative pluralism focuses rather on the relations between the social and the law. It belongs to a body of research on "legal pluralism", which designates a "situation in which two or more legal systems coexist in the same social field" (Merry, 1988: 870). This approach stems from the work of the sociologist Ehrlich who, at the beginning of the twentieth century, distinguished between a state law and a non-state or "living law" (Ehrlich, 1989 [1913]). Taking this approach further, Gurvitch described the "social law" that arises from the complexity of interactions (Gurvitch, 1935). The work developed from the 1970s onwards deepened the analysis of norms and regulations that are part of the law but not prescribed by the state, thus redefining and broadening the field of law (Griffiths, 1986; Twining, 2010; Benda-Beckmann, 2002; see also *The Journal of Legal Pluralism and Unofficial Law*).

Notwithstanding, despite challenging the usual state(-ethno)centrist approach, these studies do not totally avoid "a state-centred bias" (Reyntjens, 2015: 357). The alternative regulatory systems they explore, notably "non-state normative orders" (Twining, 2010: 474), are often defined in the negative, in contrast to the state, i.e., by what *they are not* rather than what *they are*. Moreover, some analyses of legal pluralism tend to "narrow down to a single, legal dimension" norms that are constituted by complex processes going far beyond the legal (Fuller, 1994: 10). Thus, the school of legal pluralism is generally concerned only with explicit, formal and customary norms, those that are legal (in the broad sense). The vast field of implicit, tacit, non-legal norms regulating everyday interactions is often ignored.

Finally, the third approach encompasses authors who empirically address the plurality and entanglement of norms at the intersection of political, legal, economic, social and religious fields. This approach includes work developed in France from the 2000s onwards in the wake of development and public policy anthropology (De Herdt & Olivier de Sardan, 2017; Olivier de Sardan, 2013, 2021; Winter et al., 2001), as well as some work on normative pluralism (Helmke & Levitsky, 2004; Roitman, 2005; Ledeneva, 2018) and hybrid governance (Meagher, 2012, 2014). All these approaches defend an empirical and historicised study of normative pluralism that allows "the premises of cultural homogeneity to be avoided, and hierarchies, conflicts and contradictions to be reintroduced as well as the interplay of actors" (Olivier de Sardan, 2013: 291). These authors also differentiate themselves from dichotomous interpretations and challenge the usual binaries made between custom and

state, traditional and modern, informal and formal, endogenous and exogenous, public and private. By insisting on their heterogeneous, ambivalent and dynamic character, they explore a wide repertoire of norms and institutions with varied characteristics. Although the empirical bases of these authors are mainly drawn from African contexts, the scope of their analyses goes far beyond these socio-political spaces. This type of approach has been rarely used in South-East Asia; consequently, Chapter 23 is an attempt at applying it to Vietnam.

This third posture can be brought closer to the work on the "economies of worth" (Boltanski & Thévenot, 2006). Indeed, although they make little reference to the notion of "norms", Boltanski and Thévenot address the way people "construct, display, and conclude more or less lasting agreements" (2006: 25). They distinguish different "worths" that correspond to higher principles, judgments and legitimate argumentation relating to justice and the common good—in other words, to "what matters and who or what will have to be involved in the action" (p. 129). These political principles are applied and brought into play in what the authors call "worlds" (2006: 125). These worlds refer to the different ways agreements are reached, actions are coordinated and sets of justifications are "tested" (p. 127) in practice. Boltanski and Thévenot distinguish six different worlds: the Inspired World, the Domestic World, the World of Fame, the Civic World, the Market World and the Industrial World. In the Domestic World, for example, order is mainly established through "the position one occupies in chains of personal dependence" (p. 164), necessitating gifts, duties and debts. The Market World, on the other hand, relies on competition, free circulation of goods and persons and the quest for personal satisfaction, while the Industrial World gives place to technology, efficiency, reliability and expertise.

Different Types of Norms

Some studies try to identify different types of norms. These classifications are useful for understanding how social relations and actors' practices are regulated. The question of classifying norms is not new (Gibbs, 1965). Many attempts have been made,[3] but "there is no agreed taxonomy of types of social norms" (Twining, 2010: 481). Among the various proposals, the typology proposed by Olivier de Sardan (2021) seems to be one of the most operational for understanding the empirical manifestations and dynamics of norms. This classification distinguishes between explicit regulations, including official norms (conventions, codes, local regulations, administrative, technical and professional procedures, contracts, manuals, programmes, organisational structures, specifications) and social norms (accessible through the study of tradition, education, morality, religion or the reading of classical ethnologists)

[3] See a review of the literature in Olivier de Sardan (2021: 144–158).

and implicit regulations, consisting of various forms of practical norms (adaptive, semi-tolerated, transgressive, palliative and rebellious). This exploratory concept of "practical norms" is one of the main conceptual contributions of Olivier de Sardan (2008, 2015, 2021). It accounts for "the various implicit regulation (informal, de facto, tacit or latent) that underlie the practices of actors which *diverge from explicit norms* (official or social norms)" (Olivier de Sardan, 2021: 121, emphasis is ours). It also encompasses norms that unfold in the absence of explicit regulations.

Practical norms are thus analysed either as deviations from the official norm, in particular bureaucratic norms,[4] or as norms produced in contexts of absence of official rules, because the state is failing or even absent, or because the margin of appreciation is wide (Olivier de Sardan, 2021: 142). In both cases, it is with reference to official norms or the state that these norms are defined and analysed. This bias can be found in studies on hybrid governance, which tend to focus on "situations of weak statehood, and [have] shown a bias towards peripheries, while hybrid regulatory orders can be found in strong states and at the centre as well" (Reyntjens, 2015: 362). While these approaches aptly reveal a range of norms alternative to official, state and formal regulations, it is important that the analysis does not remain confined to socially regulated behaviours *that deviate from official norms*. It is necessary to broaden the focus to include all implicit, local, immanent and more or less tacit practical norms, whether or not they are deviations from explicit norms, whether they stem from old routines or are created in situ according to circumstances. This is why we argue for the importance of considering these many local norms *for their own sake*, before presenting them in relation to official norms as non-observant behaviours. This perspective makes it possible to show how "other informal institutions develop independently of formal institutional structures, in response to conditions that are unrelated to (and frequently pre-date) the formal institutional context" (Helmke & Levitsky, 2004: 736 note 103).

Interactions between Normative Registers

Studies on normative pluralism often address the interactions between different normative registers, but they rarely theorise them as such.[5] Twining (2010: 490), for example, offers an exhaustive list of the different ways in which "legal orders" interact and interrelate: conflict, competition, symbiosis,

[4] Although the analysis proposed by Olivier de Sardan goes beyond bureaucratic norms, its empirical basis is often confined to them, and, as he points out (p. 142), it deals more with deviations from official norms (state, bureaucratic or professional) than with deviations from social norms, a subject yet to be explored.

[5] Except for some publications from the above-mentioned regulation school that address various forms of institutional configurations between compatibility, complementarity, hierarchy or co-evolution, but mainly from a macro-economic perspective (Boyer, 2019).

subsumption, imitation, convergence, adaptation, partial integration, avoidance, subordination, repression or destruction. However, he does not go further, nor does he illustrate or define each of these modes of relation.

Based on their typology of "orders of worths", understood as modes of coordination, Boltanski and Thévenot are interested in what they call "disagreements" and "disputes" (2006: 33) between these different worths, and in the crises, composite situations, compromises and relativisations that result. Elsewhere, Thévenot states that "effective coordination mechanisms are composite and offer possibilities for compromise between these different orders" (1995: 40). The articulation between normative systems is thus mainly thought in terms of contradiction, combination and rearrangement. However, beyond empirical illustrations and an analysis of the contexts and pragmatic mechanisms that these compromises entail, these authors do not qualify them further and do not attempt to propose a systematic typology of modes of relation between normative regimes.

A few authors have tackled this task. One of the most accomplished categorisations is proposed by Helmke and Levitsky (2004), based on Hans-Joachim Lauth (2000). They do not explicitly propose a typology of the modes of interaction between normative systems, but develop a typology of informal institutions (complementary, accommodating, competing and substitutive), according to their relationship to formal institutions (convergent or divergent effects) and the latter's degree of effectiveness. Their typology is based on empirical studies carried out in various contexts and provides an exhaustive picture of the various ways in which different systems of norms interact. However, despite their criticism of this bias, their perspective is still based on the distinction between formal and informal institutions. Moreover, formal institutions constitute the reference point from which other institutional forms are considered. Finally, their discussion only deals with political institutions.

It is yet useful to extend the typology to all types of institutions, whether social, political or market-related, and to complete it with other modes of interaction between normative systems. This is the aim of Chapter 23, in which we address the interaction between normative systems through two vignettes from Vietnam. The first vignette focuses on party-state interventions in the local customs and sociability practices of the Tày populations of Vietnam's northern uplands. It illustrates the encounter and the balance of power between the State regulatory system and the local norms. By describing how the Tày populations deal with these external interferences, we analyse how these different normative orders interrelate. The second vignette examines the institutionalisation process of online sales of fresh food products in Hanoi. Municipal authorities try to formalise and standardise online buying and selling practices, especially by establishing a legal framework, developing corporate online platforms and promoting third-party certified "safe" food products. Nevertheless, many consumers buy uncertified food products on social media (such as Facebook) through unilateral and often interpersonal relationships,

therefore escaping the State's normative system and control, and altering the impersonal market logic. Our analysis of trust production points out the composite arrangements that take place between interpersonal and unmediated relationships (Boltanksi and Thévenot's "Domestic World"), impersonal market mechanisms ("Market World") and procedural norms based on the rule of experts and public authorities ("Civic and Industrial Worlds"). Ultimately, drawing on these cases, we conceptualise five modes of interaction between normative systems: coexistence, combination, opposition, substitution and hybridisation.

This typology is partially based on the one proposed by Chauveau et al. (2001). The authors distinguish five logics of confrontation and negotiation between distinct normative systems: ignorance, diversion, reciprocal manipulation and instrumentalisation, competition and exclusion, and convergence. This typology seems to be one of the most operational, but it has its limitations.

Firstly, as the authors point out, "these types are not exclusive of each other" (2001: 154), which blurs the properties of each type identified and confuses the classification. Indeed, while typological distinctions never totally match social reality, since actual practices are often ambivalent and dynamic, ideal–typical categories must nonetheless be exclusive of each other in their definition in order to be operative. A second limitation concerns the type of interrelation called "reciprocal instrumentalisation of norms". For the authors, "this logic can also lead to informal arrangements that combine, without necessarily opposing them, different systems of norms" (2001: 156). In our view, this logic refers to a broader category, that of combination between normative registers, while instrumentalisation is only a sub-modality within it (see Chapter 23). Moreover, it tends to be confused with another of their categories, the "logic of convergence", which refers to the functional complementarity between different normative registers.[6] The final limitation of this typology is the authors' use of the term "hybrid", which is absent from the first version of their text, but widely used in the second. Sometimes used to describe a specific mode of relation—the complementarity or combination between different systems of norms—, it is also used as a cross-category for all modes of interaction that pertain to an assemblage. The category "hybrid" is also associated with the idea of "piling up" (*empilement*). However, in our view, hybridisation refers rather to a specific mode of articulation in which the boundaries between interrelating registers become blurred, distinct from

[6] In a second unpublished version of the text ("La pluralité des normes et leurs dynamiques en Afrique. Apports de la recherche aux politiques publiques"), presented in the framework of the summer school "Journées de Tam Đảo" organised in Vietnam in 2010, the authors took up their typology by modifying precisely the categories we are discussing: the "logic of diversion" being integrated into the "logic of reciprocal instrumentalisation" and the "logic of convergence" being designated as a "logic of complementarity and composition".

complementarity and piling up (Yang, 2000). This extensive use of hybridisation is common in the literature on normative pluralism, in particular in studies that address "hybrid governance", to describe the co-presence of different institutions and norms within the same society, without these regulatory regimes being formally entangled or mixed—contrary to what "hybridisation" (in the strict sense of the term) suggests.

Conclusion

Institutions are more or less stable systems of norms that shape behaviour as much as actors make use of them and transform them through concrete social interactions and practices. As a regulating force of social relations created by human collectives to reproduce the social fabric, they are a manifestation of the political. Beyond this general statement on the necessary presence of institutions in any society ("*ubi societas, ibi ius*"[7]), empirical observation indicates the existence of a multitude of institutional forms made up of a large repertoire of norms that are constantly evolving. Specifically, interaction between normative registers does not take place *ex post*, between normative entities that would be pre-existing, always-already there. Rather, normative registers are also produced in and through their ongoing relations and interactions. This chapter has traced various approaches to normative pluralism and presented some attempts to build typologies of the modes of relation between different normative systems.

While the pluralism and encounter of different normative systems is a social fact that can be found everywhere (Twining, 2010), the forms and expressions of this pluralism, as well as the modes of interaction between the normative registers at play, vary according to the socio-historical contexts. In order to understand the concrete manifestations of this phenomenon, it is necessary to build up operational typologies as well as to multiply the number of localised case studies. Empirical research makes it possible to construct these typologies, to test their relevance and to adjust them as closely as possible to the diversity of social realities. Based on the theoretical contributions described here and in the light of two cases of normative pluralism in Vietnam, Chapter 23 proposes to move in this direction by combining typological distinctions with systematic contextualisation.

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[7] "Wherever there is society, there is law".

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PART II

Transnational Imprints on Political Norms



CHAPTER 3

The Universal Declaration of Human Rights: A Normative Benchmark for Southeast Asia?

Elsa Lafaye de Micheaux

Over the last decade, the diverse Southeast Asian political regimes have adopted relatively authoritarian and often repressive models of government. These States are buoyed by economic growth and a general increase in income, although marked by crises, most often quickly overcome. The general picture of a contemporary Southeast Asia with an authoritarian majority and few democratic governments (Morgenbesser & Weiss, 2018) should not, however, obscure the dynamics of each national political scene with their respective waves of progress and retreat of democracy and its corollary: the back-and-forth in terms of fundamental rights and freedoms.

Due to its rapid economic development, Southeast Asia benefits from the image of a rather stable region that has succeeded both economically and socially in its integration into the global economy. "However, transformations are very rapid, even brutal, and while governments, often very authoritarian, try to hide tensions to reassure investors and tourists, confrontations between development models are at the root of countless conflicts, some of which are very intense" (Mellac, 2019: 231).

Indeed, the accelerated dynamics of capitalist development, driven in particular by export-oriented agriculture, industrial zones, mega-dams and the revival of the mining sector, are combined with demographic growth and urbanisation, which increase the challenges posed by the appropriation and use of land. In addition to land-related conflicts, social movements which touch on

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_3

the political status of religion, corruption, nationalism, identity claims, industrial pollution and so on are being heard. But in most moments during the recent years, economic and political changes have been imposed from above by the exercise of public force. In some clear situations of human rights abuses, governmental political power seems to forge the dynamics while social movements are relegated to a rather passive factor: whether it is the 2014 coup d'état in Thailand, the repression of journalists or the bloody fight against drugs led by Rodrigo Duterte in the Philippines, the imprisonment of bloggers in Vietnam, the intimidation of the opposition in Malaysia between 2013 and 2018 or the brutal return to the military after the February 2021 coup in Myanmar.

In this context, the study of the regional dynamics of the Universal Declaration of Human Rights is also a way to assess its normative power. Sometimes seen as locally inadequate and poorly implemented, the Universal Declaration of Human Rights also competes in Southeast Asia with other regional doctrinal discourses (such as Asian values). This study of its diffusion and implementation will be conducted through relating the discursive field to (debatable but nevertheless necessary) indicators (Rich, 2011); comparison and typologies and trends. The reluctant, incomplete, disappointing and often misleading adoption of the Universal Declaration of Human Rights in Southeast Asia is examined here in three stages: (1) Signature; (2) Progress and (3) Avoidance (from putting into practice). Throughout this chapter, certain questions will be raised: to what extent has the UDHR been incorporated into the local legal systems? To what extent could ASEAN develop a specific human rights regime? Finally, might the UDHR conceivably constitute a normative and practical reference point for governments, associations and individuals: either as an achievement to be defended, or as a shared basis for the future of these polities?

Signing: A Review of UN Conventions in Southeast Asia in 2020

The Universal Declaration of Human Rights was signed in December 1948 in Paris: at that time, the only Southeast Asian country to participate was Burma, which had been independent since January but was plagued by strikes, armed struggle and mutinies. Burma signed the declaration alongside three other Asian countries: India and Pakistan, which had recently become independent, and also China, whose delegate, the intellectual and diplomat P.C. Chang, had made a significant contribution to the universalist character of the declaration during the deliberative process within the Third Committee.[1]

[1] Member and Vice-Chairman of the United Nations Commission on Human Rights, after having been the head of China's delegation (with the rank of Ambassador) to the Economic and Social Council of the United Nations in London and then New York, Peng Chun Chang participated decisively in the Third Committee, in charge of debating and

The Dynamics of Signature: Heterogeneous and Temporally Contrasted

The first step in examining the relationship of Southeast Asian countries to the UDHR begins with the review of the signing of international human rights conventions and covenants by their respective governments.[2]

The process of signature encompasses the 1948 UDHR and the two fundamental treaties (International Covenant for Civil and Political Rights, ICCPR and International Covenant on Economic, Social and Cultural Rights, ICESCR) adopted in 1966 (together referred to as the International Bill of Human Rights) as well as several international Conventions inspired by the UDHR, and their optional protocols (Table 3.1).

Asynchronous, the signing process is neither complete (not all conventions, covenants and protocols are signed) nor unanimous (not all countries sign or ratify the same text). The conflicting conditions under which most of the

Table 3.1 ASEAN's Signatories to international human rights treaties

	Signatory countries	*International conventions and covenants associated with the UDHR*			*Optional protocols*
		Number of agreements signed	ICCPR 1966	ICESCR 1966	– Human Rights Committee (1966) – Death Penalty (1989) – ICESCR (2008)
Best in class	**Indonesia**	7 conventions	yes	yes	No/no/no
	Cambodia	7 conventions	yes	yes	Yes/no/no
	Philippines	7 conventions	yes	yes	Yes/yes/no
	Timor Leste	6 conventions	yes	yes	No/yes/yes
Intermediate cases	**Thailand**	6 conventions	yes	yes	No/no/no
	Laos	6 conventions	yes	yes	No/no/no
	Vietnam	6 conventions	yes	yes	No/no/no
Least committed	**Brunei**	4 conventions	not	not	No/no/no
	Myanmar	3 conventions	not	yes	No/no/no
	Singapore	4 conventions	not	not	No/no/no
	Malaysia	3 conventions	not	not	No/no/no

Source *Office of the High Commissioner for Human Rights, United Nations* [https://www.ohchr.org]. Compiled by: A. Herbet
CCPR: Covenant for Civil and Political Rights.
ICESCR: International Covenant on Economic, Social and Cultural Rights.

approving the final document before it was transmitted to the United Nations General Assembly. Her role in affirming the universalist character of the text is unique (Twiss, 2010). Southeast Asia offered nothing equivalent to the Chinese intellectual contribution.

[2] Details of the signing of the protocols can be found in a previous French version of this work (E. Lafaye de Micheaux, 2022).

statesmen of the young decolonised nations of Southeast Asia attempted to forge and stabilise nation-building in the face of centrifugal social forces, and maintained their power in the midst of the Cold War, easily explain the practical impossibility for these governments to sign the early UN conventions, which they all too obviously violated. At the level of ASEAN from 1967 onwards, its five founding fathers advocated the rule of non-interference in the internal affairs of neighbouring countries. This principle was adopted as part of the *ASEAN Way*, establishing a modus vivendi capable of fulfilling the promise of peace and external stability[3] and has gained increasing substance over the past decades. Non-interference was also the clear sine qua non condition for the subsequent accessions of Brunei, at its independence in 1984, Vietnam, 1995; Laos, Burma (1997) and Cambodia, in 1999.

The signing of the Human Rights Conventions by the ASEAN countries presents a heterogeneous dynamic in its trajectory and contrasts in its practical significance. Indeed, only two Conventions have been signed by the eleven countries in the region: the Convention on the Rights of the Child (CRC, 1989) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1981) (signed by 11 countries/11). However, for these two conventions a number of reservations have been made regarding respect for Islam (Malaysia, Brunei) or arbitration (Thailand, Vietnam, Singapore), which weakens their scope. In addition to these two conventions ratified by all, the International Convention on the Elimination of All Forms of Racial Discrimination (CERD, 1965) has nine signatures, as well as the more recent Convention on the Rights of Persons with Disabilities (CRPD, 2006): they are among the most accepted conventions (9 countries/11). Together with the Convention against Torture (CAT, 1984), the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966) has eight signatures (8/11). However, it contains strong reservations from Indonesia, and rejection (Thailand, Myanmar) of the article on self-determination. The International Covenant on Civil and Political Rights (ICCPR, 1966), which is demanding for an authoritarian regime, comes next (7/11). Other areas rank low on number of signatures because they are problematic in terms of their implementation: the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW, 1990) and the International Convention for the Protection of All Persons from Enforced Disappearance (CED, 2006) have only been signed by a minority of Southeast Asian countries. Finally, the 1968 Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity has only been signed by Vietnam and the Philippines (2/11).

[3] Many strongmen led the founding countries of ASEAN at the height of the Cold War in 1967: Lee Kuan Yew for Singapore, General Suharto in Indonesia, Ferdinand Marcos in the Philippines and General Thanom Kittikhachon in Thailand. The Malaysian Prime Minister, Tunku Abdul Rahman, although the architect of independence, can be seen as a very moderate nationalist in comparison to his neighbours.

The fact that the main UN conventions have been ratified in the region by at least several countries indicates a *minimum* degree of acceptance of the global human rights system. To draw the contours of this acceptance more clearly, we may classify the countries in the region into three groups based on the number of conventions and protocols signed: the "best in class" (on paper); the intermediate cases ("half-hearted goodwill") and the least committed.

The Best Performers Show the Strongest Political Contrasts (Indonesia, Philippines, Cambodia and Timor Leste)

In Southeast Asia, the four countries that have ratified the most UN human rights conventions are Indonesia, the Philippines, Cambodia and Timor Leste. This calls for further analysis, as the political reality of human rights protection on the ground is extremely varied.

In the group (Table 3.2), the trajectories of signatures are strongly influenced by internal political conditions, as well as by the role of the international community in national construction and political stabilisation as two interplaying factors.

Indonesia has been a regional leader in signing conventions, but the momentum came rather late. The fall of the New Order finally allowed a breakthrough with the ratification of the CAT (October 1998) and the gradual signing and ratification of all other conventions apart from the Convention on the Enforced Disappearance of Persons (not yet ratified) and the Convention, on War Crimes and Crimes Against Humanity (not signed).

The Philippines also appears to be proactive in signing the Convention on Social, Economic and Cultural Rights early, and the Covenant on the Elimination of Discrimination against Women two years after its entry into force. The overthrow of Ferdinand Marcos in 1986 enabled the signing of the Convention on Civil and Political Rights and the Convention on the Elimination of Torture. As in Indonesia, the fall of the dictator quickly triggered a new dynamic in favour of signing. Finally, from June 1986 onwards, the other Conventions were signed on average two years after their entry into force, a rapid trajectory that paralleled the pace of the UN. However, the Convention on Enforced Disappearances (2006) has not yet been ratified and, following the election of Marcos's son, Ferdinand Romualdez Marcos in 2022, this seems unlikely to be on the agenda anytime soon.

Another country that has signed many international conventions is Cambodia, despite the poor quality of human rights protection in the country. The Convention on the Elimination of All Forms of Racial Discrimination was signed at the end of 1983 under the occupation of Vietnam, which had signed the Convention in 1982. The other signatures date from the post-Paris Peace Agreement period (1991-), during the national reconciliation process under the auspices of the United Nations. The signing of Human Rights

Table 3.2 The best-in-class (date of ratification or of signature if no ratification, and reservations to the conventions)

	1. Convention on the Elimination of All Forms of Racial Discrimination ***(CERD, 1965)***		*2. Convention on War Crimes and Crimes Against Humanity* ***(1968)***	*3. Covenant on the Elimination of Discrimination against Women* ***(CEDAW, 1981)***		*4. Convention on the Elimination of Torture* ***(CAT, 1984)***		*5. Convention on the Rights of the Child* ***(CRC, 1989)***		*6. Convention on the Protection of the Rights of All Migrant Workers* ***(ICMW, 1990)***		*7. Convention against Enforced Disappearances* ***(CED, 2006)***		*8. Convention on the Rights of Persons with Disabilities* ***(CRPD, 2006)***		
Signatory	*Date*	*Reserv*	*Date*	*Date*	*Reserv*	*Date*	*Reserv*	*Date*	*Reserv*	*Date*	*Reserv*	*Date*	*Reserv*	*Date*	*Reserv*	***Total***
Indonesia	25 June 99	*Refusing international judgement*	X	13 Sept 1984	no	28 Oct 98	*Reservation on the full sovereignty of the State*	5 Sept 1990	no	31 May 2012	no	27 Sept 10	*Signature without ratification*	30 Nov 2011	no	7
Cambodia	28 Nov 83	no	X	15 Oct 1992	*Made then withdrawn*	15 Oct 92	*Made then withdrawn*	15 Oct 1992	*Made then withdrawn*	27 Sept 2004	*Signature without ratification*	27 June 13	*Made then withdrawn*	20 Dec 2012	no	7
Philippines	15 Sept 67	no	15 May 1973	5 Aug 1981	no	18 June 86	*Made then withdrawn*	21 Aug 1990	no	5 July 1995	no	X		15 Apr 2008	no	7
Timor Leste	16 Apr 03	*Made then withdrawn*	X	16 April 2003	*Made then withdrawn*	16 April 03	*Made then withdrawn*	6 April 2003	*Made then withdrawn*	30 Jan 2004	*Made then withdrawn*	X		17 Jan 2023		**6**

Source United Nations High Commissioner for Human Rights, https://www.ohchr.org

Conventions continued, despite the authoritarian drift of Prime Minister Hun Sen.

Following independence in 2002, Timor Leste signed all the conventions and covenants associated with the UDHR between 2003 and 2004. It is the only country to have ratified the Protocol on the abolition of the death penalty. Rather than a simple transposition of Indonesia's signatures, this active entry into the international human rights system manifestated both democratic goodwill towards the international community and compliance with the UN system. Although it has signed slightly fewer Conventions than the other three countries in this group, Timor Leste nevertheless presents one of the most convincing dynamics of inclusion in the international human rights system: in the region, only the Philippines and Timor Leste have signed and ratified the CCPR-Second Optional Protocol aiming to the abolition of the death penalty.

Intermediate Cases: "Mainland Mixed Goodwill" (Vietnam, Laos, Thailand)

As the ASEAN member most closely tied to the Western bloc and relatively democratic before the 2014 military coup, Thailand sits in the class of intermediate signatories alongside Vietnam and Laos, the two socialist republics of ASEAN. The signing trajectory of the latter two testifies to a certain nominal commitment to the universalist and emancipatory values of the UDHR. The Vietnamese government for instance, regularly recalls that since the Doi Moi in 1986, "it has placed human rights at the centre of all its development policies".[4]

In these three mainland Southeast Asian countries, government positions combine traits of universalist goodwill with an art of reserve (Table 3.3).

In Vietnam, the Convention on Racial Discrimination (CERD), the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the International Covenant on Social, Economic and Cultural Rights were signed in 1982, before Doi Moi. Alongside the Philippines, it is the only ASEAN country to have signed the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity (in 1983). The Convention on the Rights of the Child (CRC) was signed and ratified as soon as it was adopted (1990). The 1984 Convention on Torture was only signed in 2007 and ratified in 2015. However, the Convention on the protection of migrant workers (ICMW) has yet to be signed.

Similarly, Laos has signed all the Conventions except the one on the protection of migrant workers and their families. It has however not ratified the Convention on the Elimination of Torture and has made reservations on civil

[4] Le Courrier du Vietnam, (21.02.2020), *Droits humains et droits nationaux* [https://lecourrier.vn/droits-humains-et-droits-nationaux/682730.html].

Table 3.3 Intermediate cases ("mainland mixed goodwill")

	1. Convention on the Elimination of All Forms of Racial Discrimination ***(CERD, 1965)***		*2. Convention on War Crimes and Crimes Against Humanity (1968)*	*3. Covenant on the Elimination of Discrimination against Women* ***(CEDAW, 1981)***		*4. Convention on the Elimination of Torture* ***(CAT, 1984)***		*5. Convention on the Rights of the Child* ***(CRC, 1989)***		*6. Convention on the Protection of the Rights of All Migrant Workers* ***(ICMW, 1990)***		*7. Convention against Enforced Disappearances* ***(CED, 2006)***		*8. Convention on the Rights of Persons with Disabilities* ***(CRPD, 2006)***		
Signatory	*Date*	*Reserv*	*Date*	*Date*	*Reserv*	*Date*	*Reserv*	*Date*	*Reserv*	*Date*	*Reserv*	*Date*	*Reserv*	*Date*	*Reserv*	***Total***
Thailand	28 Jan 2003	*General limitations to Constitutionand Law*	X	9 Aug. 1985	*Rejection of international arbitration*	2 Oct 07	*Reservation on the definition of « torture» (must fall within Thai national law)*	27 March 1992	*Reservations on Art. 22 on Children seeking Refugee status*	X		9 Jan 2012	*Signature without ratification*	29 July 2008	no	6
Laos	22 Feb 1974	*Rejection of self-determinationand religious freedom*	X	14 Aug. 1981	no	26 Sept 2012	*Reservation on all international competency*	8 May 1991	*Made then withdrawn*	X		29 Sept 2008	*Signature without ratification*	25 Sept 2009	no	6
Vietnam	9 June 1982	*Reservations on International judgement*	06.05.1983	17 Feb 1982	*Rejection of international arbitration*	5 Feb 2015	no	28 Feb 1990	no	X		X		5 Feb 2015		6

Source United Nations High Commissioner for Human Rights, https://www.ohchr.org

and political rights or on the elimination of racial discrimination, de facto limiting the scope of these latter signatures.

Finally, Thailand has signed all the Conventions except those on migrant workers and on the non-applicability of statutory limitations to war crimes. At the same time, it has made reservations to almost all the Conventions except those on the rights of persons with disabilities: these reservations greatly diminishes the value of the signature.

The Least Committed: Former British Possessions (Malaysia, Myanmar, Singapore and Brunei)

Four countries stand out for having signed very few international human rights conventions and for having refused to ratify the two fundamental covenants (ICCPR and ICESCR). Interestingly, all four countries share the historical experience of British colonial administration (Table 3.4).

The least committed are Myanmar, that has only signed three of the (most consensual) human rights conventions, and Malaysia, which, under UMNO rule from 1955 to 2018, then again in 2021–2022, signed only three Conventions (CEDAW, CRC and CRDP). A series of reservations made these Conventions conditional on compliance with the sharia and/or the Constitution, weakening their scope. Following the pro-rule of law ballot revolution of the May 2018 elections, the issue of Malaysia's ratification of UN conventions, including the reconsideration of the death penalty, has been raised to the highest level of parliamentary debate, but without the hoped-for progress (Sreenevasan, 2022).

Singapore signed the Convention on the Elimination of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC) in 1995 with a number of reservations, including the refusal of international arbitration, stating that it could disrupt the country's "ethnic and religious harmony". The Convention on the Elimination of Discrimination against Persons with Disabilities was signed, noting that it corresponded to existing Singaporean legislation. Finally, the Convention on the Elimination of All Forms of Racial Discrimination was signed in 2017 without any reservations. The death penalty (the abolition of which is covered by the Second Optional Protocol of the ICCPR) remains in force in Singapore, as the 2022 "wave of hangings" illustrates.[5]

Similar to the other countries in this category, the oil-rich Sultanate of Brunei only started signing human rights conventions in the 1990s (the first out of four in 1995). One of the four signed Conventions has yet to be ratified and the other three have been accepted with reservations that prevent their de

[5] Five persons were executed in Singapore in the first semester of 2022. They all had been sentenced to mandatory death penalty for drug-related offences. On May 12, 2022, UN experts, part of the Special Procedures of the Human Rights Council, condemned the execution of Malaysian Nagaenthran Dharmalingam and Singaporean Abdul Kahar Othman for drug-related offences (Nagaenthran was said to be mentally disabled).

Table 3.4 The least committed

	1. Convention on the Elimination of All Forms of Racial Discrimination ***(CERD, 1965)***		*2. Convention on War Crimes and Crimes Against Humanity* ***(1968)***	*3. Convention on the Elimination of Discrimination against Women* ***(CEDAW, 1981)***		*4. Convention on the Elimination of Torture* ***(CAT, 1984)***		*5. Convention on the Rights of the Child* ***(CRC, 1989)***		*6. Convention on the Protection of the Rights of All Migrant Workers* ***(ICMW, 1990)***	*7. Convention against Enforced Disappearances* ***(CED, 2006)***	*8. Convention on the Rights of Persons with Disabilities* ***(CRPD, 2006)***		
Signatory	*Date*	*Reserv*	*Date*	*Date*	*Reserv*	*Date*	*Reserv*	*Date*	*Reserv*	*Date*	*Date*	*Date*	*Reserv*	***Total***
Brunei	X		X	24 May 2006	*Reservations on what might be "contrary to islam"*	22 Sept 2015	*Signature without ratification*	27 Dec. 1995	*Subject to the Constitution and respect for Islam*	X	X	11 Apr. 2016	*Subject to the Constitution and respect for Islam*	4
Myanmar	X		X	22 July 1997	*no*	X		15 July 1991	*Series of reserv*	X	X	7 Dec. 2011	*Made, then withdrawn*	3

	1. Convention on the Elimination of All Forms of Racial Discrimination ***(CERD, 1965)***		*2. Convention on War Crimes and Crimes Against Humanity* ***(1968)***	*3. Convention on the Elimination of Discrimination against Women* ***(CEDAW, 1981)***		*4. Convention on the Elimination of Torture* ***(CAT, 1984)***		*5. Convention on the Rights of the Child* ***(CRC, 1989)***		*6. Convention on the Protection of the Rights of All Migrant Workers* ***(ICMW, 1990)***	*7. Convention against Enforced Disappearances* ***(CED, 2006)***	*8. Convention on the Rights of Persons with Disabilities* ***(CRPD, 2006)***		
Signatory	*Date*	*Reserv*	*Date*	*Date*	*Reserv*	*Date*	*Reserv*	*Date*	*Reserv*	*Date*	*Date*	*Date*	*Reserv*	***Total***
Singapore	27 Nov 2017	no	X	5 Oct. 1995	*Rejection of Article 1 and 29 (Arbitration) Rejection of Art. 11 (useless)*	X		5 Oct. 1995	*Many reserv*	X	X	18 July 2013	*With reservations*	4
Malaysia	X		X	5 July 1995	*Rejection of Article 16 and of the granting of nationality Convention Subjected to sharia and Constitution*	X		17 Feb. 1995	*Reserv de facto blocking the signatory process*	X	X	19 July 2010	*Rejection of 2 articles Subject to the Constitution*	3

Source United Nations High Commissioner for Human Rights, https://www.ohchr.org

Table 3.5 Classification of signatory countries: summary

Best-in-class	*Mainland mixed Goodwill*	*Least committed (Ex-British possessions)*
– Numerous conventions – Two Covenants signed – One optional Protocol signed (in three out of four cases)	– Some conventions – Two Covenants signed – No optional protocol signed	– Few conventions – No Covenant signed (except Burma: ICESCR) – No optional protocols

facto application, except in harmless cases subject to the respect of the *sharī'a* and the Constitution.

The fact that these are authoritarian or semi-authoritarian regimes does not alone suffice to explain the weakness in the implementation of the UDHR. This would be to overlook the existence of democratic progress in these countries, as well as setbacks in countries that perform better in terms of signing international human rights treaties. Arguably, what also plays a role is the British legacy of a preference for the *common law*.

The classification of signatory countries is summarised in Table 3.5.

ASEAN countries have mostly accepted the human rights discourse anchored in the UN context. It undeniably represents a shared rhetoric (Rich, 2011: 186) which runs counter to the "Asian Values" discourse.

However, behind the relatively high number of signatures and ratifications, the degree of acceptance and transposition into local legal systems remains highly variable, even questionable. The ratification of these treaties has been further compromised by reservations and objections.

At the regional level, however, the first decade of the new millennium bore the mark of relative progress in the implementation of the UDHR.

Moving Forward: A Protective Regime in the Making, ASEAN Progress from 1998 to 2012

Notwithstanding the fact that the issue of human rights took far too long to make its way onto the ASEAN agenda, and despite the glaring violations thereof, it is now, at least gradually, becoming part of regional policy among states. The ASEAN agenda can thus be viewed as departing from its initial objectives of security (Boisseau du Rocher, 2017) and economic development. Still, the notion of a regional system that is more protective of rights appears to be relatively distant, and even at odds with political scientists' predictions. Criticism of the shortcomings vis-a-vis effective protection of these rights and freedoms continues to dominate. Nevertheless, Jacques Dupouey, one of the few European lawyers to take ASEAN's legal development seriously, a process which began in 1967 (Dupouey, 2017), believes that the human rights dimension is not absent from the modest normative structure being created. Successive integration phases illustrate this regional empowerment, at

the end of the 2000s and at the beginning of 2010s for instance, the defence of human rights is progressively viewed as vital and imperative: human rights values and their inclusion in institutional work have since evolved along these lines.

Unprecedented Regional Institutionalisation Stages

Parallel to the rise of an ASEAN values discourse, somewhat paradoxically, the elaboration of a legal regime for the protection of human rights can be observed in Southeast Asia. No mention was made of such during ASEAN's first 25 years. The turning point came in 1993 with the Vienna Conference, which left its mark on the ASEAN approach to human rights. In Southeast Asia, this conference was preceded by a preparatory meeting from which the Bangkok Declaration was drawn up to reflect the aspirations of the countries in the region. The 26th ASEAN Ministerial Meeting which took place in Singapore in July 1993 released a Communiqué recognising that

> Human rights (which) are closely related, indivisible, are civil, political, economic, social and cultural rights. These rights are of equal importance. They must be approached in a balanced and integrated manner and protected and promoted taking into account the specific cultural, social, economic and political circumstances… the promotion and protection of human rights must not be politicised. (Dupouey, 2018)

There are three asserted principles here: respect for national sovereignty, territorial integrity and non-interference in internal affairs; the need to link civil and political rights with economic, social and cultural rights and an emphasis on economic growth and development rather than on fundamental rights and freedoms. Much has been made of the distancing of the principles of individual freedom (while "Asian values" emphasise the nation, society, family) and the affirmation of cultural relativism.

Carried by ASEAN itself, in other words by the consensus of these Southeast Asian States, this Declaration paved the way for future commitments in favour of ensuring due consideration of human rights on a regional scale. Indeed, as early as 1995, a working group for the establishment of ASEAN human rights mechanisms was set up, followed by the drafting of successive action plans: ASEAN Vision 2020 Hanoi, Vietnam, (1997(only two years after Vietnam joined ASEAN) and Vientiane, Laos,) in 2004, which organised the preparation of the ASEAN Community (2015).

Against this backdrop of renewed ASEAN institutional development we can observe increasing progress vis-a-vis the recognition and protection of human rights. Firstly, the ASEAN Charter, considered as the "Constitution" of ASEAN was adopted in November 2007. The ASEAN Human Rights Declaration was subsequently signed in Phnom Penh, on the 18th of November 2012. The latter reaffirms the respect for and protection of human rights and

fundamental freedoms, as well as the principles of democracy, the rule of law and good governance. It also upholds ASEAN's commitment to the UDHR and assesses the importance of efforts in promoting human rights[6]". Furthermore, the 31st of December 2015, at the end of the Malaysian chairmanship, saw the establishment of the ASEAN Community: "Human rights can now be considered part of the ASEAN Community, although they are not explicitly mentioned in the three pillars. Several entities, in particular the ASEAN Political and Security Community and the ASEAN Socio-Cultural Community have recognised human rights principles, such as equality and justice" (Khoo, 2017: 67).

In a departure from the defensive posture of states towards human rights terminology, the institutionalisation of a more protective ASEAN regime was underway in the 2000s (Dupouey, 2018). Two precursor areas of vigilance are the protection and promotion of the rights of migrant workers on the one hand, and the protection of the rights of women and children on the other. Following the "ASEAN Declaration against Trafficking in Persons, Especially Women and Children" (2004), the Association issued its "Declaration on the Protection and Promotion of the Rights of Migrant Workers" in January 2007, the *ASEAN Committee on Migrant Workers* (ACMW, 2007) was subsequently established. This was initially led by Malaysia and Singapore, Thailand and Indonesia became involved too. An ASEAN Women's Committee (AWC) was established in 2005, giving rise to the Jakarta based *ASEAN Commission on the Promotion and Protection of the Rights of Women and Children* (ACWC) in 2010, based in Jakarta. The latter's efforts leading to the adoption of the "ASEAN Declaration on the Elimination of Violence against Women and Elimination of Violence against Children" at the ASEAN Summit in 2013.

The Thematic Commissions and regional initiatives aimed at bolstering Convention implementation, heralded the establishment of the ASEAN Intergovernmental Commission on Human Rights (AICHR). The AICHR was the fruit of years of discussion and external pressure and was launched at the opening of the 15th ASEAN Summit in Cham Am, Hua Hin, Thailand in 2010: It comprises the ten ASEAN member countries along with Timor Leste which holds observer status, and manifests ASEAN's commitment to a regional cooperation strategy on human rights.

Progress Markers: National HR Institutions and HR Indicators

In parallel, new national instruments have been developed through the establishment of national human rights institutions (NHRIs) responsible for the promotion or protection of human rights. The national institutions act as interfaces in ensuring international standard implementation at local level. They promote States' compliance of international obligations and mediate

[6] Access to the ASEAN HR Declaration (19.11.2012). [https://asean.org/asean-human-rights-declaration/].

Table 3.6 National Human Rights Institutions in Southeast Asia

Best-in-class	*Intermediate cases*	*Least committed (Ex-British possessions)*
Philippines: CHRP, 1987 Indonesia: Komnas HAM, 1993 Timor Leste: PDHJ, 2004	Thailand: NHRCT, 2001	Malaysia: Suhakam, 2000 Myanmar: MNHRC, 2011

between human rights associations and governments. They can emerge autonomously, as in the Philippines in a context of martial law abuses,[7] or over time, as was the case following the Paris Principles (1993).

The most recent was set up in 2011 in Myanmar, but it does not cover all Southeast Asian countries: of the three groups established above, the states with the best record of signing treaties and conventions are also the most active here. Cambodia too falls within this bracket, although they have now reportedly abandoned the project, Vietnam has been committed to establishing such an institution since 2013 (Khoo, 2017: 71). There are only 6 NHRIs in Southeast Asia in 2023 (Table 3.6).

According to Khoo Ying-Hooi, the most significant regional instrument, in use today was created in 2009: the *Southeast* Asian *Human Rights Network* Forum (SEANF), a network of national human rights institutions (NHRIs) which aims to "join forces to accelerate the establishment of an ASEAN human rights mechanism" (Khoo, 2017: 71). This network was broadly considered to have "the potential to make a huge contribution, not only in the promotion but also in the protection of human rights, by acting as a bridge between the ASEAN Intergovernmental Commission on Human Rights (AICHR) and civil society organisations" (Khoo, 2017: 73).

Thus, the shift in the ASEAN Community with respect to human rights is now more widely recognised and, on the surface at least, even acknowledged. Further to formal progress in building an ASEAN-wide human rights regime, the Freedom House Political Rights and Civil Liberties Index noted improvements in political rights and civil liberties in the majority of ASEAN countries between 1998 and 2012.

As Table 3.7 illustrates, improvements occurred in seven of the eleven countries in the region. We have first to consider the high number of scores 6 and 7, featuring the lowest levels of freedom and rights for countries according to the Freedom House system of rating. Beside this, the most notable improvements were in Post-Suharto Indonesia,which transitioned from being "not free" to "free", followed by Timor, which gained independence in 2002. Conversely, only two countries, the Philippines and Thailand (in the aftermath of the

[7] The creation of the Philippine Commission on Human Rights (CHR) is enshrined in the 1987 Constitution (drafted under President Cory Aquino), under Article XIII (Social Justice and Human Rights).

Table 3.7 Human rights indicators in Southeast Asia at the turn of the twenty-first century: a dynamic of regional progress

	1998		2003		2007		2012	
Southeast Asian countries	Political Rights	Civil Liberties	Political Rights	Civil Lib.	Political Rights	Civil Lib.	Political Rights	Civil Lib.
Brunei	7	5	6	5	6	5	6	5
Cambodia	6	6	6	5	6	5	6	5
Indonesia	6	4	3	4	2	3	2	3
Laos	7	6	7	6	7	6	7	6
Malaysia	5	5	5	4	4	4	4	4
Myanmar	7	7	7	7	7	7	7	7
Philippines	2	3	2	3	4	3	4	3
Singapore	5	5	5	4	5	4	5	4
Thailand	2	3	2	3	6	4	6	4
(Timor Leste)								
Vietnam	7	7	7	6	7	5	7	5

Keys						
	Score	Score from 1 (highest degree of freedom and rights) to 7 (lowest)				
	Highlights	6, 7				
	Dynamics	Significant improvement	Slight improvement	Stability	Slight deterioration	Significant deterioration

Freedom House assigns each country two scores, one for political rights and the other for civil liberties, based on the total scores obtained for questions relating to political rights and civil liberties. Each score ranges from 1 to 7, with 1 representing the highest degree of freedom and 7 the lowest. Further methodology: https://freedomhouse.org/report/freedom-world#Data*Source* Freedom House Index

2006 military coup), back-slided, becoming "partially free". Finally, it is worth noting that the worst-rated countries under these criteria, Laos and Myanmar (classified as "not free"), stagnated between 1998 and 2007. Is it possible to link this progress in the effective defence of rights to the normative frameworks of international treaties and conventions stemming from the UN on the one hand, and from ASEAN on the other?

Avoiding Consequences: Declarations and Signatures with Little Follow-Up

Despite the cascade of signatures and the momentum of institutional progress at the ASEAN level, the region still seems to refer to the UDHR to avoid the implementation of principles, despite its commitments. As Antje Jetschke recalls, the adoption of the ASEAN Charter by governments that had previously preferred to rely on the principles of non-interference and sovereignty in 2007 affirmed a commitment to uphold human rights. This came as a surprise to observers. "The organisation presents[ ] itself as an economic and political community concerned with the rule of law as well as political stability. When Southeast Asian countries asserted that human rights were now central to regional integration, the primary goal remained economic and strategic, aimed at continuing to attract foreign investment, not political (Jetschke, 2017: 67). In addition, commitments are waning: the Asian values discourse has been

revived in parallel with the recent wave of autocratisation in Southeast Asia, as Mark Thompson clearly states (Chapter 17).

Both immediate political history and human rights indicators affirm that the results in terms of promotion and protection of rights remain weak on the ground. In fact, the political, administrative and institutional capacity to promote and protect rights remains very limited. It oscillates between progress and setbacks on a timetable determined by the realities on the ground rather than by external commitments. Avoiding the implementation of these rights and drawing necessary practical consequences appears to be a strategy that is widely adopted at the regional level. It corresponds well to the theoretical background of "Asian values", which emphasises the specific and the historical as well as the political character of human rights and their interpretation. Their implementation cannot be directly copied from a dominant Western interpretation, nor imposed from the outside if the political context does not lend itself to it, i.e. if the government in place is not ready.

Maintaining Paradigmatic Asian Values

Neither really coherent nor overt, the discourse on Asian values supports the existence, or even the pre-eminence, of common cultural values in Asia (theoretically shared by East Asia, and even beyond: Southeast Asia, India, etc.). This essentialist position, often described as culturalist and relativist, directly supports or even underpins statements made in relation to it in the 1990s. As expressed during the preparatory meetings for the world conference for the 45th anniversary of the UDHR, and uttered by the Singaporean Minister for Foreign Affairs during the Vienna Conference (June 1993), the divergence of views clearly concerns the universality of human rights. Distancing themselves from accusations of relativism, these authors defend themselves against dictatorial discourse ("Culture is no excuse"). Bilahari Kausikan, the Asian Values theorist[8] claimed in 1995 that "order and justice are achieved in different ways in different countries and at different times". In terms of development, Asian societies are struggling with the question of how to sustain their economic success over the long term. They are "searching for their own formula for balancing capitalism, state, society" (p. 277). Finally, the extent and application of fundamental rights and freedoms is the product of historical experiences of particular peoples: like all norms, they vary from one culture or political community to another", and over given time periods. Constructivist sociology could not put it better today! Thus, in one move, the Bangkok Declaration recognises the universality of human rights while simultaneously highlighting contextual diversity (religious, historical and cultural).

[8] Former Ambassador-at-Large of Singapore, Bilahari Kausikan is a graduate of the Raffles Institution, NUS (Singapore) and Columbia (New York).

Asian values are a constant underlying presence and still inform, to an extent, the human rights stances adopted by ASEAN and its member countries (Chapter 17).

Transposing Asian Values into Human Rights Texts

As ASEAN makes formal progress towards a new regional human rights system, a body of Asian values and intellectual references can be observed in the form of the ASEAN Declaration on Human Rights (2012). The Declaration re-emphasises the principle of national sovereignty/territorial integrity/non-intervention in internal affairs (ASEAN guiding principles since its inception). Several provisions clearly weaken the universalist message behind human rights' promotion, a criticism that will be very systematically addressed.

The Office of the High Commissioner for Human Rights (Geneva), in an Open letter published in 2012, recalled that the region must apply the principles of the UDHR *at a minimum*, something that it does not really do. The letter referred to the drafting of the Declaration as a historic task, the Coordinating Committee of the Special Procedures of the Human Rights Council emphasised that the adoption of a credible ASEAN Declaration on Human Rights would be a significant step forward, if at a minimum, the ASEAN human rights instrument upheld international human rights standards. However, ASEAN's recognition of human rights is qualified by provisions such as "in accordance with national law", which governments can use to justify their failure to meet international standards. Another point of contention is that the Declaration departs from the international law terminology and refers to balancing rights with duties.

Such a provision should not be included in a human rights instrument, whose primary objective is to protect individuals and groups against the abuse and misuse of state power. It is also recalled that restrictions on grounds of "morality, public order and national security", although deemed legitimate, carry the risk of being used to impose arbitrary, disproportionate and unnecessary restrictions on human rights. Finally, it is regretted that concerns of particular relevance to the region are not present in the Declaration, such as asylum from persecution, the principle of non-refoulement and the response to statelessness (especially of children).

Compromising Human Rights

For B. Kausikan, the practical implementation of a human rights regime in Asia should occur at the Asian government level. It is not to be undertaken by citizens or political rights groups supposedly supported by foreign powers. While universality is a crucial element in the controversy surrounding Asian values, the authors argue that one should accept the idea of rights being adopted in line with the implementing country. The country's culture must be factored

in. Also, pragmatically, its specific development context, economic and political, cannot be overlooked. As Wong Kan Seng, Singaporean Minister, says: "at best, Human rights progress is marked by ambiguity, compromise and contradictions".[9]

An example of this ambiguous progress through compromise is the social clauses that currently apply to ASEAN countries in their latest trade and investment agreements with the European Union: as "social conditionality offers a first privileged terrain to try to grasp the phenomena of transformation of social rights" (Porta, 2019: §6), it is at work today in the Southeast Asian region in new areas of international and European regulation through trade agreements such as the UE-Vietnam or UE Singapore Trade Agreements, the Due diligence Regulation and in investment agreements.

Finally, the rise of the People's Republic of China is also facilitating Asian values' comeback. They are increasingly referred to in pan-Asian political or diplomatic meetings, as exemplified by a meeting of Asian countries in May 2019 which revived Asian values' rhetoric: these values are mentioned, without any introduction or explanation, as if, despite having not been brought up for twenty or so years, they had never ceased to permeate and vitalise, if not the regional public space, then the Asian intellectual soul at the very least: "Asian values favour a consensual approach and communalism over individualism, and give priority to social order and harmony as well as respect for elders, discipline and a paternalistic state and the primary role of government in economic development. Asian values are the essential ingredients for learning to work together in trust and, therefore, for promoting globalisation".[10]

Acknowledging Principles, Failing to Implement Them

There is no real enforcement of the human rights system in Southeast Asia, partly because there is no common position on human rights among the region's countries. This is due to their profoundly heterogeneous political regimes, the political diversity of their governments and their complex bilateral relations with Europe and the United States. Enforcement also suffers from the fact that Southeast Asian countries are characterised by authoritarian rule, or at least strong political control. Lastly, the legal system for the promotion and defence of human rights has no power of imposition or coercion: the veneer of progress ostensibly illustrated through the ever growing number of research centres, lawyer networks, parliamentarians and committees belies a legal reality whereby no obligation for governments to protect and promote human rights exists. In addition, very few human rights reports are actually

[9] Press Release: Statement By Mr. Wong Kan Seng, Minister for Foreign Affairs of the Republic of Singapore World Conference *on Human Rights*, Vienna, 16 June 1993–The Real World of Human Rights, 10p. [https://www.nas.gov.sg/archivesonline/speeches/record-details/7b65bcf8-115d-11e3-83d5-0050568939ad].

[10] Joefe Santarita, dean of the University of the Philippines Asian Centre, quoted by *China Daily* (Sarmiento, 2019).

submitted by Southeast Asian governments to the Human Rights Committee, despite their obligation to do so.

There are other elements that regimes take advantage of when avoiding their commitments. Important limitations are noted at the institutional structure level regarding the rights protection regime: firstly, and notably, the clear absence of a mandate to conduct independent investigations and the appointment of AICHR members by governments to whom they are accountable deprive these members of their function of protecting human rights independently of states. On the other hand, in most countries in the region, the Commissions in charge of the regional rights protection mechanism do not demonstrate any guarantee of independence as their members are appointed by the governments in place.

Finally, national human rights institutions, because they are publicly funded, are often in a particularly ambiguous position to play their advocacy role. In Southeast Asia, the East Timorese institution, the *Provedor for Human Rights and Justice of Timor Leste* (PDHJ, 2004), is the only one that refers to an ombudsman, i.e. mediator, with prerogatives of investigation and control of state administrations, the others only play an advisory and relay role between civil society and the government. As a result, and also because the ASEAN Intergovernmental Commission on Human Rights (AICHR) seems to have chosen to consider them as civil society organisation among others, and not to rely on their political or thematic expertise, these institutions cannot effectively contribute to progress in the promotion or protection of rights in the region (Khoo, 2017). The lack of legitimacy, credibility and room for manoeuvre of these national institutions is evident, with Timor Leste being the one exception.

The typology drawn up by the International Council on Human Rights Policy (2015) is very enlightening when considering why these national institutions were created and consolidated in recent years. Alongside countries in post-conflict transition (Ireland, South Africa, the Philippines, to which we should add Timor), a second category mentions those that aim to strengthen the protection of fundamental rights (France, Canada, Australia). The last configuration brings together states facing international pressure due to human rights violations: creating these dedicated national institutions therefore makes it possible to show that something is being done to respond to these problems. This last category is clearly the most relevant to explain the existence of most NHRIs in Southeast Asia: these institutional creations appear ultimately designed to satisfy the states' partners on the international stage. They may well be simply the result of State adaptation (Cardenas, 2001): "some governments think that the establishment of these human rights institutions will be a way of improving their international reputation, *at little cost*" (Khoo, 2017: 69). This is also the thesis argued by K. Fitzpatrick and C. Renshaw: in the countries where NHRIs are established, they are not the only thing to have an impact. Renshaw: in countries where international pressure is strong while domestic pressure is relatively weak, possibly because

it is muzzled, national human rights institutions are essentially designed to promote the States. This explains "why we have abusive regimes with very poor human rights records that will try to set up a national human rights institution" (Fitzpatrick & Renshaw, 2012).

The progress made in building a formal normative system must therefore be reduced to modest proportions when one considers the impotence of the implementation instruments, the low number of reports on human rights submitted to the UN, and the considerable delay in submitting these reports, or indeed how many of them are suspended. Certainly, even if the conventions are signed, at least if some of them are, we still observe that the acceptance of their enforcement mechanisms remains to be seen in the vast majority of cases.

The Temptation to Backslide on Rights Protection Since 2014

Despite the signatures and formal progress, human rights violation remains the norm regionally, effectively ensuring that their effective protection be a distant prospect. In order to illustrate this gap, an examination of human rights indicators in relation to the formal commitments made by the region's states and the normative dynamic in which ASEAN operates underscores the profound contrasts within the countries of the region. It also highlights the gap between partially recognised principles and their realisation in terms of the defence of rights. To establish a diagnosis of the human rights situation in Southeast Asia also requires, in the most traditional way for critics of government action, an examination of the violations of these rights, as recorded annually in Amnesty International's reports, by Human Rights Watch or the International Commission of Jurists, or indeed as summarised in the human rights indicators, for example those of Freedom House (Rich, 2011). However, all these reservations, both on the principles and on their implementation, should not obscure the formal progress dynamic that emerged. This is all the more notable as this dynamic may well have since dissipated, merely serving as a reminder of a historic peak in the regional history of the establishment of legal structures for the defence of rights.

Back to the drawing board then? While there was talk of civil societies waking up, of democratic transition and of social and political progress bolstering the continuation of a strong trend towards higher incomes in the region, the year 2014 saw this turn on its head through the emergence of a new dynamic of regression in the protection of human rights. The year was marked by a coup d'état in Thailand, reflected in the Freedom House indices, the authoritarian flight to safety of Malaysian Prime Minister Najib Razak, for instance (Gomez & Ramcharan, 2014).

In the aftermath of the Phnom Penh Declaration (2012), an ephemeral stability process was roughly reflected in the Freedom House indices of civil liberties and political rights (Table 3.8). It was the result of a regional syncretic combination of several trends: the decline of human rights in the world; the weakening of Europe's normative power; the withdrawal of US involvement

and the rise of Chinese economic and geopolitical power. Indeed, following the financial crisis of 2008 and 2010–2011, the European democratic model began a rapid descent in Asia. That was before it was further weakened by the rise of illiberal democracies and populism. Two years later (2016), the region witnessed the unexpected disengagement of the United States under the Trump presidency, suddenly renouncing its internationalist and interventionist vocation that Barak Obama's Asian pivot had almost solidified. In this profoundly renewed context, the spread of the competing Chinese political model to Southeast Asia can be read as a potential trend: at the time classified as "unfree" by the Freedom House criteria,[11] the People's Republic of China has increasingly asserted itself as a normative power since 2013 under President Xi Jinping.

The Chinese authoritarian political model, economic expansion through direct investment by relocating companies, massive investment in infrastructure, and Chinese development aid seem to be leaving an unprecedented normative imprint on the Southeast Asian space (Lafaye de Micheaux, 2020). If we take the example of aid, of which the poorest countries in the region (Myanmar in the first instance, then Cambodia and Vietnam and to a lesser extent Laos) have been the main recipients between 2000 and 2012, along with Indonesia, its major principles are at odds with European aid principles (Lafaye de Micheaux, 2023). The same can be said for Japanese cooperation, both are demanding in terms of political conditionality and rigorous in terms of fund allocation transparency. Official development assistance from multilateral organisations can be described in the same way. The succession of the last three tables exhibit clearly that after the wave of improvment observed at the turn of the century (1998–2012), a relatively more balanced

Table 3.8 Regional dynamics of regressive stability: 2013–2019

	2013		2014		2018		2019	
Southeast Asian countries	Political Rights	Civil Liberties	Political Rights	Civil Lib.	Political Rights	Civil Lib.	Political Rights	Civil Lib.
Brunei	6	5	6	5	6	5	6	5
Cambodia	6	5	6	5	6	5	6	5
Indonesia	2	3	2	4	2	4	2	4
Laos	7	5	7	5	7	5	7	5
Malaysia	4	4	4	4	4	4	4	4
Myanmar	6	5	6	5	5	5	5	5
Philippines	3	3	3	3	3	3	3	3
Singapore	4	4	4	4	4	4	4	4
Thailand	3	4	3	4	2	3	2	3
Timor Leste	3	4	3	4	2	3	2	3
Vietnam	7	5	7	5	7	5	7	5

Keys	Score from 1 (highest degree of freedom and rights) to 7 (lowest)					
	Dynamics	Significant improvement	Slight improvement	Stability	Slight deterioration	Significant deterioration

Source Freedom House Index 2020

[11] The PRC is associated with indices 7 for political rights, and 6 for civil liberties, values that have been stable over the period.

Table 3.9 Significant Regression (2020-2023)

Southeast Asian countries	2020		2021		2022		2023	
	Political Rights	Civil Liberties	Political Rights	Civil Lib.	Political Rights	Civil Lib.	Political Rights	Civil Lib.
Brunei	6	5	6	5	6	5	6	5
Cambodia	7	5	7	5	7	5	7	5
Indonesia	2	4	2	4	2	4	2	4
Laos	7	6	7	6	7	6	7	6
Malaysia	4	4	4	4	4	4	4	4
Myanmar	5	6	5	6	7	6	7	6
Philippines	3	4	3	4	3	4	3	4
Singapore	4	4	4	4	4	4	4	4
Thailand	6	5	7	5	7	5	6	5
Timor Leste	2	3	2	3	2	3	2	3
Vietnam	7	5	7	6	7	6	7	5

Keys	Score	Score from 1 (highest degree of freedom and rights) to 7 (lowest)				
	Dynamics	Significant improvement	Slight improvement	Stability	Slight deterioration	Significant deterioration

Source Freedom House Index 2020

and stable political configuration has been attained regionally (Table 3.8): the lowest scores—6 and 7—represented then only 20% of the total of the ASEAN scores between 2013–2019 (instead of 39% as in table 3.7). However, during the early 2020s, from the Covid-Pandemic outwards, there was a noticeable and significant regression in various aspects of the Human Rights as they are encompassed in the UN Declaration. The weight of scores 6 and 7 (Freedom House, 2024) almost doubled compared to previous years (Table 3.9). A clear and deep decline of civil freedom and political rights is registered during this most recent period.

Conclusion: An Unstable Process

UDHR implementation in Southeast Asia is an unstable process, depending primarily on the position of states in the global system of international relations. Legal and political dimensions remain largely uncorrelated in that regard.

In Southeast Asia, the different trajectories of the UDHR's incorporation into national laws seem at best to be dissociated from the social dimension of human rights in the countries involved. The emphasis placed by "Asian values" advocates the notion of process, rather than on the state of affairs at a given moment in terms of fundamental rights and freedoms. It appears to be highly relevant to the reading of UDHR principles and mechanisms in the region. At a formal mechanisms level and when it comes to the effective protection of fundamental rights and freedoms, the analysis highlights the need to take into account national political conditions over time. Setting normative developments in particular national contexts makes it possible to understand both the divergence in the commitments made by ASEAN states and in grasping the political and discursive spaces that allow governments to manage or justify

the gap between these commitments and the de facto protection of individuals. Finally, a reading of the evolution of formal and real rights (dynamics that are both asymmetrical and non-linear) highlights the elastic and, at best, de-correlated nature of these trajectories: there is no simple and clear relationship between progress in the signing of UN Conventions associated with and deriving from the UDHR and the state of social rights in the countries. A high level of commitment or rapid progress vis-a-vis commitments does not translate into improved guarantees for the effective protection of people's rights in those states. Nevertheless, the reverse is not true either: these international commitments cannot be seen as entirely artificial.

In general, over the past half century, the lack of a true nexus between the formal dynamics of the UDHR and its associated Conventions in international relations for Southeast Asia, including and especially in relation to progress at the ASEAN regional level, and the objective quality of actual respect for these rights in the area is evident. After a decade of progress which saw agreements being signed at the end of the Cold War, followed by a decade of relative improvement in the protection of rights and respect for civil liberties at the turn of the twenty-first century, a process which culminated in the formal ASEAN Declaration on Human Rights in Phnom Penh in 2012. Now, not only are there continuous conflicting situations, within what must be recognised as a space of great legal and political heterogeneity, but dynamics remain as contrasting as ever.

Acknowledgements The tables in this chapter have been prepared with Augustin Herbet, graduate of IEP Paris and a Masters student in political science at the University of Paris 1 Sorbonne. I also would like to sincerely thank the *Asean-China Norms* international research network (CNRS) for the encounters and for the intellectual support that this stimulating and warm working framework has brought over the years. It led to a first presentation of this chapter at the 70th anniversary of the UN Universal Declaration of Human Rights (Paris, 1948–2018). I shared the stage with Ambiga Sreenevasan who gave a vibrant testimony on "Malaysia Baru", the GE14 ballot revolution on the 9th of May 2018. The conference allowed me to share my hopes and fears against the backdrop of the complex political history of Southeast Asia in front of human rights specialists, all of whom were aware of Asian Values. A more detailed version of this text, entitled "*Décliner la Déclaration des droits de l'homme en Asie du Sud-Est*" can be found (in French) in A. Boza, E. Decaux et V. Zuber (eds.), *Histoire et postérité de la Déclaration universelle des droits de l'homme*, 2022, Rennes, Presses universitaires de Rennes, pp. 107–141.

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CHAPTER 4

Normalising Authoritarianism: Authoritarian Rule of Law in Singapore and Hong Kong

Jothie Rajah

Introduction

In formal legal-political terms, Singapore is a liberal democracy on the Westminster model. This is enshrined in Singapore's founding legal texts: the Constitution and the Independence of Singapore Agreement. The Constitution declares itself to be "the supreme law of the Republic of Singapore" (Article 4) thereby explicitly "opposing political absolutism" (Thio, 2002: 1). Ideologically and administratively, the Constitution sets forth a Westminster-model separation of powers. The Independence of Singapore Agreement declares the nation "forever a sovereign democratic and independent nation, founded upon the principles of liberty and justice and ever seeking the welfare and happiness of her people in a more just and equal society". However, despite these formal features, Singapore is characterised by "a comprehensive and systematic merging of state and party" (Rodan, 2005: 125), the re-making of democratic governance through the ruling party's parliamentary dominance (Tan, 2019), and a judiciary that is distinctly statist in orientation (Jayasuriya, 1999; Worthington, 2001). Disaggregating the enmeshments of authoritarian politics and invocations of Westminster, Garry Rodan (2005: 110) writes,

> Aspects of Westminster-style government such as accountability of ministers to parliament, a non-partisan public bureaucracy and the tolerance of a loyal opposition were all casualties in the …establishment of a virtual one-party state

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_4

> by the ruling People's Action Party. Paradoxically though, appearances of at least some aspects of Westminster remain important to the *ideological defence of the political system*. In particular, notions that regular and free elections and the fundamental importance of constitutional processes prevail in Singapore are actively promoted by the ruling party and considered vital to its political legitimacy. Although neither substantively exists, continued insistence to the contrary by PAP leaders reflects ... the deliberate practice of trying to harness historically liberal institutions to authoritarian ends.

The state's characterisation of Singapore as "democratic" evidences a normalisation of authoritarian rule of law, in that Singapore is marked by the coexistence of fundamental liberties *as well as* legislation that erodes these (Rajah, 2012; Tan, 2019; Thio, 2004). The Fundamental Liberties section of the Constitution (Part IV) imports liberal values by guaranteeing the freedoms of speech, assembly, association, movement, religion, and equality before the law. However, these constitutional promises are qualified in a range of ways, such that, generally, authoritarian norms prevail. In this chapter, I examine how authoritarianism is normalised through the reconfiguration of political norms animating rule of law. While my main focus is on Singapore, I also discuss recent developments in Hong Kong, which suggest that authoritarian rule of law as a political norm perfected by Singapore has in important respects been replicated by China.

Authoritarian Rule of Law: Unpacking an Oxymoron

What distinguishes "rule of law" from mere law or rules? As a socio-political concept, the beating heart of rule of law is law's capacity to scrutinise and limit power.[1] If one meaning of "norm" is prescriptive in character, signifying an optimal model encoding ideals or values (Foucault, 2007: 58), then, as a political norm, the rule-of-law ideal signifies law which, in content and institutional arrangements, limits political power by preventing arbitrary and excessively discretionary exercises of authority (Clark, 1999: 30; Krygier, 2016: 204; Tamanaha, 2004: 114). Unsurprisingly, as a political ideal, rule of law is rooted in a history of guarding against unfettered monarchical power. More recently, liberal legalism has augmented rule of law's wary distrust of power by layering the values of democracy and liberalism upon rule-of-law foundations (Loughlin, 2000: 198). As a sociolegal scholar, my commitment is to studying rule of law in relation to the specifics of texts, contexts, actors, and arenas. Attending to rule of law through situated, relational, and ethnographic attention, illuminates how rule of law, like other socio-political concepts, is subject to reconfigurations through processual, normalising dynamics (Cheesman, 2018). These dynamics illuminate the conjoined work of law and politics that

[1] While a vast literature engages with rule of law as history, politics, concept, and social action, the following offer usefully succinct analysis: Krygier (2016), Tamanaha (2004), Loughlin (2000), Clark (1999), and Lino (2018).

may shift law further and further away from the orienting ideals of the rule of law.

Rule of law's suspicion of untrammelled power becomes especially important when political power is authoritarian. Authoritarian politics is characterised by "a concentration of power and the obstruction of serious political competition with, or scrutiny of, that power" (Rodan, 2004: 1). Through a study of legal texts and contexts in the first fifty years of postcolonial Singapore's formation, I have traced the reconfiguration of the profoundly liberal concept, "rule of law", into the seeming oxymoron, "authoritarian rule of law" (Rajah, 2012). The texts and contexts conditioning authoritarian rule of law include legislation, Westminster institutions and procedures, colonial, Cold War, and postcolonial dynamics, public discourse, authoritarian politics, judicial interpretation, and an enduring, repeatedly revitalised, narrative of national vulnerability. A crucial pillar of authoritarian rule-of-law discourse is the celebration of British colonialism as having bestowed upon the postcolonial nation-state the legacy of rule of law (Rajah, 2012, 2014, 2017: 27–37). The Singapore government routinely claims "English law", "British law", "common law", and "rule of law" as part of the genealogy of Singapore law (Rajah, 2012: 267–297). The intertextuality of language lends rich legitimising resonances to this claim of descent from English law, because histories of the rule of law regard England as "the acknowledged birthplace of liberalism and the bastion of the rule of law" (Tamanaha, 2004: 56).

Attending to the manner in which law and nation have been co-constituted through the socio-political fabric, my analysis unpacks the paradox of authoritarian rule of law: a regime that has systematically undercut rule-of-law freedoms has managed to be acclaimed as a rule-of-law exemplar (Rajah, 2012: 1–52 and 267–297). This undercutting of rule-of-law freedoms typically takes place through a strategic uncoupling of the form and substance of rule of law. Authoritarian rule of law scrupulously performs law as procedure, while dismantling civil and political rights, and substantive restraints on, and scrutiny of, state power. Analytic grappling with this disaggregation of rule-of-law substance and rule-of-law form owes much to Kanishka Jayasuriya's compelling analysis of Singapore's legal system (1999, 2001). Jayasuriya adopts Fraenkel's concept of the Nazi dual state combining "the rational calculation demanded by the operation of the capitalist economy within the authoritarian shell of the state" (2001: 119) to argue that Singapore exemplifies a contemporary dual state in which "economic liberalism is enjoined to political illiberalism" (2001: 120). Jayasuriya points out that the British colonial emergency template for law—repressing civil and political rights while protecting business and commerce—provide the foundation for Singapore's dual state legality (1999, 2001).

An important attribute of authoritarian rule of law is the amplification of the state's discretionary power. The Singapore state has often turned to law to intimidate, criminalise, silence, and punish individuals, institutions, and arenas critical of the state. The state's discursive strategy of conflating state, party,

and nation (Rodan, 2005: 125) has been mobilised such that critics of the ruling party's conduct of state power have often been accused of threatening Singapore's security.[2] Up to the dying moments of the Cold War, critics were accused of being dangerous to the nation-state because they were "Communists" (Rajah, 2012: 161–254). And in the more than sixty years of People's Action Party (PAP) rule, those who critique the state have often been accused of being part of shadowy foreign conspiracies designed to thwart Singapore's prosperity, stability, and sovereign autonomy. I use the term "state" for the political state, acting through the agency of state institutions such as the executive, Parliament, and the bureaucracy. But I also flag the wider social presence of the state. In Singapore, there is a particular potency to the presence and power of the state because the PAP has been in power since 1959. Not only has the PAP been in continuous power, it has also been in almost absolute power. It is this history and politics of Singapore as a "virtual one-party state" (Rodan, 2005: 110) that makes it impossible to overstate the pervasive, dominant, and often domineering nature of state power in Singapore.

In a nutshell, two crucial dynamics underpin authoritarian rule of law. First, the uncoupling of the form and substance of rule of law, and second, law's co-constitution with narratives of national exceptionalism. In the case of Singapore, these narratives insist upon Singapore's exceptional territorial, existential, and socially conditioned, vulnerability (Hong & Huang, 2008; Rahim, 1998; Rajah, 2012: 20–37). In keeping with the colonial template for Emergency law, the postcolonial state's narrative of national vulnerability authorises the all-seeing, all-knowing state to act pre-emptively and coercively, while suspending or attenuating civil and political rights (Rajah, 2012: 280–297).

A key feature of authoritarian rule of law is the manner in which rule of law has been reconfigured without substantially damaging the Singapore state's national or international legitimacy. Indeed, Singapore is an exemplary instance of how "the political legitimacy of authoritarianism rests so heavily on economic growth" (Rodan, 2004: 2). An "outstanding economic success stor[y]" with prosperity largely achieved through an economy "heavily dependent on international capital investment" (Rodan, 2004: 1), Singapore has been characterised as a sophisticated authoritarian regime (Rodan, 2004). The sophistication of Singapore authoritarianism is marked by the "finesse" of "calibrated coercion, which represses challengers with minimum political cost" (George, 2007: 127). Managing coercion with minimal political cost, and with minimal erosion of national and international legitimacy, accounts for why a host of other regimes look to the Singapore model of law and politics (Ortmann & Thompson, 2014; Rajah, 2012: 5–6; Rodan, 2005; Slater, 2012). Of particular significance is the Chinese state's decades-long attention to Singapore as a model for how an authoritarian state effects the canny management of law so as to secure political hegemony (Ortmann & Thompson, 2014; Rajah, 2012: 5–6).

[2] For a summary, see Rajah (2012: 291–293).

The continuous decades of PAP rule have meant the ongoing normalisation of authoritarian rule of law. Normalisation, Foucault has argued, is a politically important, often invisible, and generative technology of power, whose attributes and operations are processual, disciplinary, and standard setting (Foucault, 2007). Normalisation works on the micro scale of individual bodies as well as on the macro scale of populations (Golder & Fitzpatrick, 2009: 20–21). Rather than reading "norm" as distinct from "law" (Kelly, 2019), I adopt the approach of Foucauldian legal scholars Ben Golder and Peter Fitzpatrick who argue that for Foucault, various technologies of power, such as disciplinary, pastoral, normalising, and legal power, co-exist in "symbiosis and mutual interaction", expressing "the necessary relations between the law and the modalities of power outside it" (Golder & Fitzpatrick, 2009: 23).

The prescriptive, disciplinary character of the norm, and power's capacity to exclude through the marker "abnormal", are facets of normalising authoritarian rule of law that I explore in this chapter. I do so through a discussion of, first, Singapore's POFMA legislation designed to police so called "fake news", and, second, the 2020 National Security Law in Hong Kong. I suggest that a political norm for authoritarian rule of law perfected by Singapore is in important respects replicated by China.

Singapore Legislates Truth

On 8 May 2019, the Parliament of Singapore passed the controversial Protection from Online Falsehoods and Manipulation Act (POFMA). Popularly referred to as the "fake news law", POFMA might be read as legislation designed to update the state's control of the public sphere through a policing of messages on the internet and social media platforms. Critics speculated that the Protection from Online Falsehoods and Manipulation Act was timed to chill critique of the state, and of government ministers, in anticipation of the general election of 10 July 2020 (Jaipragas, 2019). Among the flurry of about thirty-five POFMA orders and directives issued between November 2019 and July 2020, all but five were directed at opposition politicians, civil society, and critics of government,[3] evidencing "an apparently politicised enforcement of POFMA" (Schuldt, 2021: 362). As this chapter shows, the norms scripted by POFMA elevate the state's unilateral and monologic determinations of "truth" above Constitutional protections for civil liberties relating to freedom of expression ↓ in the process re-making rule of law into authoritarian rule of law.

Sophisticated authoritarian regimes, Garry Rodan points out, harness information and analysis that is publicly available, as well as mass media, "to propagate their own messages and to promote economic objectives …[with] considerable selectivity" as to what will be tolerated in the public domain (2004: 1). Singapore's sophisticated authoritarianism also harnesses electronic

[3] Media Centre, POFMA office. https://www.pofmaoffice.gov.sg/media-centre/.

media, law, and public discourse about law (George, 2019a, 2019b; Rajah, 2012; Rodan, 2004). Cumulatively and intertextually, these discursive fields and platforms propagate state-constructed meanings and interpretations of key social categories. And while authoritarian rule of law claims to uphold the Westminster system and "the common law" as "inherited" from British colonialism (Rajah, 2012, 2017: 267–297), a pillar of authoritarian rule of law's disproportionate command of public discourse on law rests on legislation that excludes or minimises judicial review (Rajah, 2012: 14–20). Courts, in short, are a diminished site of both law-making and of restraints on power. In authoritarian rule of law, Parliament and the executive become increasingly dominant spheres for commanding the articulation, social relations, and interpretations of law. Relatedly, the enactment of legislation becomes an arena for public pedagogy, instructing the public on the state's unilateral determinations of the meanings of key terms, and of the parameters of permissible critique (Rajah, 2012).

As part of the processes through which authoritarian rule of law has been normalised, these moments of public pedagogy attached to law-making and meaning-making convey the state's determinations of issues and social spheres that citizens, civil society, and a range of social actors must not trespass upon. Thus, for example, through the state's insistence on a distinction between "law" and "politics", the Law Society of Singapore's powers were truncated, and certain lawyers were detained without trial (Rajah, 2012: 161–218). The state's insistence on a distinction between "politics" and "religion" served a similar punitive disciplining of institutions and actors associated with religious organisations (Rajah, 2012: 219–258; Barr, 2010). When it comes to media too, law has been the tool of coercion and silencing, with the timing of legislation and detentions inevitably conditioning the media and public sphere before general elections are held (Rajah, 2012: 287; Rodan, 1998: 125). In short, authoritarian rule of law deploys the enactment of legislation to constrain judicial power and silence non-state actors while expanding the operations and scope of discretionary executive power (Rajah, 2012).

POFMA: Criminalising and Securitising Online Communications

The texture and dynamics of normalising authoritarian rule of law engineered through POFMA are best appreciated through a detailed consideration of the legislative text, and state discourse on the meanings and parameters of POFMA's key provisions. POFMA illustrates how the authoritarian capture of law is articulated along a continuum, including coercive, pedagogical/pastoral, disciplinary, and sovereign-legal dimensions, as part of the project of normalising authoritarianism.

***Protection from Online Falsehoods and Manipulation Act* (POFMA), 2019**
According to the Act's statement of purpose, POFMA has been enacted

> to prevent the electronic communication in Singapore of false statements of fact, to suppress support for and counteract the effects of such communication, to safeguard against the use of online accounts for such communication and for information manipulation, to enable measures to be taken to enhance transparency of online political advertisements, and for related matters.[4]

Importantly, the Act *criminalises* the electronic communication of false statements of facts: individual offenders can be fined or imprisoned, or both (s. 15). Fines for corporate offenders are higher, and POFMA lifts the corporate veil by specifying that evidence of the state of mind of an officer, employee, or agent of a corporation amounts to evidence of the corporation's state of mind (s. 58). Classifying offences under POFMA as criminal is one clear way in which "fake news" is treated as an offence against public order. Significantly, POFMA also claims an expansive jurisdiction over people and actions both within and beyond Singapore. As long as a communication takes place within Singapore through the internet, MMS, or SMS (s. 3), POFMA applies, even if that communication originates outside Singapore. Section 7(1) sets out the key prohibition:

> 7.—(1) A person must not do any act in or outside Singapore in order to communicate in Singapore a statement knowing or having reason to believe that—
>
> (a) it is a false statement of fact; and
>
> (b) the communication of the statement in Singapore is likely to—
>
> (i) be prejudicial to the security of Singapore or any part of Singapore;
>
> (ii) be prejudicial to public health, public safety, public tranquillity or public finances;
>
> (iii) be prejudicial to the friendly relations of Singapore with other countries;
>
> (iv) influence the outcome of an election to the office of President, a general election of Members of Parliament, a by-election of a Member of Parliament, or a referendum;
>
> (v) incite feelings of enmity, hatred or ill-will between different groups of persons; or
>
> (vi) diminish public confidence in the performance of any duty or function of, or in the exercise of any power by, the Government, an Organ of State, a statutory board, or a part of the Government, an Organ of State or a statutory board

[4] Singapore Statutes Online (2019) "Protection from Online Falsehoods and Manipulation Bill". https://sso.agc.gov.sg:5443/Bills-Supp/10-2019/Published/.

A scrutiny of this key provision discloses that POFMA criminalises and *securitises* "false statements of fact" by reproducing the language and logics of Article 14 of the Constitution, and five prior enactments—the *Internal Security Act* (sections 20 and 26), the *Telecommunications Act* (section 45(b)), the *Penal Code* (section 298), the *Sedition Act* (section 3(1)(a)), and the *Public Order Act* (sections 7(2)(h) read with 7(3)(b)). This existing legislation might easily have been amended to accommodate prohibitions against internet and social media "fake news". Indeed, section 45 of the *Telecommunications Act* (criminalising the transmission of false messages), together with section 298 of the *Penal Code* (criminalising the wounding of racial or religious feeling), capture much of the content of POFMA's section 7(1). But with POFMA, as with other enactments consolidating the state's control over the public sphere (Rajah, 2012: 265), the very process of law-making has given the state an immediate and public platform for forcefully asserting its authority and its capacity to surveil, interpret, punish, and control.

Definitions and Discombobulations

POFMA defines a range of terms in ways that obstruct comprehension. If agreement on language is necessary to legal argument (White, 1984: 268), and if law is "a way of establishing meaning and constituting community in language (White, 1984: xi), then POFMA's definitional discombobulations are a crucial subversion of both rule of law and of democracy. In this chapter, I limit my consideration of POFMA's illegibility to POFMA-scripted meanings for "statement", "fact", "courts", "law", and "democracy".

POFMA defines "statement" expansively to mean "any word (including abbreviation and initial), number, image (moving or otherwise), sound, symbol or other representation, or a combination of any of these" (s. 2(1)). In effect, POFMA remakes the meaning of "statement" away from the grammatical understanding denoting a sentence which is typically structured by a subject, followed by a verb, and possibly an object; and which is distinct from a question, a command, or an exclamation. Instead, POFMA's definition of statement captures the far broader category "representation" with the counterintuitive result that sounds and symbols can themselves be true or false.[5] The key category "false statement of fact" is defined in even more expansive and somewhat "tautological" terms (Bothwell, 2019),

(a) a statement of fact is a statement which a reasonable person seeing, hearing or otherwise perceiving it would consider to be a representation of fact; and

[5] I am grateful to Michael Sevel for this insight.

(b) a statement is false if it is false or misleading, whether wholly or in part, and whether on its own or in the context in which it appears (s. 2(2)).

In the ordinary meaning of words, "a statement of fact" might be grasped as distinct from expressions of fiction, argument, analyses, theorising, opinion, or the advertising and spin generated by marketing, public relations, and advertising agencies. Indeed, when 83 academics worldwide signed a petition addressed to the Singapore Minister for Education, expressing concern that POFMA would have the unintended consequence of inhibiting scholarly research, the Singapore government replied that POFMA was not directed at research or opinion (Sharma, 2019). The state's response relied on the ordinary meaning of "statement of fact" to distinguish between fact and opinion. But POFMA scripts a discombobulating universe of possibilities for "statement of fact" that includes a potentially fragmentary representation or evocation (s. 2(1)) that is "false or misleading, whether wholly or in part, and whether on its own or in the context in which it appears" (s. 2(2)).

Under POFMA's terms, a "statement of fact" is a representation that "a reasonable person … would consider to be a representation of fact" (s. 2(2)). Importantly, the provisions of POFMA colour the seeming neutrality of the standard legal trope of the "reasonable person" because any cabinet Minister is empowered to trigger a set of administrative orders that, in effect, render the state the editor-in-chief of all online communications. As long as a Minister deems a communication to be a "false statement of fact", and "is of the opinion that it is in the public interest to issue the Direction", a Minister "may instruct "the Competent Authority" to issue a direction requiring that communication to be corrected or stopped (s. 10).

Section 2(2) above read with some of the Act's other provisions evidence how POFMA engineers a series of de-democratising moves. First, the separation of powers is undermined in that the policing and judicial attribute of deciding that online material constitutes a "false statement of fact" is, in the first instance, a determination to be made by any cabinet Minister (s. 10). In other words, in keeping with Jayasuriya's analysis of postcolonial dual state legality (1999, 2001), POFMA amplifies executive discretion, an immediate violation of norms for the rule-of-law ideal. Appeals against a Correction Direction (s. 11), a Stop Communication Direction (s. 12) (directions that may be issued against individuals), and against directions issued to internet intermediaries (s. 21, 22, 23), must first be made to the Minister. Only thereafter may an appeal be made to the High Court (s. 17; s. 29). In short, in both first and second instances, the executive-political arm of state performs judicial-policing functions. Two basic rule-of-law principles—first, that an arbiter must be disinterested in the case at hand, and second, that governance must take place through the separation of powers—are thus immediately dismantled.

De-Democratisation

Despite such dismantling, the Singapore state has represented POFMA as consistent with ideal norms for the rule of law; namely, that laws should be enforced by ordinary courts rather than special tribunals or government discretion, and that rights should be enforceable through courts (Tamanaha, 2004: 63–65). Attending to the state's representations of POFMA through its mediatised discourse, such as press statements, is important because legislative text is generally perceived as inaccessible in style and language. A press release is likely to reach a far wider audience than the actual text of the legislation.
In its press release, the Ministry of Law asserts,

> The Courts will have the final say on what is false. Any decision by the Government on what is false can be overridden by the Courts on appeal. What is false is ultimately for the Courts to decide.[6]

However, the liberal imagining of a court empowered to hear a dispute in a disinterested manner is undermined, first by executive appropriations of judicial functions (s. 17; s. 29), and second, by POFMA's legislative constraints on what the courts may and may not determine, as delimited by section 17(5):

> The High Court may only set aside a Part 3 Direction on any of the following grounds on an appeal:
>
> (a) the person did not communicate in Singapore the subject statement;
> (b) the subject statement is not a statement of fact, or is a true statement of fact;
> (c) it is not technically possible to comply with the Direction. (s. 17(5))

As a political norm, rule of law understands courts as a limit on state power. Notionally, courts are powerful sites for securing liberal rule of law because they bear autonomy from executive power and are thus able to scrutinise it. However, since POFMA's limits the grounds upon which courts may hear appeals against Directions, the courts function within the logics of dual state legality as "statist" (Jayasuriya, 1999) and as "a particularly effective weapon to depoliticise the society" (Jayasuriya, 2001: 121).

Rule-of-law ideals also understand courts as publicly accessible arenas structured by rules of procedure, principles of justice, and legal professional ethics. In this understanding, courts are a facet of the public sphere in which citizens and the public may witness the civil back-and-forth of contestation, and the deliberative processes through which counsel present arguments, witnesses testify, and judges listen, assess, intervene, and decide. However, POFMA's procedural rules require that appeals against Correction Directions be heard

[6] Ministry of Law Singapore (2019) "New Bill to Protect Society from Online Falsehoods and Malicious Actors". https://www.mlaw.gov.sg/news/press-releases/New-Bill-to-Protect-society-from-Online-Falsehoods-and-Malicious-Actors.

in chambers. These hearings are not open to the public or to media (Kurohi, 2020). Thus, in the devilish detail of *how* courts hear appeals on Correction Directions, the statist and depoliticising logics of authoritarian rule of law prevails.

Confusingly, while sections 17 and 29 empower the subjects of POFMA Directions to appeal specifically to "the High Court", section 60(2) states that "a District Court or a Magistrate's Court has the jurisdiction to try any offense under this Act". In the context of Singapore, the distinction between the High Court on the one hand, and the District and Magistrate's courts is important because as Ross Worthington's empirical study of Singapore's judiciary shows, (at least up to 1999),[7] Singapore courts have been "hegemonised", with the lower judiciary in particular, "form[ing] part of the executive government" (Worthington, 2001: 490). Thus, the state's insistent defence of POFMA as protecting free speech and democracy because "[w]hat is false is ultimately for the Courts to decide",[8] is yet another instance of the Singapore state amplifying executive prerogative while harnessing liberal institutions to authoritarian ends (Rodan, 2005: 110).

Remaking Meaning

Because meaning-making for new enactments takes place through definitions assigned by state actors both within and beyond parliament, it is important to read legislation through the primacy of legislative text as well as through the normalising cultural texts which contextualise the Act. On 1 April 2019, the day of POFMA's first reading in Parliament, the Ministry of Law issued a press statement which included this description of the proposed Act, "The bill targets falsehoods not free speech. It will help ensure online falsehoods do not drown out authentic speech and ideas, and undermine democratic processes and society" Ministry of Law 2019).[9] The press statement offers a valuable example of how state-determined definitional webs render law's meaning-making processes almost univocal.

The statement is remarkable for two reasons. First, it departs from the hitherto standard trope of narrating Singapore exceptionalism to justify legislation eroding rule-of-law rights (Rajah, 2012). And second, it characterises Singapore as already possessing "democratic processes and society". The rhetorical

[7] While Worthington is careful to specify that his study ends at 1999, none of the structural features and power dynamics he identifies and analyses have significantly altered. As Dan Slater (2012) notes, the consolidation of authoritarian rule in Singapore has meant extraordinary continuity for governance structures and ideology.

[8] Ministry of Law Singapore (2019) "New Bill to Protect Society from Online Falsehoods and Malicious Actors", paragraph 12. https://www.mlaw.gov.sg/news/press-releases/New-Bill-to-Protect-society-from-Online-Falsehoods-and-Malicious-Actors.

[9] Ministry of Law Singapore (2019) "New Bill to Protect Society from Online Falsehoods and Malicious Actors". https://www.mlaw.gov.sg/news/press-releases/New-Bill-to-Protect-society-from-Online-Falsehoods-and-Malicious-Actors.

move of focusing attention on the contrast between "falsehoods" and "free speech" has the effect of burying—almost smuggling—this characterisation of Singapore as democratic.

POFMA also augments the contradictions and paradoxes of authoritarian rule of law through an expansive exclusion of the compound meanings of "law", and of law's close cousin, professional ethics:

> It is not a defence to a charge under section 36, 37 or 38 that the accused is subject to any duty under any written law, any rule of law, any contract or any rule of professional conduct, that prevents the person from complying with that section or restricts the person in such compliance (s. 39(1)).

The sweeping exclusion of "any written law, any rule of law, any contract or any rule of professional conduct" are almost identically repeated in POFMA's sections 42(2)(a), and 51(1). The meaning of these provisions is unclear; generating more confusion than clarity. Does "any rule of law" signify the concept and category "rule of law"? Does "any written law" signify even the Constitution? Does "any rule of professional conduct" signify legal professional ethics and journalists' code of ethics? Do the terms of these exclusions render POFMA, rather than the Constitution and the rule of law, Singapore's supreme law? These ambiguities seem to deny law's compound, intertextual, and border-transcending meanings; meanings that speak to the "democracy", "justice", and "equality" exalted by Singapore's founding legal texts. Given the considerable asymmetries of power that mark public discourse in Singapore, how is this press statement issued by the Ministry of Law to be understood? Available online, does the state's claim that Singapore features "democratic processes and society" constitute a "statement of fact" within the purview of POFMA?

Theatres of Authoritarian Rule of Law

In January 2018, a Select Committee was appointed to look into the "serious challenge" of deliberate online falsehoods.[10] In keeping with parliamentary practice, the Select Committee invited written representations from the public. By the closing date some six weeks later, 162 submissions had been received (Devadass, 2018).[11] This unusually large number of submissions indicates the degree to which the proposed new law ↓POFMA↓ was regarded with alarm by civil society. One submission was made by historian and civil society activist, PJ Thum. Thum characterised the PAP as having "historically spread 'fake news' for narrow party-political gain" and argued that what was needed was

[10] Report of the Select Committee on Deliberate Online Falsehoods, Executive Summary, para 1.

[11] In the end, the Select Committee accepted certain late submissions, and a total of 169 submissions were considered by the Committee: Executive Summary, para 2.

not more legislation to "suppress free speech" but instead "the education of Singaporeans to be more sceptical of all information" (Thum, 2018, 2019).

The March 2018 Select Committee Hearings on Deliberate Online Falsehoods must be contextualised with reference to the Singapore state's practice, launched in 1986, of broadcasting Select Committee Hearings (Rajah, 2012: 180–218). In some broadcasts, viewers have witnessed the verbal aggression, incivility, and discursive domination exercised by the state towards non-state critics. In the 1986 Hearings, for example, the state used frequent interruptions, and selectively insisted that those appearing before it reply through the cross-examination modality of yes/no answers. This violated the substantive and open-ended engagement between state and citizen imagined for the Select Committee process of consultative law-making. In those 1986 Hearings, the state selectively discredited certain individuals by character assassination while strategically disregarding the content of their submissions. More than thirty years later, in the 2018 Select Committee Hearings on Deliberate Online Falsehoods, these techniques were revitalised and re-employed, this time against Thum (Lee & Lee, 2019: 87).

On 29 March 2018, the Committee questioned Thum for almost six hours[12] in a manner that has been characterised as a show trial (Jones, 2018). When Thum's colleagues at Oxford's Project Southeast Asia circulated an open letter deploring how, at the Hearings, "the Minister repeatedly expressed disdain for Dr. Thum's research, rephrasing its findings in general terms that misrepresented it, and attempting to get Dr. Thum to agree to those rephrasings by attempting to force him to provide only yes/no answers",[13] the Singapore state responded by revitalising another well-rehearsed trope from the past: it accused Thum of "possibly being in cahoots with foreigners in an attempt to influence and subvert Singapore's parliamentary processes" (Tham, 2018); an accusation rejected by one of the Oxford academics involved as "clearly preposterous" (Ng, 2018). This exchange between the state, Thum, and his Oxford colleagues, illustrates how rule-of-law discourses bear transnational, border-transcending resonances, particularly for the postcolonial territory. The inextricable intertextuality of language means that the project of normalising authoritarian rule of law must be an ongoing project, always repudiating critique from "enemies" imagined and real, domestic and foreign.

As a questioning citizen who has dared to challenge the state, Thum stands in for others: a cautionary tale. The Hearings served to teach a watching public, yet again, that the state has the overwhelming capacity to silence, attack, distort, discredit, disdain, and demonise those who question or critique it. In other words, the state demonstrated that, even as it positioned itself as

[12] The transcript of the encounter runs to 150 pages: Part C Vol.2, Select Committee Report. The encounter may be viewed in four parts at https://www.youtube.com/watch?v=7riDKnI8mO4.

[13] http://projectsoutheastasia.com/in-defence-of-dr-pj-thum-and-academic-freedom-in-singapore.

democracy's defender, this was a uniquely Singaporean version of democracy. For those living under the jurisdiction of POFMA—which includes anyone who generates an electronic communication disseminated within Singapore (s. 3)—this is a disciplinary project of meaning-making normalising authoritarian rule of law.

Hong Kong's National Security Law: A Normative Borrowing from Singapore?

Since 1 July 1997, a unique constitutional arrangement—"one country, two systems"—has structured Hong Kong's political and jurisdictional status (Ghai, 1999). On that date, Hong Kong—a Crown Colony from 1841 to 1997—became a Special Administrative Region of the People's Republic of China. While there are important differences between the contemporary legal-political systems of Singapore and Hong Kong, important commonalities also exist. These commonalities arise in relation to notions and traditions of the rule of law, in tandem with legal education and practices attributable to British colonialism.[14] Echoing the authoritarian rule of law playbook, amplifications of state power, attenuations in restraints upon political power, and the demonisation of critics as threats to the state, have in recent years become features also of the legal landscape of Hong Kong (Chan & Chen, 2020; Chan & de Londras, 2020; Tai & al., 2020).

Particularly alarming, and with far-reaching effects, is the controversial new National Security Law of June 2020.[15] The Economist Intelligence Unit offers a succinct summary of the content and context of this law, and the stark erosion of the rule of law norm it entails:

> The law provides the NPC (National People's Congress, China's legislature) standing committee rather than Hong Kong's courts with powers of interpretation, in a departure from the practice for the Basic Law (Hong Kong's mini-constitution). As expected, the law defines four crimes relating to secession, subversion, terrorism and collusion with foreign forces, with associated penalties. The wording of the crimes is linked to events during the 2019 protests. For example, attacking or damaging a government facility is an act of subversion, while sabotage of transport facilities for a political goal is classified as terrorism. Principal offenders convicted of these crimes face up to life imprisonment. The law creates a new central government agency in Hong Kong[16] with powers to conduct national security investigations in certain (ambiguous) situations. These include 'complex' cases involving external forces and when a

[14] See, for example, the essays in Chan and de Londras (2020) Liu et al. (2019), Wan (2014), Hutton (2014); the essays in Tsang (2001), and Ghai (1999).

[15] South China Morning Post (2020) "Hong Kong National Security Law: Read the Full Text". https://www.scmp.com/news/hong-kong/politics/article/3091595/hong-kong-national-security-law-read-full-text.

[16] This is the Office for Safeguarding National Security.

> 'major and imminent threat' to national security has occurred. This undermines Hong Kong's judicial independence and will facilitate the transfer of cases into the mainland Chinese judicial system. The law's application to non-Hong Kong residents is another troubling aspect; those interpreted as advocating independence for Hong Kong while overseas, for example, could be prosecuted upon entering Hong Kong or mainland China (or countries with which they have extradition treaties). (Economist Intelligence Unit, 2020)

These provisions are parallel to authoritarian rule of law in Singapore, which has similarly consistently featured departures from Constitutional guarantees of fundamental liberties; legislative enactments that are simultaneously expansive in reach and ambiguous in terminology; an executive-political dominance for interpreting law; and a re-semanticisation of key terms that serves the state's disproportionate command of politics (Rajah, 2012). It seems probable that, just as the PAP-state turned to the logics of legal exceptionalism through the Internal Security Act in the founding moments of its rule (Rajah, 2012: 13–20), so too the 2020 National Security Law is establishing a coercive template for law and politics; a template that legitimises and authorises the silencing, criminalising, and demonising of critics. The 2020 National Security Law is a key text for normalising authoritarian rule of law.

The central terms of Hong Kong's new authoritarian legislation—security, secession, subversion, terrorism, and collusion with foreign forces—are heavily freighted with ideological meanings. The National Security Law prevents contestation by imposing the state's meanings and awarding powers of interpretation and enforcement to non-judicial and state-aligned institutions (Economist Intelligence Unit, 2020). Just as dominant meanings for "terrorism" and "security" in our post-9/11 world are categories imbued with acquiescence to the "globalised order of racial violence that the national security state aims to protect" (Li, 2020: 26), so too "secession", "subversion", and "collusion with foreign forces" are terms designed to delegitimise and demonise citizens who critique the state.

As noted above, a crucial feature of authoritarian rule of law is the amplification of state discretionary powers in tandem with the erosion of public, judicial fora for scrutinising and constraining such powers. In keeping with this dynamic, seemingly straightforward bureaucratic processes conducted by the Electoral Affairs Commission (EAC) have prevented aspiring candidates from participating in elections. The EAC is a statutory body that invokes rule-of-law principles by describing itself as "independent" and as adhering to "fair, open and honest principles, … in strict compliance with the law".[17] The EAC has however become an ideological gatekeeper for Hong Kong politics

[17] Government of Hong Kong (2016) *Press statement by EAC on 2016 Legislative Council Election*. https://www.info.gov.hk/gia/general/201607/14/P2016071400441.htm.

by requiring potential candidates to sign a declaration pledging allegiance,[18] adopting a distinctly statist interpretation of Article 6 of the National Security Law, which stipulates,

> A resident of the [Hong Kong Special Administrative] Region who stands for election or assumes public office shall confirm in writing or take an oath to uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China in accordance with the law.[19]

The EAC barred pro-democracy and pro-autonomy candidates from competing in the announced 2020 Legislative Council elections (Cheung et al., 2020). When those elections were finally conducted in December 2021, they took place "under Beijing's "patriots-only" political overhaul, with the pro-establishment bloc sweeping all but one seat in the 90-strong Legislative Council amid a record low turnout.[20]

The National Security Law has shown itself to be a law with seemingly boundless jurisdiction (Craymer, 2020a; Wintour, 2020), rapidly weaponised to target critics of the state (Mahtani, 2020; Silver, 2020). The law has been critiqued as a Beijing imposition undermining the Basic Law, without any Hong Kong participation (Economist Intelligence Unit, 2020). However, the Hong Kong state discourse insists that deliberative and consultative processes observant of the Basic Law preceded the National Security Law's application to Hong Kong. as exemplified by this EAC press statement:

> June 30 this year, the Standing Committee of the National People's Congress (NPCSC) passed "The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region" (the National Security Law) and listed the legislation in Annex III to the Basic Law after consulting the NPCSC's Committee for the Basic Law of the Hong Kong Special Administrative Region and the Government of the Hong Kong Special Administrative Region as required under Article 18 of the Basic Law.[21]

[18] Government of Hong Kong (2020) *Electoral Affairs Commission responds to media enquiries on nomination of candidates for 2020 Legislative Council General Election*. https://www.info.gov.hk/gia/general/202007/16/P2020071600686.htm.

[19] Hong Kong Free Press (2020) *In full: Official English translation of the Hong Kong national security law*. https://hongkongfp.com/2020/07/01/in-full-english-translation-of-the-hong-kong-national-security-law/.

[20] Cheung, T. (2022) "Meet Hong Kong's New Lawmakers", *South China Morning Post*. https://www.scmp.com/news/hong-kong/politics/series/3163696/meet-hong-kongs-new-lawmakers.

[21] Government of Hong Kong (2020) *Electoral Affairs Commission responds to media enquiries on nomination of candidates for 2020 Legislative Council General Election*. https://www.info.gov.hk/gia/general/202007/16/P2020071600686.htm.

So-called "consultation", disregarding asymmetries of power, limited to exchanges among state actors, and behind closed doors; effectively excluding deliberative public processes and engagements, has also been a feature of authoritarian rule of law in Singapore (Rajah, 2012: 161–215). In insisting "consultation" has taken place in accordance with the Basic Law, the EAC's statement is consistent with authoritarian rule of law in that rule-of-law procedures may be gesturally and publicly performed as political theatre; a façade of rule of law accompanying authoritarian politics' stripping of law's robust and muscular capacity to actually and substantively limit power.

A further notable example of the normalisation of authoritarian rule of law in Hong Kong is the dismissal of Hong Kong University's Associate Professor of Law, Benny Tai (Craymer, 2020b). A tenured faculty member engaging in political activity deemed legitimate within a rule-of-law framework, Tai was one of the progenitors of the 2014 Occupy Central Movement. In July 2020, Tai was dismissed against the recommendation of the University Senate (Craymer, 2020b; Tai et al., 2020). Tai's dismissal, alongside his criminalisation and imprisonment, recalls the precarious nature of academic freedom experienced by Singapore academics (Teo, 2019), as well as the Singapore state's uses of authoritarian rule of law against those academics it has deemed threats (Rajah, 2012), including the targeting of scholar-activist, PJ Thum.

Conclusion

Four years after Hong Kong's Occupy Central Movement was launched in 2014, compelling the world's attention, the trial of the Movement's nine leaders came to a close in December 2018. Among those "charged with various public order, conspiracy and incitement offences at common law" (Tai et al., 2020), was Associate Professor of Law, Benny Tai. Tai was found guilty and sentenced to 16 months imprisonment. In his closing submissions to the Court, Tai cited legal precedent authorising civil disobedience. He also quoted canonical, transnational authorities on rule of law, and civil disobedience, including John Rawls, Lord Hoffman, and civil rights leader, Reverend Dr. Martin Luther King Jr. Through his invocations of law, democracy, justice, and rights, Tai's words, beliefs, and actions span decades, oceans, and continents to connect Occupy Central to Black Lives Matter and to all movements across time and place which seek to thoughtfully, lawfully, and peacefully, advance democracy and the rule of law in the face of instrumental, authoritarian, deployments of law to oppress, silence, and foster injustice. It is the impossibility of eliminating discursive assertions of ideal norms for the rule of law that necessitate the ongoing efforts of authoritarian states, discussed in this chapter, to normalise authoritarian rule of law.

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CHAPTER 5

The Draft Law on Association in Vietnam: Legal, Political, and Practical Norms Under Debate

Thi Thanh Phuong Nguyen-Pochan

Introduction

The drafting of a Law on Association was initiated in Vietnam in the early 1990s, in the aftermath of socio-economic reform which had enabled the Communist regime to open up the country to the global economy.[1] The long process of drafting the law—kicked off in 2003—has been supervised by the Ministry of Home Affairs.[2] The draft was submitted twice to the National Assembly (NA): first in 2006, then in 2016. The latest version[3] was withdrawn from the NA's consideration in 2016, after numerous delegates had objected to its inconsistencies. Thus, the draft law, though it has been under discussion for twenty years, has yet to be passed.

Why is this law so trying for the Vietnamese legislature? This chapter argues that the difficulty may stem from the tension of norms—both in theoretical and practical terms.

[1] The reform, called *đổi mới* (Renovation), was launched by the 6th National Congress of the Communist Party of Vietnam (CPV) in 1986.

[2] This ministry is responsible for State management and administrative procedures for associations and NGOs.

[3] According to Wells-Dang (2022), the draft law was modified more than thirty times up to 2016; the NA mentions only seven versions of the draft.

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_5

From a legal and political point of view, the bill has triggered lively debates on how to define the right to form associations, and how to regulate their activities. In this regard, there may be a tension stemming from the confrontation between the model of liberal democracy and that of illiberal authoritarianism, which, in Vietnam, refers to the Soviet ideological framework of a "socialist law-based state", and also, arguably above all, to the Chinese model.

From a practical point of view, there have been major changes to the context of associations in the past decades: the increasing integration of Vietnam into the world economy resulting from the socio-economic reform of the late 1980s (*đổi mới*); the advent of foreign donors in the 1990s; a flourishing civil society since the 2000s; rapid economic growth; and, significantly, the emergence of divergence and conflict within the regime which, although not new, has recently heightened (Heng, 2004; Kerkvliet, 2014, 2015, 2019; Thayer, 2009; Wells-Dang, 2012, 2014, 2022). Socio-economic and political change poses new challenges to the Party-State. To cope with the resulting tensions, the authorities have adopted a pragmatic approach combining firmness with flexibility—a delicate balance.

Structured in three parts, this chapter will examine the tension of norms that have risen to the surface in connection with the regulation of associative activities in Vietnam. First, I shall discuss Vietnam's socialist rule of law state, before assessing Chinese influence on the Vietnamese legal system. Next, I shall examine in detail the 2016 Draft Law on Association and the intense debates it triggered. Finally, I will discuss how the conflict of norms play out in practice, and the pragmatic approach adopted by the authorities toward associations.

Legal and Political Norms in Vietnam

From "Socialist Legality" to "Socialist Rule of Law State"

The concept of rule of law was put forth by Ho Chi Minh in 1919 in his famous "Eight-Points Demand of The Annamese People", a document in which he requested that the French colonial administration apply the "rule of law" in Vietnam (Ngô, 1993: 85). The Communist Party of Vietnam (CPV), founded by Ho Chi Minh in 1930, was aware early on of the need of building a society that would be regulated by a Constitution and laws. After the Declaration of Independence in 1945, one of the urgent tasks of the provisional government was to draft a Constitution. Until now, Vietnam has adopted four Constitutions; in 1946, 1980, 1992, and 2013. The first two Constitutions, of 1946 and 1980, laid the foundations for Vietnam's modern legal system, but their legal framework was incoherent, especially regarding the economy.

The CPV's Third National Congress of 1960 officially endorsed "socialist legality" (*pháp chế xã hội chủ nghĩa*), a Soviet model which was summarized by Gillespie (2010: 78) along four main lines: (1) the absolute leadership of the

Party; (2) law is not above, but rather emanates from the State; (3) the Party and the State have prerogative powers to substitute policy for law; and (4) individual rights give way to the collective public good. The 1980 Constitution then introduced the principle of proletarian dictatorship, its Art. 4 affirming that the CPV is "the only one leading force over the State and the whole society". Human rights were absent from it, because the Party promoted collective interests rather than individual rights.

Socialist legality prevailed until the 1991 collapse of the Soviet Union. At the beginning of the 1990s, Vietnam's integration into regional and international frameworks entailed a challenge to socialist legality. When the policy of Renovation was introduced in 1986, the "rule of law" had been "adopted as a Party objective" (Thayer & Marr, 1993: 5). The 1991 Seventh National Party Congress formally endorsed the new doctrine of "the rule of law state" (*nhà nước pháp quyền*), which was subsequently incorporated into the 1992 Constitution (Art. 2). The Political Report to the National Congress stressed that "it needed to turn policies and guidelines into laws" (Central Committee of the CPV, 1991), marking an important turning point. "The concepts of the 'socialist-oriented' market economy and the socialist law-based state have been hailed as the most important theoretical achievements of the CPV" (Bui, 2014: 78).

The rule of law, which excludes "the idea of any exemption of officials or others from the duty of obedience to the law" (Dicey, 1959 [1885]: 203), stems from liberal political discourse. The "socialist rule of law state", while seeking to be in line with this universalistic discourse, was merely the updated version of socialist legality, whose core principles remain unchanged: Art. 4 of the 1992 Constitution reaffirms the leading role of the CPV, maintaining the principle of the unity of power and rejecting the check and balance system. For Gillespie (2004: 152), the rule of law is instrumentalized in Vietnam as "a convenient rubric to smuggle socialist legality and liberal democratic ideas" into a "rule of law" discourse: juxtaposing liberal democratic norms with Soviet socialist legality, the "socialist rule of law state" is an oxymoron.

From another viewpoint, Bui (2014: 84) argues that the socialist rule of law state is a response to "reconcile inherent tensions" in the Vietnamese Party-State. Bui points out three of these: (1) Party leadership *vs.* State power; (2) the Party's guidelines *vs.* the Constitution and laws; and (3) the Party-State's interests *vs.* human rights' concerns. To manage these tensions, the Party has sought to establish "a formal normative structure to check bureaucratic powers", that is "a collection of norms and institutions that can regulate and prescribe behavior, constitute identities, and shape the interests of social and political actors" (Bui, 2014: 83).

The first tension concerns how to redefine the relationship between the Party and the State. Traditional practices such as "criticism and self-criticism" and "Control Committees" at every level of Party organization no longer seem

sufficient to control the state apparatus.[4] The term "control of power" (*kiểm soát quyền lực*) was first introduced in the 2011 11th Congress Resolution. The 2013 Constitution provides that "it is requested that the legislative, executive, and judicial branches co-ordinate, allocate and carry out the control of powers among them" (Art. 2), however, they are limited by the Party leadership (Art. 4).

From this perspective, the CPV's efforts to transform guidelines and resolutions into laws can be interpreted as an attempt to keep the state under its control. Thus, Vietnam is not a "rule of law state" but one of "rule by law"—since the law is not above, but emanates from, the Party-State. Fu Hualing's remark on China can also apply to Vietnam: "Law did not only represent the new normative order, but a new way of thinking, a new religion […] Law was replacing the failed political ideology to legitimise the Party-State" (Gillespie & Chen, 2010: 12).

The last tension concerns human rights (*nhân quyền*). This term appeared for the first time in the 1992 Constitution (Art. 50). Since then, the authorities have enacted many directives regarding human rights (Quản lý nhà nước, 2019). Yet, for the Party, the topic is clearly not easy to handle: "The State should be prepared to express willingness to co-operate in international relations in defense of human rights, and, at the same time, to combat plots looking to take advantage of this issue against us" (CPV Directive No. 12, 12th July 1992). So, how does the Party-State reconcile universalist values with socialist legality? And how to define the respect of human rights as the Party-State rather than promote state and collective interests?

Similar to the "rule of law", the notion of "human rights" also stems from liberal universalist discourse, as enshrined in the UN's 1948 Universal Declaration of Human Rights. Vietnam has ratified the majority of the UN human rights treaties (Nghia et al., 2021; OHCHR, 2022). In 2013, Vietnam was elected to the UN Human Rights Council (UNHRC) for the 2014–2016 term, and, in 2022, elected again for the 2023–2035 term (Hunt, 2013; Umair, 2021). Yet, there is an implementation gap between discourse and practice: the Vietnamese state ratifies human rights treaties, but fails to fulfill the obligations of these entail. As of 2020, a total of 266 human rights activists were imprisoned (Kvanvig, 2022).

The Asian values discourse has provided an important ideological weapon against international criticism of Vietnam's human rights record.[5] During the negotiations for the 2012 ASEAN Human Rights Declaration, Vietnam "allegedly sided with states such as Singapore and Malaysia in advocating for

[4] The CPV's "control committee" and "criticism and self-criticism" invoke the supremacy of political legitimacy over legality (Dittmer, 1973; Marangé, 2006).

[5] This was "an argument against the universality of human rights, which sparked controversy and criticism of cultural relativism" (Kvanvig, 2022: 106), and has been a convenient resource for authoritarian states in the region. See also Mark Thompson's contribution in the handbook.

derogations and exception on the basis of public morality and national security" (Kvanvig, 2022: 107). By promoting "Asian values", the CPV strives to exert a hegemonic influence on citizens' conscience, to convince them to move away from the universalistic discourse which it considers to be abstract and far removed from Vietnamese reality.

Yet both the socialist law-based state and Asian values fail to attune to civil society:

> […] the rule of law requires a characterisation that is not only legal, but also ethical and political where the limitation of the state is effective: the antagonism of the sovereignty of the state is the sovereignty of the man and the citizen. In a state that recognises it, the sovereignty of the state must yield to the human and citizen's rights. (Colas, 1992: 305–306)

The contradictory attitude of the CPV toward human rights helps explain its difficulties in translating the universal ideals enshrined in the Constitution into concrete laws, which is illustrated by the drafting of the law on association. Before discussing this point, let us examine another source of legal borrowing for Vietnam.

The Influence of the Chinese Model on the Vietnamese Legal System

Despite political dispute regarding how to define socialism during the Soviet-China split and virulent anti-China nationalism in Vietnam, China's influence on Vietnam's political, cultural, and legal system is substantial. "China and Vietnam have much in common – a Confucian past, socialist-influenced legal systems, and rapidly developing economies and societies" (Gillespie & Chen, 2010: 2).

Vietnamese rulers have regularly borrowed from Chinese political and legal models: "All but one of the 398 articles in the Gia Long Code, enacted during the Nguyen Dynasty in the early nineteenth century, were either identical to, or closely based on, the Qing Code"; in the modern age, "four of the six basic principles in the *đổi mới* policy drafted by the Party in 1986 reflect reforms previously introduced by Deng Xiaoping in China"; and today, "Vietnam has copied China's multilateral trade policy, export orientation, open economy, protection for selected state-owned enterprises, and developmentalism" (Gillespie & Chen, 2010: 8).

For a long time, however, the law has been marginalized in favor of customary law, village and family lineage self-regulation, or moral precepts imbued with Confucian values (Gillespie, 2010; Ngô, 1993; Sidel, 2008). This results from the entrenched predominance of the Confucian doctrine of "governance by ethics". Largely inspired by the writings of Chinese Communist theorist Liu Shaoqi, Ho Chi Minh's writings such as "Revolutionary Morality"

(1958), or "Improving Revolutionary Morality, Sweeping Clean Individualism" (1969), highlighted leadership by revolutionary moral principles (Liu, 1939, 1951).

In a way, the regular borrowing of Chinese models conveys the Vietnamese rulers' deference, even allegiance, toward China, a country which they consider to be prestigious, successful, and morally or spiritually superior—even at the tensest moments of their relationship.[6] Whatever the reasons for borrowing, Vietnam finds itself in an asymmetrical relationship with China (Table 5.1).

Sharing a similar modernization vision which encourages economic and material progress without embracing social and political pluralism, China and Vietnam both exhibit illiberal constitutionalism. The two Party-States recognize freedom of expression, association, and demonstration in their respective Constitutions, but apply control and censorship in laws and bylaws.

Though Vietnamese lawmakers have in many aspects followed the Chinese path, they have also borrowed from other external sources to avoid repeating China's mistakes. During the 1990s, "lawmakers increasingly borrowed capitalist laws either directly from multilateral international institutions such as

Table 5.1 Examples of Vietnamese borrowings from Chinese models

Areas	*Vietnam*	*China*
Economic reforms	Reforms launched in 1986	The "Open door" policy initiated by Deng Xiaoping in 1978
Foreign investment	1987 Foreign Investment Law	1979 Sino-Foreign Equity Joint Venture Law
Foreign relations	"Multidimensional approach" or "friend-to-all" policy after the collapse of the Soviet Union	The "Open door" and Deng's modernization rationale
Control of the press	2016 Press law	2002 Regulations on Publication Administration
Control of Internet	2018 Cybersecurity laws	2016 Cybersecurity laws
Internal migration control	Household registration system	Household registration system (Hardy, 2001)
Chinese conditioning	Rural land reforms (1954–1956)	Military and rural assistance
	Current economic and infrastructure projects: bauxite mining in the Central Highlands, the Cat Linh–Ha Dong metro line in Hanoi, the North–South expressway	Soft loans, infrastructure investments, or free trade

[6] Following the 1979 Sino-Vietnamese War, bilateral relations were only normalized in 1991.

the World Bank and UNDP, bilateral agencies such as USAID and DANIDA, or via third Party Asian counties, especially Japan" (Gillespie & Chen, 2010: 8). Despite the domination of state ideology, some transnational ideas gained currency for regulatory controls over the private sector.

Thus, two key differences between Vietnam and China should be noted. First, Vietnamese leaders do not look to the law as an important means of restoring social and political stability. By contrast, their Chinese counterparts take a more radical viewpoint on using law to maintain social order (Nicholson, 2010). Second, "non-state actors in Vietnam appear to exercise more influence over government policy than their counterparts in China" (Gillespie & Chen, 2010: 8). Scholars highlight the influence of local NGOs or GONGOs in Vietnam on policy-making and law-making processes, and bilateral agencies also play a central role in advocating law reform and improving the rule of law in Vietnam (Nguyen, 2010). These two differences allow us to understand the pragmatic attitude of Vietnamese authorities toward the application of law in practice, despite the widespread borrowing of Chinese legal models.

Legal Norms: The 2016 Draft Law on Association

Comparing the Legal Frameworks Regulating Association in Vietnam and China

The first regulation on association in Vietnam was Order No. 102 of 1957, signed by Ho Chi Minh; it severely limited rights to assembly and organization. Although rudimentary, it laid the foundation for control policy in the decades that followed. Groups perceived as potential political threats were strictly controlled and punished.[7]

The law on association was meant to replace the highly restrictive 1957 Order. In the meantime, the 2003 Decree No. 88 "Regulations on organization, activities and management of association", later replaced by the 2010 Decree No. 45, have been used as the guiding regulatory documents for associations. These Decrees closely match the 2016 Draft Law on Association. All these regulatory documents are quite similar to China's 1998 Order No. 250, "Regulations and Management of Social Organizations".

In this part, I shall compare the latest version of the Vietnamese draft law on association of 2016 and China's 1998 Order No. 250, focusing on four major areas: how these define associations, the legal status of associations, regulatory requirements, and registration and management procedures (Table 5.2).

[7] For example, the group of liberal intellectuals from the *Nhân Văn–Giai Phẩm* movement in Hanoi (1956–1957), the Club of Former Resistance Fighters (founded in May 1986), the Freedom Forum (early 1990s), the Unified Buddhist Church of Vietnam (founded in 1964 and outlawed since 1981), *Việt Tân* (Vietnam Reform Party, founded on 10 September 1982), Bloc 8406 (founded on 8 April 2006). See Abuza (2001); Thayer (2009, 2010).

Table 5.2 Comparing the Vietnamese and Chinese legal frameworks for associations

Legal frameworks	*Vietnam*	*China*
Constitution	**2003, Art. 25**	**2004, Art. 35**
	Recognize freedom of speech, press, assembly, association, and demonstration	
Law	**2016 Draft Law on Association**	**China's 1998 Order No. 250**
Definition of association ("social organisation" in China's 1998 Order No. 250)	**Art. 4**	**Art. 2**
	"Voluntary" and "nonprofit" groups, formed by citizens to realize a shared objective	
Legal status	*Distances associations from political power*	
	Art. 2	**Art. 2**
	Exclude six key Party-led mass organizations[8]	"All groups other than state organs"
	Citizenship (compulsory)	
	Art. 4	**Art. 2**
	Exempt from the right to form associations	
	Art. 8	No mention
	Detainees, those sentenced, those who lack civic competence, civil servants working for the army or in areas related to state secrets, associations which join or are funded by foreign organizations	

[8] Vietnam's Front Fatherland, Labor Unions, Farmers Association, Communist Youth Union, Vietnam Women Union, and Veterans Association.

Legal frameworks	*Vietnam*	*China*
Management procedures	*Particularly long (between 3 and 6 months)* *Dual management* **Art. 12** The Ministry of Home Affairs (national level) and the People's Committees (local level) **Art. 29** The competent ministerial or equivalent bodies in the areas of their competences	**Art. 6** Registration and management agencies (RMAs): the Ministry of Civil Affairs and its local branches Professional Leading Units (PLUs) empowered by the State Council or local government[9]
Two-stage registration	*First stage*	

(continued)

[9] PLUs serve as the relevant leading units of social organizations in related trade, scientific or other professional areas.

Table 5.2 (continued)

Legal frameworks	*Vietnam*	*China*
	The 2010 Decree No. 45 (*Current legal document*) **Art. 6** An applicant association must form an establishment committee which requests the recognition of a national, provincial, or lower-level ministry or department (depending on the scope of the association) **The 2016 draft law** *The establishment committee is removed but other procedures remain unchanged* **Art. 11** Within sixty days of receiving the completed application, the competent bodies stipulated in Art. 12 will consider a possible approval. Written reasons are to be provided if the application is refused[10] *Second stage* **Art. 14** Within 60 days of receiving the association registration certificate, the association's members must hold a general meeting to announce the creation of association and to pass a charter. The certificate will otherwise expire	**Art. 9** An applicant social organizations must be investigated and approved by a PLU and must send a preliminary application to RMA **Art. 11** Once a document of approval from the PLU has been obtained, the social organization must supply the RMA with the required documents **Art. 12** Within 60 days of receiving the documents stipulated in Art. 11, the RMA must decide whether or not to approve the registration of an organization **Art. 13** The RMA will not approve the registration preparation if the objectives and area of work applied for do not comply with Art. 4[11] **Art. 14** Within six months following the approval of its preliminary application by the RMA, the social organization must hold a general meeting of its members to pass a charter and apply for a final registration with the RMA

[10] The prohibitions stipulated in Art. 9 are often used, i.e., "associations must not undermine national sovereignty and security, oppose the interests of the State and society, harm the unity, the cultural tradition and nation".

[11] I.e., "oppose the basic principles of the constitution, harm the unity, security or ethnic harmony of the State, or the interests of the State and society, or the lawful interests of other organizations and citizens, or offend social morality" (Art. 4).

Legal frameworks	*Vietnam*	*China*
	License granting	
	Art. 12 The association registration certificate	**Art. 16** Social organization legal entity registration certificate
Supervision phase	**Art. 18** Associations must organize a general meeting (mandate cannot exceed 5 years) Within 30 days following the mandated meeting, the association must report on it to competent bodies, as stipulated in Art. 3	**Art. 31** Social organizations must submit an annual work report on the preceding year to their PLU and to the RMA The RMA will then carry out an annual review **Regulation Nr. 6** Causes for sanction[12]
Regulatory requirements	**The 2010 Decree 45, Art. 5** (*Current legal document*) A national-level association must have at least 100 members, a provincial-level association at least 50 members, and a district-level association at least 20 members **The 2016 Draft law, Art. 10** An association must have its head office in Vietnam, a charter, and more than 7 founders	**Art. 10** An organization must have more than 50 individual members or more than 30 institutional members, or, if it has both individual and institutional members, a total of at least fifty The organization's name must comply with the law and statutory regulations and must not offend public morality

[12] "If a social organization's activities oppose other laws or regulations, it will be dealt with by the appropriate national agencies; if the relevant national agencies consider the social organization should be closed down, the RMA will cancel the registration" (Art. 34).

The definition of association seems in both regulatory documents (the Vietnamese draft law of 2016 and China's 1998 Order No. 250) aligned with the liberal perspective laid out in France's 1901 Law on Association: "an association is an agreement by which one or more persons bring together, in a permanent manner, their knowledge or their activities for a non-profit purpose" (Art. 1). The liberal framework distinguishes between civil society, belonging to the private domain, and the political sphere, as the domain of the state (Habermas, 1978: 16). This presupposes that the state is "constituted as an impersonal locus of authority" (Calhoun, 1992: 8). The strong sense of privacy was a "crucial contribution of capitalism to civil society", providing "opportunities for *contesting* as well as *securing* the legitimacy of the system" (Eley, 1992: 324).

China's 1998 Order No. 250 terms "social organization" as "all groups other than state organs" (Art. 2), and Vietnam's 2016 Draft Law on Association explicitly excludes six key Party-led mass organizations (Art. 2). This seems to suggest that the State and Party are kept outside of the scope of associations. However, in both cases, this says little about the organizations' relative independence and their interactions with the Party-State. Indeed, in Vietnam, the exemption of the six mass organizations was interpreted by opponents as a preferential treatment, because these mass organizations will not be controlled.

Despite a public/private distinction borrowed from liberal democratic ideas then, we find illiberal ideas and authoritarian regulations. While in liberal democracies, every citizen can form an association, in illiberal authoritarianism, the mere status of ordinary citizen is not sufficient to obtain the right to do so. In both the Vietnamese and Chinese cases, control measures over association are translated into regulatory requirements, dual management, two-stage registration, and permanent supervision. This is in line with Sidel's (2020) argument that the Vietnamese Party-State maintains firm control over time through key methods dating from the 1950s: on the one hand, a "long and difficult process of approval" and "continuing control and supervision"; and, on the other hand, a "traditional mechanism of dual control" by a government management agency as well as a ministry or agency in a professional area related to the association.

The Draft Law on Association Under Debate

The draft law on association was first released in 2005 by the Office of the Government in Hanoi for consultation, to collect opinions. The main objection raised was that the draft law retained the same control mechanism as the 2003 Decree No. 88. The debate reached its climax when a group of specialists, supported by VUSTA (the Vietnamese Union of Science and Technology), "wrote their own alternative draft law on association and formally made it available for discussion" (Sidel, 2020: 3). In the alternative draft law, the administrative procedure was much closer to a liberal "registration model"

than an "approval model"—the "asking-approving" mechanism (*cơ chế xin cho*) which is typical of socialist bureaucracy (VIB online, 2006).

In 2015, a public consultation was launched and the entire content of the draft law on association made available online. Hundreds of conferences and thousands of scientific and press articles on the draft law followed. According to Mr. Nguyễn Vi Khải, a former member of the Prime Minister's Studies Committee, "this would be the record in terms of discussion for a draft law that does not serve life and therefore could not be accepted" (VnEconomy, 2018). For opponents, the draft conceived of the right to association as a "favor" granted by the Party-State to associations, and not as a fundamental human right. Cao Vũ Minh (2016), editorial secretary of *Legislative Studies* magazine, argued that "the draft law seems to maintain the old management thinking and thus create a big contradiction between the principle whereby 'citizens have the right to do everything not prohibited by law' and management through administrative procedure" (Cao, 2016). Mr. Cao also highlighted the "loose framework" of the draft that "gives the government too much power to interpret and translate law into decrees" in its own favor.

Lawyer Trương Hồng Quang (2014) believed that it is necessary to reconsider the concept of "association" before drafting the law, stating that: "The definition of association and other issues related to association should be set within a conceptual framework dedicated to civil society" (Quang, 2014). In his words, the concept's meaning changed once it was introduced in Vietnam: "in the world, association is considered as one of the components making up civil society in relation to the state and the market. Yet in our country, it is one of the components constituting the political system including the Party, the State, the Fatherland Front, and other mass organizations" (Quang, 2014).

The point most criticized in the draft has been the issue of the "legal status" of an association. Recent Vietnamese NGOs are mostly unregistered, use digital technology, and are politically engaged. Many groups conduct actions that are explicitly anti-government and dissident but operate virtually rather than directly. They are part of an informal civil society which scholars have termed "political civil society" (Kerkvliet, 2015; Thayer, 2009). The authorities do not recognize these groups, charging that they carry out subversive activities for political purposes that undermine national security and solidarity. The groups' cyber-activism is regularly attacked by the state. While the public learns about these groups via the internet, it is impossible to obtain accurate statistics on the number of them.[13] By preventing such groups from obtaining

[13] For example: Vietnamese Women for Human rights Association (*Hội Phụ nữ nhân quyền*, founded in 11/2013), Association of Former Prisoner of Conscience (*Hội Cựu tù nhân lương tâm*, 2/2014), League of Independent Vietnamese Writers (*Văn đoàn độc lập*, 3/2014), Independent Journalists Association of Vietnam (*Hội nhà báo độc lập*, 7/2014), Green Trees (30/3/2015), etc.

"legal status", the Party-State outlaws their activities.[14] This discriminatory practice runs counter to Vietnam's commitment to human rights treaties. One example demonstrates the point.

By 2019, Vietnam had ratified seven out of the eight fundamental conventions of the International Labor Organization (ILO), most recently (2019) the convention 98 (Right to Organize and Collective Bargaining Convention) with convention 87 (Freedom of Association and Protection of the Right to Organization Convention) scheduled to be adopted in 2023 (ILO, 1948, 1949, 2022; RFI, 2022). In 2018 and 2020, Vietnam successively ratified the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and the European Union Vietnam Free Trade Agreement (EVFTA). These two international agreements put pressure on the Vietnamese State to reform its Labor Code. In November 2019, the NA adopted an amendment to the Labor Code, which established that an employee has

> the right to participate in, adhere to, work within organizations representing employees, professional organizations and other groups as regulated by law; the right to request for and participate in dialogue, exercise democratic charter and collective negotiation with the employer. (Art. 5)

Shortly after the NA's approval, *Vietnam News*, the main English language newspaper of the state's *Vietnam News Agency*, announced that Vietnam allows "independent unions", but stressed that "the representative organization, however, would only be considered legal when it obtained a license from a competent authority" (VietNam News, 2019). According to Buckley (2022), the Labor Code:

> allows, for the first time, workers to form Worker Organizations (WO) not affiliated to the Vietnam General Confederation of Labor. But to claim that WOs are independent unions is a significant misinterpretation (or perhaps in some cases a deliberate misrepresentation). They are not unions. WOs are only allowed to be formed at the individual enterprise level and are more limited in what they can do compared to unions. Unions, on the other hand, are part of the VGCL [Vietnam General Confederation of Labor] and therefore embedded in the countrywide structures of the Confederation.

Indeed, Vietnam has not allowed independent labor unions. The Vietnamese Independent Union (VIU), founded in 2020, is not recognized by state authorities, which have even accused it of being a reactionary and subversive organization (Vnunion, 2023). The VIU underwent severe stigmatization by state-owned media, for example, the ultra-conservative People's Police Newspaper (*Công an nhân dân*):

[14] But not all unregistered associations are outlawed: "There are more than 200.000 unregistered community-based organizations throughout the country, which operate effectively and violate no law" (Wells-Dang, 2022: 74).

> […] the so-called "Vietnamese Independent Union" is an illegal organization. In fact, this is a pretext used by hostile forces and opponents to form an organization to undermine our Party and State. In recent times, some self-proclaimed "independent", "democratic", "human rights" organizations are appearing […] Their shared purposes are to erase the leading role of our Party, to distort and slander the political system, and to conduct activities against the state's organs. (Hai, 2021)

Despite the hostile attitude toward civil society in official media outlets, dissenting voices could still be heard through them. *Dân trí*, a rather reformist newspaper, reported the comments by Mr. Trần Ngọc Hùng, president of the Vietnam Federation of Civil Engineering Associations, who was pleased that the draft had failed to be passed because of its "many inconsistencies and inconveniences". He was quoted as saying that "among 33 articles of the draft, only two regulate the interests of the associations' members. The other regulations are related to state management, many of which are unnecessary and interfere too much with the activities and charters of associations" (Dân trí, 2018).

Norm Conflict and State Pragmatism

Subtle Changes to the Rules of the Game

Social organization in Vietnam must be examined against a historical backdrop of relative local autonomy, based on clan or communal and religious structures, in the context of a centralized national political system. Since 1945, the CPV kept strong control over society through its mass organizations. Following the *đổi mới*, social urban-based organizations came into being, but they were still highly restricted; in short, "there is no organized democratic political tradition" in Vietnam (Wells-Dang, 2014: 162).

In the wake of *đổi mới*, the arrival of a multitude of foreign donors helped develop the voluntary and nonprofit sectors. The number of registered NGOs rose from under 200 in the late 1990s to approximately 1700 by 2010; at the end of 2014, government sources stated that there were 52,565 social organizations of all types: mass, professional, and community organizations ranging from communal level to national level (Wells-Dang, 2014).

The first Vietnamese NGO (VNGO) was formed in the early 1990s when International NGOs (INGOs) began to establish their representative offices. Most VNGOs were led by "academic or former government officials with sufficient connections to enable them to register with supervisory state agencies" (Wells-Dang, 2022: 73).[15] About a hundred in all, these VNGOs acted like independent organizations, in terms of setting their own agenda and raising

[15] For example: the Research Center for Gender and Development, the Rural Development Services Center in Hanoi, and the Social Development Research Consultancy in HCMC; Fund for Young Talents of Vietnam supported by Prime Minister Võ Văn Kiệt, the Vietnam Fund for Supporting Technological Creations backed by General Võ Nguyên

funds. Sidel (1997) also mentions professional and business associations, which often serve to represent the interests of younger entrepreneurs and their allies within the regime (scientists, economists, and others), as well as farmer associations, collectives, ethnic and clan groups, and religious groups, that scholars refer to as Community-Based Organizations (CBOs).

In the early 2000s, there came a second generation of VNGOs which were driven by younger, well-educated founders. Most founders had studied overseas or worked with international agencies. These VNGOs were mostly urban-based, although they carried out projects in rural areas. The most recent VNGO generation, emerging in the 2010s, has broken the NGO mold: "influenced by opportunities on the Internet and in social media, many start-up groups have organized virtually, sometimes choosing to remain unregistered" (Wells-Dang, 2022: 74). Many of the latest VNGOs have been highly politically engaged and acted via political discussion forums on *Facebook* and blog sites (Nguyen-Pochan, 2021). They thereby revived political civil society.

Donors consider Vietnam, although still ruled by the CPV, as a post-socialist country in transition. Among foreign donors are global institutions, bilateral partners, and INGOs. They operate through two different approaches. The economic top-down approach, of neo-liberal global institutions, consists in strengthening state governance and transparency as a remedy to state weakness, corruption, and incompetence; conversely, the political bottom-up or grassroots approach, driven mainly by INGOs, consists in developing participative democracy given the weakness of civil society.

The arrival of INGOs created tension as the state did not allow independent VNGOs to work with them. To coordinate the activities of INGOs with those of VNGOs, the state in 1989 established the People's Aid Coordinating Committee (PACCOM) under the Vietnam Union of Friendship Organizations (VUFO). PACCOM was responsible for assigning geographic areas and counterpart organizations to the INGOs, and for inserting NGO aid into the state budget. International aid therefore operates in terms of friendship between nations and peoples, rather than between individuals (Salemink, 2006: 106–107). Foreign donors are most often obliged to work with mass organizations, especially the Vietnam Women's Union.

With hindsight, we may note that Vietnamese civil society is not the real beneficiary of international aid, training, and expertise programs. Rather, these benefit local authorities, mass organizations, and depoliticized VNGOs.

The Party-State's Ambiguous Attitude Vis-à-Vis Civil Society

Scholars disagree over the existence and expressions of civil society in Vietnam. Some focus on the repressive state apparatus (Thayer, 2014), others pay greater attention to varying degrees of tolerance toward dissent in practice

Giáp or Programme Volontaire de Vulgarisation des Progrès Scientifique-Techniques pours les Familles Rurales backed by former Foreign Minister Nguyễn Cơ Thạch.

(Kerkvliet, 2014), to the rapid growth of CBOs, or to various forms of networks and coalitions (Wells-Dang, 2014).

The divergence of views stems from the Party-State's ambiguous attitude vis-à-vis civil society, namely, the former's dual strategy of both encouraging and controlling the latter. To cope with the new tensions which have arisen from the management of associations, the authorities have adopted a pragmatic approach which combines firmness with flexibility.

The 2010 Decree 45 established a new category of association named "organizations with special characteristics" (*Hội có tính chất đặc thù*). These have privileges such as "participation in consulting, providing feedback, and examining various policies, programs, projects, and plans of government agencies" on issues within their prescribed sphere of activities, in accordance with the prime minister's regulations. Decree 45 also stipulates that the government provides budget funding to these organizations (Art. 34 and 35).

The 2016 Draft Law does not mention "organizations with special characteristics", but stipulates that

> The Prime Minister recognises the charters of the Vietnamese Union of Science and Technology, the Vietnamese Union of Friendship Organizations, the Vietnamese Union of Literature and Arts Associations, Vietnam Chamber of Commerce and Industry, Vietnam Writer's Association, Vietnam Journalists Association, Vietnam Lawyers Association and Vietnam Red Cross Association. (Art. 15)

In fact, these organizations are major "umbrellas" or GONGOs (Government-organized NGO), namely state agencies which vouch for associations. To obtain legal status, a VNGO must be recognized by a state agency of the ministry or department that supervises its scope of activity. The VUSTA and its provincial cells (USTAs) are the most important umbrellas for the VNGOs. In 2010, there were an estimated 1700 VNGOs, out of which 600 were registered under the VUSTA (Wells-Dang, 2022: 74).

Due to the influence of such state-run associations, some of which have liberal leanings, some scholars (Sidel, 2020; Wells-Dang, 2012, 2014, 2022) propose to examine Vietnamese civil society from a Gramscian hegemonic perspective, through complex interactions within the elite sphere (whether political, intellectual, or scientific). Wells-Dang (2012) coins the term "informal path-breakers" for GONGOs capable of influencing top-down decision-making and policies. The VUSTA, as mentioned above, played an important role in the debate on the draft law on association. It has organized a plethora of conferences on the draft law and put pressure on the government to suspend it (Pháp Luật, 2016). A related example is the 2008–2009 campaign against the government's bauxite mining project, in which several state officers were involved, including General Võ Nguyên Giáp.

If the preferential treatment toward "organizations with special characteristics" seems to suggest relative flexibility, firmness is exercised through

a case-by-case policy applied to other associations, based on bylaw regulations.[16] Bylaw regulations strictly control, for example, associational activities which involve "foreign elements" (e.g., international funding and international conferences). The 2010 governmental Decision No. 76 ("The regulations on organization and management of international workshops and conferences in Vietnam") singled out certain "sensitive topics", such as "issues of politics, national security, national defense, nationality, religion, human rights, territorial boundaries, or state secrets", the organization of conferences on which must be decided by the prime minister (Art. 3, Decision 76). Bylaw regulations also restrict the freedom of research. In July 2009, the prime minister issued Decision No. 97, limiting the issue-areas research organizations were allowed to engage in, and the rights of such organizations to voice criticism against government policies. It was clearly aimed at organizations including the Vietnam Institute of Development Studies (IDS), led by some leading intellectuals and technocrats, which operated with the implicit sponsorship of former Prime Minister Võ Văn Kiệt.

Conclusion

Confirming a Gramscian reading of Vietnamese civil society, the difficulty in passing the draft law on association arguably stems from tension within the state's elite sphere. Some GONGOs and experts, exhibiting a more liberal-leaning view of the role of civil society, such as the VUSTA, have been able to influence the decision-making process and prevent the approval of the draft law because it was not modified following the more liberal design of VUSTA's alternative draft.

In principle, civil society associations without exception want a less restrictive and more liberal law on association. Thus, the debate on the draft law might primarily reveal the CPV's internal split between a liberal wing and a conservative one. While the former has advocated for reform and decentralization of the state, and greater freedom of association, the latter has sought to strengthen the CPV's centralized leadership. Scholars and experts have long detected signs of this internal split. Koh (2001: 534) mentions "the pluralistic tendency under an umbrella of authoritarianism". Vuving (2017: 426) observes a cohabitation of four major currents: conservatives, modernizers, moderates, and rent-seekers. The long-standing rivalry between the conservative Nguyễn Phú Trọng, CPV General Secretary, and the rent-seeking oriented liberal former Prime Minister Nguyễn Tấn Dũng is a frequently cited case. Vuving (2017: 422) analyzes that "Trọng is a Confucian, who is loyal to his principles, while Dũng is capitalist, who is loyal to his profits". Such power

[16] For example, the 1996 governmental Decision No. 340 "the Regulations on the operations of foreign NGOs in Vietnam", the 1999 Decree No. 177 "the Regulations on organization and operations of charity and social funds" or the 2009 Decree 93 "the Regulations on management and use of INGO aids".

struggles might suggest a pluralization within the elite sphere and more expansive civil society networks. Thus, the tensions arising from the draft law on association concern political and legal norms, which are also attached to the struggle for power within the Communist regime, as well as the struggle for the expansion of Vietnamese civil society.

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CHAPTER 6

Christian NGOs: From Marginal Liberation Theologists to Regional Policy-Shapers

Catherine Scheer

Introduction

Over the past half-decade, international NGOs active in humanitarianism, development and social work have been losing the influence that they gained in several Southeast Asian countries from the 1980s onwards (Clarke, 1998: 28–39). In post-2021 coup Myanmar, work has become difficult to impossible for foreign non-state actors, with numerous aid programs disrupted, all NGO staff being confronted with the ongoing violence and some facing physical threats (Tun, 2022). Even in a country such as Cambodia, where development organisations had enjoyed more than two decades of relative freedom, their room for manoeuvre has become severely constrained. The Cambodian government initiated an NGO Law in 2015 which subjects civil society organisations to strict control. It has also turned increasingly authoritarian (Norén-Nilsson, 2021; Norén-Nilsson & Bourdier, 2019), and as part of this process has come to favour Chinese support over Western aid. Notwithstanding such recent constraints across Southeast Asia, NGOs continue to exert a form of soft power whose impact on political norm dynamics remains non-negligible.

But why focus on Christian organisations, which only make up part of the diverse Southeast Asian NGO landscape, next to secular and other religious

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_6

organisations?[1] Christian Faith-Based Organisations (FBOs) share with their fellow NGOs the statement of a "vision" and "mission", charged with norms and values. However, one of their particularities is that they explicitly propagate Judeo-Christian values, values implicitly shared by numerous secular organisations.[2] Christian FBOs appear as the most overt heirs of the European missionaries who have attempted to spread these norms and values in Southeast Asia for centuries. Thus, their relations with the state are not only influenced by the contemporary politics of global humanitarianism and development, but also by historical politico-religious arrangements in a region that has remained largely impervious to Christianity (Bautista & Lim, 2009; see also George & Willford, 2004).

While Christian missionary efforts in Southeast Asia reach back to the sixteenth century (Alberts, 2013), Buddhism remains predominant in most of the peninsula Southeast Asia, and Islam in the archipelago, with the notable exceptions of the Philippines and Timor Leste. Even if Christianity is a minority religion in most of the region, missions have left their traces over time (Brown & Tran, 2020). In Thailand, for instance, although only around 1% of the population is Christian, Catholic missionaries were influential in the making of the "modern" nation through the promotion of Thai secular education (Bolotta, 2018: 141). The relationship that King Narai established in the seventeenth century between the Thai royal family and French Jesuits, who were put in charge of educating ten children of the royal family, lasted over the following centuries (ibid.: 143). However, the Thai monarchy managed to appropriate the Catholic missionaries' interventions to serve Buddhist ethno-nationalism (Bolotta, 2018; Keyes, 1993). While the Jesuits' "modern" approach of education was picked up, explicitly Christian values were sidelined (Bolotta, 2018: 144).[3] This is only one example among others of the diverse alignments of missionaries with Southeast Asian powers, and of the sometimes unexpected ways in which their work has left an imprint on political landscapes across the region.

Current perceptions of past missionary work play a role in defining the margin of action that governments today grant Christian NGOs. For instance, the Cold War alliance between mostly Protestant American missionaries and the U.S. Army is still invoked in Vietnam to brand certain forms of Christianity as a Western, dissident religion (Phan, 2010: 139; Salemink, 2009: 51).

[1] For an interesting reflection on the place of religion within global development and a regional section on Southeast Asia, see Tomalin (2015).

[2] Several critical anthropologists of development have shown that the conception of humanitarianism and development as clearly delimited secular fields is relatively recent (Mosse, 2011), see also Fountain (2015) and have drawn attention to these fields' Christian (missionary) legacy (e.g. Barnett, 2013; Calhoun, 2008; Fassin, 2010), see also Feener and Scheer (2018).

[3] At the beginning of the twentieth century, the teaching of religious doctrines in Catholic schools was overruled by an official curriculum founded on "Thainess".

This justifies a strict control of churches and, to a certain degree, of Christian NGOs. Conversely, in Thailand, which joined the Western bloc during the Vietnam War and where the Catholic Church largely stood behind the state, Christian organisations have enjoyed greater latitude, at least up to the 2014 coup d'état.[4] In Thailand, as in several other countries in the region, faith-based organisations enjoy the same legal status as other NGOs (Bolotta, 2018: 153; Berkeley Center of Religion, Peace & World Affairs, 2010). While this legal openness leaves it up to Christian organisations to choose whether to profess their faith-based identity or not, in practice it is sometimes preferable to keep it concealed or at least to remain discreet. Reasons to do so include not only problematic historical alliances, but also fears of proselytization by stealth, that are sometimes nourished by scandals of organisations going beyond their officially declared humanitarian or developmental mission to bring about conversions.

The variety of forms historically taken by Christian missionary engagement with Southeast Asian politics prefigures today's FBOs landscape that is further diversified by the broad range of denominations that make up Southeast Asian Christianity (Cornelio, 2018; Hefner, 1998). Rather than univocally depicting Christian NGOs as agents of democratic change, protectors of established hierarchies, or as oil in the neoliberal machinery, this chapter aims to outline their diversity and, subsequently, identify some of the different manners in which they contribute to shaping political norms in Southeast Asia. It will then focus on how one specific organisation—the Summer Institute of Linguistics—influences the region's normative landscape from within the Southeast Asian headquarters of an international institution—UNESCO. While not generalisable, this ethnographically informed example illustrates how an influential international Protestant organisation acts as an agenda- and value-setter, through complex negotiations—both with other NGOs and with governments.

From Subverting to Enforcing the Existing Order

Let us start with the idea that Christian actors, and by extension Christian FBOs, may promote emancipatory and democratising messages.[5] This conception underlies Julius Bautista's (2020) analysis of the influence that the Second Vatican Council (1962–1965) had on Catholic actors in the Philippines and Timor Leste, the two predominantly Christian countries in Southeast Asia today.[6] Bautista argues that Vatican II's emphasis "on protecting the dignity

[4] On ongoing plans to restrict the margin of manoeuvre of Not-for-Profit-Organisations in Thailand, see for instance (Amnesty International, 2021; Vitit, 2022).

[5] For a critical analysis of this idea, see, for instance, Dovert (2009).

[6] Bautista (2020: 315) quotes the American sociologist and theologian Peter L. Berger's (2004: 76) argument that Christianity and democracy share the principles of putting emphasis on human rights and subscribing to the secular principle of differentiation of

of the human person, particularly that of the poor" (2020: 310) probably favoured a shift within the local Churches in both countries in the 1970s and 1980s from state complicity to critical contestation. By expressing their opposition to injustice and authoritarianism, local church representatives contributed to provoking political change.

In Thailand, the inculturation of the Christian message after Vatican II ensured, on the contrary, "the continuity of a harmonic political relationship [of the local Catholic Church] with the Thai monarchy" (Bolotta, 2018; 146). In other words, a "thaified" Christianity reproduced and fortified existing Indo-Buddhist hierarchical social structures, with priests on par with other Thai "big people" (*phu-yai*) such as aristocracy, monks, military and state officials (Bolotta, 2018: 148). Not only do Catholic schools display a photo of the king as well as of the Thai flag, merely replacing the image or statue of the Buddha with a crucifix, but the relationship that Christian laypeople entertain with priests is modelled on that between Buddhist laypeople and monks, who are considered to have more merit. In the same vein, urban poor appear as sinners responsible for their deplorable situation, similar to Buddhists with bad karma (Bolotta, 2018: 148–149).

However, there are also Christian actors who question the elitist relationship between the Thai Catholic Church and the ruling class. As Bolotta (2018) observed in 2012, an Italian nun who, since 2003, had been in charge of an NGO supporting disabled children and their families in the slums of Bangkok, criticised the Church's focus on working with rich Thai elites rather than with marginal groups who were often non-Thai. Acting through an organisation funded by Catholic and non-Catholic Italians and officially recognised by the Thai government as an NGO, the nun brought material support to slum children and their mothers. She also provided the mothers with a spiritual formation that was inspired by liberation theology and aimed at building up a socio-political consciousness among them. The nun sought to question the idea engrained in Thai society that disabled children were a malediction, a result of bad behaviours to feel ashamed of. Rather, she presented them as gifts of God, whose dignity was to be reclaimed. She also drew attention to the political and economic circumstances that led to the marginal position of the children and their families (Bolotta, 2018: 155). By politicising the children's situation, the nun and her fellow Catholic NGO actors positioned themselves both against the Thai Church's subservient attitude towards the existing order, and against a purely technical and neutral position, common among secular NGOs relying on Western medical and psychological categories (Bolotta, 2018: 157). This example of a Christian organisation engaged in liberatory movements with politically left sensibilities remains marginal within the Thai Catholic sphere. It does however find equivalents, especially

power. He specifies that Vatican II led to what sociologist and theologian José Casanova (1994: 71) described as "the transformation of the Catholic Church from a state-centered to a society-centered institution" (2020: 320).

among organisations defending the rights of people considered vulnerable or marginalised, such as children and ethnic minorities (Bolotta, 2021; Erb & Widyawati, 2018).

Among declaredly emancipatory and state-contesting actors, there are also organisations with very different political leanings, partly funded by donor state sources, such as the Free Burma Rangers (FBR), supported by American evangelicals and the U.S. military (Horstmann, 2018, 2019). Formed in 1997 by David Eubank, a former U.S. Army special envoy and son of a veteran missionary, the FBR aim was to support people from the Karen ethnic minority suffering Myanmar military reprisals (Horstmann, 2019). The emergency healthcare that FBR provides is closely tied to evangelising and to military training: while men are armed, children listen to Bible stories in "The Good Life Club". The FBR claims it aims to publicise human rights abuses and restore dignity to the Karen "ethnic nationality", but it does so by highlighting the bravery of the "white saviours", in a military-religious rhetoric that is reminiscent of the Cold War era.

On the other end of the spectrum, one finds evangelical FBOs, such as the South Korean Pentecostal NGO "Good People", which promote a hyper-modern model of economic success that works in favour of donor state interests, without offending regional governments. Since 2000 South Korea has seen the emergence of Neo-Pentecostalism which, contrary to classic Pentecostalism, does not reject engagement with a "fallen" secular world, but adopts an activist stance that aims at transforming society (Kim, 2018: 195).[7] As the South Korean government sought to promote itself as an example of economic success and Asian modernity in Southeast Asia, an approach formalised in its 2010 Strategic Partnership for Peace and Prosperity with ASEAN, Pentecostal actors such as Cho Yonggi's Full Gospel Church (FGC), out of which the "Good People" NGO had grown, became "unofficial diplomats" of this simultaneously Korean and Christian model (Kim, 2018: 196–197, see also Kim, 2014).

The support that this NGO has provided from 1995 onwards to marginalised urban Cambodians in Phnom Penh and its surroundings must thus be read keeping in mind that, in the second decade of the new millennium, Southeast Asia was the second most important destination for South Korean investments (Kim, 2018: 197, 200).[8] On the ground, educational projects and free medical help provided by South Korean short-term missionaries were connected to a prosperity theology, within which economic success in the here and now was seen as granted by God to the faithful, who were expected to follow a strict moral code (Kim, 2018: 201). This Christian NGO

[7] See also Freston (1999), Corten and Mary (2000), Han (2010).

[8] By 2010, the initial FGC in Phnom Penh assembled 200 church members. Eight further churches were opened in the capital's surroundings. Each of the church complexes comprised a kindergarten and a primary school. According to Kim, the building and staffing of these complexes as well as the sponsoring of local church members involved the financial support of thousands of South Korean Christians (Kim, 2018: 203).

thus worked to equip Cambodians with the necessary skills and connections to become functional elements within the global market economy. The emancipation it promoted was presented as a gift of God, a Christian reading that, far from questioning the roots of inequality, contributes to neoliberal depoliticisation.[9]

Even if "Good People" can be seen as an example of a more "engaged Pentecostalism, that gets involved with social matters in Asia" (Cornelio, 2021), the NGO still acts as an individualising force since the message it conveys remains focused on personal salvation. Furthermore, the Christian morality that Pentecostal organisations similar to many other Christian organisations promote tends to be highly conservative, notably with regard to gender equality or same-sex marriage.[10] This puts these FBOs in a more problematic position when it comes to interacting with other development and advocacy organisations than with certain Southeast Asian governments (Cornelio, 2021).

This eclectic range of examples shows that within the Christian NGO sphere and sometimes even within one and the same denomination, political norms and values can vary significantly, ranging from conformism to dissent, and from promoting disciplined labourers for a neoliberal system, to educating critical citizens. To examine how Christian organisations' normative stance and impact are shaped not only by their religious convictions, but also by the contexts which they navigate, we now turn to look at one specific FBO and the way in which it established itself as an influential regional player.

Protestant Development Experts Within Regional United Nations Branches

The Summer Institute of Linguistics and its establishment in Southeast Asia

Founded in the early 1930s by William Cameron Townsend, a U.S. Protestant evangelical missionary, and headquartered in Texas, the Summer Institute of Linguistics—today called SIL International—is a transnational Protestant NGO. It focuses on the study and documentation of little-known languages, as well as on the creation of writing systems and literacy materials for languages that have none. This work lays the foundation to then render the Bible available for everyone in her or his mother tongue, an underlying goal of the SIL and its recruiting and funding arm, the Wycliffe Bible Translators (WBT). In the interconnected histories of the SIL and the WBT, these sister organisations' double agenda of expertise in linguistics and education on the one hand,

[9] Elena Shih's work (2018) on US-based Protestant FBOs fighting human trafficking, notably in Thailand, shows not only how their mission involved the imposition of a strict Christian morality upon former sex workers, but also how it led to integrating "aid recipients", as cheap labour force, into the global market economy.

[10] For an extended discussion on the role of Christian actors with regard to same-sex marriage and LGTBQI+ rights in the Philippines, see Cornelio and Dagle (2019).

and in Bible translation and evangelisation on the other, has played an important role for finding a place in contexts otherwise critically disposed towards American Protestant missionaries. For instance, soon after its foundation SIL managed to establish good relations with the Mexican government under the revolutionary and anti-clerical President Lazaro Cardenas. This was because the government expected SIL's educational work to turn indigenous peoples into "proper" Mexican citizens, a mission that corresponded to the government's nationalist agenda, but that it could hardly have afforded to accomplish itself (Hartch, 2006).

SIL's establishment in Southeast Asia reaches back to the 1950s, in states aligned with the Cold War-era Western bloc. SIL set up its first Southeast Asian base in 1953 in the Philippines, with the support of fierce anti-communist President Ramon de Fierro Magsaysay. The organisation then started to work in South Vietnam in 1956, where it was welcomed by Magsaysay's friend President Ngo Dinh Diem (Jammes, 2016: 78). As in the fight between North and South Vietnam, the support of the country's highland minorities was highly important, SIL was immediately contracted by the South Vietnamese Ministry of Education to develop school primers for the minority-language speakers of the Central highlands, and by 1966, the SIL-led bilingual education program started receiving financial support from USAID (Salemink, 2003: 216). With the Communist victories across the Southeast Asian peninsula in 1975, all SIL envoys left Vietnam, as well as Cambodia where SIL had been present since 1973 (Miller & Person, 2021: 166). Many settled down in the Philippines or in Thailand (Jammes, 2016: 81; Lynip, 2013: 84; Miller & Person, 2021: 165). SIL was thus established in Thailand in 1975 through collaborations with universities including Mahidol, Thammasat, Chulalongkorn, Payap and the Royal Institute of Thailand, now the Royal Society (Miller & Person, 2021: 167). These various collaborations gave rise to linguistic analyses of Thailand's minority languages, training programs in applied linguistics aimed at minority-language speakers and multilingual education programs.

During the 1970s and 1980s, heavy criticisms were voiced against SIL across the world, but particularly in Latin America, blaming the FBO's double agenda for conveying politico-religious norms along with its literacy programs. Several studies focused on the Cold War-ties between SIL and the U.S. government (Hvalkof & Aaby, 1981). In addition to the organisation's double-layered belligerent vocabulary, in which the war in Vietnam and the spiritual "war of souls" came to be associated (Hart, 1973: 22), SIL members were suspected of involvement in counter-insurgency activities, notably by providing intelligence to the CIA (Salemink, 2003; Stoll, 1982). While the latter charges are in part difficult to prove, the former, insisting on the organisation's culturally unsettling and socially divisive impacts, have been largely acknowledged within academia. Voices from within the SIL also questioned the organisation's position and priorities, as shown in an internal report first published in 1978, in which the author anticipates questions, which, he suggests, are likely to cross people's mind when trying to understand what SIL is about:

> "(…) Do they work in collaboration with the government or with an academic intelligentsia? Are they humanitarian workers intervening on the ground or are they bearing a more promising message?" The answer to all of these questions is… yes.[11]

SIL and the Production of a Moral Economy of Mother Tongue-Based Multilingual Education

In 2003, SIL, together with its long-term partner Mahidol University, organised the first conference on Multilingual Education in Bangkok to promote native-language education in linguistically highly diverse Southeast Asia. This scientific event laid the groundwork for the 2004 creation of the Mother Tongue-Based Multilingual Education (MTB-MLE) Working Group, with the involvement of UNESCO's Asia and Pacific Bureau for Education in Bangkok. While SIL had already enjoyed special consultative status with UNESCO's general office in Paris since 1998, this marked the beginning of an official collaboration with the UN body's regional office.[12] Gathering three times a year at UNESCO Bangkok, the Working Group started to publish reports, advocacy materials and policy recommendations on multilingual education and continued to organise international conferences on language and education. In the following, I will employ ethnographic observations gathered in the context of a post-doctoral research project on religion and NGOs in Asia to explore how SIL contributed to the creation of a moral economy of the MTB-MLE in Southeast Asia.

When I joined the Working Group in 2015 as a participant observer, it had grown well beyond its initial constituents. In addition to its founding members, SIL, Mahidol, UNESCO Bangkok and CARE Cambodia, it involved a disparate crowd of representatives from NGOs including UNICEF's East Asia and Pacific Regional Office, Save the Children, Plan International, the British Council, the Asia Foundation, the Asia–Pacific Regional Network for Early Childhood (Arnec), the Myanmar Education Forum, as well as, on several occasions, the Southeast Asian Ministers of Education Organisation (SEAMEO).[13] While there was considerable variation in attendance, one of the constants of the Working Group meetings was the presence of at least one SIL representative. The SIL representatives' assiduity and their long-term experience within the field of language and education surely contributed to

[11] Initially published by Kenneth Gregerson, the report was republished in 2016, in a translated version, with additions by Kenneth Smith (Gregerson and Smith, 2016: 89–106).

[12] In 2007, the relation between SIL and UNESCO Bangkok was reinforced through a memorandum of understanding. For a broader analysis of FBOs within the United Nations, see Carrette and Trigeaud (2013).

[13] In 2015 and 2016, I joined five meetings in person and, since 2017, I have continued to follow them online as regularly as possible.

their key role within the Working Group, where they often were the most vocal participants.

As a person from another NGO phrased it, SIL members were the group's "technical heavyweights". Their expertise was encapsulated in the Ph.D. title that many of them held and in their fluency in local languages. While for most NGOs, mother tongue-based multilingual education constituted one of several activity areas, it was SIL's area of predilection. Thus, it is not surprising that specialists from SIL represented the Working Group at major conferences in the field, took a lead in the organisation (and initial financing) of its own international conferences and were the authors of a large part of UNESCO reports containing policy-advice on MTB-MLE.[14] It appears as if David Stoll's now forty-year-old analysis of SIL's collaborations with national governments in South America still holds true to a certain degree with regard to SIL's current engagement with UNESCO:

> Whether educational, medical or air transport and radio, [SIL's] services are often the best or the only available. (1982: 6)

To establish the Working Group and itself in the regional (and global) development arena, SIL had to rally other actors around the mission of rendering mother tongue education available for everyone. To explore how SIL achieved this, I rely on the concept of "moral economy" as defined by Didier Fassin and Jean-Sébastien Eideliman (2012). The study of a "moral economy" concerns the ways in which "a set of values, feelings and emotions has been established as dominant, legitimate and evident in a certain historical, political and social context, and about how this moral economy is borne, used, fought, re-appropriated, relayed, competed by different social groups and by the individuals composing such groups" (Fassin & Eideliman, 2012: 17).[15] The concept emphasises the "production, repartition, circulation and

[14] Among the UNESCO Bangkok's publications figure "What have we learned? The Conference on Language Development, Revitalization and Multilingual Education in Minority Language Community in Asia" (together with SIL/Mahidol, 2004), "Manual for Developing Literacy and Adult Education Programs in Minority Language Communities" (2004), "First Language First: Community-based Literacy Programs for Minority Language Contexts in Asia" (2005), "Highland Children's Education Project in Cambodia. A Pilot Project on Bilingual Education in Cambodia" (2005, with CARE), "Advocacy Kit for Promoting Multilingual Education: Including the Excluded" (2007), "Improving the quality of Mother Tongue-based literacy and learning. Case Studies from Asia, Africa and South America" (2008), "MTB MLE Resource Kit. Including the Excluded: Promoting Multilingual Education" (2016, 2018), "Why language matters for the Millennium Development Goals" (2019), "The Bangkok Statement on Language and Inclusion" (2020), "Tools for Planning and Monitoring Programmes of Multilingual Education in Asia" (2020). Dr. Susan Malone who was in charge of a range of these publications holds a Ph.D. in education as well as a Masters in theology, and has a long-term experience with SIL, notably in Papua New Guinea.

[15] Translated from French by the author.

utilisation of emotions and values, norms and obligations in the social space" (Fassin & Eideliman, 2012: 12).

To explore the moral economy of MTB-MLE that took shape within the Working Group, it first needs to be acknowledged that native-language protection had been part of the norm set of international organisations for several decades. The concern about language disappearance that socio-linguists and anthropologists started to raise in the 1970s led, twenty years later, to the emergence of "Endangered Languages" as a field of study within linguistics (Grinevald & Costa, 2010: 26).[16] It also drew the attention of international institutions. In 2003, linguists presented their grid to evaluate language vitality at UNESCO Paris, which came to form the basis of a UNESCO-led inventory of endangered languages in the world (Grinevald & Costa, 2010: 30).[17]

Within SIL, on the other hand, native-language education had been seen to hold fundamental value ever since the organisation's beginnings in the 1930s. This followed from SIL's "belief that all people are created in the image of God, and that languages and cultures are part of the richness of God's creation".[18] It is because SIL considers that people understand the Bible best in their mother tongue, that it has provided training in linguistics to its members (Dobrin, 2009; Handman, 2009). However, during MTB-MLE Working Group meetings or conferences, SIL members never, stated their faith-based rationale for language protection explicitly. Rather than risking to alienate fellows from other religions or of secularist conviction, SIL representatives phrased their aims in universalist terms, notably with reference to the UN Agenda 2030's Sustainable Development Goal 4—"ensure inclusive and equitable quality education and promote lifelong learning for all". For example, at the "Language Policy in Multicultural and Multilingual Setting" conference organised in 2016 by UNICEF Myanmar, a leading SIL specialist based in Thailand underlined how beneficial learning in one's mother tongue is for children in order to succeed in school, and how the right to MTB-MLE is hence crucial for minority children's futures. A senior literacy and education consultant with SIL discussing the elaboration of a language policy in Myanmar, insisted on the particular importance of such a policy in a country in which ethnic minorities have long been in conflict with the government. Thus, all SIL representatives attributed the value of mother tongue education to notions broadly promoted in the international development sphere, such as cultural and linguistic diversity, education or ethnic minority empowerment. They invoked feelings of respect for diversity, and concern for vulnerable children and for oppressed minorities, thereby creating bridges for a broad range of actors to relate to the moral economy of MTB-MLE.

[16] Initial preoccupations about language disappearance were voiced by socio-linguists such as Joshua Fishman (1972) and by certain Boasian anthropologists.

[17] The same year, UNESCO published a foundational report titled "Education in a multilingual world".

[18] http://www.sil.org/about/discover#node-53, last accessed on 18 March 2016.

SIL's Influence on Political Norms in Contemporary Southeast Asia

Through the broad and increasingly well-established propagation of a moral economy of MTB-MLE, SIL has been able to influence political norms in contemporary Southeast Asia. In a recent guidebook titled *The Languages and Linguistics of Mainland Southeast Asia*, two SIL members—Carolyn P. Miller and Kirk Person—note that "SIL education consultants strive to build bridges of understanding between government leaders, United Nations staff, and ethnic minorities" (2021: 174). A range of UNESCO publications put together by SIL consultants have been distributed to national governments, notably its widely disseminated "Advocacy kit for Promoting Multilingual Education: Including the Excluded". Biennial international conferences constitute a key occasion to interact with government delegates. These typically two-to-three-day events, set in fancy hotels in major Southeast Asian cities, make it possible for SIL representatives to discuss with participating government representatives, informally as well as during dedicated closed-door meetings. They also allow strong messages to be passed, especially during the well-attended keynote and plenary speeches that showcase countries with favourable MTB-MLE policies. For instance, at the time of the 5th International Conference on Language and Education the working group organised in 2016 in Bangkok on the theme of "Sustainable Development Through Education", Cambodia had become one of the featured MTB-MLE role models in the region.[19] A Cambodian Under Secretary of State of the Ministry of Education came on stage with the CARE Cambodia representative, who presented the latest progress in the country; the Multilingual Education National Action Plan (2015–2018).

However, there are limits to what can be said in such conference contexts, and thereby also to the values that can be put forth. These cannot offend locally dominant political norms, even if incompatible with values underlying the MTB-MLE moral economy. In February 2016, I joined the conference on "Language Policy in Multicultural and multilingual settings" that was held in Myanmar and co-organised by UNICEF Myanmar, the University of Melbourne and the University of Mandalay. I accompanied several members of the MTB-MLE working group, including the UNESCO project officer, two SIL members and the CARE Cambodia representative, who had all been engaged with the group for years. The four-day event gathered about 300 mostly Southeast Asia-based scholars, development actors, activists and government representatives.

On the last day, I joined a panel with a presentation by an American scholar who proposed to approach indigenous language issues from a human rights perspective. Referring to research conducted between 2008 and 2013

[19] In the 2007 UNESCO report *Mother Tongue-based Literacy Programmes: Case Studies of Good Practice in Asia*, Cambodia and Thailand are the two Southeast Asian countries among a total of seven countries.

in Cambodia's Northeastern Ratanakiri province, he outlined the brutal socio-economic and ecological changes that have affected this highland region. Minority inhabitants whose livelihoods had mainly relied on swidden agriculture were losing much of their land to companies, which forced them to shift to cash crops or to become a cheap labour force. This led him to call for the defence of indigenous peoples' rights, including land rights. The scholar argued that if the Cambodian indigenous highlanders can no longer access their land, their mother tongue will be endangered because it will have lost its functional relevance. He sharply criticised MTB-MLE projects for glossing over this fundamental issue by pretending that it is possible to sustain minority language vitality in a general context of loss. The reactions to his presentation were intense. An Australian linguist countered that he had heard from a senior SIL expert that MTB-MLE was very successful in Cambodia's Northeast. The presenter confirmed, but reiterated that the problem of dispossession had to be addressed, since without land and food security, young highlanders would leave their homelands and local languages would be threatened with extinction. The representative of CARE Cambodia, who had been involved in establishing education in the highlanders' mother tongues in Ratanakiri since 2000, acknowledged that one cannot only focus on education, but also insisted on the extremely sensitive nature of opposing land problems in Cambodia as they involved influential figures, emphasising the huge power dynamics at stake.

It is understandable that professionals involved in MTB-MLE projects were upset by the (partly insufficiently backed-up) conclusion that such endeavours are unable to prevent or, even worse, might accelerate the loss of mother tongues. However, the connection that the contentious presentation established between education and land rights complicated the question of language conservation in an important way. Since the start of the conference, I have heard participants express their frustration with an overly smooth and depoliticised approach to an extremely complicated topic. The presentation on the situation in Cambodia's highlands gave voice to a critical perspective that appeared to be otherwise missing.

The provoking presentation and the discussion it triggered can be seen as illustrating two opposed scientific-political strategies; a pragmatic one on the one hand, and a defiantly critical one on the other. Each calls for support of "non-dominant" languages and identities. Whereas holders of the critical view approach the promotion of mother tongue-based education as part of a broader set of rights to be defended, those who opt for a pragmatic approach, such as SIL, hold back a number of criticisms to push one claim forward. This latter strategy can be seen as motivated by an emancipatory vision of education, according to which education could lead to broader subsequent changes. In the case of the SIL, emancipation is not only envisioned in socio-political terms, but also in religious ones. For missionary-linguists, turning highland minorities into self-confident and informed citizens involves "freeing" them from spirit practices and beliefs considered to be obstructive. If

"emancipation" defined in such terms is their underlying priority, rather than the promotion of MTB-MLE education per se, this is likely to add to their choice to withhold certain criticisms. The SIL opting for a cautious diplomatic approach might also reflect an attempt to overcome their historical association with American imperialism. Indisputably, after having managed to establish influential relations with various national governments over the course of the twentieth century, SIL has succeeded in creating a place for itself on the international development scene paving the way for its members to continue working on Southeast Asian ground.

Conclusion

As an example of a Christian FBO active in Southeast Asia, SIL influences political norm dynamics through the promotion of an agenda that is inclusive and emancipatory in the linguistic and educational fields, but involves withholding critique of discriminatory and inequitable political practices. It is arguably problematic that Cambodia, a country that is showcased on UN stages as exemplary in the field of MTB-MLE, demonstrates a marked lack of respect towards the human rights of the minorities this education targets.

The example of SIL illustrates the complex ways in which its norms agenda is influenced by the organisation's dual needs to position itself within the international development sphere, while remaining acceptable to national governments. The political economy of MTB-MLE has connected the SIL to numerous, largely secular organisations around a set of common denominators. The example of Cambodia suggests the partial, incomplete appropriation by national governments of certain norms, such as the respect of ethnolinguistic and cultural diversity. SIL's Christian values and convictions, underplayed in these exchanges on the international arena, are likely to be rendered explicit on the ground, in places where MTB-MLE projects are implemented by Protestant partner organisations.

The preceding analysis stops short of addressing how minority-language speakers deal with and make sense out of these sets of norms and values. The outcome of these and any other development projects "owes as much to the understandings and practices worked out in the contingent and compromised space of cultural intimacy as it does to the imposition of development schemes and related forms of disciplinary power" (Li, 1999: 295). To learn how MTB-MLE policies influenced Cambodian highland inhabitants, how the Italian Catholic nun's critical teachings affected mothers in the Bangkok slum or how the prosperity gospel of the Korean Pentecostal NGO "Good People" resonated with Cambodian urban dwellers, it is necessary to enquire on the ground. People's ways of making sense of Christian FBO projects are likely to be as diverse as the projects themselves.

Acknowledgements The author would like to thank the members of UNESCO Bangkok's MTB-MLE Working Group for having welcomed her and made time for conversations, Noëllie Bon for involving her in the rich discussions of the "Dynamiques du Language" laboratory's "Langues en danger" working group, Nicolas Salem for sharing literature on the language politics in Southeast Asia and Giuseppe Bolotta & Chiara Pilotto for giving her the opportunity to discuss elements of this research, which has been funded by the "NGOs and Religion in Asia" project (2015–2017), led by Michael Feener and based at the Asia Research Institute, National University of Singapore. Many thanks as well to the Handbook's editors, in particular to Astrid Norén-Nilsson for her careful comments and improvements. Any shortcomings that remain are mine.

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CHAPTER 7

Mapping the Transnationalisation of Social Movements Through Online Media: The Case of the Milk Tea Alliance

Yu Leng Khor

This chapter looks at online media's role in protest in Southeast Asia through the Milk Tea Alliance (MTA), an online transnational social movement.[1] Protest in the digital age faces domestic pro-regime pressures, encouraged by the rise of China's power in the region. By mapping the online Asian pro-democracy movement MTA via three case studies of street-cum-online protest events, this chapter offers insights on how the transnationalisation of social movements through online media has affected protest norms. The MTA hashtag (#milkteaalliance)[2] emerged in early 2020 and was dubbed a "Pan-Asia Alliance" by Hong Kong activist Joshua Wong. The hashtag "(was) used 11 million times in (its first twelve months), and on the first anniversary of its Twitter debut, the social media platform has given it an emoji… a white cup and straw on a tri-colour background, reflecting the regional shades of tea" (Kuang & Handley, 2021).

MTA could boast a 25 million hashtag count on Twitter over 2020–2021. Recent MTA activity on other channels includes around 2100 videos and

[1] Milk Tea Alliance is often referred to by activists by its initials.

[2] The hashtag function was created by Twitter (2022) to index keywords or topics. It is used across many online and social media channels to allow users to easily follow topics of interest.

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_7

245 channels on Youtube; "639.000 people are posting about this" on Facebook, 74,530 posts on Instagram, and 6,9 million views on Tiktok.[3] Despite statist repression and appropriation of cyberspace, MTA pages broadcast the Myanmar diaspora marching in Thailand on May Day and International Women's Day in 2022, while events on the ground in Myanmar were grim with electricity and internet cut-offs, artillery shelling, and mass population displacement. Sympathy with Ukraine is at the time of writing displayed alongside reminders of China-related geopolitical issues such as Tibet. Twitter has been used to build and hone collective narratives, to share movement information, and to mobilise offline protest activities.

This empirical and comparative research blends quantitative and qualitative analysis, including insights from activists and close observers, supplemented by analysis of the content of MTA accounts on Twitter, Facebook, and other selected channels. Engaging with literature on the challenges of transnational movements in Asia, it adds to the small but growing body of literature on transnational social movements and social media in Southeast Asia with reference to Twitter hashtags, including Sinpeng (2021), Sombatpoonsiri (2021a, 2021b), and Phoborisut (2019) on Thailand, and Sastramidjaja and Rasidi (2021) and Sastramidjaja and Wijayanto (2022) on Indonesia's Omnibus Law tussle.

The perspectives from a dozen Southeast Asia-based direct and close observers were gathered via semi-structured phone and online interviews between February and April 2022. The interviews took their starting point in MTA statistics compiled for this study, including those for three protest events: (i) Thailand's anti-establishment protest of October 2020, (ii) Myanmar's February/March 2021 anti-coup protest, and (iii) Malaysia's July 2021 #Lawan protest. Several activists were also interviewed.[4] They were asked how transnationalisation and the MTA have affected the norms of protests: their modus operandi or interaction with social media channels, use of the MTA and other hashtags, the demography and geography of protests segments, and how alliance networks transform demands and ideas.

#MilkTeaAlliance's Evolution

Notable recent international hashtag campaigns include #BlackLivesMatter, #MeToo, and #FridaysForFuture. In Southeast Asia, #MilkTeaAlliance has garnered so much prominence that Twitter created a special emoji for it. Starting with a Thai versus Chinese nationalist "tweet off," it built on already brewing discontent towards the Thai government. The MTA movement was

[3] The web pages viewed for featured and/or recent activity on the MTA and their headline metrics (accessed 2 May 2022): Twitter; Youtube, Facebook, Instagram, and Tiktok.

[4] Including one activist in each of the target case study countries, one Indonesian activist, and one regional activist.

launched, with linkages to a sweep of pro-democracy initiatives in the region. Chan (2020), a Hong Kong democracy activist, argues that the MTA "also indicated an ongoing frustration in the region regarding China's influence and actions that affected less powerful countries on the ground level," and the need for an alliance to strengthen their position.

Literature on the #MilkTeaAlliance campaign highlights its popularity in Thailand and Myanmar. The hashtag emerged in April 2020 after Chinese nationalists attacked Thai actor Vachirawit "Bright" Chivaaree for "liking" an image that referred to Hong Kong as a country, a vitriol that later spread to target Thai model and Chivaaree's partner Weeraya "Nnevvy" Sukaram, who had implied Taiwan's sovereignty about three years beforehand, in a 2017 Instagram post. Thai netizens defended the duo, engaging in a meme war which divided netizens into two broad groups: pro- and anti-Chinese authoritarianism (Temby, 2021). #Nnevvy surged to 3.7 million mentions in late March 2020 and also triggered Chinese sensitivities on speculation about Covid-19 (Khor & Sharif, 2020). China's Global Times reported that on its Twitter-like Weibo, hashtags related to a call for a boycott of Thailand and its products were used 1.4 million times with more than 4.6 billion views (Yuqiao, 2020). Chinese netizens reacted against Hong Kong pro-democracy protests (Shih, 2019), and engaged in counterproductive taunting of Thais, described in detail by Schaffar and Wongratanawin (2021). Were some even arguing for Thai cultural identification above ethnic Chinese ties by hashtagging that "#Milk Tea is thicker than blood"? The Chinese Embassy in Thailand (2020) statement on 14 April 2020, referring to the One China principle, "no sin" in the Covid-19 virus origin, and recognising the long and special kinship of "China and Thailand as one family," triggered inordinate attention (20,000 comments and 12,000 shares on Facebook).

During the April–May 2020 genesis of the MTA movement, the count for #Milkteaalliance came to about 0.8 million. From April 2020 to November 2021, the hashtag garnered over 25.2 million mentions globally (Fig. 7.2), including 9.1 million mentions in seven countries: Hong Kong, Taiwan, Thailand, Myanmar, Indonesia, Malaysia, and Singapore. Thailand and Myanmar recorded 2.5 million and 4.5 million mentions, respectively. With attention having shifted to other struggles, MTA at the time of writing, in September 2022, seems to toil on with a basic level of grassroot support, particularly in Thailand. The count of Twitter and Facebook followers for selected geographies stood at at least 250,000 (global, Thailand, Myanmar and Malaysia pages totalled, from Table 7.1), in early 2022.

From its inception, the MTA hashtag became a "catch all" for direct and indirect regional gripes about China. For example, early on, MTA was hashtagged in the context of worries about the Mekong Dam impacts and territorial water disputes (Chan, 2020). The hashtag has since come to take on further meanings. Figure 7.1 provides a snapshot of related hashtags topics in May 2022. Table 7.1 then overviews recent and past usage of Twitter and Facebook MTA pages. In summary, the Myanmar MTA pages focus on

Table 7.1 Selected indicators for the Milk Tea Alliance (MTA) by country/region, May 2022

Country/ region	*Social media platform indicators*	*Observations on usage*
Global	There are at least three global MTA Twitter accounts, the largest with nearly 70,000 followers. There is at least one global MTA Facebook page with about 24,000 followers. There is at least one public Facebook group with 8300 members, and at least two private ones with about 2500 and 1100 followers, respectively.	The Twitter account with 700,000 followers remained active and tweeted on various pro-democracy movements, including those related to countries outside of the typical MTA line-up, such as Cuba. It also tweeted about the Russia–Ukraine war. There were calls for sanctions on Myanmar's state-owned oil and gas company, MOGE. The global MTA Facebook page last posted in late 2021. The public Facebook group remained active and had posted on recent events including the Russia–Ukraine war. The two private Facebook groups appeared to be active.
Malaysia (case study)	At least two MTA Twitter accounts, one of which has about 10,000 followers. No prominent Facebook accounts.	The Twitter account with 10,000 followers was active. It covered a wide range of issues, including the Myanmar coup and criticism of ASEAN's response, Rohingya and Karen issues, human trafficking, the 2022 Philippines Presidential elections and Singapore's execution of Nagaenthran Dharmalingam.
Myanmar (case study)	At least five MTA accounts on Twitter. The largest has about 14,000 followers, and most others have a few hundred followers. There are three MTA pages on Facebook, one for a youth. organisation, with about 7000 followers, and two personal blogs, with about 700 followers each.	Most of the smaller Twitter accounts were mostly active during the first quarter of 2021. The most prominent account was last retweeted in February 2022. It focused primarily on domestic issues relating to the Junta rule. All three MTA pages on Facebook were most active during the first half of 2021. Their last posts were in 2021.
Indonesia	There is at least one MTA Twitter account with about 3800 followers. No prominent Facebook accounts.	The Twitter account featured an NGO-CSO signature campaign in support of Indonesian activists targeted for defamation and also addressed the Papua issue. It also featured support for Myanmar against Junta rule, and for Ukraine.

(continued)

Table 7.1 (continued)

Country/ region	*Social media platform indicators*	*Observations on usage*
The Philippines	There is at least one MTA Twitter account with about 9600 followers. There are at least two Facebook pages with about 3000 and 190 followers, respectively.	The Twitter account and largest Facebook page remained active. Tweets and posts had anti-China undertones and were focused on the Boycott Beijing Olympics 2022 movement. They also addressed the 2022 Philippine Presidential elections as well as the Russia–Ukraine war.
Thailand (case study)	At least two Twitter accounts, one of which has about 25,000 followers. There is at least one Facebook page with 38,000 followers.	The largest Twitter account and Facebook page still appeared active. Many of their Tweets/posts had anti-China undertones and focused on the Boycott Beijing Olympics 2022 movement. Tweets/posts also expressed solidarity with other MTA allies, and with Ukraine.
Singapore	No prominent Twitter or Facebook accounts.	
Others	There are MTA-related Twitter accounts and Facebook pages for the following countries: Hong Kong, Taiwan, India, Iran, Canada.	In general, most of these accounts showed little recent activity, except Twitter accounts in Iran and India which addressed both domestic issues and pro-democracy movements abroad.

Notes (i) These indicators were gathered 5–10 May 2022; (ii) all groups/accounts observed are public pages, unless stated otherwise

domestic issues of Junta rule; the Thailand MTA pages have anti-China undertones and champions solidarity with other MTA allies, whereas the Malaysian MTA pages were found to focus on a wide range of issues. The global MTA pages support pro-democracy movements in many places, including in countries outside the region, such as Cuba and Iran.

State Repression and Transnational Activism

The MTA movement has transformed into a social phenomenon of protest-sharing in Asia, especially amongst youth in Thailand, Taiwan, Hong Kong, and Myanmar. Noteworthily, given that its original purpose was to defend a Thai celebrity couple from Chinese cyberattacks, protesters rally to express support for pro-democracy campaigns also regarding countries other than their own (Potkin & Tanakasempipat, 2021; Nguyen, 2021; Leong, 2020). The MTA movement provides an illustration of the drastically changing landscape of political activism spearheaded by youth, particularly the use of social



Fig. 7.1 Related hashtag topics for MTA, the first week of May 2022 (*Data* Mostly Twitter, online news, and blogs, accessed via Talkwalker. *Note* Related hashtag topics are not edited, including some misspellings and seemingly unrelated links arising from actual online user errors)

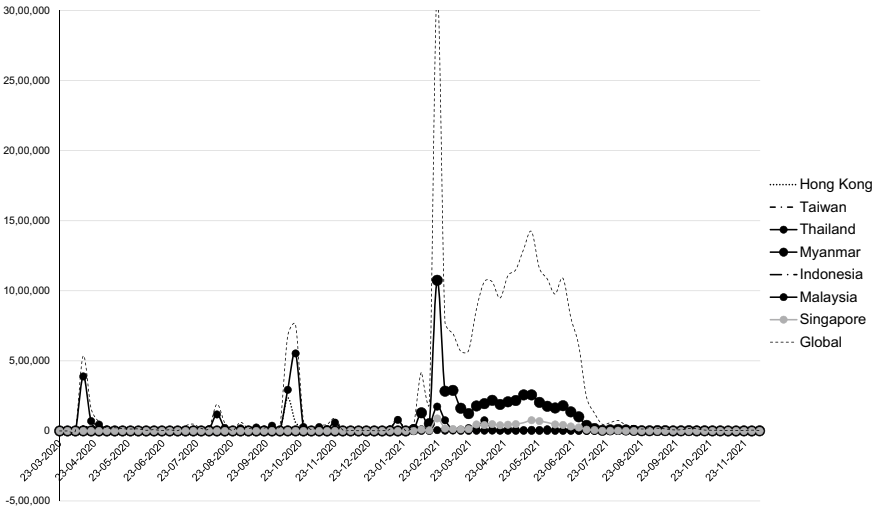


Fig. 7.2 #MilkTeaAlliance weekly mentions (mostly Twitter) by country, Apr 2020–Nov 2021 (*Data* Twitter, online news, and blogs, accessed via Talkwalker)

media and pop culture references, to express dissent. This is a far cry from past protests during similar political polarisation, such as Thailand's Red Shirt Movement, which was primarily led by older cohorts (Lee, 2021a, 2021b; Schaffar & Wongratanawim, 2021).

"Cross-group cooperation in social movements ranges from loosely organised and temporary to highly formal and long-lived," writes Wiest (2010), pointing out that coalitions are hard to build and that those that are transnational have added complexity. Impediments to transnational social movements include cultural and political diversity, distance, economic barriers (to the easy

flow of people, goods, and information), and varying political contexts. For Wiest, regionalism (with an institutional framework as a common ground for activism) is an integrating force, while "variation in political contexts may present the toughest challenge... not only for domestic movements acting locally or nationally, but also for those seeking transnational affiliation. In authoritarian state contexts, the obstacles to mobilisation are immense. At the same time, state antagonism may provide the greatest impetus for transnational collaboration as activists seek allies in the international arena." Ford (2013) notes that regardless of whether activists and organisations operate locally, nationally, or are embedded in transnational activist networks, "almost all imagine themselves to be engaged in a struggle against the state, which is simultaneously seen as enemy and potential ally in the struggle for social change."

Social activism in Southeast Asia is often a struggle against the autocratic state (Ford, 2013). Bünte (2020) points out that democracy has been an exception in Southeast Asia, where authoritarian systems of government have been dominant. Furthermore, authoritarian regimes have learnt to use social networking platforms for their own ends, so that "social media is furthering polarization and distrust in Southeast Asian societies, often based on disinformation campaigns and growing sectarianism" (Bünte, 2020). Khoo (2017) asserts: "Despite the differences in their political structures, the Southeast Asian countries share one common trait, that is, the existence of state repression, in which it brings threat to the civic space in the region."

It is in this context that the MTA campaign has taken shape, as a form of transnational protest against repressive Southeast Asian autocratic states understood to share Chinese support as a commonality. In a typical statement, a regional political economist interviewed towards this research (Interview D, personal communication, February 24, 2022) thus remarked that China and authoritarian regimes in ASEAN are working together. "On the ground, protests in Hong Kong and Myanmar have caused elites in these places to coordinate. It is a contestation of state versus society and very dominant states are in collusion with each other. What happens on the ground now? How does society find alliances to challenge states allied against them? The Chinese government knows how to control the web and curb grassroots and societal alliances, which are becoming more transnational due to the rise of the web."

Myanmar Leads, Thailand Supports, and Malaysia Lags with MTA Hashtags in Protests

I will now turn to examine the transnational impact on protest norms at three key events: (1) the October 2020 Thai anti-establishment protests; (2) the February/March 2021 Myanmar anti-coup protests; and (3) the July 2021 anti-government #Lawan protest in Malaysia.

The top-line hashtags from aggregate statistics (daily hashtag count, mostly from Twitter) are summarised in Table 7.2. These show that both the Thai

and Myanmar protests made large-scale transnational outreach efforts with #WhatisHappeningin[country] the top hashtag for each, while the Malaysia protest remained domestically oriented. Internet and social media populations and user rates are also shown in Table 7.2. The Thai and Malaysia cases had sharp narrow spikes: the Thai top hashtag peaked at over 6 million mentions per day, while Malaysia had a 120,000 per day peak which was sizable in its context.[5] Myanmar had a long tail of hashtag activities, reflective of its string of crackdowns.

The 2020 protest event was led from Thailand, but enjoyed notable support from Hong Kong. Schaffar and Wongratanawim (2021) note that the MTA debates in 2020 "were muted from two sides. On Sina Weibo, inside the Great Fire Wall, a free debate on the issues discussed under the #MilkTeaAlliance never unfolded," and in June 2020, Twitter deleted about 23,750 accounts that were highly active. According to Twitter, this was a core network of pro-Chinese Communist Party influencers, with 150,000 amplifier accounts, which were also deleted (Twitter Safety, 2020). Thus, we can only speculate what a fuller-scale Twitter tussle might have looked like.

In 2021, the MTA phenomenon was dominated by Myanmar, at the same time as MTA's global reach skyrocketed. Hashtag statistics for February to December 2021 record almost 22 mn mentions (see Fig. 7.3). Myanmar represented a quarter of the count, Thailand merely 3%, while the share of other countries in the region was even lower. Interestingly, during the first quarter of 2021, MTA Singapore weakly but significantly echoed Myanmar's protest of February/March 2021. Just as the mentions marked as originating from the US, UK, and elsewhere, this comprised Myanmar's diaspora, Myanmar netizens whose locations are masked, as well as international sympathisers: what is unknown is the respective share of each group. Mentions originating from EU member states, UK, US, Canada, and Australia are unsurprising given the sanctions and restrictions they imposed on Myanmar, and active civil societies in these countries. Examining granular Twitter data, Wang (2021) found important US influencers following the MTA closely.

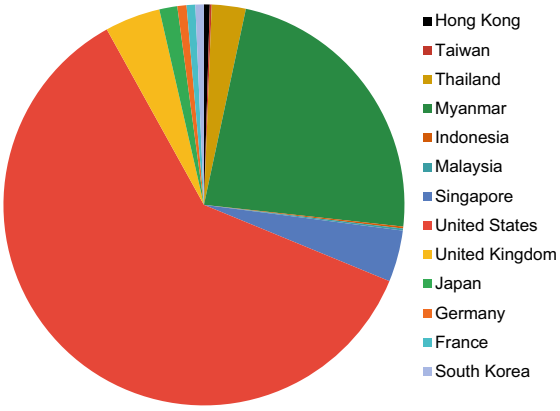
The long tail of events in Myanmar following the 1 February coup meant that the global MTA hashtag count grew during the first half of 2021: in February to March it came to just over 7 mn mentions, and in April–June it reached nearly 14 mn. Mentions then dropped. The peak number of mentions for #MilkTeaAlliance dropped during the July 2021 protests that took place in both Thailand and Myanmar, and MTA hashtag activity nosedived thereafter. This coincides with changes in the political scene in Hong Kong, including national security prosecutions, an exodus from the Legislative Council (Legco), district councils and political parties, and restrictions on the media. The Hong Kong SAR government demanded that society should

[5] In social media terms, this put the #Lawan protest on par with the Bersih movement, for which Johns and Cheong (2019) identified 55,000 unique Twitter users for the 2012 landmark Bersih 3 rally.

Table 7.2 Social media indicators for case study countries, Jan 2022

Indicators	*Thailand*	*Myanmar*	*Malaysia*
Population (mil.)	70.0	55.0	33.0
Internet users (mil.)	54.5 (77.8%)	25.3 (45.9%)	29.6 (89.6%)
Social media users (mil.)	56.9 (81.2%)	20.8 (37.7%)	31.3 (91.7%)
Active Facebook users** (mil)	50.1 (71.5%)	19.3 (35.0%)	21.7 (65.8%)
Active Twitter users* (mil.)	11.5 (16.4%)	*n/a*	4.4 (13.3%)
Protest event—count of selected top hashtags by country	#WhatisHappeninginThailand—Oct 2020, 12.5 mil; 12.6 mil with 2 month run up #หยุดคุกคามประชาชน (Stop Oppressing People)—Oct 2020, 2.5 mil, 6.4 mil with 2 month run up	#WhatisHappeninginMyanmar—Mar 2021, 12.7 mil; 23.3 mil with 2 month run up #HeartheVoiceofMyanmar—Mar 2021, 439 k; 1.9 mil 2 month run up.	#Lawan—Jul 2021, 440 k; 555 k with 2 month run up #KerajaanGagal—Jul 2021, 180 k; 452 k with 2 month run up.
Protest event—count of #MilkTeaAlliance by country@	Oct 2020, 923 k; 1.1 mil with 2 month run up, 992 k with 2 month follow on.	Mar 2021, 1.2 mil; 2.5 mil with 2 month run up, and 2.9 mil with 2 month follow on.	Jul 2021, 979; 1.2 k with 2 month runup, and 1.3 k with 2 month follow on.

Data (i) Social media and demographics from We are Social Reports for Thailand, Myanmar, Malaysia (Kemp, 2021a, 2021b, 2021c), and Twitter and Facebook Stats and Trends (Kemp, 2021d, 2022a, 2022b, 2022c). *Note* *As of Oct 2021; **Data is based on the potential advertising reach of Twitter/Facebook and may not represent the total number of active users on either platform. (ii) Hashtag data: Mostly Twitter, online news, and blogs, accessed via Talkwalker. *Note* It is likely that a number of post locations are masked by VPNs, set for the US, Singapore, or other places instead of their actual locations, and country counts may be underestimated for Myanmar and Thailand.



	Feb-Dec 2021
Hong Kong	97,257
Taiwan	32,543
Japan	3,04,989
South Korea	1,44,764
Thailand	5,75,395
Myanmar	49,11,978
Indonesia	33,751
Malaysia	33,649
Singapore	8,74,332
United States	1,27,66,362
United Kingdom	9,39,714
Germany	1,55,765
France	1,46,662
Global	2,18,30,737

Fig. 7.3 #MilkTeaAlliance's mentions by country (*Data* Twitter, online news, and blogs, Feb–Dec 2021, accessed via Talkwalker. *Notes* (i) VPN tagging to US and Singapore likely clouds true origins. (ii) Light-grey wedges for the US [12.8 mn mentions] and Europe [UK, Germany, France; 1.2 mn mentions], dark grey for North Asia [Japan, South Korea, Hong Kong, Taiwan; 600 k mentions], and mid-grey for Southeast Asia [6.4 mn mentions, of which 4.9 mn in Myanmar]. Total: 21.8 mn mentions)

stand up against unauthorised protest, and not collude "with foreign forces" (Human Rights in China, 2022), arguments also rehearsed by Southeast Asian governments. Unsurprisingly, these efforts of authoritarian camaraderie poured cold water on the MTA movement regionally. At the same time, a large wave of Covid-19 infections hit. Indeed, a Myanmar activist (Interview D, personal communication, February 24, 2022) pointed out that this period saw a raging wave of Covid-19, affecting many households who were left without public medical support, while the Junta's repression turned more deadly.

State controls, including soaring telecommunication charges, coupled with the raging Covid-19 pandemic, made online and offline protest more difficult from mid-2021 onwards. Myanmar citizens shifted to other modes of nationwide civil disobedience, including silent strikes, flash protest, and mass non-attendance of schools. A youth activist (Interview C, personal communication, February 24, 2022) spoke of their plight, explaining how the 2021 coup had created a shared sense of struggle between disparate groups, that had also found expression in the MTA:

> *We are in a war. There is armed conflict across the entire country… There are unlawful military actions. People are arrested without warrant. Our ethnic areas faced 17 years of this kind of horror and war crimes. But we didn't even know it. The junta's psychological war put the plain and urban people against the ethnic*

*people…. People believed they [*the ethnic minorities*] were terrorists; and we could not see their struggle. The February 2021 coup unified our people.*

A Thai activist interviewed in March 2022 (Interview H, personal communication, March 2, 2022) commented that despite the relative quiet, political dissent remained strong, just not overtly expressed on the streets as people were similarly coping with the arrest of activists, inflation, and the Covid-19 pandemic. The MTA hashtag was also used by pro-regime activists to propagate pro-regime and pro-China perspectives on issues such as China's presence in Thailand and the relationship between the Thai and Chinese militaries (Interview H, March 15, 2022, personal communication).

In contrast to the transnational references of MTA protests in Thailand and Myanmar, in Malaysia, such transnational references were played down in connection with the July 2021 #Lawan protest. The organisers turned to the Hong Kong 2019–2020 protest for guidance on how to run rallies during a pandemic. However, there was apprehension that drawing too much inspiration would result in the #Lawan protest being politically linked to the youth arm of the opposition Democratic Action Party (DAP). Indonesia was seen as a more appropriate model than Hong Kong (Interview B, personal communication, February 24, 2022). Indonesian human rights activists generally do not use the MTA hashtag for domestic issues—though some use the three finger salute. Rather, the use of MTA in Indonesia tends to be a sign of internationally oriented solidarity, including for Myanmar and Ukraine (Interview K, personal communication, April 1, 2022). Another observer noted that Malaysian youth are ambivalent towards the MTA, with some believing it to be pushing too far by calling for regime change (Interview E, personal communication, March 1, 2022). Overall, the youth informants seemed to agree that transnational references would detract from Malaysia's domestic protest agendas.

Changing Protest Norms

MTA, as a hashtag movement, is hard challenged to maintain momentum. Several factors may plausibly account for the decline in mentions since mid-2021. These include (1) domestic turmoil exacerbated by the coronavirus; (2) exhaustion following a year of mobilisation efforts; and (3) more recent demonstrations targeting local political issues and not framing these around China (Schaffar & Wongratanawim, 2021; Wang, 2021). There are also concerns that the movement, to a large extent driven by resentment towards China, is hampered by pro-China elites, including in Thailand (Chia & Scott, 2020; McDevitt, 2020). Moreover, the movement seems to lack concrete offline tools to facilitate demonstrations and further the agenda beyond the virtual realm (Sombatpoonsiri, 2021a).

However, even as the use of #MilkTeaAlliance as a hashtag has waned, there is still some optimism that the pro-democracy spirit of the movement

remains—and is expressed via other hashtags—until a future event may prompt supporters to unify under the MTA again (Schaffer, 2020). Activists also note that MTA remains a convenor for transnational activism. Wang, examining Twitter data, argued in 2021 that: "… the #MilkTeaAlliance movement is far from over. It is not just an emoji on Twitter but remains an important symbol and hashtag for mobilising a cross-national democratic movement in 2020 and beyond… the alliance now emphasises more a call for liberal democracy rather than geopolitics." Thus, an activist interviewed in February 2022 (Interview C, personal communication, February 24, 2022) asserted that the #MilkTeaAlliance movement was still alive and well in Myanmar. The activist stated: "I don't use #MTA every day, but whenever there is a protest or strike or events in an alliance country. I expect MTA members will stay in solidarity until we are all free. MTA will keep against the Chinese Communist Party regime's authoritarian actions in alliance countries. Our future depends on how we act to liberate and help each other in times of need."

Others agree that MTA has had a lasting impact in terms of placing domestic struggles in a transnational frame. In the words of one activist in early 2022, "Things have gone more local for a few months, but the youth movements will cross-pollinate and the Myanmar issue is compelling and resonates across ASEAN" (Interview L, personal communication, March 7, 2022). Similarly, in an interview, Thai youth leader Netiwit (Chotiphatphaisal, 2022) spoke of MTA as a cross-promotion of causes, with Thais able to protest in front of the Chinese Embassy in Bangkok on behalf of others. Thanks to the MTA, Thais now feel that they are living in the same community, and share the same aspirations, as those facing state oppression elsewhere.

Transnationalisation has impacted the norms of recent protests in Southeast Asia. While the MTA hashtag online campaign has energised and linked regional protest activists, it has a different level of reach in each country: ranging from minimal in the case of Malaysia's domestically focused protest movement (Khor & Sharif, 2021) to extensive in Myanmar. Where MTA has been particularly active, notably in Thailand, it has successfully influenced public perception to the degree that the state has sought to appropriate the hashtag with pro-China narratives. The MTA campaign is led by youth who seek to be less divisive than the older generation of pro-democracy activists. They target a more inclusive cross-ethnic demography, in particular, in Myanmar where the urban population and plain-dwellers have identified with rural ethnic minority populations. MTA has been hugely successful in engaging Asian youth on serious political issues. It is hard to predict what might trigger the next pan-Asian tweet off or cyber tussle, but the ongoing organisation of MTA groups suggests that they will be ready to participate.

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CHAPTER 8

"Does China Have a Model to Export?": An Interview with Chloé Froissart

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More than ever, China is asserting its desire to exercise global leadership, particularly in the Asia-Pacific region, where it is exerting increasing influence. While affirming its willingness to contribute constructively to what it calls "the common destiny of mankind", it constantly opposes the "universal values" of democracy and human rights and often displays an aggressive and bellicose attitude. Does China have political standards to export?

During a speech delivered to the Central Party School in January 2013, President Xi Jinping outlined his thinking:

> We firmly believe that with the development of socialism with Chinese characteristics, our system will inevitably mature; it is also inevitable that the superiority of our socialist system will become more and more visible. Inevitably, our path will become broader; inevitably, our country's development path will enjoy increasing influence in the world. (Xi, 2019)

The desire to promote an economic and political model alternative to liberalism, as pushback against a century of humiliations and decades of taking the West as a model, is one of the major themes of the Xi Jinping presidency.

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_8

Throughout the president's first five years in office, this has been expressed through the triumphant affirmation of a Chinese solution (*Zhongguo fang'an*), which has been forcefully asserted in several international forums.[1]

So does China have a political model based on clear political norms that it can propose to, if not impose on, the rest of the world?

From my point of view, it is difficult to speak of Chinese political norms, in the sense of a coherent and intangible set of values, practices and institutions formalised and put forward by the regime. Political norms are the result of multiple and contradictory influences. Democracy, Leninism and Marxism, inherited from the relations that China has maintained with the West and the USSR, are all at the foundation of the Chinese regime. Moreover, these norms have been reinterpreted throughout Chinese history in a pragmatic way and have been assigned varying emphases in relation to each other in response to the concrete conditions and challenges of the moment. These political norms find their coherence only in their opposition to liberal democracy and human rights, as codified in international law. China is a one-party dictatorship, which in my view has now reverted to totalitarianism after an authoritarian moment that coincided with the reform era. The current totalitarian moment is characterised by two major dynamics. On the one hand, the Party regained control over the state and society, and more particularly the Supreme Leader regained control over the Party, the state and society. On the other hand, the importance of ideology has been reaffirmed. But the People's Republic of China has always claimed to be a democracy. Like the USSR before it, it includes formal features of democracy in terms of both institutions and practices. This is what is highlighted in the White Paper published by the State Council in December 2021, entitled *China: A democracy that works* (Embassy of the PRC in the United States, 2021). This document proposes an alternative political model to the Western liberal democracy in crisis, in the form of a model of good governance that would make it possible to guarantee social stability, economic development and "people's rights" through the resolution of concrete problems, and without bothering with values relating to the fundamental rights of individuals. In a way, it is the Chinese regime's trademark, on which China intends to base its appeal and legitimise its growing influence over international organisations and countries of the Global South. But the document itself is contradictory. It emphasises key concepts of democracy such as elections, participation and power-limiting practices. At the same time, it recalls the basic mechanisms of the CCP dictatorship: the democratic dictatorship of the people, democratic centralism and the mass line.[2]

What exactly does this model refer to?

[1] The G20 Summit in Hangzhou (August 2016), the World Economic Forum in Davos (January 2017) and the Belt and Road Forum (May 2017).

[2] Democratic centralism refers to the fact that the lower echelons of the state and the Party are accountable to the higher echelons of the Party and ultimately to the party-state at the central level, and not to the people. The mass line refers to the CCP's conception of representation: the cadres conduct surveys among the masses to gather their opinions

It is a model of authoritarian governance based on an instrumental conception of democracy that aims above all to strengthen the CCP's capacity to govern, i.e. its leadership role and legitimacy. It is also a model, according to the White Paper on China's Democracy (2021), that should allow for the reform of the Party and the state, by implication to make them more efficient. Stein Ringen, a political scientist and professor at Oxford, refers to this model as a "perfect dictatorship", i.e. a dictatorship that would not appear to be one because it takes into account the needs and demands of the people to a certain extent, and allows for a certain degree of participation.

As the White Paper (2021) points out, Chinese dictatorship is based, among other things, on elections at the local level, in particular at the village level. Elections of the village committee and its chief have taken place since the late 1980s. These are supervised elections, with very little competition (the number of candidates is about 5% higher than the number of posts). If candidates are not necessarily members of the CCP, they must be loyal to the Party. Although village cadres still have to follow the directives of the higher level of the party-state (at the county level) and be evaluated by the latter, these elections introduced a relative degree of accountability by grassroots cadres to the villagers, whose needs were better taken into account. For example, in some localities, corruption and the levying of arbitrary taxes diminished, while the construction of infrastructure increased. To some extent, village elections have led to the emergence of more effective local elites and improved transparency in local government. But in some villages, such as Wukan in Guangdong Province, elections have failed to prevent local authorities from seizing villagers' land and have not promoted compensation to villagers in accordance with the law.

The CCP has also set up a range of consultation channels such as letters and visits (or petitions *xinfang*) bureaus, administrations that receive citizens' complaints and settle them, at best, through conciliation; as well as government office visit days (*jiefang ri*), administrative appeals (*xingzheng fuyi*) and administrative trials (*xingzheng susong*). China's Environmental Protection Law allows NGOs to file public interest lawsuits in an attempt to promote legal change. Local governments across China have been required to set up Internet portals to solicit residents' evaluations of municipal government performance and to respond to their complaints. These institutionalised practices make the administration more efficient and transparent and allow higher levels of government to be informed of local problems. The population is also consulted on draft laws in areas considered non-sensitive (not related to the fundamental interests of the state such as security, defence, etc.), i.e. economic, social and some Internet-related issues.

While these consultations certainly carry very little weight in the way laws are drafted by the National People's Congress Standing Committee, they give

and transmit them to the central authorities of the party-state. The latter synthesise these opinions into political directives, which are then inculcated in the masses.

people the impression that the government is listening and that they have a say in policy decisions.

The White Paper also mentions mechanisms of "power restraint". Under the Hu Jintao–Wen Jiabao administration (2002–2012), these included social practices of supervision of the lower echelons of the party-state, with citizens often challenging local cadres who abused their power. The media—whose role in representing public opinion and controlling power was to some extent encouraged—as well as online mobilisations made it possible to bring cases of injustice at the local level to the attention of the public and the higher echelons of the party-state. This helped to influence legislation and policy-making, whether it was the abolition of custody centres where migrant workers were detained, the inclusion of PM 2.5 in pollution measurement, the halting of dam construction, etc. These practices, which were an integral part of the Chinese regime's modus operandi in the 2000s up to 2016, did in fact allow for greater consideration of citizens' rights and interests, but ended up threatening its stability at the beginning of the Xi Jinping era.

What about this model today?

This model, which the Hu-Wen administration underpinned with a discourse on the rule of law and human rights, and which generally balanced the divergent interests of society and the Party, has been challenged under Xi Jinping. As soon as Xi came to power, he emphasised control, surveillance, state security, discipline within the Party and society and the rejection of so-called Western values (constitutionalism, civil society, independence of the judiciary, etc.—in short, all terms referring to liberal democracy). This resulted in the repression of everything that had to do, de facto if not de jure, with a liberal and combative civil society that worked for the defence of citizens' rights, and in the establishment of top-down modes of governance to the detriment of dialogue with society.

Most of the institutionalised channels of consultation (those allowing citizens to complain to the administration, administrative and public interest litigation, consultation on draft legislation) have not disappeared under Xi. What has disappeared are the non-institutionalised channels of consultation and participation, i.e. those initiated by social actors, including meetings and talks called by citizens and NGOs to bring problems formulated in their own terms to the attention of the administration and to propose solutions to the leadership.

Power-limiting practices have been widely challenged by the Party's takeover of traditional and social media. Traditional media are now expected to act solely as the Party's transmission belt and to instil confidence in the CCP among the people. In addition to increased control and censorship, the CCP has become a master at manipulating public opinion, whether through fake news and persuasion tactics or by influencing the practices of Internet users.

The limits of taking public opinion into account were amply illustrated by the way the CCP managed the Covid crisis and emphasised a model of total

deprivation of freedom. The inhabitants of Shanghai shouting their anger and despair from the windows of their buildings were met by drones ordering them to suppress their desire for freedom. This extremely strict confinement was for both health and political reasons. Apart from the fact that the Party, especially its supreme leader, is supposed to be right all the time, Xi Jinping could not back down just months before the Twentieth National Party Congress when he had made this mode of management the mark of superiority of the Chinese model. The president also claimed that the way the crisis was handled in Shanghai corresponded to the Party's modus operandi. But this model has once again demonstrated its inhumanity: we will never know how many people died of hunger or lack of medical care, while the violence against those who did not obey the Party's directives was unprecedented.

In other words, not only does the Chinese Communist Party no longer tolerate the development of forms of counter-power within the regime—whereas these were encouraged under Hu-Wen—but it has considerably reinforced its modes of control. Three mechanisms are at work. First, China's surveillance infrastructure has expanded considerably, both online—for example, now covering blogs that were once a space of relative freedom—and offline through the development of facial recognition technologies that allow the identification of protesters, but also of "suspects". The changing aims of mass surveillance reveal a shift in the CCP's understanding of security. It is no longer just about monitoring society and harshly punishing those who undermine the stability of the regime through their actions. The new systems are part of a logic of permanent control and even predictive mass control against "extremism", particularly in Xinjiang. The data collection and cross-referencing system establishes a fine-mesh surveillance network that aims to catch all the seeds of dissent before they take root by tracking down "two-faced" individuals, i.e. those who hide their true political identity. The system is capable of analysing a huge amount of data according to an arbitrary grid of criteria to flag "unusual" behaviour and classify individuals according to the degree of risk they supposedly pose.

Secondly, the Party has increased legal mechanisms to strictly control activities and organisations that could potentially become political, as evidenced, for example, by the restrictions imposed on NGOs. According to the Charity Law and the Law on the Management of Overseas Organisations enacted in 2016, social organisations are now confined to the role of extensions and auxiliaries of the party-state. Private companies are also forced to collaborate with the authorities, particularly in matters of personal data and in criminal matters with the creation of broadly defined offences. The Party has passed a series of laws that allow for the systematic violation of human rights in the name of national security, and that institute a Schmittian conception of law in the service of the omnipotence of the state. The party-state thus has full latitude to establish "states of exception" enabling it to fight its "enemies". The revision of the Criminal Procedure Law in 2012 and the passage of a law on "state supervision" in 2018 sent a clear signal to Chinese citizens that the

enforced disappearance of certain types of suspects and targets is legal. In other words, tools traditionally associated with democracy or pluralism such as the law, public participation and NGOs are being methodically turned on their heads as means of perpetuating the regime and defusing social conflict.

Thirdly, the will to homogenise the social body is also obvious in attempts to discipline citizens and transform ways of thinking. The social credit system is based on the idea that every citizen should be subject to constant monitoring and evaluation of his or her conduct, whether in terms of payment of taxes or critical comments on social networks. "Thought reform" (*sixiang gaizao*), a feature of the Maoist totalitarian regime, is at the heart of "training centres" in Xinjiang where more than one million Uighurs and Kazakhs have been arbitrarily detained. These centres, which are supposed to rid these populations of their ethno-religious identity that designates them from the outset as "extremists" and "terrorists", are the most successful expression of the importance given to the ideological education of citizens in general, in a context where universities are seen as fortresses of the regime. In a speech given at Renmin University on 25 April 2022, Xi Jinping said that Chinese universities should "inherit the red gene" and "follow the Party", thus reviving the practices of the Cultural Revolution years (1966–1976). At that time, the selection and promotion of elites was based primarily on political loyalty: one had to be identified as "red" in order to serve the Party in achieving its ambitions for the development of the country. "Expertise", i.e. competence, was not enough. The latter, confined to the purely technical domain so as not to contradict the Party's values, remains essential today insofar as it conditions the training capacities, scientific advances and innovation potential on which China's geopolitical influence is based. Indeed, the new world leadership that Xi Jinping is trying to establish as an alternative to that of the United States defends a system of values that is different from that of democratic regimes, but which nevertheless aims to be modern and efficient in terms of results, particularly in the areas of science and education, which form the basis of the Chinese governance model.

How important is the kind of discourse developed in the Chinese White Paper on Democracy (2021) for research on political norms in Southeast Asia?

One has to distance oneself from what is primarily a political marketing strategy in the context of the rivalry between China and the West, especially the United States. Apart from the fact that, as I have just explained, political norms in China have changed over the past ten years, a political model can never be exported as it stands because it depends on the history, institutions and culture of a country. In this respect, all ASEAN countries are certainly not equally receptive to the Chinese "model". A country such as Vietnam, which shares a communist history and the basic features of China's political system, and whose culture has long been influenced by its powerful neighbour, is naturally more inclined to draw inspiration from the Chinese model, despite the tensions between the two countries. Moreover, it is necessary to distinguish

between what is part of the political system and what is part of governance techniques that can be exported independently of the political system, two dimensions that the White Paper tends to confuse.

In addition, China is probably less interested in exporting a political or ideological model than in advancing its economic and geostrategic interests in the region. China fights against democracy, human rights and international law as obstacles to its interests, but whether it actively seeks to export a political or governance model, as it has in Hong Kong, for example, remains to be seen. Preliminary work by Maria Repnikova, an American political scientist who has studied the training of journalists and civil servants organised by China in Ethiopia, shows the opposite to be true. According to the author, these training sessions are primarily aimed at imparting technical solutions that may serve China's economic interests, but not at training Ethiopian elites to integrate the Chinese experience into the governance of their country (Repnikova, 2022).

Nevertheless, the values put forward by China in its white papers on democracy and human rights—such as the idea that the right to subsistence takes precedence over all else, or that the security of the state and its citizens takes precedence over freedom—can provide justification for regimes seeking to legitimise their authoritarian tendencies. In the same way, Chinese laws on NGOs or cybersecurity can serve as a model. China's political influence must also be taken seriously as a corollary of its policy of investment, internationalisation and development aid, especially as the struggle with the United States over influence in the region suggests that China leaves nothing to chance. China's need to secure its economic and other interests in the region and to secure allies may have repercussions on the political life of ASEAN countries, the way they operate politically, the rule of law, civil societies and human rights.

In short, while China can hardly export a political model, its influence can be decisive in the hardening of political regimes in ASEAN countries. The aim would be to study how this political influence is exercised at different levels and to identify the different actors and practices.

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CHAPTER 9

"Human Rights Work in the ASEAN Intergovernmental Commission on Human Rights": An Interview with Yuyun Wahyuningrum

Sarah Anaïs Andrieu and Gabriel Facal

Yuyun Wahyuningrum is the Representative of Indonesia to the ASEAN Intergovernmental Commission on Human Rights (AICHR) since 2019. She has spent more than 22 years working in human rights organisations, including the Human Rights Working Group (HRWG), Forum-Asia, Oxfam, Child Workers in Asia, the Solidarity Center, and the National Commission on Child Protection.

During your mandate as Representative of Indonesia to the ASEAN Intergovernmental Commission on Human Rights (AICHR, 2019–now), what have your main tasks been?

As a representative, my role is first to implement the mandate of AICHR, secondly to perform Indonesian foreign policy on human rights in ASEAN, and third to carry on human rights diplomacy tasks. I differentiate between

The interview was carried out online on 30 June 2022.

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_9

implementing Indonesian foreign policy on human rights in ASEAN and performing human rights diplomacy, taking into account the specificities of Indonesian history. Indonesia did not implement or did not have any foreign policy on human rights in ASEAN before the Reformasi period (1998–), but after Reformasi, there have been a number of policies on human rights that Indonesia wanted to implement. These are the three main functions, roles, and assignments for me as the representative of Indonesia.

According to you, what are the ongoing challenges to human rights in Southeast Asia? What are the main issues which are addressed by AICHR?

I think impunity is the main challenge for human rights in the region. The rise of militarisation, authoritarianism, and populism. People do not have mechanisms to report their grievances to the governments. And not all ASEAN member states have mechanisms to address human rights violations, while at the same time violations happen almost every day. More and more, we see the increase of militarisation in different countries in the region, which has especially been the case during the COVID-19 crisis. In Indonesia, Thailand, and other countries, military officers have been very effective in handling several public issues by deploying the army. In Singapore, they have distributed vaccines, masks, and tools for fulfilling health protocols. The military are used because they have a commando organisation and therefore can react quickly.

More generally, whenever we talk about a regional issue, it must fall into one of the three following categories. First, the cross-border dimension, which regards the whole of ASEAN: for instance, trafficking in person, migration, and refugee smuggling. A second category is transboundary: a case may happen in a particular country but its impact can expand beyond the borders. This is something that ASEAN needs to address, not only AICHR, but ASEAN as a regional organisation. And third, issues that are not considered transboundary or cross-border, but which happen in all countries and become regional concerns. For instance, fake news, freedom of expression, opinion online or offline. If the issues do not fit in one of these three categories, it doesn't mean that they are not important but only that they do not reach the regional level in which ASEAN needs to address them.

There are a number of issues for which not all countries feel that they have concerns, like countering violent extremism. Laos, Brunei, and Vietnam do not think that terrorism is part of their concern. But, they know the severity of the problem and therefore, they feel the need to take care of it.

Many observers and researchers point to the regression of democracy in the region, what is your opinion about it?

Yes, even before COVID-19, the democracy level did not necessarily move forward but even backward. Taking the statistics of the Economics International Unit, none of the Southeast Asian countries falls under the category of democracy: they are just semi-democratic or not democratic at all. And those who belong to the non-democratic category typically maintained that level for the last ten years. Freedom House uses different indicators, but the results are almost the same.

In this context, action at the level of AICHR is rather difficult because ASEAN requires consensus to make any agreement. If one country refuses, then there is no project at all. To be able to arrive at a consensus, I have to do homework to persuade other countries that they can at least agree on the idea, and then we can move forward. There are a number of strategies to persuade countries, for instance, using documents on which ASEAN already agreed in the past and emphasising that we can elaborate on these. Second, we choose terms with which the representatives don't feel uncomfortable. We have to arrange and design a project in a way so that members do not feel threatened. For instance, currently, we are discussing a workshop on the right to nationality. This is very basic, but some countries disagree. One of the reasons is not the substance, but rather because of the participation of civil society. Representatives fear that their country will become a target of criticism from civil society if they come to the meeting. My suggestion to AICHR is that we can make ASEAN member states dialogue on the right to nationality because it is the obligation of the government to provide nationality and identity to the citizens. So even if we cannot involve civil society now, it's okay. Civil society can act as resource person, not as participant. But some countries believe that we cannot do that: we have to bring in civil society. We discussed that project for more than three years and now the country that is the proponent of the project dropped it.

For Indonesia, when I started my AICHR role as representative in 2019, I was told by some to choose the low-hanging fruits; which means the issues that are easily accepted. There has been an assumption that we should look more at economic, social, and cultural rights. At the same time, if you are a democratic country, you cannot take the easiest way. You have to find ways that challenge ASEAN. Because in doing so we can map the level of sensitivity of member states. If we start with something easy, of course everything will be done. But I should not take that path because other countries will do it. No country in Southeast Asia rejects human rights. Human rights have been included in their constitution and they ratified some of the conventions.

But how they perform human rights, how they want to be perceived in human rights implementation, is really under their control. Countries may choose issues that can be considered non-political. To me, there is no human rights issue that is not political. But this is the way member states design the programmes.

For me, I intentionally do not choose, for instance, the right to education. Not that the right to education is not important. But let other countries do it. I choose prevention of torture or the right to remedy or prevent trafficking in person. Trafficking in person is actually an issue that is acceptable for many member states. The issue of migrant workers is very sensitive, as well as the issues of freedom of expression, freedom of religion and belief, community policing, or engaging with police on implementing the community policy approach. So that's how I see that Indonesia should proceed and that's how I implement it. I still implement activities that were left by the previous

representatives, like the right to health. Right to health is very important for me, especially since COVID-19. We can use the right to health to address the most marginalised groups, like refugees and migrant workers. Economic, social, and cultural right dimensions can enable us to reach those groups that many governments do not want to talk about. In public health, if you don't take care of them, the [COVID-19] virus will spread out. You cannot discriminate. So, we can use the right to health to establish links between civil, political rights, and economic socio-cultural rights.

Are there any issues that you would have liked to address, but that were too politically sensitive?

So far, I have not dropped any projects. I actually picked up some of the issues that were dropped by the others. One example of a sensitive issue in ASEAN is migrant workers. This project has been there since 2012 in AICHR, but it is very difficult to move forward. It is about migration management, so it is not necessarily sensitive to the record of how member states respect, protect, fulfil the rights of migrant workers, but there has been a lot of rejection. So, I broke down the problem, asking the members what their difficulties are, discussing again at the next meeting, and then moving on to the next issue, meeting after meeting, until all is clear and we can move forward. Since 2020 until now we have produced five drafts of the report. I continue until everyone is happy and we can finalise this. This effort is useful to establish trust and confidence. Since Indonesia is a sending country for migrant workers, the receiving countries can be suspicious of our intentions and fear effects on their country's image. So, I follow all the procedures, I answer all the questions, and our researchers provide comments and inputs. And then I report back to AICHR regularly on how the money has been used, who the researchers are, what their nationality is, how drafts change, and so on.

Another example is the ASEAN Human Rights Dialogue, a platform in which ASEAN member states can talk about their human rights issues and their own ways of solving the problems. And we can ask questions without being accused of violating the non-interference principle. In the past, whenever a country asked questions about the human rights situation in another country, the questioned country would use the non-interference principle as an argument. My reading on ASEAN follows what Surin Pitsuwan labelled "comprehensive engagement", or what Anwar Ibrahim called "flexible engagement". Ali Alatas also mentioned equivalent terms. I learned from Article 2 on non-intervention of the UN Charter, which still enables us to talk about human rights. There are at least three components. First, agreement among member states. Second, agreed modalities to establish trust in the process. And third, is the platform, so it [discussion of the issue] is not spilled over to other meetings. I copied these elements and proposed them for the ASEAN human rights dialogue.

This dialogue was first organised in 2013 when it was only attended by AICHR representatives and national institutions from Indonesia [the ASEAN Human Rights Dialogue with the Government of Indonesia]. The rest of the

countries did not report. In 2021, I proposed another ASEAN Human Rights dialogue. We call it mini UPR (Universal Periodic Review). But still, the participation was limited to ASEAN member states. We're doing it step by step. At that time, we did not want to limit or decide what issue needed to be addressed. It was up to them [the ASEAN member states]. They signed the Universal Declaration of Human Rights anyway. The most important thing is to establish the practice of member states talking about human rights to other member states in the context of ASEAN. In September 2021, eight out of ten countries voluntarily provided a briefing on human rights, and therefore, when we asked questions to them, no one accused me or other representatives of violating the non-interference principle. It was considered successful and this year [2022] we are going to do it again. Indonesia is the initiator and will be working with Cambodia, as the chair [of ASEAN in 2022]. If ASEAN countries can talk about human rights openly and frankly, perhaps we can shy away from the idea that human rights come from the West or that human rights are a political tool of foreign countries.

When I started at AICHR in 2019, whenever I tabled the issue of Rohingya it was always blocked by Myanmar for many reasons: first for violating the non-interference principle. Second: "we are family. How can you do that to your family members?" With the coup in Myanmar in 2021, I insisted that we need to have a specific agenda to talk about human rights. We started having meetings on recent developments in human rights in ASEAN in April 2021, and then in July and November 2021, and in March and June 2022. So there have already been five meetings, in which a country representative can talk about the human rights of other countries without being accused of violating the non-interference principle. Indonesia is focusing on institutional development inside AICHR, to fulfil the mandate of protection.

Is there a particular hierarchy or distribution of tasks among the different representatives in AICHR? And does Indonesia carry a significant weight in comparison with the other representatives?

No, I think in terms of the selection of issues, AICHR representatives are often driven by the level of comfort of each member state. For instance, Cambodia is more comfortable talking about the right to education than other rights. Other countries, like Thailand, are keen to address environmental rights or the rights of persons with disabilities. As long as they can pick and choose issues based on their level of comfort it is fine, because we would like to encourage member states to participate and contribute to generating the regional discourse on human rights. The establishment of AICHR and the adoption of the ASEAN Human Rights declaration provided the avenue to recognise human rights issues as regional issues.

In the past, human rights issues were discussed by individual member states, but not necessarily by ASEAN. People could hardly talk about regional human rights issues because there were none. When AICHR was established, a catalogue of rights was defined and the violation of these rights became a regional concern. Civil society often criticises AICHR for being weak, and lacking

protection mandates, which is valid, but at least we should be able to fulfil the promotional part. We cannot just always condemn what we don't have and forget what we already have. We have to maximise what we have. And to be able to fulfil AICHR's tasks of promoting human rights requires a lot of political discussion on sensitive issues. At the same time, we also need to improve protection.

Do you have any particular achievement in mind?

AICHR, together with other sectoral bodies of ASEAN, has achieved an action plan on the implementation of rights of persons with disabilities. With regard to institutional development, I already mentioned the AICHR human rights dialogue and the agenda on recent human rights development in ASEAN. In 2019 we agreed to come up with a complaint mechanism to address human rights issues at different levels. One is through standard-setting or norms, plans of action, commitments of member states, and ASEAN sectoral bodies. Second, through institutional development, perhaps later through stakeholder engagement. Thus, we can see that despite all its limitations, AICHR can be a vehicle for change in ASEAN at different levels: through collective commitments made at the level of ASEAN, then spilled over to member states, or vice versa. As of now, there is no fixed formula. But I think it is important to always look at the political opportunities for change, both at the national and the regional level.

For instance, at the regional level, we have the ASEAN human rights declaration. Before the ASEAN human rights declaration was adopted, Brunei didn't have any specific provisions on human rights in its constitution. After the declaration was adopted, they still do not, but they practice it because they participate in our activities and talked about human rights when they became the chair. Another example is the ACTIP (ASEAN Convention Against Trafficking in Persons), now ratified by all member states. Before the ratification, each member state tried to identify the loopholes in their own laws, and then, after the ratification, they harmonised with the regional norms. It happened in Thailand, Indonesia, Singapore, and Brunei. During our workshops, we heard from member states how they rearranged themselves.

We can see different examples where the ASEAN declaration does not necessarily involve a change at the national level, while ACTIP made some changes at the national level. It may be due to the characteristics of the documents: ACTIP is a convention so it requires ratification, it is legally binding, while a declaration is not. This contributes to the relations between national norms and regional norms.

Would you like to elaborate on the interaction between AICHR and civil society?

AICHR has guidelines on civil society affiliation. Even though they are not affiliated with AICHR, civil society groups are always invited to workshops as participants. They are not invited to official meetings of AICHR because those are closed meetings of member states. But they can also ask for a meeting and they will be allocated 60 minutes to present themselves. For instance,

Forum-Asia or the Working Group on Regional Human Rights Mechanisms based in Manila often use this opportunity to talk at AICHR official meetings. In workshops, civil society groups have the opportunity to ask what AICHR has been doing on specific issues. But workshops, training sessions, or seminars are not the places to make decisions or policies. These are made at the AICHR meetings. However, ideas, concepts, principles, and recommendations emanating from the workshops are sometimes discussed in the official meeting of AICHR, and then recognised and accepted on principle.

Actually, in the current COVID-19 period, the opportunity to engage or to widen engagement with civil society is becoming bigger and bigger because it doesn't require additional money. You can join from wherever you are. And then we can expand, we can add more people and there's no problem. For physical meetings, we have to calculate, and then this affiliation status becomes one of the selection tools to choose who from the lists can come or can be invited. But at the same time, in a number of workshops, speakers are not required to be affiliated. Sometimes civil society actors complain that they are not engaged, and sometimes we invite them, but they don't come to the meeting. I think our role in AICHR is to open space for them to engage, and it remains their decision to use it or not.

When we had the EU-ASEAN dialogue in Brussels (2019), civil society organisations presented their statements. There were NGOs from ASEAN, and other participants coming from the EU. That was not on the agenda, but the EU invited civil society into the room at the opening and ASEAN sectoral bodies got angry. Before the situation worsened (or what I imagined would be so), I made a first intervention, setting the tone that we welcomed civil society and would pay attention to their statements and concerns, and thanked them for coming. I also quoted the ASEAN charter, and how important people are in the process of ASEAN community building. After that, the responses from other sectoral bodies were rather positive about the participation of civil society.

Do you see a significant change with the initiative of the Indonesian President when he invited other countries of the region to discuss the situation in Myanmar after the 2021 coup? According to you, was it a turning point in supporting the leading position of Indonesia in the field of human rights?

Regarding Myanmar, Indonesia maintains its previous position: putting human rights, the welfare, and safety of civilians as the top priority. It was like that during the Nargis disaster, when addressing the issue of Rohingya and now with the coup. It has been maintained as such, regardless of the governments. When I started to work as a representative, I always brought discussion on Rohingyas, even if it was rejected in every meeting. Indonesia will be the chair of AICHR in 2023, and the issue of Myanmar will continue to be discussed. We will continue what Cambodia is doing now. People expect much from Indonesia.

Indonesia has several institutions that could be useful to help Myanmar establish democratic institutions amended by the Constitution. In Indonesia,

we have the General Election Supervisory Agency (Bawaslu) and the General Elections Commission (KPU). In Myanmar, there are no institutions to supervise the elections, neither a Constitutional court to make final decisions concerning the results of elections. These have been identified as things that Indonesia should work on with Myanmar.

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PART III

Governmental Re-Orientations



CHAPTER 10

The Mall and The Mosque: Conflicting Norms in Brunei Darussalam

Frank Fanselow

As one of the oldest surviving absolute monarchies today, and as the only one which lacks even a pretence of electoral democracy, Brunei looks like an anachronistic relic from the past. In Western media, the Sultan is often portrayed as an oriental despot, whose excesses used to appear in the gossip columns back in the 1980s, and who has nowadays re-appeared in the political pages as a religious fundamentalist. Yet Brunei has proven itself to be surprisingly resilient in the contemporary world. Not only is the 'Bolkiah dynasty' one of the longest surviving royal dynasties, but since the deaths of former Thai King Bhumibol and British Queen Elizabeth II, the Sultan has become the longest reigning monarch in the world.[1] In his role as prime minister, he also enjoys the somewhat dubious distinction of being the longest-ruling political leader of any nation. This chapter examines the reasons for the resilience of such a seemingly anachronistic monarchy, as well as the emerging fault lines and potential breaking points in the institution and ideology of the monarchy.

[1] If one includes the period of his reign between 1967 and 1984, when Brunei was self-governing but not yet fully independent.

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_10

The Pre-colonial Period (–1906): The Patrimonial State

Given its resilience today (Talib, 2002), it may come as a surprise that in 1904 Malcolm McArthur, then the British Consul to Brunei, wrote that "to talk of a government seems ridiculous" in Brunei, because there is "no Government in the usual sense of the term - only ownership". What McArthur referred to here was the absence of a separation between political office and incumbent, and with that the lack of a separation of the public resources of the state and the private resources of its officials. It is "difficult to differentiate income from ownership of land and the government revenues as 'in a properly governed country'" and as a result those in positions of power were "valuing their position solely as a means of self-indulgence and extravagance" (McArthur, 1904).

Far from being a case of oriental despotism, pre-colonial Brunei was a decentralised, segmentary (some would say feudal) state prone to rebellions by renegade members of the nobility and overtaxed subjects. The royal rituals of recognition, loyalty and obedience provided ideological legitimacy but vastly overstated the Sultan's actual powers, and what he lacked in political power was compensated for by his putative mystical powers (*daulat tuanku*). His authority was absolute only in its symbolic representation and enactment in rituals and their concomitant symbolism but hardly acted upon in practice: "The Sultan has no real power except over his own districts and people" (Brown, 1970).

A fiscal practice that offended McArthur's notions of a properly governed country was tax-farming. The collection of taxes requires an effective administration, but such an administration requires an efficient system of revenue collection. By the nineteenth-century Brunei had neither, and tax collection was outsourced to tax-farmers who bought the right to collect taxes, for example on the opium trade, in return for a fixed annual payment. For the tax-farmer it was risky but potentially highly profitable financial speculation; for the Sultan it provided a stable source of income which turned tax collection into a kind of rent-seeking.

Indirect Rule (1906–1959): The Colonial State

McArthur's claim that Brunei lacked a "government in the usual sense of the term" says as much about his own notions of government, as it does about the 'traditional' government he was describing. His characterisation of the sultanate consisted of negatives: "no salaried officials, no police, no coinage, no roads, no public works (except a wooden mosque) and only the 'semblance' of a judicature" (McArthur, 1904).

Two years after he wrote the Report, McArthur became the first British Resident in Brunei following the 1906 Residency Agreement. He immediately

set about to fill the institutional vacuum that he identified by laying the foundations of a 'modern' administrative state (Horton, 1986). The first step had to be to establish a revenue system that could support an administration by buying back tax-farms. Since there was no money for this in state coffers—or more accurately, there were no state coffers—the necessary funds were raised through loans from the Malayan sultanates, which were eventually repaid from oil revenues following the discovery of petroleum in 1929.

The 1906 Residency Agreement was a classic example of Indirect Rule. The Sultan was obliged to follow the Resident's advice in all matters except religion. Moreover, he was financially dependent on the British who paid him an annual allowance about whose meagre size he regularly complained. But despite McArthur's claim that the sultanate had no government, the Resident and his administration showed public deference and scrupulously acknowledged the Sultan's supreme position in ceremonies and court rituals (Hussainmiya, 2006). The British left what they considered the 'traditional' system intact, but behind the scene it was the Resident who had far greater power than the Sultan ever had in the past. While outside of Brunei the Resident occupied a position in the lower echelons of the colonial hierarchy accountable to the High Commissioner in Singapore, from the perspective of the people of Brunei he had seemingly absolute power: "…within Brunei there was no check on the Resident. Appeals over his head could only be made outside the country. The authority and power of the Resident - from the viewpoint of Brunei - was [sic] decidedly greater than that formerly possessed by the Sultan" (Brown, 1970: 120).

Self-Government (1959–1984)

The residency system came to an end with the Constitutional Agreement of 1959, which transferred most of the Resident's powers (except foreign affairs and defence) to the Sultan as the highest executive authority, but it also laid the foundations for a constitutional monarchy with an elected Legislative Council.

In the 1950s and 1960s Brunei was a highly politicised society in a volatile political environment. Externally, it was surrounded by forces that were competing to draw Brunei either into Malaysia or towards a Greater Indonesia. Internally, the monarchy was challenged by the anti-British and pro-Indonesian "Brunei People's Party" (PRB), which called for a merger of Brunei with its former territories of Sabah and Sarawak under the name Union of Northern Borneo (*Negara Kesatuan Kalimantan Utara*) as a constitutional monarchy. From the Sultan's point of view, both the British plan for Brunei to become part of the Federation of Malaysia, and the PRB plan for it to join a pro-Indonesian Union of North Borneo would lead to the same end result: Brunei would disappear as a sovereign state with a parliamentary democracy, and his sultanate would become a constitutional monarchy.

When the PRB swept all seats in the 1962 elections for the Legislative Council and the Sultan ignored the result, a rebellion broke out which was defeated by British troops brought from Singapore. Following the rebellion, the Sultan sought to delay independence and the British became more cautious in pushing for it (Hussainmiya, 1995). It was only in 1984 that Brunei finally gained independence as the last British-controlled territory to do so and the only one that did so as an absolute monarchy without even a pretence of democratic institutions, something the British had insisted on in their other former colonies.

By the time of independence, the political turmoil of the 1960s had become almost forgotten history, although one may add, actively forgotten. The time was auspicious for the Sultan because soon after his accession, Brunei began to transform itself from a fragile political relic that was almost swallowed up by neighbouring post-colonial nation states into a wealthy rentier state that appeared to be the region's most stable nation today.

The Rentier State (1973–?)

Sultan Omar Ali Saifuddien's decision in 1963 to preserve his sultanate rather than see it become part of Malaysia or North Borneo, was influenced by another factor: keeping control over its oil wealth, at the time still modest but significant for the country with such a small population and with few other resources. Two global energy crises, following the 1973 Middle East War and the 1979 Iranian Revolution, fundamentally set Brunei's political economy in a new direction.

Under the Constitutional Agreement of 1959, Brunei's financial reserves and foreign investments continued to be managed by the Crown Agents. The British were ostensibly concerned that Brunei's oil wealth would be mismanaged, or perhaps they used that as a pretext to continue exercising control over Brunei's financial reserves, some of which were invested in British assets. But prior to independence, the Sultan took control of the financial assets by establishing Brunei Investment Agency (BIA). No transparent distinction was made between the Sultan's personal wealth and the state's assets. While the annual national budget is discussed and approved by the Legislative Council,[2] financial details of the national reserves and external investments are not published and to discuss them publicly is illegal. Given this lack of a separation between the Sultan's assets and those of the state, he soon came to be mythologised abroad as "The World's Richest Man" (Bartholomew, 1989) and, at least statistically, Bruneians suddenly enjoyed one of the highest per capita GDPs in the world.

[2] The Legislative Council was reconstituted in 2004 but only has advisory and no legislative powers.

Oil revenues quickly transformed the political economy of the sultanate into a rentier state (Cleary & Wong, 1993, de Vienne, 2015). While rent-seeking as such was not entirely new to Brunei (e.g. in pre-colonial Brunei the practice of tax-farming), the oil rents were enormous relative to the small population (150,000 at the time) and came from external sources in the form of profit-sharing with Brunei Shell (of which the government owns 51%) and a 55% corporate tax levied on oil companies. Income from oil exports came to make up 90% to 95% of government revenues.[3] Unlike 'normal' states that tax citizens, rentier states on external rents and Brunei has at present no personal income, payroll, sales, export, capital gains and business taxes on single-owner and partnership companies.

The "Shellfare" State

In a rentier political economy, the state does not redistribute wealth, but distributes it: instead of levying unpopular taxes on citizens and redistributing them in the society, it transfers external rents in the form of populist cradle-to-grave social welfare and other social benefits. From the perspective of its citizens, Brunei is a generous welfare state that provides free education and health care, land grants and interest-free housing loans, as well as subsidised essential commodities such as petrol, electricity and water and staple food-stuffs. The state also provides employment for the majority of the local workforce, either in the public sector or indirectly in Government-Owned Companies (GOCs) in the oil, airline, banking and telecommunications industries. In 2016 almost half of the workforce was employed in the public sector (not including GOCs) compared to an average of 15% in other ASEAN countries (OECD, 2019). Salaries in the public sector are also higher and the retirement age is lower (at 55 years) than in the private sector. External rents therefore give the state an autonomy—and popularity—that enables it to dominate society. For ordinary Bruneians the "government" ("govemen" in Bruneian English) is most likely the most significant force in their lives after their immediate family.

Much of the Sultan's public role consists of "distributing things" (as one Bruneian put it to me). Given the lack of a clear legal separation between his private fortune and the state's reserves, many are inclined to accept his public image as the "Caring Monarch" (as he is often referred to in the local media) who generously shares his wealth with his subjects in the spirit of *noblesse oblige*.

The social contract of Shellfare state is based on the "rentier bargain": while power and wealth are entitlements of a ruler, they also impose obligations and responsibilities on him vis-à-vis his subjects, who in turn reciprocate his largesse with gratitude, loyalty and obeisance. The slogan of the American revolution "No taxation without representation" becomes "No representation

[3] The rest mainly derived from import duties and fees on government services.

without taxation". Generally, Bruneians consider themselves to have gotten a "good deal" under this social contract, particularly when comparing themselves to their neighbours, such as Malaysia, Indonesia and the Philippines, which have parliamentary democracy, but whose ruling class is thought to be self-serving and corrupt. Singapore, on the other hand, has minimal corruption but life is expensive, competitive and stressful. Interstingly, its former Prime Minister Lee Kuan Yew once observed that Singapore would never have been so successful, if it had oil: in the absence of natural resources, Singapore had to develop its human resources into a globally competitive workforce. The unspoken implication behind this argument is of course that a society dependent on oil revenues will become uncompetitive because it fosters a culture of entitlement among its citizens. Lee was diplomatic enough not to give an example to support this theory.

Comprehensive social security and burgeoning prosperity have fostered a culture of conspicuous consumption not just among the royal family. In a culture in which traditional status symbols are important in articulating rigid social hierarchies, the status symbols of 'modern' consumer culture have become weapons of intense status competition under conditions of rapid social mobility. Given the dearth of public spaces, malls have become the temples of consumerism not just for shopping, but as sites for socialising and staging displays of brand fetishism and the fashionisation of everything.

Given the relative prosperity most of his subjects have enjoyed during his reign, it is not surprising that the Sultan's domestic popularity probably exceeds that of any democratically elected leaders in Southeast Asia. Voices calling for a constitutional monarchy and parliamentary democracy, which were so loud at the time of the 1962 rebellion, have fallen silent and the PRB has disappeared. While there have been occasional attempts to set up 'opposition' parties, these were also supportive of the monarchy, and—given that there are no elections—it is not clear what their role is, apart from serving as of a democratic fig leaf for the Sultan's New Clothes. By the 1980s Brunei had been transformed into a thoroughly depoliticised consumerist society, if we understand politics in the classical sense as public discussion and participation in decision-making rather than as court politics about who gets the Sultan's ear. For many of his subjects, "politics" seems to have become a dirty word that implies disunity and conflict, i.e. the signs of doom that would undermine the harmony and stability of the status quo on which their well-being and prosperity depend.

Personality Cult

More than 80% of his subjects were born during the current Sultan's reign, and only about 5% are 65 years of age or older, i.e. old enough to remember his father Sultan Omar Ali Saifuddien. Therefore, some 95% of them never knew a Brunei without him, and for them a Brunei without Sultan Hassanal Bolkiah is a difficult to imagine and unsettling scenario.

During his long reign the Sultan has become the monarchy personified, partly due to habituation, and partly as a result of a carefully constructed personality cult, with all the typical characteristics of such cults; including his portrait on coins, banknotes and stamps, framed portraits in offices, shops and restaurants and his image on huge banners, billboards and arches all over the country during national celebrations. Not only is his image ubiquitous in public, but in many private homes a photo of the Sultan takes pride of place, often depicting a family member receiving one of the many symbolic honours, such as decorations, certificates or awards from him. The ubiquitousness of his presence has something of a panoptic quality: he is perpetually seen by his subjects, but he also seems to be watching constantly.

The media are under instruction to give priority to reporting any of the public engagement of His Majesty, irrespective of the importance of the occasion. Newspapers' reports about the Sultan's official engagements are always on the top of the front page and on television they are always the first news item, however minor they may be compared to whatever else happened elsewhere in the country or indeed in the world. These engagements usually involve religious rituals or official state and royal court ceremonies. They are therefore not really "news" in any conventional sense of the word because they are highly predictable and repetitive events, they are actually the very opposite of "news": instead of reporting what is new, they are merely ritual affirmations of continuity and stability.

Interaction between the Sultan and his subjects is subject to strict rules established and enforced by the Department of State Ceremonial Customs (*Jabatan Adat Istiadat Negara*). Depending on the nature of the ceremony, the Sultan will wear a Bruneian version of 'traditional' Malay dress (*baju melayu*) or a picturesque military uniform bedecked with decorations. In terms of spatial structure, the attendees are seated at a distance to the Sultan relative to their social rank, and nobody is allowed to sit higher than he does. In traditional court ceremonies, where participants sit on the floor, dignitaries approach the Sultan by crawling towards him. Moving away from the Sultan on ceremonial occasions entails crawling or walking backwards to avoid showing him one's back. When speaking to the Sultan a special register is used (*bahasa dalam*) which includes elaborate rules of address that elevate the addressee and deprecate the speaker. In a tightly knit society of 330,000 citizens, these royal ceremonies symbolically create and reproduce vast structural distances between the Sultan and his officials and subjects. In his role as Sultan, Hassanal Bolkiah is elevated to a level where he has not just secular but also sacred powers.

But there is a very different side to the personality cult that appears only to Bruneians. There are probably only a few of his adult subjects who have not met the Sultan in person and shaken hands and perhaps exchanged a few words with him. Brunei is a country on a very different scale from its neighbours. In terms of its population size of about 330,000 citizens, Brunei is by far the smallest country in Southeast Asia and social networks among

Bruneians are tightly knit. There are probably no more than two degrees of separation between most Bruneians, whether as kinsmen, neighbours, classmates,[4] colleagues or even as in-laws of members of the royal family. These roles often coincide so that individuals are linked in multiplex relationships.

The tightly-knit nature of society promotes compliance and social control. There is very little of a 'public sphere', and the lack of anonymity conveys a sense of intimacy and safety, but also of a lack of privacy and personal liberty.[5] Brunei is experienced very differently from the outside and the inside: while it stands shoulder-to-shoulder with other nation states in the region, from the inside it has a small-town atmosphere. It is not uncommon to encounter the Sultan—rather like a small-town mayor—on "surprise visits" to pray at a local mosque or inspect a government department, school or university, or visit a mall and marketplace enquiring about people's well-being. In such contexts, he dresses informally, wearing 'normal' clothes, such as jeans with a polo shirt or a camouflage uniform with his name "H. Bolkiah" stitched on the breast pocket like any other soldier, drives himself in a 'modest' German luxury car rather than being chauffeured in an outlandish-looking golden Rolls Royce as at royal ceremonies. The image conveyed is not one of a Sultan with his subjects, but of a populist leader among his people. In recent years he has let himself be photographed like a pop star with his adoring fans for 'wefies', which they post on their social media accounts as a digital version of the framed photos of him in living rooms.

This familiarity between ruler and ruled does not always square easily with the strict requirements of royal protocol. Some years ago, a photograph of him at a housekey-handing-over ceremony walking arm-in-arm with two clearly very happy recipients caused unease in conservative circles, where it was seen as inappropriate, even disrespectful, despite the fact that he appeared to enjoy his popularity and the spontaneity of the gesture.

This personal side of the personality cult is difficult for outsiders to understand. During a state visit in 2004 by the Swedish King, the latter expressed his admiration for how close the Sultan was to his subjects in an interview with the Swedish media (Sverigesradio, 2013). This caused a political scandal back in Sweden when human rights organisations and republicans took it as an opportunity to demand the abolition of their monarchy because the King is constitutionally barred from making political statements, and it was scandalous of him to praise an undemocratic, autocratic monarch like the Sultan as being close to his people (KUNA, 2004). When it became known in Brunei that the King's admiring comments about the Sultan had led to demands for the abolition of the Swedish monarchy, the reaction in the social media ranged from

[4] Given the relatively small number of secondary schools and universities in the country, 'junior', 'senior', 'classmate' are important relationships among middle-class Bruneians.

[5] In recent years social media, such as Reddit and WhatsApp groups, have become the main public sphere in Brunei, which with 95% has the highest internet penetration rate in ASEAN. If multiple internet connections are included the penetration rate rises to almost 120%.

incomprehension to outrage over depicting their ruler as an oriental despot lording over his submissive subjects, an image of their society that even many liberal Bruneians do not easily recognise. Similar media reports, rather than damaging his standing often have the opposite effect: a defensive, nationalist reaction against 'ill-informed' foreign commentators 'meddling' in Brunei's internal affairs.

While in all political systems, those in power have to negotiate a delicate balance between the semantics of hierarchy and of solidarity, the Sultan's public performances seem like a dazzling display of juggling contradictory roles: a Sultan who as prime minister is the head of a government and public administration, a role inherited from the British Resident; as *Yang di-Pertuan Negara*, a 'traditional' Malay Sultan who is the heir to an ancient dynasty and appears as a remote and inaccessible figure with a mystical aura; as *raja yang prihatin* ("the caring monarch"), a popularist Sultan who acts like a father figure devoted to the well-being of his subjects whom he listens to and speaks for.

Brunei is not alone in trying to be a 'traditional' patrimonial sultanate and a 'modern' Malay nation state.[6] Kessler (2014) argues that in Malaysia "these two things—ancient cosmological status and modern constitutional standing—are clearly different. They are matters deriving from two distinct and mutually incommensurate universes of meaning. The connection between them—in the person of the ruler who represents an old cultural institution and its underlying beliefs, but who also occupies a modern constitutional position and discharges a correspondingly circumscribed formal role—is purely contingent. Two different things are done, or symbolized, by the same person, or personal incumbent of two institutional positions. But they are different and distinct". While his distinction may apply in the Malaysian context, where the Constitution defines the role of the sultans who are therefore subject to the Constitution, in Brunei it is the other way round: the Sultan is above the Constitution:

> The Constitution contains none of the concepts on which modern constitutionalism is based: popular sovereignty, a bill of rights, limited government, separation of powers or the rule of law… 'main task of the Constitution is to put the unfettered powers of the Sultan on a statutory basis... It is a Constitution in name only, but not in essence'.[7]

In effect, the Constitution does not serve to protect the people, but to protect the Sultan. Under the revised 2006 Constitution "His Majesty can do no wrong" in either his personal or his official capacities, i.e. he cannot be held accountable under any law, because he makes the law (by decree). In this

[6] In his Independence Declaration the Sultan said: "Brunei shall be forever a sovereign, democratic and independent Malay, Muslim Monarchy".

[7] 'Brunei Darussalam: Introductory Note' in *Oxford Constitutions of the World* (OUP Online) quoted in: https://unimelb.libguides.com/c.php?g=930183&p=6721966.

sense, the Sultan is not just the monarchy personified, but he is—like Louis XIV—the state.

On 15 July this year (2023) Bruneians will celebrate the Sultan's 77th Birthday, and in October his 56th anniversary on the throne. While so far both the Sultan and his state seem relatively healthy, there is muted concern about what a future scenario without the Sultan will look like. His eventual departure will leave a huge void in the collective consciousness, political culture and institutional landscape that will not be easy for his son, the Crown Prince, and the next generation of members of the royal family to fill. While the Sultan was born in 1946 in a modest wooden 'palace' not much different from the neighbouring houses of his subjects, his children grew up in the Istana Nurul Iman, the world's largest palace, worlds apart from his subjects' everyday lives. Brunei without the current Sultan is an unsettling thought for many Bruneians, but there is hope that history might repeat itself, after all at the time of his accession the Sultan himself was only 21 years old and inexperienced, when he was unexpectedly called back from Sandhurst to succeed his father.

However, for the Sultan's successor circumstances are unlikely to be as auspicious as they were at the start of his own reign which coincided with Brunei's transformation into a rentier state, and whose end may well turn out to be the beginning of the end of the Shellfare state. While reliance on external oil rents has freed Bruneians of the burden of taxation, and allowed the state to adopt populist social welfare policies, it has also made the state highly dependent on the vicissitudes of global commodity and financial markets. Oil was first discovered in 1929, and by the 1990s both the quantity and quality of the crude oil produced were in decline and no longer justified major new investments in oil production facilities. Although the claim that Brunei's oil reserves would only last for another 25 years has been around for decades, that scenario has so far failed to materialise because increased LNG production has to some extent compensated for the decline in oil production. But fluctuations and uncertainties in global energy markets have shown Brunei's vulnerability to external forces. Apart from oil and gas exports, another source of revenue is returns on overseas investments of Brunei's financial reserves, but the country's financial self-confidence suffered a major blow in the wake of the 1997 Asian Economic Crisis when its investments incurred heavy losses, though relevant data are not published.

There is a growing realisation that the Shellfare state is unsustainable in the long term. Over the last fifty years the citizen-population has more than doubled, and the public sector will not be able to continue absorbing more than half of the local workforce (Labour Force Survey, 2019), especially since among the younger generation education levels have risen and with that their career expectations. While the official unemployment rate is 7.65%, the youth unemployment rate was 31.5% in 2018, 21.5% in 2019, 27.1% in 2020 and 24.3% in 2021 according to World Bank data. Anecdotal evidence suggests

that the real unemployment rate may be higher as many of the young unemployed take up low paid temporary jobs while waiting for the government to allocate them a public sector job which can take years, if it ever comes. Increasingly one sees young Bruneians in low paid jobs formerly performed by foreign labour. After two generations of upward social mobility, many in the current younger generation are now downwardly mobile.

Attempts to grow the economy through diversification by expanding the private sector have not met with significant success. Like other rentier states, Brunei suffers from the "Dutch Disease": the expansion of the public sector at the expense of the private sector. As the resources of the state grow exponentially, it becomes the dominant economic actor in society at the expense of a shrinking private sector. Brunei has virtually no manufacturing and agricultural sector, because its domestic market is too small, and its overvalued currency makes imports cheaper and exports uncompetitive. The local market is almost totally dependent on imported consumer goods and in the absence of a productive sector, the economy is dominated by a service sector which caters for the demands of a consumerist society fed by the Shellfare state.

Unlike Arab oil states, Brunei does not have an indigenous merchant class that could drive private sector expansion. Historically, and to some extent until today, the Chinese minority has been strongly represented in the business community. But Brunei is the only country in Southeast Asia that did not give citizenship rights to its Chinese residents, and many of them have emigrated reducing the percentage of Chinese in the population from almost 30% in 1959 to just over 10% today. While some Chinese have been naturalised as citizens on a case-by-case basis, the majority are stateless and their official status is that of Permanent Residents. As non-citizens they are only indirectly or marginally part of the Shellfare state and are mostly active in the private sector. However, the private sector is dominated by large Government-Owned Companies (GOCs) and by companies controlled by various members of the royal family.[8] Effectively, what Brunei has by way of a 'private' sector is largely dependent on the public sector through government contracts.

One way the state is seeking to divest itself of the responsibility to provide employment for the bulk of the local workforce is by promoting youth entrepreneurship. If young entrepreneurs create their own jobs as well as jobs for others by growing their businesses, then the public sector would no longer need to absorb the growing population of educated youth. However, at present the private sector finds it hard to compete with more attractive salaries, generous vacation entitlements and job security in the public sector. Moreover, since the private sector is largely limited to services, there is intense competition and a high failure rate due to the proliferation and duplication of

[8] For example, QAF owned by Prince Mohamed Bolkiah, a brother of the Sultan and former foreign minister, and the now defunct Amedeo Development Corporation, controlled by his youngest brother Prince Jefri Bolkiah, which collapsed after he was sacked as finance minister following the 1997 Asian economic crisis.

businesses in the retail and hospitality sectors. The promotion of private sector entrepreneurship, however, has the effect of putting the blame for business failure on the individual rather than on the state's economic policies.

Another symptom of the "Dutch Disease" is the overvaluation of the national currency driven by massive financial reserves. Economists reckon that the 1967 Brunei–Singapore Currency Interchangeability Agreement which pegs the Brunei dollar to the Singapore dollar has led to a 25% overvaluation of the Brunei dollar making foreign investment in such a tiny domestic market unattractive.[9] In the face of adverse conditions for attracting foreign investment, the government has welcomed several major Chinese projects as part of the Belt and Road Initiative (BRI), but these seem to be in part guided by political rather than purely economic motives (Lawrence, 2021).[10]

Brunei has also tried to find a niche in the expanding global Islamic economy in such fields as Islamic finance, halal certification and religious tourism. However, attempts to use its religious credentials as a selling point for the Brunei Islamic brand have not been very successful either, given that it has to compete with much bigger and better-known regional operators in this market. Brunei's Islamic financial institutions are too small compared to much larger and better-connected competitors in Malaysia or Singapore. Similarly, Brunei halal certification for commodities, such as Australian cheeses, may build brand trust in Brunei itself, but it has gained little currency outside the country.

Malay Islamic Monarchy (MIB)

Although under the "national philosophy" of MIB, Islam had been an official pillar of legitimacy for the monarchy since independence, in recent years there has been a noticeable push to give religion a higher profile in the public sphere of the nation and in the everyday lives of its citizens. Initially, this manifested itself in education reforms making religious education compulsory in school and establishing two Islamic universities. On closer inspection, these were partly cosmetic changes: the great majority of children already attended religious schools in the afternoon, one of the new Islamic universities had previously been the Faculty of Islamic Studies at the national university, and the other was the upgraded Religious Teachers University College. Various decrees imposed new rules on everyday life that mainly affected non-Muslims,

[9] Before 2005 several Indonesian garment manufacturers had set up factories in Brunei to take advantage of the US Trade Quotas for "Made in Brunei" textiles, but their capital and labour were Indonesian and their impact on the development of the private sector was minimal. They closed down after the quota system was ended in 2005.

[10] Soon after Brunei assumed the chairmanship of ASEAN in 2018, President Xi Jinping paid a state visit to the country to discuss Chinese investments to help Brunei to diversify its economy (Storey, 2018). Politically there has been a noted reluctance by Brunei to take any position that could antagonise China on the South China Sea Dispute or the military coup in Myanmar.

such as closing commercial establishments during Friday prayers, banning restaurants from serving food during Ramadan and prohibiting the public celebration of non-Islamic religious events. The overall effect of such regulations was to increase the visibility of Islam in the public sphere and to restrict the presence of other religions to the private sphere.

The most significant of these moves was the introduction of an Islamic legal code in 2019 (Muller, 2016). This was not a particularly popular move, especially among the younger generation of Bruneians, many of whom did not really see the need for it, but it also did not cause a strong counter-reaction in the country. Inside Brunei there was limited enthusiasm for the move but also little criticism, even in the anonymous world of social media. The dominant reaction was indifference based on doubts that the government would really implement such laws (Khan, 2020). It seemed hard to imagine that in such a tightly knit society punishments such as stoning and amputations would really be carried: For a start, who would throw the stones and which surgeon would amputate the hands?

Domestic disinterest in the Syariah Penal Code Order 2013 (SPCO), contrasts markedly with the hostile reaction abroad. Bruneians suddenly found their country categorised with Saudi Arabia and Afghanistan, rather than with Qatar and the United Arab Emirates, which have similar laws, but where hudud sentences are not carried out—a scenario with which Bruneians would feel quite familiar. Although Brunei never repealed the death penalty which it inherited from British Indian law, the last execution was carried out at the time of the Residency in 1957, and due to the lack of an executioner it was carried out in Singapore. Following widespread international outcry about the SPCO, the Sultan spelled out what many in the country had already assumed: that the existing moratorium on capital punishment would stand, but that the SPCO will not be repealed either.

Although he did not comment on the other *hudud* punishments, there was official backtracking on the issue, such as the claim that the mere announcement of the SPCO already had a deterrent effect on the crime rate, alcohol offences and the number of illegitimate children; or that the standards of evidence required under Shari'a law were much higher than under the civil code, in fact so high that they were almost impossible to meet. Adultery, for example, requires four male witnesses to the act of penetration.[11] Each potential SPCO case requires an initial judicial determination of whether it is to be tried under the Shari'a code or the common law. So far not a single case appears to have been tried under the SPCO, and all offences, such as rape cases, that one might have expected to be tried under it, were referred to the civil courts.[12]

[11] Another argument in defence of corporeal punishment made the point that the Islamic punishment of whipping was actually lighter than caning, which was introduced by colonial officers painfully familiar with it from their time in public schools back home in Britain.

[12] https://www.openaccessgovernment.org/brunei-death-penalty/64515/.

This raises the question of why the Sultan so publicly called for the introduction of Islamic law when there was no intention of actually implementing it. After all, domestically it was not a popular move, and if hudud sentences had really been implemented, it would probably have diminished the Sultan's popularity. Internationally it did considerable damage to Brunei's and his own standing by scaring foreign investors and tourists away and negatively impacting Brunei's investments abroad through highly publicised public protests and boycotts. A common explanation heard in Brunei is that as the Sultan is getting older, he is also becoming more religious. Indeed, it appears to be true that he has become more religious in his personal religious observances, but while such life-cycle stereotypes may make common sense, it is hardly a satisfactory sociological explanation. What is at stake here is not only his own fate in the afterlife, but also the future of his state.

Right from the start the Sultan had played a very conspicuous role in the turn towards religion. Preparing his citizens, he had called for the introduction of Islamic law several times over the years. Only when the Sultan began to publicly berate the judicial authorities for having ignored his calls three times already, was the process initiated. While this delay may have been due to bureaucratic inertia or resistance to change on the part of the concerned officials, it clearly cast the Sultan into the role of a faithful Islamic ruler determined to implement and uphold a social, political and legal order in conformity with divine will.

Although the Sultan is by no means a very charismatic personality by himself, his turn to religion has had the effect of routinising the personality cult around him by shifting the monarchy away from his long shadow and anchoring it more deeply in religion and, in turn, rooting religion more deeply in the society. While the Sultan is, as we have seen, above the Constitution of Brunei, he is subject to God's law. As the concatenation of royal titles expresses it: in relation to God, he is *Kebawah Duli Yang Maha Mulia* ("He Who is the Dust of The Almighty"), but in relation to his subjects he is *Yang di-Pertuan Negara* ("Lord of the State"). The amended social contract is not just between the Sultan and his subjects, but between them and the *khalifah*, God's representative on earth, as he is referred to in this context (Muller, 2022).

But the politicisation of religion (or the Islamisation of politics) cuts both ways. While religion can be a source of legitimacy for the monarchy, it can also be used to challenge its legitimacy. The introduction-sans-implementation of Islamic law, for example, lays the monarchy open to accusations of a Machiavellian (ab)use of religion to shore up its religious credentials for political purposes. This is where the introduction of Islamic law could turn into the legal equivalent of leaving a loaded gun on the table, which in future somebody else might decide to actually use.

As the case of Malaysia demonstrates, the game of competitive religiosity opens the door to a dynamic in which competing political forces seek to out-Islamise each other. The religious elite in Brunei is aware of this and keeps

tight control over religious activities by censoring all religious literature and requiring all religious preaching and teaching to be licensed. The Ministry of Religious Affairs Brunei sends its elite personnel to study et al.-Azhar University in Cairo and employs Egyptian religious teachers in its Islamic schools and universities. But the Internal Security Department (ISD) also sends officers for training with Egyptian State Security "because they know the latest developments among Islamist movements", as one senior ISD official told me.

"A Nation Devoted to God": *Negara Zikir*

A recent response to the dilemma of the ambivalence of the Islamisation has been the propagation of the concept of Brunei as "*negara zikir*" (Mazlan & Yusof, 2019), a uniquely Bruneian concept neither found in any other Muslim society past or present nor in classical Islamic political philosophy. Not uncharacteristically, it also remains unclear what exactly it means. But its very vagueness gives it the ambiguity that allows it, on the one hand, to convey the notion of Bruneian exceptionalism, while on the other hand, also claiming to be based on "pure Islam" (*Islam tulen*). There is an unintentional irony in the fact that this supposedly authentic, literal reading of Islam is supposedly unpolluted by mere interpretations that falsify and instrumentalise religion for political purposes. "*Negara zikir*" seeks to square the circle: it asserts Bruneian exceptionalism in order to pre-empt possible comparisons with alternative Islamic social models (and therefore criticisms), while at the same time claiming to be the one and only authentic understanding of Islam (and therefore beyond questioning).

The propagation of *negara zikir* also implies a greater emphasis on spiritual values and rewards in the afterlife as compared to the rewards of this world, i.e. the values of the mosque over the values of the mall. As such, it fortifies Brunei Malay identity (which revolves around the monarchy) against the temptations of materialism and consumerism of the nouveaux riches whose sense of entitlement and expectations of material rewards the Shellfare state will no longer be able to fulfil indefinitely.

Conclusion

Is Brunei a resilient monarchy or a fragile rentier state? What will the future hold for this unique and paradoxical political system? Given the current Sultan's popularity, legitimacy and financial means, it seems unlikely that anything very dramatic will occur during the remaining years of his reign.

As for the longer-term future, it is difficult to identify any alternative forces that could—or would—challenge the status quo. What Brunei has by way of a working class are mostly migrant workers imported from South Asia and its poorer Southeast Asian neighbours. The Chinese business class has been decimated demographically and excluded politically as Permanent Residents. The private sector is dominated by Government-Owned Companies and private

companies owned by members of the royal family, and what is emerging as a new Malay business class is dependent on government contracts. The middle class is mostly composed of so-called "government servants": bureaucrats and technocrats, teachers and lecturers. The military is well-funded and by providing employment to about 7200 soldiers on active duty, it is very much part of the Shellfare state. The numerous institutions of the religious elite provide employment to a large religious workforce in the Ministry of Religious Affairs, the Office of the State Mufti, the Syariah Court, as well as religious schools and universities. Their role in providing the religious (wo)manpower for the turn to religion is secure. While Brunei is by no means free of relative poverty, the social forces that might be in a position to challenge the status quo are beneficiaries of it, and have so far little incentive to change it.

The real question is, however, what will happen once the Sultan's reign comes to an end. One possible scenario could be similar to that emerging in Thailand following the death of King Bhumibol Adulyadej. Like the latter, Sultan Hassanal Bolkiah's reign has outlasted most of the subjects' memories of a predecessor, and like him he has also become a deeply revered and larger-than-life, almost mythical figure. Both monarchs have awoken high expectations among their subjects that are difficult for their successors to fulfil. Not only is there a new generation of rulers emerging, but there is also a new generation of subjects: younger, more politically conscious, more educated and with higher expectations, they are beginning to look at their country's politics more critically than their parent's generation, whether from a liberal-progressive or a religious-conservative perspective.

Unlike the Thai King, however, the Brunei Sultan is not a constitutional monarch. He has exclusive executive and legislative powers—and he has complete financial control. As long as the rentier state was strong and almost everybody's share of the oil wealth was growing, he could take the credit, and only a few asked questions about how exactly that wealth was being distributed. But when the rentier economy begins to contract, and everybody's share of the wealth becomes smaller, awkward questions are asked and scapegoats are needed. While in the past this might have happened between trusted friends and relatives in private, today it happens in full view of the public in the social media, which is the closest thing Brunei has to a public sphere. In fact, Brunei has the highest social media penetration rate in Southeast Asia, and after the UAE and Qatar, the third highest in the world.[13]

Meanwhile, the Sultan has been trying to put some distance between himself and the machinery of government by adding an oppositional voice to his repertoire: In his role as "Man of the People", he also acts as their representative vis-à-vis the government that he himself heads. In a now famous phrase, he criticised members of his own cabinet as "robot ministers" for not showing enough initiative. On other occasions, he has regularly spoken of abuse of

[13] https://www.thestar.com.my/aseanplus/aseanplus-news/2022/07/27/brunei-ranks-third-in-social-media-adoption.

power among public officials and has called for "government servants" to become "God-fearing bureaucrats". Until 2005 there were no term limits for ministers and cabinet reshuffles were rare, but since then ministers are subject to reappointment after five-year performance reviews, and several times ministers have even been unexpectedly removed in the middle of their terms. In late 2017, for example, the Sultan gave a speech in which he criticised the "abuse of power" by government officials around the same time as the Minister of Health was mysteriously removed. A couple of months later several other prominent ministers were unexpectedly replaced, while among the new appointments was that of the former Director of the Anti-Corruption Bureau to the post of Deputy Minister in the Prime Minister's (i.e. the Sultan) Office.

The individuals caught up in these cases may just have been convenient scapegoats because corruption and abuse of power are systemic. However, there has been a change of winds in the face of the growing realisation that in the future the Shellfare state may no longer be able to fulfil its side of the rentier bargain. In a speech the Sultan gave to the new cabinet in 2018, he admonished them to "really focus on matters that are beneficial for the country and not for self-interest or for the interest of any parties" (Ward, 2018). Whether or not the Sultan has ever read the McArthur Report of 1904 we do not know, but there is an echo of the Report in his words to his ministers: "Do not become drunk with power that you will do anything for your own self-interests above the needs and interests of the country. Leaders who have become drunk with power have a tendency to practice nepotism and cronyism. This must not be allowed to happen" (Hazair, 2018).

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CHAPTER 11

Timor-Leste: Constitutional Provisions, Political Conventions and Legitimacy Under Strain

Rui Graça Feijó

In the transitional period between the UN self-determination referendum of 30 August 1999 and the proclamation of (the re-establishment) of independence on 20 May 2002, Timor-Leste took a bold decision against mighty odds: to build a democratic polity. The history of the last twenty-odd years is one of a bumpy journey along that road. Democracy has been installed by means of the local elite's political agency supported by the international community, and its rooting in the Timorese social fabric has progressed amid hesitations, contradictions, achievements and shortcomings. Several critical junctures were positively overcome. However, in the last six years a major question mark hovered over the political landscape when fears of democratic backsliding became all too visible—and they have not been completely removed. So far, the political system put in place in 2002 has survived in its formal design, although some of its major norms have been questioned.

This chapter begins by discussing what a political system consists of, and what the nature is of what this volume designates by "norms". Then, it moves to a brief presentation of the main features of the system as an historical whole, emphasising the importance that arrangements—which generate tough discussion in the early moments when the political system is defined and implemented in practice—assume for its future operation. The idea is put forward that in parallel to legal-constitutional provisions, Timor-Leste combined elements of deep-rooted traditional political culture, including a

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_11

prominent presence of leaders endowed with Weberian charismatic legitimacy, with modern forms of organising the running of the state, generating a complex set of conventions. The plasticity of these arrangements holds part of the responsibility for the early success of democratic progress.

Over the last few years, roughly corresponding to the period inaugurated by the 2017 election of Francisco Guterres Lu Olo for the presidency in clear contravention to the established convention on presidential profile and status, a deviation from the norms governing the performance of different political actors has been noted, and is addressed in the next section of the chapter. Two specific issues are discussed: the abandonment of the notion that presidents discharge their function as "independent" actors not submitted to partisan logic or discipline but rather "above the party fray"; and the emergence of a clear clash between two different forms of legitimising political action—charismatic and legal-rational—which had previously combined in a unique local mix.

The last section retrieves conclusions from earlier points and discusses the extent to which, in a new world context characterised by democratic backsliding the rise of authoritarianism, Timor-Leste is currently prepared to address the challenges to its democratic credentials.

Political Systems and Their Norms

Political systems are social constructs whose anchor is the notion of legitimacy to participate in the decision-making process that affects the whole community. Each new system is defined by two main elements:

(a) a broad legal-constitutional set of formal, codified provisions which offer a conceptualisation of its main tenets (monarchy or republic? authoritarian or democratic? presidential, parliamentary or semi-presidential? unitary or federal? and more) as well as fundamental arrangements such as the extent of presidential or parliamentary powers, the organisation of the judicial branch, the rules for electoral competition or the protection of civil rights. These are usually codified in a formal Constitution, although some countries (e.g. UK, Israel, New Zealand) have no written one. For comparative political analysis, constitutional provisions offer a sound initial basis for the classification of political systems; however, as Maurice Duverger (1980) has pointed out, when passing from a general view to the discussion of particular cases, the paradox of "similarity of rules, diversity of games" emerges and calls for a broader approach. For this reason, formal Constitutions by themselves are not sufficient to ground political analysis. Consideration is required for a complementary element.

(b) a stable framework for informal, non-codified features to emerge, often associated with "grand historical narratives", that play a role in fine-tuning the formal system's overall features in line with each country's

> history and political culture. Giovanni Sartori (1997) suggested that these be considered as "material constitution"—un-codified established practices rooted in some form of "tradition", political culture and/or historical legacy, which are widely recognised as guiding principles of public life. They may also be referred to as "political conventions" whose relevance stems from its broad acceptance as legitimate instruments in the exercise of power. Legitimacy may thus derive both from formal and un-codified sets of rules—and the aim of political analysis is to make sense of the whole process and to move beyond the strictures of formal constitutional debates.

John M. Carey (2000) has argued that political norms—that is, both those prescriptions that are formally codified in Constitutions and those that embody precise forms of political culture or historically rooted conventions, as suggested in this volume's editors introduction—that emerge or crystalise at the time of the establishment of a new regime, often forged by lengthy and deep negotiations, have the potential to endure and reproduce themselves over time. They constitute a sort of "genetic code" encapsulating a political DNA (Medeiros Ferreira, 1981; Passarelli, 2020). It has also been argued that such arrangements fuel the emergence of "grand historical narratives" with significant normative implications (Elgie & Passarelli, 2020) that run parallel to the constitutional text and entertain complex relations with its prescriptions. One may recall Douglass North's concept of "path dependence" or "a way to narrow conceptually the choice set and to link decision making through time" (1990: 98). Human agency and political choice are not disregarded, but informal benchmarks are established that provide stronger incentives to achieve some outcomes over others.

The Birth of Timor-Leste's Political System

In the transitional period between the self-determination referendum of 30 August 1999 and the proclamation of independence on 20 May 2002, Timor-Leste underwent a serious negotiation process and defined the main tenets of its political system. For one, it created a Constitution defining the country as a democratic republic based on political pluralism and free and fair regular elections providing the basis for a "legal-rational" model of political legitimacy.

As if anticipating Arend Lijphart's (2004) seminal article on "constitutional design for divided societies", in which he strongly supports the need to create power-sharing mechanisms, the emerging Democratic Republic of Timor-Leste (DRTL), took a number of bold decisions. Arguably, the notion of power-sharing and its correlate idea of broad political inclusion inspired constitutional provisions such as the design of an electoral system based on apportioning elected officials on a proportional representation basis (contributing to institutions such as the National Parliament being composed of multiple political families and preventing the growth of disenfranchised

protest), or the adoption of a semi-presidential form of government (a feat I have underlined since my 2012 article in the journal *Democratization*—see Feijó, 2014a, 2014b, 2016a, 2016b, 2020). Against formidable odds of democratic survival, the new country has fared relatively well over the twenty-odd years since independence (Feijó, 2022b).

The fundamental reason why power-sharing has been so important in this process derives from the very nature of Timor-Leste's recent history and its structurally pluralist nationalism. In fact, independence was achieved after a long a traumatic process initiated when the colonial power was shaken by the Carnation Revolution of 25 April 1974 and redefined its international policies embracing decolonisation. At that time, three different political formations emerged, each one espousing a "nation of intent" (Leach, 2023), that is, a particular vision for the future of the territory.

The process of self-determination was halted by the military takeover by the neighbouring Republic of Indonesia, which gave a positive response to one form of nationalist sentiment—even though it never seemed to be the dominant one. In the face of the Indonesian annexation, one important part of the East Timorese organised a fierce Resistance (illuminated by the ideals of independence) whereas others offered support and co-operation to the foreigners. With the passing of time, however, the barbaric nature of Indonesian rule (documented by the UN-sponsored Commission for Reception, Truth and Reconciliation—see CAVR, 2013) drove many Timorese to alter their initial favourable position and switch to the camp of the increasingly more popular Resistance.

A telling case in point is that of the Timorese Catholic Church, a former conservative pillar of the colonial regime, highly critical of what it perceived as "radical" political stances in some nationalist quarters, and sympathetic to the idea of integration with Indonesia. The bishop of Dili, Dom José Joaquim Ribeiro, is supposed to have said of the Indonesian paratroopers: "I saw them descending from heaven as angels – only to realize they were devils sent from hell" (A Paz é Possível em Timor, 1996: 6). The Timorese Catholic Church would make a significant move from its early support to a fierce opposition to Indonesian rule, a process during which it emerged as a critical rallying point for a new national identity.

Alongside this institution, other social groups made themselves present in the national liberation struggle. For instance: the growth in urbanisation and the increase in schooling generated a novel student movement which assumed a precise and independent role. All in all, by 1998 a conference was convened that decided to create the National Council of the Timorese Resistance (aka CNRT) under which a plurality of actors—individuals and organisations of different size and scope—accepted to work towards a common goal: independence. Contrary to many late colonial situations in which a front or a hegemonic party emerges that claims to represent the whole nationalist movement, in Timor-Leste this was not the case: nationalism was essentially pluralist (Bermeo, 2022; Feijó, 2016a).

After setting the constitutional provisions by means of an elected special assembly, which represent the formal element of the political norms (the Constitution of the Democratic Republic of Timor-Leste/CDRTL), Timor-Leste organized the first elections even before Independence Day. In April 2002 direct popular elections were held for a president to serve within the framework of the chosen semi-presidential model, and this election would produce fundamental consequences in the emergence of political conventions parallel to the constitutional provisions. The electors overwhelmingly chose Xanana Gusmão (82.7% of the vote), the Resistance leader who had no party affiliation but disposed of undisputed charismatic legitimacy, over the man who had been appointed president in the very brief moment of the first declaration on independence back in 1975, Francisco Xavier do Amaral, aka *Avô Xico* (Grandad Xico).

This founding election rises above its singularity. First, it sealed a precise perspective not so much on who *could*, but on who *should* run for president, that is, on the presidential candidate's preferred profile which is compatible with the constitutional prescriptions, but tends to narrow the legal options. CDRTL contemplates a number of conditions under which a presidential candidacy may be presented to the electorate—section 75 deals precisely with the "eligibility" for the post—but these should be considered as minimal requirements opening up a vast arena for citizens' initiative. What this election actually did was to set a precedent for the *suitability* of any candidate's profile rather than the mere possession of legal clearance. Whereas Francisco Xavier do Amaral chose to run as a flag-bearer of his party (ASDT), Xanana Gusmão refused partisan affiliation and although he received the endorsement of many political organisations he proclaimed his "independent status". In the run-up to the election, he threatened to withdraw his bid should the electoral rules imply that partisan symbols be placed next to the candidates picture in the ballots. A significant precedent was thus generated that would have important consequences in the way the political system operates in this country. One of these features is that, paraphrasing Bachelot and Haegel (2015) political parties tend to be "prime-minister seeking organizations", organised around alternative candidates for the premiership rather than the presidency—unlike other semi-presidential countries like France (Duverger, 1996), but similar to Portugal (Jalali, 2011). Another one is that the notion of "presidential party" in the sense given by Passarelli—i.e. "the organization that selected and supported a candidate who ran on its ticket and subsequently became president" (2020: 88)—tends to be alien to the established convention.

Second, it represented a convergence between two distinct and powerful forms of political legitimation. Max Weber (2013 [1922]) proposed to view political legitimacy in articulation with three models—traditional, charismatic and legal-rational—a distinction that seems pertinent in contemporary Timor-Leste. Xanana Gusmão brought together the charismatic and the legal-rational forms of legitimacy, and laid the foundations for these to coexist peacefully

in the years ahead. The convergence of models did not imply that any particular individual bestowed with charismatic legitimacy would discharge a specific function, nor that individual state institutions would be better prepared to perform under one model rather than another. Ultimately, electoral competition provides solutions for the clash of different agendas, but the relevant fact in Timor is that, for a large number of years after independence, the system was able to perform in an inclusive manner that secured the vast majority of actors imbued with different sources of political legitimacy a place in the decision-making process.

Third, the consecration of the notion that presidents are supposed to perform "above the party fray" as "independent" agents together with the willingness to articulate charismatic and legal-rational legitimacies (a feature one might expand to "traditional" forms as well, namely at the level of local power structures—Feijó, 2019), lent support to a precise view of the presidential function. The president is (was?) supposed to be a political figure who appeals to a wide, diversified constituency as an "independent president" notionally does. He may thus represent to all stakeholders a form of guarantee against exclusion from the central political arena. This is all the more important in the Timorese context where echoes still resonate of the traumatic 1974–1975 period which is often regarded as having been prone to an excess of partisanship that drives important contemporary figures to prefer not to be associated with any formal party, even though they are keen to be active in the civic sphere. In fact, important as they are, political parties are not hegemons and do not represent the whole of the civic intervention instruments.

Within a broad system of checks and balances that derives to a large extent from the diarchy of powers that Sartori (1997: 121) considers as a definitional feature of semi-presidentialism, the presidential function has been viewed as the exercise of a so-called "moderating power" ontologically diverse from executive, legislative or judicial power (Feijó, 2020), and a pillar for horizontal accountability (a much needed one in a country where other relevant elements of this sort of accountability such as the parliament and the judicial sector are clearly underdeveloped) (Bacelar de Vasconcelos, 2011).

The legacy of the foundational election was mostly upheld by the presidents that succeeded Xanana at the helm (José Ramos-Horta, 2007–2012 and Taur Matan Ruak, 2012–2017). A non-legally binding convention, or "invented tradition"—i.e., "a set of practices, normally governed by overtly or tacitly accepted rules and of a ritual or symbolic nature, which seek to inculcate certain values and norms of behaviour by repetition" in the words of Eric Hobsbawm and Terence Granger (1983)—was born that proved successful in securing a mostly smooth process of democratic consolidation. Political developments after 2017 brought a novelty whose wisdom is not clear. To these we turn now.

Departing from Convention

The presidential elections of 2017 witnessed a novelty. Francisco Guterres Lu Olo ran for the third time as the flag-bearer of a specific political party (FRETILIN). Unlike the two previous attempts to secure the presidency, in which his party had decided to not to enter any pre-electoral coalition, this time Lu Olo was supported by a broad convergence of the main parties which had joined forces in the first ever "government of national convergence" (2015–2017) under the premiership of Rui Maria de Araújo. He won the ballot in the first round with 57% of the vote.

Ever since 2002, Xanana Gusmão had sought to oppose what one of his senior aides (Agio Pereira) called "belligerent democracy"—democracy based on open partisan competition—and promote "consensual forms of democracy" inspired by the example of the Resistance's umbrella organisation, CNRT. As president, he had pressed the majority party of that era, FRETILIN, to lead a "government of national inclusion"—but he failed to convince Prime Minister Mari Alkatiri of the wisdom of his stance. Years later, after securing himself a second term as prime minister in the 2012 legislative elections, Xanana Gusmão returned to his initial idea, and eventually stepped down mid-term to pave the way for a new government supported by an original political arrangement: all parliamentary parties were represented in the executive, in which Xanana Gusmão reserved a position of minister (Feijó, 2016c). Also, they all agreed a "generational turnover" was necessary in a country whose main leaders were among the fundamental actors of the decolonisation period of 1974–1975 (the so-called *Gerasaun Tuan*)—and consequently chose a member of the New Generation (*Gerasaun Foun*) who had emerged during the Indonesian annexation, Dr. Rui Maria de Araújo, to chair the executive. As it happened, the new prime minister, who had served in previous governments in an "independent" capacity, had moved on and joined FRETILIN of whose central committee he was member. Despite having lost the 2012 elections to Xanana Gusmão's party, FRETILIN was able to secure the premiership of "government of national convergence" intent on promoting a generational turnover and initiate a new chapter in the country's history. This was the background to the presidential elections of 2017, and the general assumption was that Lu Olo would be in tune with those goals. It proved to be a wrong assumption.

Following constitutional procedures, the normal course of events posited the organisation of legislative elections a few months after the presidential ones. All parties supporting the government of Rui Maria de Araújo ran independent campaigns. In the July poll, FRETILIN won the plurality of the vote but well short of an overall majority (23 seats in 65). In the wake of these results, its leader Mari Alkatiri (an illustrious member of the *Gerasaun Tuan*) claimed the premiership for himself, showing the agreement sustaining Rui Maria de Araújo's choice to have elapsed. Xanana Gusmão, who headed the second largest parliamentary party (22 seats), reacted angrily, refused to

enter a coalition under Alkatiri, and eventually managed to make a deal with two other parties—Taur Matan Ruak's People's Liberation Party (8 seats) and KHUNTO (5 seats)—to support a coalition government with majority support (35 seats in 65) in parliament. The best Alkatiri managed to secure was the support of the Democratic Party (7 seats), not enough to grant him conditions to govern.

President Lu Olo, however, valued the fact that FRETILIN—his own party—had the largest number of seats in parliament and installed a coalition cabinet led by Alkatiri. In so doing he was using his political discretion as provided in CDRTL section 106.1 that reads:

> The Prime Minister shall be designated by the political party or alliance of political parties with parliamentary majority and shall be appointed by the President of the Republic, after consultation with the political parties sitting in the National Parliament.

This was the first move in a protracted tug-of-war that would dominate the years to come.

In Timor-Leste semi-presidential system, the government depends both on the president and the parliament, as per section 107:

> The Government shall be accountable to the President of the Republic and to the National Parliament for conducting and executing the domestic and foreign policy in accordance with the Constitution and the law.

This dual accountability means that the parliament has a role to perform in the acceptance of any new government. The new government is statutorily mandated to present its programme to the House, but needs not to seek a favourable vote, investiture being secured in case no opposition is raised. However, as per section 109.3, a rejection motion may be tabled that "shall require an absolute majority of the Members in full exercise of their functions". If approved, the government fails its investiture. That was precisely what happened.

Faced with the first ever rejection of a government programme and the consequent failure to secure investiture, the prime minister could opt to present a second programme—likely doomed to the same fate. He chose not to, nor did he formally step down. It was up to President Lu Olo to make a call. His options were basically two: to appoint a figure from the coalition that clearly controlled the majority of parliament (amounting to follow the precedents set in the wake of the 2007 and the 2012 elections), or to keep Alkatiri as caretaker prime minister until fresh elections would be called, a solution endorsed by FRETILIN and PD but vociferously opposed by all other parties. He chose the latter, and delayed by several months the official dissolution of parliament. Elections were called for May—ten months after the regular ones.

FRETILIN once again stood alone at the polls, and was unable to capitalise on the alleged advantage that incumbents notionally have, securing the same number of seats it previously had (23). Its junior partner in that cabinet, PD, lost two seats. The electorate did not endorse their adventurous stance. On the other hand, the coalition that brought down Alkatiri's minority cabinet ran together, and obtained an absolute majority (34 seats), vindicating its political options. Another coalition of three smaller parties elected three deputies.

Room for presidential manoeuvre was limited—but nevertheless it was still present. President Lu Olo accepted to install a new government headed by a figure issued from the ranks of the winning coalition—former president and PLP leader Taur Matan Ruak (whose parliamentary basis—8 seats—was the second within his coalition after Xanana Gusmão's party with 21 seats, and the third overall, being also smaller than FRETILIN's 23 seats). For the first time in Timor-Leste, the president and prime minister were affiliated to rival parties, a situation generally referred to as "cohabitation".

In this unprecedented context, Lu Olo again used his discretion following section 106.2 that stipulates that the members of government other than the prime minister "shall be appointed by the President of the Republic following a proposal by the Prime Minister". In the president's view, this section grants him wide discretionary powers, and he refused to accept a dozen names for ministerial positions formally proposed by the prime minister. True, this was not unprecedented, as José Ramos-Horta and Taur Matan Ruak are known to have acted in the same way, albeit in a much more limited way. However, not only was the scope of the rejection unmatched, but almost all names belonged to the Xanana Gusmão party. This amounted to a political veto and diminished the weight of that party in the council of ministers, that is to say, in the government's internal balance. It also impaired the government's capacity to fully discharge its mandate, as key ministers (Finance, Health, Natural Resources and more) were not appointed. When one accounts for the fact that the economic fabric of Timor-Leste is heavily reliant on public spending, and on a functioning public administration, the abnormal situation of the government generated increased difficulties.

The tug-of-war between FRETILIN represented by President Lu Olo and Xanana Gusmão attained new intensity. Between mid-2018 and January 2020 both sides refused to compromise. In fact, there was virtually only half a government in place, with severe consequences for its ability to discharge normal functions. The situation was difficult to sustain. Prime Minister Taur Matan Ruak sought to find a balance and did not press for a solution in line with his partners claims.

In early 2020 Xanana sought to clarify the situation by forcing the prime minister to take sides. Eventually the coalition supporting Taur Matan Ruak fell apart, and the prime minister tendered his resignation, which was not immediately accepted. Xanana negotiated with other parliamentary parties, managed to strike a deal, and was formally presented to President Lu Olo as the new post-electoral coalition's candidate for the premiership.

The onset of the Covid-19 pandemic would bring significant developments (Cabasset & Feijó, 2021). First, all parties agreed to allow the president to declare the state of emergency, as per the Constitution. When they were faced with the proposal for a renewal of the emergency, Xanana raised objections and voted against. He and his partners had not consulted and his coalition in waiting did not survive.

In the meantime, Lu Olo had manoeuvred to find a new solution: the prime minister would be kept in place, but the parliamentary basis of his cabinet would be deeply modified: the few CNRT ministers resigned and FRETILIN and PD that had been kept out of the executive following the 2018 elections took a considerable number of seats in the cabinet. A political alignment between the president and a post-electoral parliamentary majority had finally been brokered at the expense of breaking up a coalition that had won the election.

A significant episode took place in 2020. Nineteen CNRT MPs brought charges against the president in the Court of Appeals (acting as Constitutional instance). They claimed the president had overstepped his constitutional mandate in a variety of ways, from failing to swear in ministers with adequate political backing to refusing to accept the coalition headed by Xanana Gusmão when it commanded a majority in the House. The response of the Court took them—and indeed most observers and analysts—by surprise: in order to challenge presidential actions one must initiate a process of impeachment (which requires the vote of no less than two-thirds of the House). Failing that, the court would summarily dismiss the case.

The political weapons in the hands of presidents were increased significantly by this court ruling. A president may infringe a given rule, but unless an overwhelming two-thirds majority of parliamentarians rallies against him, the president will survive attempts to overrule him. President Lu Olo emerged from this court case significantly empowered and able to assert a new status for presidents for years to come, which is prone to intertwine the presidency and the government in ways not anticipated. The result was an alignment between FRETILIN and its two leading figures—the chairman and President of the Republic and the secretary general and actual leader Mari Alkatiri—with Taur Matan Ruak (serving as prime minister) and several smaller parties apparently masterminded by Lu Olo from the presidential palace. If formal democratic procedures were followed, and legal-rational legitimacy could hardly be challenged, the impact of denying the winners of a popular election the right to form government (as is arguably the case) raises significant question marks over the transparency of democratic institutions working methods.

Casting a bird's eye view over Lu Olo's presidency, it has been a particularly turbulent period: the first minority government to be sworn in, the first government to be defeated in the House, the opposition denied the right to present an alternative prime minister, the first ever early election, the appointment of a government without key ministers, long delays in the approval of state budget, a sequence of political alliances that were formed

only to break apart shortly, politicians jockeying for position regardless of electoral commitments, an attempt to curb independent press reporting by means of "defamation" legislation. All this took place in parallel to the increased centrality of the president in the political scenario, and a marked aggrandisement of presidential power coupled with the fading the mechanisms of checks and balances and thus of horizontal accountability. All this is in clear contrast with the political conventions crafted right after Timor-Leste's accession to independence.

As argued above, one of the most prominent features of the Timorese process of democracy rooting was the combination and convergence of different models of political legitimacy. Xanana Gusmão epitomises such a feature: he is the undisputed Resistance leader, affectionately addressed as *Maun Boot* (lit, Big Brother), a revered figure disposing of

> certain quality of individual personality, by virtue of which he is set apart from ordinary men and treated as endowed with supernatural, superhuman, or at least specifically exceptional powers or qualities. These are such as are not accessible to the ordinary person, but are regarded as of divine origin or as exemplary, and on the basis of them the individual concerned is treated as a leader. (Weber, 2013, chapter III, paragraph 10)—in a nutshell, charisma

At the same time, Xanana played the political game by strict constitutional rules, acquiring legal-rational legitimacy with which he served in the *sanctum sanctorum* (holy of holies) of Timorese elite: first President of the Republic (2002–2007) after independence, Prime Minister (2007–2012 and 2012–2015), minister (and kingmaker) (2015–2017), leader of post-electoral majoritarian coalition (2017–2018) and again leader of a pre-electoral winning coalition (2018–2020). That is to say: he held different positions ranging from top ones to relatively secondary ones, always included in the perimeter of the major decision-makers.

In 2020, the Lu Olo masterminded government reshuffle resulted in his ousting from the circles of power. Xanana Gusmão formally kept his seat in the Council of State (ex-officio for former presidents), a consultation board to presidents with a mere advisory mandate, and his role as party leader—although his party was removed from the coalition that had secured the electoral victory. In brief: he was deliberately ostracised. More than a simple individual case, this attitude represents an emerging clash between different forms of political legitimacy. His is by no means a singular episode. During Lu Olo's term in office the number of people replaced in their political positions was significant, and most derived from this rationale. Popular perception did not fail to notice a page had been turned, and the conventional convergence that sustained the exercise of power was openly challenged. The quality of democratic life was subject to intense strife. "Belligerent democracy" moved back stronger than ever, and a key to the success of a regime based on effective power-sharing encompassing different forms of political legitimacy was cast

aside long before legal-rational mechanisms had the chance of asserting themselves as the only game in town (indeed, the obscure manoeuvres surrounding the formation of successive governments may preclude an early success for this goal).

Francisco Guterres Lu Olo ran as incumbent (with FRETILIN endorsement) for a second term in the 2022 presidential elections. No less than 15 other candidates challenged him, including figures officially backed by parties supporting the government he had installed (e.g., PD, KHUNTO) as well as the prime minister's wife. He managed to secure his presence in the decisive second ballot where he faced previous president José Ramos-Horta who ran as "independent" (endorsed by Xanana Gusmão) on a platform pleading the return to the country's political convention. Lu Olo was soundly defeated (37.9%), even if his vote progressed from the first round (22.1%). José Ramos-Horta (scoring 62.1% of the popular vote) was inaugurated for his second term on May 20, 2022.

One of the major question marks over José Ramos-Horta's attitude as president related to a decision on the survival of the Taur Matan Ruak/FRETILIN government. It was generally assumed that Xanana Gusmão would want parliament to be dissolved and fresh elections called one year ahead of schedule. The novel president, however, did not bow to the alleged pressures of his supporter, and kept the government in place. Elections were eventually called for May 21, 2023.

Political tension rides high. The negative experience of pre-electoral coalitions being unable to survive long after the ballots seems to be driving parties to go alone in search of a stable majority. However, speculations run the risk of being disavowed as the volatility of the political scene is important. At the bottom of the electoral competition, however, the question is: to what extent do Timorese citizens endorse the course of action pursued under Lu Olo? Does his defeat in the presidential election herald a return to a set of norms from which he clearly deviated? Or is the new experience valued positively and a new mandate will be on offer to the current government? Will the landslide vote for the current president translate into a new parliamentary majority intent on promoting substantial modifications in political orientation? Far too soon to tell. However, one may reflect on the events of the last five years.

Reflections on Timor-Leste's Recent Developments

The 2017 round of presidential and legislative elections inaugurated a new phase in the political landscape of Timor-Leste. Lu Olo, the first president to have a formal party affiliation, envisaged his presidential function as a defender of his own party rather than discharging a neutral role. Also, he offered comfort to a new attitude of pitting "legal-rational" legitimacy (as expressed in parliamentary arrangements) against "charismatic" legitimacy which had been a strong pillar of democratic development after independence. A clear break with a given political convention that seems to have embodied what

Giovanni Sartori has termed "institutional witchcraft" (Sartori, 1997: 125; see also Feijó, 2018), helping to create a common house for citizens and political actors of different persuasions and legitimacy backgrounds, was thus implemented. The quality of democratic life was subject to intense strife.

The days of the "Third Wave of Democracy" (Huntington, 1991) under which Timor-Leste installed its democratic regime are now gone. Democracy is no longer the *zeitgeist*. The last few years have raised the spectre of a return to some form of autocracy—not necessarily in the classic form of a full breakdown of democratic regimes, but by virtue of a slow erosion of the basic tenets of the rule of law (Bermeo, 2016; Levitsky & Ziblatt, 2018). For a country historically dependent on the way the winds blow in the international arena, these are not good news.

The literature on recent autocratisation trends—e.g., Lührmann and Lindberg (2019), Maerz et al. (2020)—and most organisations that report regularly about the state of political regimes around the world (Freedom House, Varieties of Democracy, The Economist Intelligence Unit and others) have all pointed to a trend towards democratic backsliding in recent years, and the surge of a "autocratisation wave". The insistence in declaring states of emergency, curtailing civil liberties with the pretext of the pandemic, even in places where there was barely any critical situation have been pointed out as symptoms of democratic contraction (Maerz et al., 2020). Even though electoral mechanisms are not necessarily contested, the aggrandisement of executive power has been singled out as a major factor weakening democratic systems (Bermeo, 2016). Timor-Leste may be entering a new phase of its political life in a world where democratic contraction and the spread of autocratisation seem to be on the rise.

One may recall that serious doubts regarding Timor-Leste's capacity to resist authoritarianism and uphold democratic principles were voiced at the early stages after independence when such "temptation" was assigned to the first FRETILIN government by a range of observers (Leach & Kingsbury, 2012; Siapno, 2006; Simonsen, 2006). Is this cloud hovering over Díli once again many years after being successfully put to rest? Is Timorese democracy backsliding?

Using an analytical framework proposed by Boese et al. (2021), one may regard the recent evolution of Timor-Leste under Lu Olo as representing a major first-stage problem of democratic resilience, with previous successes being undermined. But the outcome of the second stage of the process—the actual breakdown of democratic institutions—has a good chance of being avoided if a return to the established political norms, comprising both constitutional provisions and cultural conventions finds room to impose itself. The discourse of "democracy" still resonates in the country (and in its major international supporters), having succeeded to fend off alternative narratives (such as the "Asian values" one).

However, the critical upcoming legislative elections will be held against the backdrop of the extra-ordinarily polarising presidency of Lu Olo, whose defeat

in 2022 may not have been definitive, and involve highly conflicting partisan agendas. Key to the elections will be whether there is sufficient democratic resilience to avoid the election offering formal legitimation to democratic backsliding, which is sometimes framed by a "vexing ambiguity" (Bermeo, 2016) leading to a hybrid or democratically "poorer" regime, or whether democratic resilience will prevail.

Modern processes of autocratisation need not be an event (like a coup d'État) but rather a more or less protracted and subtle process. "De-democratisation today tends to be incremental rather than sudden [and] troubled democracies are now more likely to erode than to shatter" (Bermeo, 2016: 14). The main factors identified in the relevant literature as capable of opposing the process of de-democratisation—a strong judiciary, an established tradition of democratic rule and a thriving civil society—are not present in Timor-Leste. The judicial sector has been regarded as the weakest link in the constitutional system of powers, not grounded on an independent capacity to intervene and lacking the human capital to make a difference. Civil society, for its part, does not possess the instruments that are common in liberal democracies such as a vibrant media reaching wide audiences. Democracy is a newcomer to the country which was long under colonial and neo-colonial rule by authoritarian powers. Although not long, the history of democracy in Timor-Leste's early independent years provides an important element of reflection.

The recent Covid-19 pandemic and the responses it has elicited have threatened public liberties while extending executive prerogatives in many parts of the world (Maerz et al., 2020). In Timor-Leste, the very serious concerns over public health offered a pretext for reducing constitutional guarantees by means of a protracted "state of emergency" not supported by a social or political consensus. Parallel to this, legislation limiting media freedom has weakened the fabric of democratic society. Political rhetoric has once again grown more violent, suggesting that the notion of a common house for all the Timorese is giving way to sectarian discourses. On the other hand, political institutions like the parliament seem to be prone to forms of politicking that are not transparent and may be regarded as distant from the choices of the electorate although they may be formally justifiable. This is a dangerous mix for a healthy democracy.

In this context, to abandon political norms that proved during the difficult first years of independence and democracy-building to successfully overcome major challenges (including the 2006 political crisis or the attempt on the lives of the president and the prime minister in February 2008), as was carried out under Lu Olo, may prove to be wrong medicine. The first step to redress the situation was given in the 2022 presidential elections. The process, however, is far from over.

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CHAPTER 12

The Singaporean Battlefield for the Chinese New World Order: Norms in the Security Domain

Eric Frécon

Introduction

According to the realist school of International Relations (IR), international relations and norms are deeply antinomic. For realists, the relationship between actors in global affairs relies on power and force rather than any sort of social contract. In Western political thinking, from Plautus and Pliny the Elder to Montaigne and Hobbes, "a man is a wolf to another man" ("*Lupus est homo homini*")—although on the domestic stage, according to Hobbes "man to man is a kind of God". Similarly, in China, Mozi (c. 468–381 BC) held that men are ontologically bad: they hate and cheat each other and "have no scruples to attack other states" (Mozi, 2008: 109; Reynaert, 2019: 27). This pessimistic view of man's nature is at the roots of the realist school in IR, for which (military) power—rather than norms—is key.

Other IR schools, however, take norms into account. Three categories of norms can be distinguished. Some are formal, precise, and explicit; written in various sources of international law such as treaties or conventions. They help regulate the relationship between state and non-state actors on the international scene. Neoliberals push for them and for making them as binding as possible, mainly through cooperation and institutions. Above, at a slightly more strategic level, a broader definition of norms is applied: here they are less formal, not only strictly contractual or conventional, and bundled together with rules, habits, and processes. The idea of "regime" in IR, elaborated by

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_12

Stephen Krasner, is a good example as it is defined by "principles, norms, rules, and decision-making procedures around which actor expectations converge in a given issue-area" (Krasner, 1982: 185). Norms are "seen as a standard of behaviours expected by peers who are part of the same group" (Pontbriand, 2010: 15). In case of misbehaviour, actors will not automatically be sanctioned, but can lose credibility or be expelled from the group. Last, for neorealists, international relations are also framed by paradigmatic norms, such as those which emerged in the wake of 1648 to lay the foundations of the so-called Westphalian system. Their goal is "to restrain the complexity of the world", "to limit the intellectual work", to "select the key perspectives" and, in short, after discussions and negotiations, to see what appears as "normal", in peace and war times (Doja, 2013: 18; Fourez, 1998: 35).

The nature and the content of all these norms—legal rules and habits, which contribute to structuring international relation—is key to discussion about universalism versus regional specificities in general and Asia in particular (Acharya, 2017; Acharya & Buzan, 2010). For example, some stakeholders have highlighted the "ASEAN Way" to promote regionalism, based on *musyawarah* and *mufakat* (consultation and consensus), as opposed to European formalism (Acharya, 1999). Arguing for the existence of "Asian Values", actors including Kishore Mahbubani have kept this culturalist argument alive after Lee Kuan Yew (1923–2015) in Singapore and Mahathir (b. 1925) in Malaysia (Mohamad, 1970; Zakaria, 1994; Thompson, this volume; Mahbubani, 2009, 2019, 2020).

Nowadays, the spectrum of norms advocated by different states has become a veritable battlefield. China has quickly become a frontrunner. Already in 1931, Paul Valéry (1971–1945) expected to see "two dozen Creusot, Essen, Manchester or Roubaix" in East Asia, the international significance of which would go beyond the economic dimension (Valéry, 1931: 55, 165, 170–171). About 80 years later, Mead ruled in Valéry's favour when he saw Beijing as one of "weevils […] looking to hollow out the imposing edifice of American power", before adding that if challengers to American power, including China, "can't challenge the world system head on, they can chip away at its weak spots and, where the powers leave a door unlatched or a window open, they can make a quick move" (Mead, 2013). Larson and Saunders counterargued by emphasising how countries including China have focused on their neighbourhood, and by recalling their concessions in various areas (Larison, 2013; Saunders, 2013). Moreover, Ikenberry held that "the existing world order [was] more stable and expansive than Mead [depicted], leading him to overestimate China and Russia". For him, "China and Russia are not full-scale revisionist powers but part-time spoilers at best"—a "status quo-tidal power" in other words (Dobell, 2018; Ikenberry, 2014). There is no consensus among scholars of international relations on whether China should be described as "rogue", "revisionist", or "revolutionary", or whether there has been a switch to a new "world system", based on specific norms (Tenembaum, 2012). However, Xi's ideology is quite clear. The President-Secretary-General seeks

to change *a minima* of the rules of the "Great game"—but not the game itself. The concept of *tianxia* ("all under heaven" coexisting harmoniously) is used in this search for a Chinese model of world governance. According to François Gipouloux, commenting on how this concept is employed, "China intends to define rules and norms which could floor the Westphalian system" (Gipouloux, 2020; 555).

American think tanks and authors have reacted strongly to Xi's position, during a period in which Washington needed a new enemy (Doshi, 2021; Jacques, 2012; Pillsbury, 2016). While some Western political scientists consider China as a pragmatic power, lacking normative or ideological concerns, Chinese thinkers maintain the Confucian roots of the BRI (Belt and Road Initiative). Some observers now expect "a strategic competition […] to shape a world consistent with authoritarian models" (Mattis, 2018: 4). In this tense Cold War 2.0 atmosphere, even the French Ministry for Europe and Foreign Affairs admitted in February 2021 that there was a "war of model and influence" vis-à-vis China, seen as a "systemic rival" by the European Union (Vie Publique, 2021).[1]

How, then, does Beijing pursue this normative warfare? Recently, diplomats witnessed Chinese entryism in international organisations. Beijing applied to send Chinese directors to UN agencies, and installed officials in top posts in four of them. More generally, to promote new norms for a so-called "New World Order", Beijing has launched "invisible wars", based on Qiao and Wang's work on "unrestricted warfare": "who wants to win today's wars, or those of tomorrow, must 'combine' all of the resources of war which he has at his disposal and use them as means to prosecute the war" (Gomart, 2021; Qiao & Wang, 2015 [1999]). This results in a "completely new method of warfare called modified combined war that goes beyond limits" completely new method of warfare that was called "modified combined war that goes beyond limits". This view echoes Beaufre's (1902–1975) 1939 idea of "Peace-War". This latter concept is known today as "Grey Zone Tactics" or strategies, which refer to "hybrid threats, sharp power, political warfare, malign influence, irregular warfare, and modern deterrence" (Dalton et al., 2019).

In this vein, in parallel with military and paramilitary efforts, China makes political ones. The notion of "soft power" is too narrow to apply, as it does not sufficiently emphasise the economic dimension of power. The idea of "sharp power" is a better fit, emphasising efforts "to project … influence internationally, with the objectives of limiting free expression, spreading confusion, and distorting the political environment within democracies" (Walker, 2018: 10). Yet this projects a position that is aggressive rather than assertive. Arguably, "influence" is the most accurate term, which explains how it is increasingly used by researchers and policy-makers alike (Charillon, 2022; Charon &

[1] Chalmers, J. and Strauss, M. (2021) "EU says China is a systemic rival, human rights is main issue", *Reuters*, 15 June. www.reuters.com/world/eu-says-china-is-systemic-rival-human-rights-is-main-issue-2021-06-15/.

Jeangène Vilmer, 2021). Russel Hsiao writes: "the Chinese Communist Party (CCP) is increasingly utilising all levers of influence to achieve and secure its national objectives along its periphery and globally". "To influence the perceptions, beliefs, and behaviors of other governments and societies", Hsiao adds, "the CCP is employing political warfare" (Hsiao, 2019). This latter concept, "political warfare", has been defined by Kennan as "the employment of all the means […] to achieve national objectives. Such operations are both overt and covert. They range from such overt actions as political alliances, economic measures […], 'white' propaganda, […], [and] 'black' psychological warfare" (Office of the Historian, 1948).

Having thus outlined the broader framework of normative contestation in international relations, I (or "the chapter") will now proceed to focus on the case study of Singapore. With an ethnic composition of 74% ethnic Chinese, and as the first destination of China's outward direct investments in ASEAN, Singapore might plausibly be one of the main targets of China's increasing normative influence in Southeast Asia. According to the 2022 Pew Research Center, among 19 states surveyed, Singaporeans were found to have the most favourable opinion vis-à-vis China (67% favourable versus, for example, 12% and 19% in Japan and South Korea respectively). Likewise, 69% of Singaporeans would trust in Xi (versus 48% in Biden) (Silver et al., 2022). Despite strong links between Singapore and the US, Beijing already has solid bridgeheads in Merlion city. The two countries are linked by a free trade agreement since 2008,[2] and two-thirds of BRI projects in ASEAN are estimated to have been set up financially by Singaporean teams. For the CEO of *Standard Chartered*: "Singapore served as the financial resource pool cum magnet for companies engaged anywhere in the BRI" (Chong, 2019).

This chapter focuses on security, defined broadly to include both traditional state-centric security and non-traditional security. More precisely, it investigates whether Singapore's political norms in foreign and security policy are subject to Chinese normative influence. Through which vectors can this normative influence be conveyed? Are Singaporean decision- and opinion makers tempted by Xi's discourse? The answers to these questions will give useful clues for assessing whether the Chinese New World Order can "refuel" in Singapore.

Building on participant observations during seminars with Chinese colleagues, comments, op-eds and reports by Chinese scholars and diplomats, and rankings, it will be argued that despite multiple and diverse efforts from China, Singapore is not ready to engage Chinese norms in the diplomatic and security fields.

[2] As a proof of the strong Chinese lobbying, the negotiations had for a time been threatened after the unofficial visit of Lee Hsien Loong to Taiwan, shortly before he was sworn in as Prime Minister in 2004.

Chinese Levers of Power to Impose Norms on Singaporean Security

As a free-port and a former entrepôt, Singapore lies at the crossroads not only of the semestral monsoons, but also of different security norms. Led by brilliant leaders trained in the best American and British universities, Singapore has promoted and championed the post-WW2, Westphalian model, world order. Its diplomats have defended the rule of law, the conventional norms, like those negotiated and adopted in Montego Bay in the 1980s under the chairmanship of Tommy Koh, as the core of the law of the sea (Koh, 2020). The consecutive UN Convention on the Law of the Sea is still the key reference for Singapore on major maritime issues, such as the South China Sea disputes. In the same vein, at every opening session of the General Assembly, the Prime Minister Lee Hsien Loong promotes the UN as the only way to address both traditional and non-traditional threats. In September 2022, he explicitly confirmed that Singapore relies on the "current world order"—and the norms which go with it.[3]

At the same time, Singapore is classified as a "defective democracy", an "illiberal democracy", or a "hegemonic electoral authoritarian" regime (Merkel, 2004: 33; Mutalib, 2000: 313). This is manifest in security initiatives such as the Internal Security Act (ISA), which allows for the detention of suspects without trial, the *Total Defence* program, or the two-year National Service, for which the (academic) re-examination remains a taboo, and in punitive measures including canning and the death penalty (Ramakrishna, 2015).[4] Producing a feeling of an endless "state of emergency", the government has been consistently referring to national "vulnerability" and security threats including virus, terrorists, mosquitoes, and drug traffickers, to justify high military expenditure, police operations and a repressive judiciary. Diplomatically, Singapore has shown ambiguity and a reluctance to "pick sides" so as to avoid clashes and disputes.

These national security concerns are transmitted by all levels of the administration, impacting on all layers of society (En, 2017). Might this opaque situation offer opportunities for Chinese political warriors? I (ideally, better not to use 'I') explore this in the following section, which studies possible targets (public opinion, public intellectuals, diplomats, and government) and possible interactions (between grassroots, opinion makers, and policy-makers).

[3] Channel News Asia (2022) "International order imperfect, but by far the best bet for small states: PM Lee", 23 September. www.channelnewsasia.com/singapore/international-order-imperfect-best-bet-small-states-lee-hsien-loong-2959621.

[4] Amnesty International (2022) "Singapore: Fifth execution in under four months carried out", https://www.amnesty.org/en/latest/news/2022/07/singapore-execution-nazeri-bin-lajim/.

Personal Links

Firstly, there are the personal ties between Singaporean leaders and China. Lee Kuan Yew, who called himself "Harry" when a law student at Cambridge, (re)discovered his Chinese roots in the 1990s (Barr, 2014; Barr & Skrbis, 2009). He perfected his Mandarin late, after previously having banned Chinese dialects in Singapore. During his last years, he was often seen wearing a blue Chinese jacket and posing with a statue of Confucius by his side. This champion of the "Asian values" also became an advisor to the Forbidden City. Already in 1985, Dr. Goh Keng Swee (1918–2010), former Deputy Prime Minister, father of the Singaporean army, had advised the Chinese on the economic development of China's eastern coasts. Teo Chee Hean (born in 1954) was the co-chairman of the Joint Council for Bilateral Cooperation between the two countries. Minister of Defense from 2003 to 2011, then Minister for Home Affairs from 2011 to 2015, he still monitors security-related policies through his position as a minister-coordinator of sorts for National Security.

Academic Relationships

In addition to these personal links ("connections"? Not to repeat "links"?), there are links of academic nature. They are embodied in the history of the NTU (Nanyang Technological University). The term Nanyang itself refers to the Southeast Asian territories south of China, and was first used by ethnic Chinese migrants to Southeast Asia. NTU occupies the campus of the former Nanyang University, founded in 1955. Its merger with the University of Singapore in 1980, to create the National University of Singapore (NUS), sparked controversy because of the dilution of Chinese identity. The objective was to put an end to the Sinicisation of courses at the university. Nevertheless, the Chinese Heritage, the former administrative building of Nanyang University, has been renovated at NTU and provides a physical reminder of the roots of the campus. In an Australian study published in 2018, NTU was the university with the highest proportion of co-published articles between researchers and officers of the People's Liberation Army of China (Joske, 2018: 9).

In the same vein, on campus, two institutes in particular illustrate this strong Chinese connection. In 2018, the university started a partnership to host the largest Confucius Institute in Southeast Asia: the CI-NTU. This initiative extends the "Speak Mandarin" campaign launched by the government in the 1970s, which has been repeated many times since. The Nanyang Centre for Public Administration (NCPA), secondly, embodies the Singaporean training offered to Asian civil servants in general and to Chinese ones in particular. Since 1992, 17,000 civil servants Chinese have benefited from this training (to be compared to merely 1000 Southeast Asians since 2011). The centre is recognised by China's State Administration for Foreign Expert Affairs. The presence of former Singaporean ministers, ambassadors, senior

civil servants and members of parliament among the adjunct speakers suggests the sensitive nature of the teaching offered there.

Think Tanks as a Diplomatic Vector

Think tanks are becoming a critical player globally, and especially in Singapore (McGann, 2020). Generally speaking, the local centres and institutes play as matchmakers (in line with their ambition to act as "honest brokers") between Chinese and local academics and diplomats (Chua, 2014). Chinese players are invited to have a say about the world order—and its norms—within these first-class academic-diplomatic platforms.

Some platforms and events are more sensitive than others. The US Assistant Secretary of State for Politico-Military Affairs, René Clarke Cooper, warned in 2020 that China took advantage of the biennial Singapore Air Show to serve as a "platform for exploitation and theft".[5] In 2017, as China and Singapore were experiencing tense relations, the Singaporean authorities decided to expel Huang Jing, a professor at the Lee Kuan Yew School of Public Policy (LKYSPP), over accusations of being an "agent of influence of a foreign country". China was commonly understood to have been targeted and indirectly accused. As a sequel, the Singaporean Dickson Yeo, a former Ph.D. student at the LKYSPP, was arrested and sentenced in the US in 2020 for acting as a foreign agent for China. Returning to Singapore, he was given a detention order for similar activities in Singapore, which was later suspended.[6]

Media as a Diplomatic Channel

Collusion abounds between the Singaporean government and the media. Lee Boon Yang, head of the SPH group (Singapore Press Holdings), was Minister from 1991 to 2009. Before him, two future Presidents of the Republic held this position. Similarly, the former CEO of SPH, Alan Chan, was a close assistant of Lee Kuan Yew. He was replaced in 2017 by an ex-general without any experience in media: Ng Yat Chung. This extract from WikiLeaks quotes the chief of the *Straits Times* bureau in Washington as saying that: "editors have

[5] Magnier, M. (2020) "US warns China about using Singapore airshow as 'platform for exploitation and theft", *South China Morning Post*, 11 February. https://www.scmp.com/news/china/diplomacy/article/3049934/us-warns-china-about-using-singapore-airshow-platform.

[6] The author himself was approached by Dickson Yeo, who sought to commission a report on the European Union. Here is the beginning of his message: "Hello Professor, may we speak more? I'd like to commission you for brief writing projects". No follow-ups to this conversation.

all been groomed as pro-government supporters and are careful to ensure that reporting of local events adheres closely to the official line".[7]

The *Straits Times* appears as one out of many diplomatic vectors or channels. It is therefore interesting to note that the newspaper sought the opinion of Lau Siu Kai, vice-president of the Beijing-based Chinese Association of Hong Kong and Macau Studies, to comment on events in Hong Kong in 2020. This association distinguishes itself from the British Hong Kong Studies Association or the Society for Hong Kong Studies. Lau Siu Kai was appointed delegate of the Chinese People's Political Advisory Conference in 2003.

The Singaporean press regularly publishes op-eds by Zhou Bo, introduced as the "director of the Center for Security Cooperation in the Chinese Ministry of National Defence's Office for International Military Cooperation and honorary fellow of the Chinese Academy of Military Science" (Choong, 2020). In this way, similar to the universities and think tanks discussed above, media serve as facilitators or amplifiers of (English-language) Chinese thought.

Interference and Propaganda

"Roots-seeking camps" have been organised for the Chinese in Singapore. These are people-to-people exchanges, whereby young Singaporeans of ethnic Chinese origin can visit China (Qin, 2018). It took an op-ed by the Chinese ambassador to Singapore to calm worried Singaporeans.[8]

Internet testimonies have reported attempts of a pro-Chinese radicalisation of sorts. Though caution is necessary, these testimonies are considered credible by some specialists on China. One son was quoted as saying: "[My father] has gained a new habit that scares me. Every night […], he plays a series of videos about China. They are usually either videos with robot voices, or videos with a human talking angrily" (Reddit, 2020).

The wide range of efforts by China to disseminate its political norms is incontestable. But Singapore is not an easy target: the country takes great care to maintain its own identity, its own norms, and its own view of the world order in terms of security.

The Singaporean Response to Chinese Political Warfare

Arguably, Singapore is more autonomous from Chinese influence than could be expected from the above. In the fight against the Covid-19 pandemic, the country did not exclusively follow the Chinese way, at a difference from

[7] Yahoo! News (2011) "WikiLeaks: Significant gov't pressure put on ST editors", *Yahoo News*, 2 September. https://sg.news.yahoo.com/blogs/singaporescene/wikileaks-significant-gov-t-pressure-put-st-editors-095630064.html.

[8] Hong, X. (2018) "China does not manipulate other countries, says envoy", *The Straits Times*, 12 July.

neighbours such as Indonesia that were part of Beijing's "vaccine diplomacy"—and consequently under Chinese pressure (Frécon, 2019). In June 2021, despite a timid opening, Sinovac remained "unregistered" in Singapore, and "not authorised by the Health Sciences Authority (HSA) for use under the Pandemic Special Access Route".[9] Furthermore, the government, at first, did not want to force the downloading of tracking applications. Later, it strove to explain that tracers, distributed to the population to avoid contact and possible spread of the virus, did not contain GPS. Although the tracing ultimately was comprehensive and permanent, the government at least sought to give pledges not to appear as strict and intrusive. At the end of 2020, as another sign of the changing times, the government even had to explain its measures to parliament. Pushed to its limits, particularly by civil society, it reviewed the legislation to specify the conditions under which data could be used by the police. In 2022, while Beijing imposed a lockdown in Shanghai, Singapore stopped the obligation to wear a mask outside, despite new cases in the country. (New paragraph, to make the two - or three - case studies more obvious?) Similarly, concerning Singapore's 5G network, Singapore has not attempted to open the door to *Huawei*. Although Chinese mobiles are very popular and that queues never end in front of Huawei stores, the government has decided not to opt for Huawei as part of the implementation of 5G.[10]

Nowadays, attention is mainly focused on the installation of Chinese fin tech (financial technology) or social network companies. Tencent and Alibaba are increasing their presence in Singapore and the owner of TikTok (ByteDance) plans to decouple activities between China and outside, in a stable and reliable Singaporean context. These activities generate data and carry with them technologies of social tracing. As with the BRI, the idea for these companies is to decrease cost by setting up in Singapore.[11] TikTok also stores data in Singapore. At some point, fear eventually rose in Singapore:

> Although there is no evidence of a systematic expansion of China's social credit system beyond its borders, there is concern, as CSIS' Jim Lewis observes, that the Chinese may in time extra-territorialise their surveillance state, leveraging on global deployments of surveillance technology by companies such as Hikvision. […] Should policymakers dismiss the risk, society may over the long-term be shaped by repeated applications of messages that are near-subliminal. This may lead to the balkanisation of thinking across different groups who are exposed to particular media. (Jayakumar & Harjani, 2020)

[9] Goh, T. (2021) "24 private clinics to offer Sinovac's Covid-19 vaccine; fee per dose to range from $10 to $25", *The Straits Times*, 16 June. https://www.straitstimes.com/singapore/health/24-private-clinics-to-offer-sinovacs-covid-19-vaccine-fee-per-dose-to-range-from-10.

[10] Anuar, A. (2020) "5G in Singapore - is the tide turning against Huawei?", *Today*, 13 August. https://www.todayonline.com/commentary/5g-singapore-tide-turning-against-huawei.

[11] Harper, J. (2020) "Singapore becomes hub for Chinese tech amid US tensions", *BBC News*, 16 September. https://www.bbc.com/news/business-54172703.

In reaction, the authorities have not remained passive but have questioned themselves, especially since *Google* and *Facebook* have also installed their data centres in Singapore. In a (or "the above-mentioned"?) commentary published by RSIS, Shashi Jayakumar, in charge of CENS (Centre of Excellence for National Security), made a point of recalling that it was, in no way, a question of sacrificing Singapore's sovereignty or national security (Jayakumar & Harjani, 2020). Chinese law does not apply to stored data in Singapore. Moreover, national committees which oversee and monitor digital and information security in Singapore already exist, namely the National Security Coordinating Committee and the Security Policy Review Committee.

Thus, whether on the health or cyber security fronts, China does not appear to be considered either as Singapore's panacea, or norm provider.

From an Asymmetrical Relationship to Symmetrical Partnerships

Singapore has clearly distanced itself from Beijing, at all levels including that of the government. Admittedly, Singapore advocates an inclusive regional diplomacy and seeks to maintain dialogue with Beijing. Singapore was particularly discreet during the exchanges of diplomatic notes with China over the South China Sea dispute during the summer of 2020.

However, this does not suggest a mechanical rapprochement with Beijing. Since the 2018 Shangri-La Dialogue, Prime Minister Lee Hsien Loong has been explicit and consistent in his speeches, and, as Singaporeans say, "double-confirmed" his position in *Foreign Affairs* in June 2020 (Loong, 2020). For the Prime Minister, the worst would be a region divided into two spheres of influence in which Singapore would be obliged to choose a side[12] (Choong, 2021; Kausikan, 2019a, 2019b; Tay, 2021).

Singapore made what China perceived to be several diplomatic slights in 2016. Beijing's response was not long in coming. In December 2016, Singaporean *Terrex* armoured personnel carriers were confiscated during a stopover in Hong Kong, returning from training in Taiwan.[13] Following this incident, Prime Minister Lee insisted on the specificities of the Singaporean Chinese culture, setting it apart from that of China proper (Salleh, 2017). It is in this context that the Singapore Chinese Cultural Center (SCCC) to promote Singaporean Chinese culture, and to designate its champions, should be understood (China Cultural Center, 2015). The SCCC was inaugurated by Lee Hsien Loong himself in 2017, at the height of the tensions with Beijing.

Besides the inner circle of leaders, more and more former senior diplomats criticise China without hesitation. Following the outspoken stance of diplomat

[12] "Neither US nor China can put each other down, says Singapore's PM Lee" (Bloomberg), *South China Morning Post*, 3 August 2021. https://www.scmp.com/news/asia/southeast-asia/article/3143708/neither-us-nor-china-can-put-each-other-down-says.

[13] Loo, B.F.W. (2020) "Making sense of the Terrex incident", *TODAY*, 9 July. https://www.todayonline.com/commentary/making-sense-terrex-incident.

Tommy Koh, his colleague Bilahari Kausikan, ambassador-at-large, went even further. Nicknamed the "non-diplomatic diplomat", he had vilified Chinese interference in Singaporean society, and written a book with the evocative title: *China is Messing with Your Mind* (Kausikan, 2019a, 2019b).[14] In 2020, Bilahari, at a seminar at ISEAS, quite curtly requested Cambodia and Laos to choose between their allegiance to China and their ASEAN membership.[15] Phnom Penh's reaction was not long in coming, in the form of an anonymous letter in a national newspaper. The ambassador was accused, together with the host think tank, of playing as a "lone wolf" and as an "agent" for foreign powers. An analysis of guests at the Asia–Pacific Programme for Senior Military Officers, organised by the S. Rajaratnam School of International Studies (RSIS), reveals that no Chinese were invited in 2018 and 2019, while there were still three colonels or navy captains in 2016 and 2017, and some representatives again in 2021 (RSIS, 2020). The brief absence in this forum raises questions.

Conclusion

Singapore's diplomatic stance raises questions (or "can puzzle analysts" not to repeat "raises questions"?). It often seems to be pro-American and supportive of Western liberal democratic norms; it is sometimes suspected of being pro-Chinese and nostalgic of "Asian values"; while at the same time, due to the vulnerability that characterises all microstates, it might be expected to be neutral (Goh, 2006). The activities of the government show complex and entangled links with China, especially in the security sphere.

Today, the generation of Singaporean leaders, who have long been accustomed to the postcolonial tutelage of the West or tempted to follow and accompany the rise of China, are passing the relay. De facto, new priorities are emerging. Winds and threats are changing: security is now less about a war against terrorism, and more about environmental (smoke from Indonesian forest fires, floods, rising waters), health (Covid and dengue, which has never hit as hard as in 2020), community (nation building in a multiracial context) and food (water and even chicken supplies) securities. Singapore intends to work through the usual multilateral fora or via the new minilateral cooperations with its nearby neighbours, without China.

These trends do not correspond to the paradigm elaborated in 2010 by Xi Jinping, his "Chinese dream", to build a new world order under China's aegis (Gipouloux, 2020: 561). In the wake of the growing distance of diplomats and elites from Beijing, these policy moves rather tend towards the idea of "human

[14] Lee Kuan Yew had himself specified that if the Chinese of Singapore and China effectively shared the same language and the same ethnicity, it was, on the other hand, impossible for the Chinese of Singapore to "really feel part" of it (Choong, 2021).

[15] Hutt, D. (2020) "Time to boot Cambodia out of ASEAN", *Asia Times*, 28 October. https://asiatimes.com/2020/10/time-to-boot-cambodia-out-of-asean/.

security", a United Nations normative regime (United Nations Development Programme, 1994).

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CHAPTER 13

Lao PDR: The Politics of Stability in Turbulent Times

Kearrin Sims

Introduction

The Lao People's Revolutionary Party (LPRP) has governed Laos without political opposition since 1975. During this period, the maintenance of peace and stability has been the primary foundation on which the LPRP has staked its legitimacy. This emphasis on stability is grounded in the LPRP seizing control of Laos at the completion of the Second Indochina War, where it was tasked with reuniting warring factions and governing over a diverse multi-ethnic society dispersed across a highly heterogenous terrain.

Two central forces underpin the LPRP's model for stability in Laos. First, is the maintenance of strong economic growth and the use of economic growth rates to assert that the country is rapidly "developing". Second, is the use of state violence and oppression to prevent the formation of political opposition and any public criticism of the party-state. This twin-track approach to political and economic governance has seen the LPRP achieve much success in its pursuit of "political stability, peace and order" (Government of Laos, 2016: 87). However, it has also led to a myriad of social and environmental costs widely documented within critical literature (Gunn, 2020; Kenney-Lazar & Mark, 2021; Sims, 2021).

With the onset of the Covid-19 pandemic and the resultant lockdowns and border closures, Laos' strong track record of economic growth has ground

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_13

to a halt. Deeply entrenched economic vulnerabilities have been amplified, and this has led to rising national debt, unemployment, and increased living expenses. This chapter considers whether the LPRP can continue to maintain its long-held balancing of growth, oppression, and stability, during these turbulent times. In addition, the chapter also considers how norms regarding development and stability require a rethinking in the wake of current, critical, economic governance challenges.

The first section of the chapter begins by demonstrating the prioritisation given to stability within the LPRPs national socio-economic development plans, followed by a summary of the importance of foreign investment and political oppression to the realisation of the party-state's development ambitions. The next section discusses the economic impacts of the pandemic within Laos at both the national and household scale. This discussion is then followed by an analysis of three expanding threats to stability in Laos, namely: China's political-economic influence; narco-economies, and growth-centric development. Drawing these themes together, the chapter concludes by arguing that the ongoing maintenance of stability in Laos would benefit from a shift in existing developmentalist norms away from debt-inducing growth-centrism and towards more equitable and sustainable agendas. This is a long-needed shift, but it is also a shift that is reaching a tipping point.

Stability as National Priority

> Our country has political stability, the society is secured and in good order, the people are in unity and solidarity, and the market-oriented economic reforms have brought social development and growth. (Government of Laos, 2016: 82)

The LPRP's central focus on political stability and economic growth is showcased within its five-yearly National Socio-Economic Development Plans (NSEDP). In the most recent, 9th NSEDP (2021–2025), the first of three 'overall objectives' includes 'ensuring political stability', while the first of the six 'main outcomes' identified is 'continuous quality, stable and sustainable economic growth' (Government of Laos, 2021: 48–49). In the previous, 8th NSEDP, the 'overall objective' similarly emphasised the need to 'ensure political stability… [and] continuous, inclusive and sustainable growth' (Government of Laos, 2016: 87), while the overall objectives of the 7th and 6th NSEDP's were to, respectively, 'accelerate national economic growth and to maintain the country's stability and security' (Government of Laos, 2011: 5), and to promote 'economic development… and help keep the socio-political situation stable' (Government of Laos, 2007: iv, v).

To achieve its growth objectives, the LPRP has relied heavily on foreign direct investment (FDI), particularly into hydropower and natural resource extraction. According to Ministry of Planning and Investment data, from 1989 to 2019 the top 5 leading economic sectors for foreign and domestic investment were electricity generation (hydropower), mining, service industries

(notably tourism), agriculture, and industry and handicrafts (see Table 13.1). Economic growth in these sectors has been pursued via a range of different mechanisms, with notable effort being made to incentivise international flows via the expansion of transnational transport and electricity infrastructures, the establishment of Special Economic Zones (SEZs), and the awarding of vast land concessions to foreign investors. Reflecting a particular focus on attracting regional trade and investment, over the 1989–2019 period China, Thailand, Vietnam, and Malaysia have been the largest providers of FDI (see Table 13.2).

Table 13.1 Top 10 Foreign direct investment sectors 01-Jan-1989–31-Dec-2019

Sector	*Unit*	*Domestic private investment*	*Government investment*	*Foreign investment*	*Total investment ($US)*
Electricity Generation	55	5,583,548,939	1,789,891,260	6,987,666,149	14,361,106,347
Mining	345	1,667,589,228	53,300,000	5,779,159,622	7,500,048,850
Service	687	581,078,458	862,131,987	3,737,280,640	5,180,491,085
Agriculture	991	327,199,529	17,483,387	2,745,355,584	3,090,038,500
Industry and Handicraft	932	681,576,010	46,852,289	1,368,914,442	2,097,342,741
Hotel and Restaurant	430	285,367,208	94,595,521	685,050,391	1,065,013,120
Construction	151	181,899,385	21,640,000	632,935,309	836,474,694
Public Health	16	702,446,170	no data provided	53,043,030	755,489,200
Telecom	19	112,030,509	129,062,400	444,415,986	685,508,895
Banking	32	27,570,000	23,220,000	378,871,122	429,661,122

Author generated using data from https://investlaos.gov.la/wp-content/uploads/formidable/4/rpt_Invest_Summary_Sector1A_1989-2019.pdf

Table 13.2 Top 10 Foreign investment providers by country 01-Jan-1989–31-Dec-2019

Country	*Unit*	*Total investment (US$)*
China	862	10,031,161,583
Thailand	755	4,713,162,666
Vietnam	422	3,970,796,628
Malaysia	99	794,328,773
South Korea	291	751,072,139
France	223	545,626,243
Singapore	79	187,761,475
Japan	105	180,331,647
United States	114	149,800,113
Australia	89	135,162,582

Author generated using data from https://investlaos.gov.la/wp-content/uploads/formidable/4/rpt_Invest_Summary_Country1A_1989-2019.pdf

This FDI-led and largely extractivist economic agenda has successfully produced strong and continued economic growth. From 2000 to 2018 Laos's lowest annual GDP growth rate was 5.8% (2000) and its highest annual rate was 8.6% (2006). As seen in Fig. 13.1, growth remained fairly stable during this period, though a notable downward trajectory is evident from 2013 onwards. During this same period, Laos' human development index (HDI) also rose consistently from 0.471 in 2000 to 0.608 in 2018 (UNDP, 2022), with those below the national poverty declining from 24.6% of the population in 2012/2013 to 18.3% in 2018/2019 (World Bank, 2020: 10). This suggests that economic growth has provided substantial social benefits. However, neither GDP nor HDI figures tell us anything about the uneven distribution of benefits and harm that have accompanied modernization in Laos.

Critical scholarship on Laos demonstrates wide-ranging negative social and environmental effects resulting from growth-generating activities. Investments into hydropower dams, mining ventures, transport infrastructures, SEZs, and agribusiness plantations have seen forced displacements, loss of land and assets, as well as loss of incomes and livelihoods (Baird, 2021; Blake & Barney, 2021; Kenney-Lazar & Ishikawa, 2019). Increased flows across borders have brought growing trafficking of narcotics, people, and endangered wildlife, as well as social challenges resulting from substance abuse and prostitution (Sims, 2017). Large-scale investments across multiple sectors have also seen rising inequality (see Fig. 13.2), environmental degradation, and unsustainable

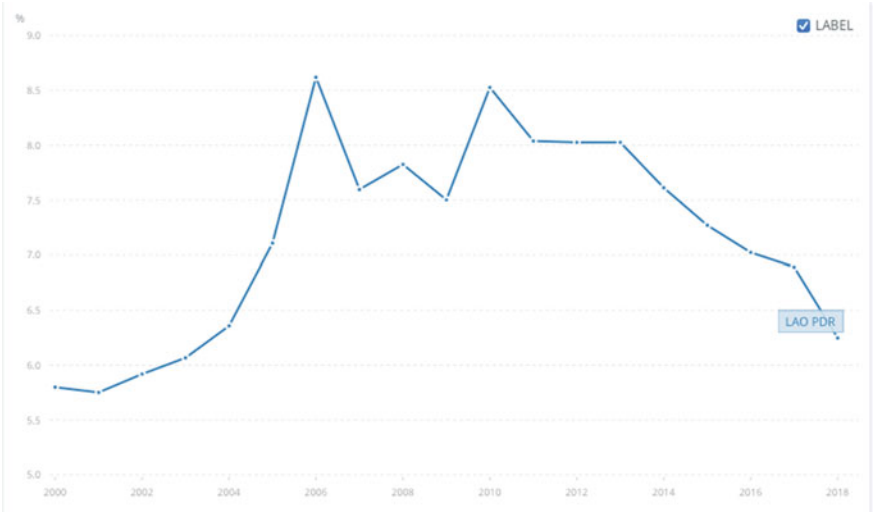

Fig. 13.1 GDP growth (annual %)—Lao PDR 2000–2018 (*Source* https://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG?end=2018&locations=LA&start=2000&view=chart)

natural resource extraction. Inequality is also rising, with economic growth in urban centres far exceeding that of rural areas (OHCHR, 2019). Put simply, while some people's wealth and prosperity has substantially increased over recent decades, others have experienced new and enduring forms of disadvantage. The potential implications of this for future peace and stability will be discussed shortly.

To maintain political stability, and to prevent political contention, the LPRP has firmly (often violently) suppressed all public expressions of dissent (BTI, 2022). As I have detailed elsewhere, Laos is a single-party state with no political opposition (Sims, 2018). All political candidates are party members, all economic elites have party ties, and the Government of Laos (GoL), the judiciary, the legislative body (the National Assembly), the military, and the police all follow party directives. Free and independent media is not permitted in Laos, state-owned media is awash with propaganda, and any criticism of the party-state online via social media is met with intimidation, imprisonment or other acts of state violence. Many international non-government organisations (INGOs) operate in the country, but civil society is only permitted to engage in depoliticised and technocratic activities. It is for these and other reasons that Laos is rated by Freedom House as one of the least free countries in the world, ranking 28th of 210 rated countries and territories (Freedom House, 2022).

As the uneven effects of extractive development have become more acute in Laos, party-state persecution of those advocating for more equitable and sustainable development has also increased. Pervasive across the country and taking manifold forms, this persecution is perhaps most spectacularly visible

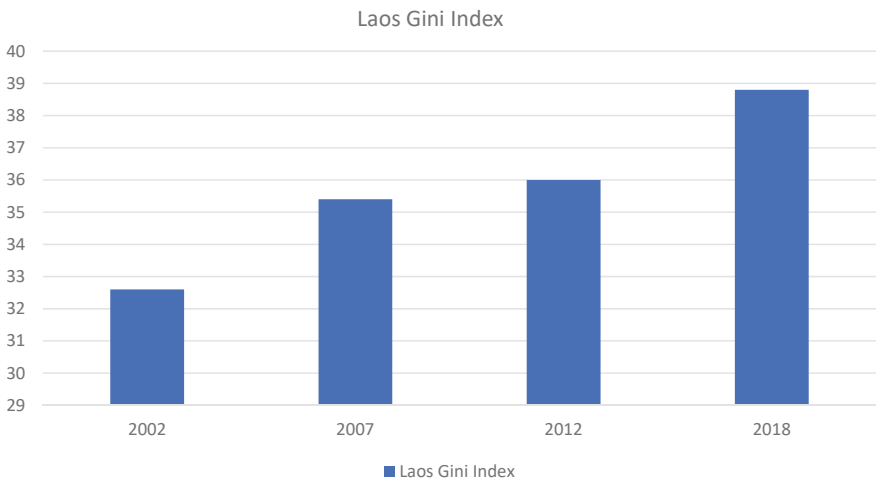

Fig. 13.2 Laos Gini Index (World Bank estimate) 2002–2018 (*Source* https://data.worldbank.org/indicator/SI.POV.GINI?end=2018&locations=LA&start=2000&view=chart)

via a series of ongoing high-profile cases of oppression from 2012 onwards. In December 2012, at a time when many within the country felt that political freedoms were expanding in Laos, the enforced disappearance of the internationally esteemed community development worker Sombath Somphone sent shockwaves through the domestic and international community. Captured on CCTV video camera and undertaken in the presence of police, many felt that Sombath's abduction was intended to spread fear within Laotian (civil) society and thus prevent any criticism of the party-state (Meng, 2022). Od Sayavong, a prominent critic of Laos' party-state is also believed to have been the victim of an enforced disappearance as a refugee in Thailand in 2019, while Houayheuang Xayabouly, a young blogger, was imprisoned the same year on defamation charges for criticising the GoL on Facebook for its failures in supporting victims of the Xe Pian-Xe Namnoy Dam collapse in Champassak province (Civicus, 2020). These high-profile cases showcase the pervasive, and worsening, climate of fear and persecution through which the LPRP has maintained 'peace', 'security', and 'stability.' Indeed, it is believed that at least fourteen critics of the party-state disappeared between 2007 and 2018 (OHCHR, 2019: 20).

Alongside political oppression, two further important contributing forces to the maintenance of political stability in Laos have been the peaceful cohabitation of ethnic groups and a sense of national pride. Whether as a consequence of intentional LPRP efforts or of more complex, multi-scalar, historical, social, and cultural forces, relations amongst different ethnic groups in Laos are mostly harmonious. Inter-ethnic tensions do exist and were exacerbated by the Second Indochina War but, broadly speaking, the country's fifty different ethnic groups live together harmoniously (BTI, 2022). There are many multi-ethnic villages in the country, and inter-personal relationships (including marriage) across ethnic groups are increasing. Indeed, relations between ethnic groups in Laos are, broadly speaking and with exceptions, some of the most amicable in mainland Southeast Asia.

Turning to the issue of national pride, many people in Laos are pleased that their country has not experienced the same political turmoil as has occurred in neighbouring countries such as Myanmar and Thailand. This nationalist sentiment is repeatedly manufactured by the LPRP to preserve its single-party leadership, but is also bound up in deeper forms of cultural nationalism whereby many Laotians have sought to define their national identity via a rivalled differentiation from Thailand (Pholsena, 2006). Both the LPRP and everyday citizens have, for example, referenced pro-democracy protests in Thailand as examples of lawlessness and social decay that would never be seen in 'serene' or 'peaceful' Laos.

Covid-19: Harbinger of Turbulent Times

As outlined in the previous two sections, stability in Laos is the product of the balancing of political oppression with strong economic growth and associated narratives of development. This has resulted in the implementation of many investment projects with high social and environmental costs. As economic growth has tumbled in Laos, a critical question for future stability is thus whether those negatively impacted by modernisation, privatisation, and elite profiteering will tolerate harm and disadvantages in the absence of a convincing progress story.

From 2013 to 2018, Laos' economy experienced six years of declining economic growth (Fig. 13.1). With the outbreak of the global Covid-19 pandemic, this already declining growth shifted from a slow decline to a nosedive. GDP fell from 5.5% in 2019 to 0.5% in 2020, marking the lowest GDP recorded since 1989 and the first time that GDP had dropped below 5% since 1999. Then in 2020, Laos' credit rating was downgraded twice, falling to CCC ('currently vulnerable to nonpayment') in late September—making Laos the only country in the Asia–Pacific with a CCC rating (Fig. 13.3).

The pronounced drop in economic growth resulting from the pandemic was an important contributing factor to the downgrades, but so too were fiscal policy concerns including inadequate foreign exchange reserves, a widening current account deficit, contingent liabilities from public–private partnerships, poor governance—including weak institutional capacity and corruption

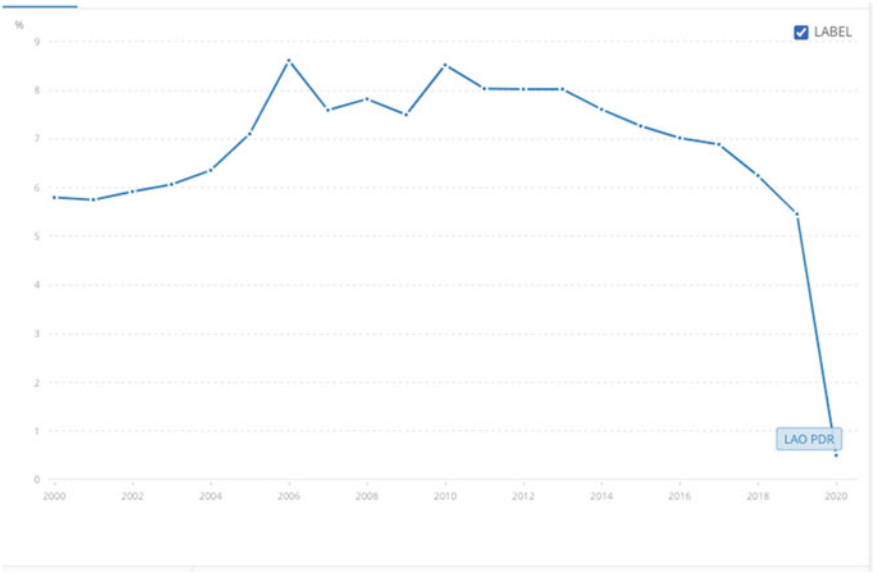

Fig. 13.3 GDP growth (annual %)—Lao PDR (*Source* https://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG?end=2020&locations=LA&start=2000)

controls—and limited accountability resulting from political authoritarianism. Due foremost to heavy lending for infrastructure projects, Laos also owes around US$1.1 billion annually in debt repayments until 2024. Net external debt exceeded 70% of GDP in 2020 (World Bank, 2021), while publicly guaranteed debt equates to almost 65% of GDP. In other words, while Laos' economic challenges were made much worse by the pandemic, they are the product of multiple factors that have collectively resulted in a high level of vulnerability to external shocks (World Bank, 2022).

At the household level, Covid-19 has also had a significant economic impact on Laos, destroying businesses, livelihoods, incomes, and employment. With the closure of international borders and domestic lockdowns preventing travel between provinces, tourism revenues collapsed and heavy losses were felt in the service, handicraft and hotel and restaurant industries—three of Laos' top ten economic sectors (see Fig. 13.1). According to ADB surveys conducted across Laos' major tourist destinations in mid-2020, for example, half of surveyed enterprises were temporarily closed and 70% of those still operating had reduced employees (ADB, 2020). In May 2021, a survey of poor and low-income households revealed that more than 84,000 people (1/45th of the total national labour force) were made unemployed and suffered severe financial hardship due to the pandemic (The Star, 2021). By early April 2022, this economic hardship was also being accompanied by high transmission of the virus, with Laos experiencing more than 42,000 reported cases over the prior 28 days (Johns Hopkins, 2022).

As the LPRP seeks to steer Laos back to economic recovery, it will also need to navigate a number of potential forces of social unrest, potentially threatening peace and stability, that have been amplified during or as a consequence of the global pandemic The first of these challenges concerns China's growing influence. China's political and economic relationship with Laos has grown rapidly over the past two decades, with trade between the two countries rising at an annual rate of more than 25% from 2000 to 2010. From 2011 to 2017 Chinese FDI amounted to 23% of total foreign investment, and, by 2019, China was the largest foreign investor in Laos, pumping more than US$1 billion into 16 projects. Taking a longer-range view, from January 1989 to December 2019, China was again Laos' largest foreign investor—injecting over US$10 billion (Government of Laos, 2022).

Investment from China has brought many new economic opportunities to Laos. In particular, China has been a major funder of hydropower dams and large-scale transport infrastructures—both of which are national development priorities that have seen little investment from more 'traditional', Organisation for Economic Cooperation and Development (OECD) development financiers. Chinese development financing and private-sector investment has also been critical to the funding of new urban landscapes in Laos, from condominiums to hotels, shopping malls, and sports stadiums (Sims, 2020). Putting aside the harmful social and environmental effects of some of these projects, this investment has accelerated economic growth and provided symbolic

displays of modernisation that reinforce LPRP development narratives. The construction of the contentious China-Laos high-speed railway project, for example, has provided Laos with a modern infrastructure that is lacking in many "developed" countries. Such investments are expensive, however, and borrowing to fund grandiose projects has placed Laos in a precarious position.

Almost half of Laos' total public debt is held by China (Macan-Markar, 2020), and as Laos' capacity to attract funding for such 'high risk' and contentious projects declines, the government has predominantly turned to China for further credit. This growing debt dependency on a single lender may present a number of challenges for the LPRP, amongst which the risk that it poses to sovereignty is paramount. The power imbalances—economic, militaristic, and other—between China and Laos are enormous. Laos is a small least developed country with a population of approximately 7 million people while China is a global superpower whose military population is more than 1/3 of Laos' total population. While the LPRP has gained legitimacy from Chinese-investment projects, there are pervasive concerns, both within Laos and internationally, about the accelerating scale of China's influence. A telling example of this concerns Laos' national electricity grid.

In a measure to offset some of its current debt, the Government of Laos (GoL) awarded the Chinese state-owned company China Southern Power Grid a 90% shareholding in the state-owned electricity company Electricite du Laos (EdL), which has now become Electricite du Laos Transmission Company (EdL-T) (Barney & Souksakoun, 2022). EDL had outstanding debts of around US$5 billion, so the foreign investment proposed in the takeover will go some way to ameliorate Laos' total debt burden, but it will also increase China's leverage over Laos. This handover comes alongside China becoming Laos' largest provider of FDI and Chinese companies (including State-Owned Enterprises) and a leading investors in other key national industries including hydropower, mining, agribusiness, tourism, and construction. Chinese business owners are increasingly outcompeting local Lao businesses, and alongside fears of so-called 'debt dependency' there are also pervasive concerns that Chinese migration is a threat to Lao 'culture' and 'ways-of-life'.

In late 2021, the controversial Lao-China railway began domestic passenger operations, with plans to open for international passenger travel when current Covid-19 restrictions are eased and the China-Laos border is reopened. Assuming the railway can operate at capacity, it will see millions of Chinese tourists enter Laos over coming years and will likely also contribute to increases in both formal and informal migration. Already, construction of the railway has displaced more than 4000 families across northern and central Laos, making this a highly contentious project (Duangdee, 2021a). If the LPRP awards too much influence to China, or allows Chinese migration and investment to expand too rapidly, there is risk that anti-Chinese sentiments will rise in Laos, and that this will spill-over into anger against both the party-state and Chinese diaspora.

Indeed, in a country where public opposition against state-sanctioned investments is not tolerated, concern about Chinese migration and investment is one issue where the Government of Laos has sought to be conciliatory. To provide one prominent example, in 2008 the awarding of a land concession for a Chinese-led joint venture to build a series of condominiums on Vientiane's That Luang Marshland led to a rare public announcement by Senior Party figure Somsavat Lengsavad to allay public fears that the condominiums would accommodate 50,000 Chinese migrants (Schuettler, 2008).

China's presence in Laos generates mixed feelings amongst the population, but fears concerning migration and the selling of land and other national assets to Chinese investors present notable threats to the LPRPs legitimacy, as well as to its efforts to promote 'peace and stability.' Post-independence Laos has long welcomed foreign aid and investment from a wide diversity of partners and has been highly successful in balancing the competing diplomatic interests of foreign powers. What marks China as distinct from many of these powers is its proximity, the current scale of its investments in the country across multiple scales, and the number of Chinese migrants and business owners entering Laos. Over the past decade violence against China's expanding diaspora has occurred in multiple countries across Southeast Asia, including in similar contexts to where there has been heavy Chinese-investment in Laos, such as Cambodia's Chinese-dominated casino economies in Sihanoukville (Nachemson & Meta, 2019). Accordingly, the growth of Chinese migration, tourism, and investment into Laos—as well as the uneven opportunities that will accompany these flows—poses a new risk to social stability.

A second concern for peace and stability in Laos is the growth of narcotics consumption and trafficking through the country, and particularly of crystal methamphetamine. One of the central means through which the LPRP has pursued development in Laos is via increased transnational connectivity. With support from international donors and investors, new roads, airports, railway projects, and transnational riverine bridges have been built to shift Laos from being 'land-locked' to 'land-linked.' New transport infrastructures have facilitated trade, tourism, and investment and increased transnational flows of goods and information. Expectedly, however, new infrastructures of connectivity have facilitated the movement of both licit and illicit flows, with the governance and policing of Laos's porous northern borders remaining an ongoing challenge.

The closure of national borders during 2020–2022 to limit the spread of Covid-19 reduced many transnational flows between Laos and neighbouring countries. This was not the case for narcotics, however, which instead increased during the 2020–2022 period (Duangdee, 2021b). To provide one poignant example of this expanding challenge, in late 2021 Lao authorities seized 55 million methamphetamine pills and 1.5 tons of crystal meth in a single bust that was, reportedly, the largest illicit drug seizure in Asian history (RFA, 2021a). The seizure occurred in Bokeo province, which shares borders with

Thailand and Myanmar, and was the third major seizure in the province within a single week (ibid.).

Efforts to police narcotics syndicates and other organised crime networks in Laos are made complicated by the GoL's apparent complicity in some illicit economies. A known hotspot for the trafficking of illicit flows through Laos is the Golden Triangle region, which since 2007 has featured the Kings Romans Casino at the Golden Triangle Special Economic Zone. Located approximately fifty-five kilometres north of Bokeo Province's capital of Houay Xai, the Kings Roman Casino has been linked to money laundering, prostitution, extortion, wildlife trafficking, narcotics networks, and other illicit activities (Laungaramsri, 2019; Sims, 2017). During the pandemic, continued cross-border mobilities during national lockdowns saw the casino SEZ become a hotspot for the transmission of Covid-19, while reports have also emerged of 'trapped' workers, who are being held at the SEZ through debt bondage (author pers. comm; RFA, 2019). This hub for illicit activities is seeing criminal networks strengthening and spilling out into other parts of Laos, although the Government of Laos partially owns the casino (Sims, 2017).

The management of narco-economies is not a new governance and policing challenge for the party-state. As recently as 1998 Laos was the third-largest illicit opium poppy producer in the world, and eradication efforts by the GoL have been described by the 'United Nations Office on Drugs and Crime' (UNODC) as an 'enormous success' (UNODC, 2022). Yet, as the above referenced seizures indicate, successes in opium eradication have been offset by increased methamphetamine trafficking and consumption. In the context of widespread loss of incomes and livelihoods, increasing narco-economies present a novel challenge to familial and social stability and security, as well as a threat to GoL efforts to promote greater connectivity across Laos' 'land-linked' national borders.

Third, and perhaps most significantly, is the rolling out of new investments and projects that have high social and/or environmental costs. As outlined throughout this article, there is now a wealth of critical literature demonstrating the highly uneven, and often harmful, consequences of so-called 'development' efforts in Laos. As I have argued elsewhere, much of these harmful effects are a consequence of the prevailing technocratic and growth-centric approach that has underpinned party-state development planning. This approach presents economic markets as naturally efficient and impartial, prioritising economic growth, trade, and marketisation over social welfare and the redistribution of resources. While it is beyond the scope of this chapter to provide a detailed interrogation of the myriad forms of harm produced by development and foreign investment in Laos, some key challenges can be summarised.

First, much of the land awarded to foreign investors has been allocated by the GoL in the form of land concessions. More than 1,750 concessions have been awarded—to support agribusiness, mining, transport infrastructures, special economic zones, and other urban-industrial projects (OHCHR,

2019: 5). In many cases, such concessions have included already-occupied land, and has consequently resulted in loss of livelihoods, homes, and other assets. Indeed, development-induced displacement has been a pervasive, and contentious, challenge across Laos, with compensation frequently being insufficient to meet resettled communities' losses and needs (OHCHR, 2019).

A second challenge presented by the dominant econocentric approach to development pursued by the LPRP concerns the uneven effects of aforementioned infrastructure expansion. To take roads as one example, research on the North–South Economic Corridor (NSEC)—linking Vientiane to the China border—has demonstrated that the highway has been responsible for rising inequality, land grabbing, new competition over natural resources, decreased food security, environmental degradation and many new health and security threats (ADB, 2009; Doussantousse et al., 2011; Dwyer, 2020; Kemp, 2011). While roads and other transport infrastructures often accelerate the expansion of economic markets, such market expansion offers little to impoverished communities that are unable to produce market goods due to lack of suitable land or other constraints (Chamberlain, 2007: 77). Furthermore, while national and transnational transport infrastructures have received considerable investment, less funding has been targeted at community infrastructures.

A third key concern resulting from modernization efforts in Laos has been the detrimental impacts of foreign investments on natural habitats and biodiversity (Barney, 2009; Cox, 2004; Philip, 2001; Middleton, 2009). Hydropower projects, increased industrialisation and urbanisation, mining, legal and illegal logging, and monoculture plantations have all had a serious ecological impact. Taking the extensive rubber investments that have occurred across the north of Laos as one example, large-scale investments have caused increased soil erosion in upland areas, threatened watersheds, reduced food security and access to non-timber forest products (NTFPs), undermined biodiversity, and led to the death of livestock and native species through exposure to pesticides (Baird, 2010; Cohen, 2009; Kenney-Lazar & Ishikawa, 2019). This environmental degradation, coupled with loss of land, has transformed subsistence farming communities into wage-labourers, forcing people to purchase food items they previously grew themselves and causing many to become further impoverished (Baird, 2010). Indeed, some have even argued that vulnerabilities created by rubber plantations have been responsible for increased human trafficking and the spread of communicable diseases amongst upland ethnic minority communities (Chamberlain, 2006). This longstanding trend of extractivist, resource-depleting development has continued into the present period where its effects on livelihoods have been amplified by further reductions in alternate livelihoods as a consequence of policy responses to Covid-19.

As noted above, a further critical industry for environmental degradation has been hydropower. Laos has 78 dams in operation and has signed memorandums of understanding for 246 other hydroelectric projects (Stimson, 2020). Hydropower is a core national development priority, with the LPRP

long seeking to use hydropower electricity exports to become the 'battery of Southeast Asia'. According to Radio Free Asia, however, in 2019 Laos' exported electricity valued just over US$1.1 million. The LPRP hopes to dramatically increase hydropower revenue by exploiting a still largely untapped total 26,500-megawatt hydropower potential, which includes a total of nine, highly contentious, planned dams on the Mekong mainstream, in Pak Beng, Luang Prabang, Xayaburi (complete), Pak Lay, Sanakham, Pak Chom, Ban Koum, Phu Ngoy and Don Sahong (complete) (RFA, 2021b). Yet Mekong inland fisheries, which rank amongst the world's largest and provide a source of both nutritional security and income generation to millions of people in China, Laos, Thailand, Vietnam, and Cambodia, face critical threats of habitat degradation resulting from hydropower investment (Campbell & Barlow, 2020). Multiple assessments have found that hydropower dams, especially on the mainstream Mekong River, have 'serious negative impact[s] on fisheries' (Foran et al., 2010: 10), thus undermining both riverine biodiversity and food security (Suhardiman & Rigg, 2021). In addition to domestic challenges arising from hydropower, Laos' hydropower ambitions are also producing tensions with downstream countries and civil society organisations across Mainland Southeast Asia.

The growth of Chinese migration, tourism, and investment into Laos poses a notable risk to stability that is interwoven with narcotics networks and extractivist development. These challenges are not new for Laos, but their significance has been increasing over recent years. With the onset of Covid-19 and the associated loss of livelihoods and slowing of economic growth, these persistent threats to stability will require new thinking and new policy responses from the GoL. This, in turn, will require reconsidering current developmentalist norms of growth-centric development combined with political authoritarianism.

Stability, and an associated lack of tolerance for any criticism of the party-state, is likely to remain a persistent priority in Laos. Since its formation, the country's single-party system has curtailed the public debate of 'sensitive' issues, and as elite power has become further entrenched, the space for open political dialogue has been further reduced. The most critical constraint to political reform in Laos is the lack of any substantive political opposition. Somewhat ironically, perhaps, one consequence of this is that the greatest threat to party-state stability is internal. As the country enters what increasingly appears to be the beginnings of a period of severe economic hardship, stability may be tested by elite power contestation. The normative support for stability is likely to remain unchanged due to its critical importance to legitimising the single-party system, but the turbulence of current times may lead to fractures in the political-economic landscape driven by both a strained mainstream population and threatened political-economic elites. Dramatic regime change, while still unlikely, may come slowly and then suddenly.

Conclusion: Sustaining Stability

As a growing body of critical academic literature demonstrates, the pursuit of harm-inducing investment projects in Laos has been occurring for many years. Indeed, such projects have been central to the country's strong history of economic growth. As Philip Alston, UN Special Rapporteur on extreme poverty and human rights noted in his 2019 summary report on development in Laos, while the LPRP has 'achieved impressive economic growth and… poverty levels have diminished significantly… An excessive focus on large infrastructure projects such as hydropower and railways, land concessions, resource extraction and foreign investment incentives has disproportionately benefited wealthy elites and saddled the country with large debt repayment obligations, without raising significant tax revenue or generating significant employment for Lao people' (OHCHR, 2019; 1, 4). What is new in the current moment, however, is that harm-inducing projects now take place in the context of the effects of the covid-19 pandemic—which has rapidly accelerated the downward trend in the country's economic growth, amplified existing fiscal vulnerabilities and had a devastating impact on many people's incomes and livelihoods. This poses challenges for the LPRP and the continuation of its balancing of peace and stability in Laos.

A myriad of factors can shape why citizens tolerate or do not seek to oppose so-called 'development' projects and private investments that negatively affect their livelihoods or wellbeing, and this must be emphasised when highlighting broader trends. Bearing this in mind, however, people's willingness to endure disadvantage is often informed by their beliefs that their lives are improving, or will improve in the future, as well as that some greater purpose (e.g. national development) is being served. As a consequence of the pandemic, many people's lives have worsened, and prospects for the future have narrowed. Furthermore, while the vulnerable rural poor have long been the most negatively affected by the LPRP's growth-centric development agenda, many urban residents are also experiencing significant livelihood threats due to the pandemic.

Historically, stability and growth have been the basis on which party-state elites have achieved popular acquiescence for elite capture. As the LPRP seeks to reinvigorate economic growth across the country a more sustainable, equitable, and inclusive approach to development is needed to assist the population in recovering from the economic shocks of the pandemic. Without the justification of 'progress', it will become increasingly difficult for the LPRP to justify its previous approach to economic growth, which required the erasure of people's livelihoods, the rapid extraction of resources, and the acquisition of vulnerable citizens' homes and lands. It is highly unlikely that growing discontent towards the LPRP will lead to anything resembling the public protests that have occurred to challenge the regime in Thailand and Myanmar. Regime change is, at this point, extremely unlikely. However, public discontent with the party-state and its preference for growth-centric development is

likely to increase, posing more subtle challenges for the maintenance of peace and stability.

In these turbulent times, it appears then that the LPRP is left with two choices: to seek to improve social and economic stability through a more equitable and sustainable growth model, or to continue with its current extractivist model while increasing the severity of its political oppression. Stability will continue to remain a key priority for the party-state, but how stability is maintained may need to change. While history suggests that the most likely trajectory is the maintenance of growth-centric developmentalist norms coupled with increasing oppression, these are turbulent times for Laos and no trajectory is inevitable.

This chapter has focused on three key threats to social and political stability in Laos: China's growing presence within, and influence over, the country; narcotics networks, and; extractivist development. As a moment of global crisis, the Covid-19 pandemic presents an opportunity for the party-state to shift existing political and developmentalist norms and to adopt novel responses to these longstanding and worsening challenges. Elite interests are unlikely to see this occur, but alternatives are possible, and the current moment may provide a rare opportunity for a shift in norms without a domestic loss of face. Without such a shift, the tensions between Laos' twinfold development priorities of growth and stability will continue to tighten.

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CHAPTER 14

Authoritarian Fantasies and Democratic Aspirations: The Philippines After Duterte

Athena Charanne Presto and Nicole Curato

Introduction

Democracy fatigue has been cited as the reason for the rise and return of illiberal leaders in the Philippines (Heydarian, 2017). Filipinos, the story goes, have become tired of respecting human rights and due process for these aspirations have become nothing more than soundbites for activists, politicians, and intellectuals who are disconnected from the brutalities of everyday life. The spectacular rise of the strongman President Rodrigo Duterte to Presidency, together with the victory of the late dictator's son, Ferdinand Marcos Jr. to claim the highest position in the land signal the public's readiness to trade democratic aspirations to authoritarian fantasies. These interpretations have become influential in making sense of democratic backsliding in the Philippines.

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_14

In this chapter, we seek to challenge these interpretations. We argue that the popularity of authoritarian figures should not be conflated with the public's support for these leaders' democratic transgressions. We focus our analysis on the Duterte regime (2016–2022), although we occasionally reference the campaign and victory of Ferdinand Marcos Jr. in the 2022 presidential elections. We interrogate the impression that Filipinos have grown tired of democracy. Instead, we argue that Filipinos supported President Duterte despite of, not because of, his democratic transgressions. We also characterise the 'support' President Duterte received as qualified, contingent, and negotiated, and not fanatical as it is commonly portrayed in international press. Through this discussion, our aim is to characterise political norms in the Philippines as one that is in constant tension between authoritarian fantasies and democratic aspirations.

This chapter is organised in three parts. We begin by providing an overview of how scholars and observers have profiled the Filipino public during President Duterte's tenure. We find that some of these interpretations suggest that democratic norms have eroded, given the public's complicity in President Duterte's violent and sexist rhetoric, militarised approach to crises like the Covid-19 pandemic, attacks against the press, and murderous campaign against illegal drugs. While we recognise the salience of these observations, we argue that they nonetheless obscure the complexity of the public's response to Duterte's rule. In the second part of the chapter, we put forward three examples of the public opinion's discrepancy with President Duterte's actions in terms of (1) due process; (2) gender equality; and (3) press freedom. In each of these examples, we demonstrate how Duterte's transgressions against these norms generate public anxiety, and that Filipinos, for the most part, remain convinced of the value of these three democratic norms. We conclude the chapter by taking stock of the legacy of the Duterte regime in surfacing the tensions between authoritarian fantasies and democratic aspirations.

Democracy Fatigue

The term 'democracy fatigue' has been widely used in the past years to describe how diverse groups of people are "losing confidence not only in established democratic institutions, but in the very idea of democracy itself" (Blühdorn, 2020: 391). People feel exhausted by democracy's constant failure to address complex problems that affect ordinary citizens, including abusive corporate power, climate disasters, and plummeting standards of living. Democratic processes have been reduced to media spectacles and meaningless rituals devoid of any real possibility to uplift the lives of citizens. This leads some to assert their "right to competent government" as more critical than asserting their democratic rights to participation (Brennan, 2016: 140).

The Philippines is one of many countries that have been described as tired of democracy. This observation was brought into sharp focus when strongman Rodrigo Duterte won the Presidency in 2016. As former mayor of Davao

City in the Southern Philippines, President Duterte had earned a reputation for running vigilante 'death squads' to enforce peace and order in what once was the murder capital of the Philippines (Coronel, 2017). Duterte was called 'the Punisher' and 'Duterte Harry' for his strongman tactics against criminals, coupled with his self-styled gun-toting, tough-talking persona (Miller, 2018). As President, he was successful in delivering his campaign promise of enforcing genocide to drug pushers, which prompted the International Criminal Court to launch an official probe into alleged crimes against humanity in the Philippines (Simangan, 2018).

Beyond his strongman tactics, President Duterte garnered international attention from his brutish remarks during his Presidential campaign sorties before his years in office. Most of these remarks violate gender rights and reject rights to due process. Among Duterte's controversial remarks are those related to the rape-slay of an Australian missionary in a 1989 hostage-taking incident in Davao City, where Duterte then served as mayor. Speaking to his supporters in his 2016 Presidential campaign rally, Duterte lamented how when the men lined up to rape the missionary he should have been the first in line (Ranada, 2016). Duterte called Pope Francis a "son of a whore" after the Pope's visit in the capital Manila resulted in traffic jams (Jenkins, 2016), and afterwards used the same curse phrase at bishops who criticised him using it against the Pope (Gledhill, 2016). Again in 2016, Duterte called then-United States President Barack Obama a "son of a whore" when the United States raised the issue of Duterte's drug war (Rauhala, 2016). Duterte also captured international attention when, in response to calls for government aid by communities rendered jobless by the COVID-19 pandemic, he ordered the Philippine National Police to "shoot them dead" (Tomacruz, 2020).

For historian Vicente Rafael, Duterte's transgressions demonstrated that he "will not be bound by the norms of decency or delicadeza [refinement]," in the same way that "he refuses to abide by the laws of due process and protection of human rights. Duterte, to put it crudely, doesn't give a fuck and has long run out of fucks to give" (Rafael, 2022: 78). For these reasons, Duterte has been described as a "great repudiator," the kind of leader who rose to power by subverting the previous regimes and building his own rules of the game (Teehankee, 2016: 9). Duterte saw social problems as taking place in a "Hobbesian world," a world of "perpetual civil war" which requires an elementary form of justice expressed through the language of revenge (Rafael, 2022: 58). He forced the nation to "see humanity through the inhuman eyes of those he has consigned to extrajudicial hell" (Rafael, 2022: 60). Promoting a worldview of a society under constant attack justified Duterte's disregard for democratic norms, particularly due process, for in this view, even the justice system is corrupt and unable to respond to the immediate threats posed by criminals and drug lords colluding with politicians, prosecutors, and judges.

Considering these democratic transgressions, one puzzle that emerged from Duterte's rise to power is how citizens have come to support the strongman. The Philippines, after all, is one of Asia's oldest democracies—a country that

has inspired peaceful revolutions that ousted authoritarian regimes around the world. Czech President Václav Havel, for example, in a state visit to the Philippines in 1995, described the 1986 People Power Revolution as an inspiration for Eastern Europe. Following the 'democracy fatigue' line of interpretation, various scholars and observers have pointed to the disappointment of Filipinos with liberal democracy. This interpretation has been articulated in many ways. Some posited that the public perceives bureaucratic processes as the reason behind slow justice and policy implementation, thereby turning them in favour of strongman rule that can get things done swiftly (Chikiamco, 2020; Eadie, 2016; Kurlantzick, 2016; Requiroso, 2016; Santos, 2019). A related assertion is that the public is open to sacrificing liberal rights to discipline people (Butuyan, 2021) and to achieve needed change in the country (Abuso, 2021; Ranada, 2019; Thompson, 2018). Other commentators have focused on the inability of democracy to fulfil its promise of offering citizens a better life, thereby making authoritarianism with an alternative path towards progress more palatable to the populace (Arguelles, 2016; Heydarian, 2017; Jenkins, 2016). Finally, many analysts have brought forward socio-economic inequality as the driving force for Duterte's popularity, pointing to how he is seen by many as the one who will finally pay attention to longstanding problems of middle and lower-class electorates (Arguelles, 2016; Eadie, 2016; Mercado, 2021).

Public Perceptions and Duterte's Transgressions

We recognise the salience of these interpretations. However, we take the position that the political success of President Duterte should not be taken to suggest that his supporters uncritically endorse or mimic his beliefs. We see citizens not as passive recipients of propaganda or victims of disinformation, but as active agents that are capable of negotiating and reinterpreting populist appeals and situating the meanings of populist pronouncements in their everyday lives. In this section, we discuss the divergence of public opinion from Duterte's pronouncements to demonstrate that Filipinos' support for President Duterte is contingent, negotiated, and qualified. We examine three examples.

Due Process

Due process is the right of the accused to be present before the tribunal that pronounces judgement on life, liberty, and property; to be heard; and to have the right to controvert materials implicating her or him (G.R. No. 204487, 2019; G.R. No. 93868, 1991). It is enshrined in Article III, Section 14 of the Philippine constitution, which ensures the right to be presumed innocent, the right to be heard, the right to counsel, the right to a speedy, impartial, and public trial, and the right to confront witnesses. Duterte's disrespect for the norm of due process and the human rights violations it espoused have

not escaped notice. His war on drugs, for example, has garnered international notoriety for the 30,000 extrajudicial killings (EJKs) associated with the policy (Lalu, 2021). While it is valid to say that Duterte has eroded the norm of due process with regard to drug dealers and peddlers, a closer examination of current public perception of the drug war, put in historical perspective, renders more colour to an otherwise monochromatic interpretation.

Public support for populist leaders and the policies that they put forth is contingent on social, political, and economic considerations (Ramos, 2020). In 2020, the Social Weather Stations (SWS), the foremost public opinion-polling body in the Philippines, released a survey result according to which 76% of Filipino adults saw Duterte's drug war to involve many human rights abuses, and 56% agreed that the United Nations Human Rights Council's inquiry on the said policy should be carried out. Relying on survey modules of Pulse Asia Research Inc., a public polling opinion body conducting nationally representative surveys, Kenny and Holmes (2020) asserted that Duterte's supporters do not necessarily share the same views as Duterte on contentious policies. In testing the relationships between support for Duterte's war on drugs, charismatic leadership, and populism, Kenny and Holmes (2020) showed that approval of extrajudicial killings was not the norm. No fewer than 92% of the 552 respondents viewed EJK as an "extreme measure that may be illegal and is perhaps immoral" (p. 199). The numbers convey that people support the drug war, but not the human rights violations that Duterte has conflated his policies with. It may be the case that the respondents do not associate the EJKs with Duterte. Kenny and Holmes (2020) found no evidence of a relationship between support for EJKs and attribution of charismatic leadership to Duterte, which owes to Duterte distancing himself from EJKs.

Other occurrences under Duterte's administration also point to his lack of regard for the right to due process. In his weekly national addresses on the COVID-19 pandemic, Duterte threatened jailtime to those who questioned his decisions, whether they be impoverished communities asking for aid or local executives adapting to exigencies in their localities (see Presto, 2020). In an unprecedented move, Duterte's allies moved to impeach the then Supreme Court Chief Justice Lourdes Sereno, an appointee of the late President Benigno Aquino [President 2010–2016] and a vocal critic of Duterte. Duterte's allies in the Supreme Court used a *quo warranto* proceeding which nullified Sereno's qualifications to assume membership in the Supreme Court based on her failing to submit statements of assets, liabilities, and net worth (Santos, 2018). The proceeding is viewed as legally questionable (Fernandez, 2021), although not grave enough to mobilise much protest. This targeting of critics also included the high-profile cases of Senator Leila De Lima and Vice President Leni Robredo. Drug charges were filed against Senator De Lima in 2016, withholding her right to a speedy trial as her hearings kept getting cancelled (Senate of the Philippines Press Release, 2022). But as the Duterte administration faced its last days in mid-May 2022, three key witnesses

recanted their testimonies against De Lima and revealed that the police and the Department of Justice connived to invent cases against De Lima (Buan, 2022; Damicog, 2022). Meanwhile, the Philippine National Police filed a sedition case against Vice President Leni Robredo in 2019 (Lagrimas, 2019), but the case was later dismissed for lack of reliable proof (Buan, 2020).

Most controversial among Duterte's railroading of rule of law is the burial of the late dictator Ferdinand Marcos [President 1965–1986] at the Libingan ng mga Bayani, the country's burial grounds for fallen heroes. The decision was made irrespective of how Philippine laws recognise the atrocities of Ferdinand Marcos, including Republic Act No. 10368, otherwise known as Human Rights Victims Reparation and Recognition Act of 2013; and the Executive Order No. 1, s. 1986, that mandates the creation of the Philippine Commission on Good Government to recover the ill-gotten wealth amassed by Ferdinand Marcos, Sr., his family members, and his allies in the Philippines and abroad. Duterte's permission to inter the late dictator at the Libingan ng mga Bayani has contributed to historical revisionism that eventually shoved Ferdinand Marcos, Jr. to win his 2022 Presidential bid.

Duterte's disregard for the rule of law and frequent violations thereof give off the impression that his time in power has heralded a new era in which the rule of law can be disobeyed in a whim. Yet arguably, Duterte rather offers a rearticulation of the rule of law that stands farther away from, but is still attentive to, democratic values. The rule of law is interpreted by the Philippine Supreme Court as a guarantee that future conducts would be observant of government processes and regulations, where deviations would be met with necessary countenance (G.R. No. 176951, 2011). Duterte, meanwhile, has interpreted the rule of law as "discipline and rule enforcement" (Tugade, 2021), whereby critics and unruly citizens can be persecuted on grounds of the perceived threat they pose to the public order. In his speech during the 80th founding anniversary of the National Bureau of Investigation in 2016, Duterte said that he chose to "innovate" the rule of law (Gonzales, 2016). It is important to read Duterte's discipline and rule enforcement as a rearticulation of the rule of law since it implies that the principle of rule of law has neither been outrightly rejected by the Duterte administration nor by the people (Tugade, 2021).

Filipinos' appetite for democracy, on the one hand, and simultaneous tolerance for authoritarian performances, on the other hand, further elucidate the consistent excellent satisfaction ratings of Duterte, a record-high net satisfaction of "very good" +60% in December 2021 (SWS, 2022a). These two tendencies contribute to widening the space of negotiation for Duterte's continued transgressions. Many Filipinos sense a sluggishness in democracy's outcomes following the historical abuses committed by previous administrations. Starting with the 2001 toppling of the corrupt administration of Joseph Estrada [President 1998–2001] and disillusion with the incompetent Gloria Macapagal Arroyo [President 2001–2010] and Benigno Aquino III [President 2010–2016] administrations, Filipinos have grown tired of the liberal

order (Curato & Yonaha, 2021) and the ardent hypocrisy that plagued it. The Arroyo administration for example, was beset with issues related to EJKs of activists and human rights advocates (see Fernandez, 2021; Garrido, 2021). And while the Aquino administration had less controversies about human rights abuses, it also failed to exact accountability from the Arroyo administration. Notably, the level of inequality did not decrease despite Aquino's macro-economic policies, thereby sowing discontent towards the gains of democracy (Thompson, 2019).

Dissatisfaction with how democracy is exercised in the country makes Filipinos susceptible to an authoritarian rule that promises to get things done swiftly (Curato, 2016; Dressel & Bonoan, 2019; Garrido, 2020, 2021; Thompson, 2019; Timberman, 2016). It is the perception of Duterte's ability for quick response, aggravated by failures of previous elite-captured administrations (Timberman, 2016), that makes up the foundation of Filipino's tolerance towards his transgression. Nevertheless, this tolerance is not absolute as shown by how Filipinos disagree with the extrajudicial killings and agree with further investigation on Duterte's drug war.

Gender Equality

The norm of gender equality has come under threat in the time of Duterte, as evidenced by the country's lowering rank in the Global Gender Gap Report. In 2016, the year that Duterte was sworn into office, the Philippines placed 7th in the Global Gender Gap Report. By 2019, the middle of Duterte's term, the Philippines had slid down to rank 16, which was attributable to the lack of women's representation in Cabinet under the Duterte administration (Rola, 2019). Duterte is known to be tough on women critics, whether they be elected officials, appointed public servants, or journalists. Among the women who bore this wrath is Senator Leila De Lima, former Justice Secretary under Benigno Aquino's term and a vocal critic of Duterte's drug war. She was arrested in 2017 on drug-related charges following the testimonies of convicted prisoners (Yabes, 2021) and remains behind bars as of writing, although a final court decision on her case is yet to be issued. The actions against Senator De Lima showcase the fragility of Philippine state institutions encountering the whims of a strongman leader. Worse, the case also exposed the deep-seated sexism and misogyny of these state institutions. In court, De Lima's personal life was also put on trial, including her alleged relationship with her driver which Duterte portrayed as De Lima not only "screwing with the driver, but also the nation" (Corrales, 2016).

Sexism is central to Duterte's performance of populist masculinity against his critics (Parmanand, 2020). He has sexualised human rights advocates and painted them as "gay" for being soft on criminality. Speaking in front of victims of the world's strongest typhoon Haiyan in Tacloban in Southern Philippines, Duterte admitted to ogling Vice President Leni Robredo's knees during Cabinet meetings, and to teasing Robredo as a recourse when Cabinet

meetings were getting tense (Ramos, 2016). In 2017, Duterte stated that the late Commission on Human Rights Chairperson Chito Gascon was gay and a paedophile for pursuing further investigation on minors killed in the context of the drug war. Duterte has also actively coaxed public servants to target women, such as when instructing the Armed Forces of the Philippines to shoot women activists in the vagina to prevent them from reproducing (Rauhala, 2018). Duterte's sexist remarks are not only employed to skirt investigation and attack critics, but also to downplay facts that may hurt his image through redirecting attention to women. In 2018, when the Philippine National Police released data showing that Davao City had the highest reports of rape among the large cities in the Philippines, Duterte retaliated by putting the blame on women. Rape, he charged, is a result of having attractive women around, and could not be avoided in Davao City as long as there were attractive women there (Villamor, 2018).

Duterte is yet to answer to his sexism. Even Senator Pia Cayetano, a Duterte ally who ran under the platform of women empowerment and gender equality, refused to condemn the President. In a 2017 women's rights conference titled Every Girl, Senator Cayetano defended Duterte's misogyny. Citing his pro-women efforts in Davao City and his tendency to stand up when a woman is "disrespected" especially through sexually motivated language, Senator Cayetano said Duterte's belittling statements against women were forgivable and that "boys will be boys" (Wiser, 2017).

To his critics and to many women's rights activists, Duterte has aggravated gender inequality in the Philippines. This picture, however, is incomplete. De Chavez and Pacheco (2020) argue that Duterte has played into longstanding gender stereotypes in the Philippines by performing the image of a vulgar protector with a soft spot for women. Filipinos have long idealised the concept of a vulgar gentleman, as shown by the famous and often-invoked phrase "*maginoo, pero medyo bastos*" *(a gentleman who is a little bit vulgar)* (De Chavez & Pacheco, 2020). The idealisation of the vulgar gentleman is also cited as the reason for the public's adoration of the action star who is ready to engage in fistfights for the sake of women (Angeles, 2001), which propelled the popularity of hypermasculine politicians and previous action stars such as former President Joseph Estrada and former Presidential candidate Fernando Poe, Jr. Duterte's performance as the endearing vulgar gentleman includes his frequent pronouncement of weakness for the beauty of women and allowing—even initiating—kisses with his women supporters in official events (McKirdy, 2018). But while Filipinos were enamoured with Estrada and Poe because of their deference to women's charms, Duterte's case is different because he has targeted women in his tirades of sexist rants. Duterte, therefore, follows the trend of vulgar gentlemen in the Philippine political space but deviates from the trend by virtue of his exercise of gender violence.

For Duterte supporters, the vulgar, brutish man who engages in rowdy encounters is forgivable not least because of his record of progressive gender policies from his years as a local executive in his bailiwick of Davao City. In a

2019 documentary by Filipino journalist Atom Araullo titled 'Women's rights in the Duterte era', women Duterte supporters claimed that they look at his "performance rather than his mouth". Duterte served as the mayor of Davao City for 22 years, split in 7 terms where he served as Congressman and Vice Mayor in between to avoid term limits. An oft-cited initiative is Duterte's banning of the swimsuit segment in beauty pageants in Davao City, however reflective of Duterte's paternalistic posturing (Parmanand, 2020). Davao City under Duterte's leadership was also stern on the issue of violence against women. In 1997, the City passed a Women Development Code that allocated 30% of Official Development Assistance Funds as well as 6% of the City's Annual Development Fund for gender projects. Davao was also one of the first localities to have a Philippine Commission on Women-certified Gender and Development Local Learning Hub, which was a trailblazer in terms of local government's best practices for gender responses (Parmanand, 2020). Under Duterte's term, Davao City provided accessible and free contraceptives to women even before the Responsible Parenthood and Reproductive Health Act (RH Law) was signed into law. The policies he championed won him the endorsement of women's groups when he ran for the Presidency in 2016. In 2017, as President, Duterte issued an executive order to start full implementation of the RH Law after five years of temporary restraining order issued by the Supreme Court (Viray, 2017). Near the end of his term in March 2022, he raised the minimum age of sexual consent to 16 from the previous 12, which had been the lowest in all of Southeast Asia (Magsambol, 2022).

This is not to say that Duterte has not received and deserved criticism for his sexism. But for supporters, Duterte's records of gender policies make up for his transgressions. While the above policies that Duterte implemented still tread the terrain of traditional gender norms (Parmanand, 2020), and were predominantly local-level as opposed to national-level, they nonetheless maintain relevance in the minds of his supporters. The vulgar gentleman as a culturally idealised caricature in Philippine politics has helped solidify Duterte's popularity (De Chavez & Pacheco, 2020). But unlike those that came before him, Duterte has a track record of implementing pro-women policies that are evoked when his sexism is put into question. Consistent with their attitude towards due process, for Duterte's supporters, policy implementation makes up for the strongman's character. This suggests that Filipinos remain committed to gender equality, but tolerate sexist language for the sake of what is perceived as a robust performance in terms of gender policy implementation.

Press Freedom

The Philippines remains among the low-ranking countries in the Press Freedom Index (PFI) of media watchdog Reporters Without Borders. This was true also during the Aquino and Arroyo administrations. What makes the Duterte administration unique, however, is the five-year consecutive backsliding in the PFI from 2018 (ranked 133 out of 180) to 2022 (ranked 147

out of 180). The PFI's 2022 Philippines country profile flags the continued harassment against journalists and the shutdown of ABS-CBN, one of the biggest media companies in the country which earned the ire of Duterte after refusing to air his political advertisement for his 2016 presidential bid (Dancel, 2020). Duterte's allies in the Congress denied the franchise application of ABS-CBN in 2020, in the midst of the pandemic when there was a heightened need for health and health protocol information. Although Duterte had repeatedly threatened ABS-CBN with non-renewal of their contract (Salaverria, 2017), Duterte denied having influenced his allies in Congress. Nonetheless, because a majority of the members of Congress and the Senate were either allies of or neutrally disposed towards Duterte, these institutions were accommodating of Duterte's wishes (Teehankee & Kasuya, 2020).

Free press, for Duterte, is a privilege and not a right in a democratic state. The guarantee for press freedom embedded in the Philippine constitution does not prevent Duterte from overriding it anytime he judges the free press to be irresponsive to the "best interest of the nation and the people" (Salaverria, 2020). For instance, in 2020, the Department of Justice prosecuted journalist and Duterte critic Maria Ressa for cyberlibel (Barron, 2020). Ressa was awarded the Nobel Peace Prize in October 2021 as the first Filipino (Talabong, 2021). To date, Rappler, the news organisation that Ressa founded, faces revocation of license and claims of cyberdefamation and fraud, totalling up to seven court cases (Associated Press, 2023). Besides intimidating the media through misogyny, Duterte has also banned journalists who ask difficult questions on contentious issues, including Rappler journalist Pia Ranada (Conde, 2018). And consistent with how Duterte handles critics, women journalists are oftentimes labelled as "attention-seeking whores" by Duterte's supporters and allies (Go, 2019) for asking hardball questions.

Duterte is able to consolidate his power by shrinking spaces for accountability and ensuring control over discourses in the public sphere (Curato & Yonaha, 2021). Duterte's actions and tirades against news media, however, have not obliterated Filipinos' regard for the importance of the press. The 2020 Digital News Report (DNR), a global survey sponsored by the Oxford University's Reuters Institute for the Study of Journalism, recorded that 95% of 2, 019 Filipino respondents were interested in consuming news (Chua, 2020). And in a 2020 SWS survey, 3 out of 4 respondents said that the Congress should renew the franchise of ABS-CBN, while more than half (56%) of the respondents considered the non-renewal of franchise as a major blow against press freedom. The shutdown of ABS-CBN is widely regarded as a loss not only for environmental journalism, but also and mainly for far-flung and vulnerable communities that used to receive climate and typhoon information from the outlet (Fernandez, 2020). The 2021 Philippine Trust Index (PTI) conducted by the communications firm EON shows that media's information dissemination role during disasters, calamities, and pandemics is the primary reason behind Filipinos' trust in news media. In the 2021 PTI, trust in the media stood at 76%, higher than the 2019 pre-pandemic record of 69%. This

conforms with a 2021 SWS survey where 72% of nationally representative 15 to 30-year-old respondents believed information from traditional news media to be reliable and factual.

Faced with the public's continued recognition of the media's role in information dissemination, Duterte played his cards in two ways. First, constructing an online media army allowed his administration to cater to Filipinos' need to stay informed of current events, while diverting them from credible channels that might provide critical reportage about the administration. Duterte predominantly utilised Facebook to forward propaganda and State-approved reportage of events (Sy, 2019). Among the core members of his media team was Presidential Communications Operations Office (PCOO) appointed Assistant Secretary Mocha Uson, known as the leader of a sing-and-dance group prior to her appointment in public office. Uson resigned as PCOO Assistant Secretary in 2018 amid a public outcry over her continued disinformative posts on Facebook, which were publicly deemed to be contradictory to her role as information vanguard at the PCOO (Ranada, 2018). This illustrates that despite Duterte's disinformation network (Ong & Cabañes, 2018), a push-back against falsehood is still possible, especially with regard to non-journalist and influential Duterte supporters like Uson whose platform gets used for information dissemination yet who are not bound to the journalistic norm of accountable and accurate reporting.

Second, awarding free television and radio frequencies previously controlled by ABS-CBN to Duterte's allies made news propaganda even more mainstream and facilitated more widespread attacks against Duterte critics. In January 2022, the National Telecommunications Commission (NTC) awarded two broadcast frequency channels to Advanced Media Broadcasting Systems Inc operated by billionaire and Duterte supporter Manny Villar (De Guzman, 2022). Also in January 2022, the NTC awarded Channel 43 to Sonshine Media Network International (SMNI), which is owned by Duterte's spiritual adviser and long-time political campaign funder, Kingdom of Jesus Christ pastor Apollo Quiboloy (Rey, 2022). Quiboloy is a United States fugitive who is on the United States Federal Bureau of Investigation's most wanted list after being charged with sex trafficking in 2021 (Tan, 2021). SMNI has peddled disinformation and attacked Duterte's critics (Baizas & Macaraeg, 2022). Quiboloy himself had likened ABS-CBN to the Communist Party of the Philippines-New People Army (CPP-NPA) for being anti-Duterte. A map of accounts and websites that harass journalists created by Baizas and Macaraeg (2022) shows that SMNI is the top source for communist-tagging content against journalists and activists. In the May 2022 elections, SMNI also targeted opposition Presidential candidate then-Vice President Leni Robredo and boosted Ferdinand Marcos Jr.'s presidential bid through lies. For example, during the SMNI Presidential debate, the only elections debate that Marcos attended, SMNI falsely claimed that Marcos was an economist (Cayabyab, 2022) accompanying a previous SMNI lie that Marcos had graduated from Oxford University (Vera Files, 2021).

In the 2020 Digital News Report, 91% of Filipino respondents agree that independent journalism is necessary for society. Nevertheless, such journalism is not always perceived as possible. In a 2021 SWS survey, 45% of the respondents agreed that it is dangerous to print or broadcast anything critical of the administration, even if it is the truth. Only 19% of the respondents disagreed, which shows that, although acknowledging the necessity of press freedom, the public also harbours fear about speaking truth about the administration. Thus far, it can be seen that Filipinos still stand by the tenet of a certain press freedom, but only within the bounds of safe reportage and acceptable criticism against the administration. This can be seen in the 2021 Digital News Report where news organisations publishing critical reportage of the Duterte administration enjoy among the lowest trust and highest distrust ratings. Compared to GMA News, one of the mainstream TV and online news channels in the country enjoying 74% trust and 9% distrust rating, ABS-CBN records 57% trust and 21% distrust rating. Meanwhile, Rappler has a 45% trust and 29% distrust rating. There remains public support and trust for the media in the Philippines, but only in so far as reporting centres on calamities and disasters, and keeps away from criticising the Duterte administration. Given that the administration of Ferdinand Marcos, Jr. has also exhibited intolerance of the media and a leaning towards non-journalist social media influencers, the same public attitude towards the media will likely prevail.

Conclusion: Authoritarian Fantasies and Democratic Aspirations

In writing this chapter, we do not propose that Duterte has stayed true to democracy nor that Duterte's indiscretions are justified. Rather, we seek to give more colour to the monochromatic painting of Filipino supporters as suffering from 'democracy fatigue' which makes them support Rodrigo Duterte's violations of norms of due process, gender rights, and press freedom. With Duterte enjoying a record-high net satisfaction rating of +60% near the end of his term, this popularity must not be conflated with public support for his democratic transgressions. Rather than signalling a shift of political norms in the Philippines, Duterte exhibited a vulgar articulation of the worst norms of longstanding elite democracy in a highly unequal society. Before and beyond Duterte's presidency, Filipinos' authoritarian fantasies are inextricably linked with their democratic aspirations.

Duterte ran and won the 2016 Presidential race with the promise of ending elite democracy in the Philippines (Timberman, 2016). Portraying himself as outside the elite circle of Philippine politics, he was able to differentiate himself from his opponents. However, Duterte himself is also a member of a political family. Duterte held Davao City mayoral position for 22 years. His father, Vicente Duterte, served as one of the Cabinet members of the late dictator Ferdinand Marcos, Sr. and as a governor of Davao province (CNN, 2021). Duterte's children are also well-entrenched in political positions. His daughter

Sara Duterte won as Vice President in the 2022 elections after serving as Mayor of Davao City. His son Sebastian Duterte, previously Vice Mayor of Davao City, won as the Davao Mayor in 2022. Paolo Duterte, another of Duterte's sons, meanwhile, maintained his position as a member of the 19th Congress of the Philippines. It may be the case that due to the Manila-centric bias of national elections, Duterte's consolidation of his own Davao-based political family escaped the national consciousness. It is worth noting that the Duterte family were able to consolidate their power during the democratisation process of the 1980s and 1990s. In this sense, Duterte benefited from the failures of democratisation in two ways: first as a strongman who could circumvent sluggish democratic processes, and second as a member of an elite family. The Duterte family's hold on political power is poised to continue with Duterte's children securing key national posts in the 2022 elections.

The six years of Duterte's presidency were plagued with controversies related to his strongman and authoritarian character, as well as his illiberal transgressions (Fernandez, 2021; Thompson, 2019). Duterte was seen as a leader who could 'discipline democracy' (Garrido, 2020, 2021). In this sense, Duterte has not entirely upended the values that Filipinos place on democracy, but instead played into the 'authoritarian nostalgia' (Webb, 2017) of Filipinos already tired of the old order that is too respectful but is not always productive. Duterte's strongman brand has been welcomed even in communities outside his bailiwick of Davao, exemplifying an idealisation of the results of a democracy that disciplines people, rather than a democracy that gives people uncontrolled freedom. In this respect, Duterte's War on Drugs does not represent an erosion of democracy nor democracy fatigue, but a more disciplinarian kind of democratic order ardently desired by a tired and disillusioned public. An illustration is the 2018 SWS survey on Filipinos' attitudes towards democracy showing that 84% of the respondents are satisfied with how democracy works in the country, while 59% say they always prefer democracy over any other kind of government.

Years after the end of the Duterte administration, and well into the Marcos Jr. administration, current events do not provide a very different picture from the period 2016–2022. The transgressions committed by the Duterte presidency have contributed to the Presidential victory of Ferdinand Marcos, Jr. and running mate Sara Duterte. Rodrigo Duterte has displayed cruder manifestations of the worst norms of longstanding elite democracy, thereby making Philippine democracy more malleable and therefore more stretchable for political and elite families that want to circumvent it.

Funding Declaration

Nicole Curato received funding from the Norwegian Research Council for the project 'Strongmen of Asia: Democratic Bosses and How to Understand Them' (Project Number: 314849).

Acknowledgements The authors thank Bianca Ysabelle Franco for providing research assistance that was essential in completing this chapter.

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CHAPTER 15

Beyond Leftist-Phobia: Political Prejudice and Stigma in Indonesia

Gloria Truly Estrelita

Introduction

Despite the restoration of democracy in 1998, the spectre of communism still haunts Indonesia, where the Communist Party of Indonesia (*Partai Komunis Indonesia*—PKI) has been outlawed since 1966. Fear of communism has resurfaced through mudslinging by semi-anonymous online trolls and Islamic hardliners. Moreover, propaganda-ingrained beliefs passed from generation to generation, charging that the PKI and its affiliates or sub-groups are to be feared and to be eradicated, still persist.

When Joko Widodo, popularly known as Jokowi, ran for the presidential election in 2014, he stole the spotlight by approaching the victims of the 1965–1966 anti-communist slaughter and giving them high hopes that his administration would make a serious attempt to redress past wrongs. However, after taking presidential office, Jokowi made it clear that he would not offer an official apology. Rumours that Jokowi is a communist have nonetheless appeared on social media, and been vehemently denied by Jokowi himself.

The majority of Indonesians believe in the dominant hegemonic discourse which paints the PKI and other leftist groups as a threat to the nation. As a consequence, left-wing politics are denounced and the political landscape does not allow for progressive ideas to be formulated or expressed. This prompts

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_15

the question: how can we account for the persistence of anti-communist fear in Indonesia? How has anti-communist sentiment evolved over time, and become embedded within contemporary Indonesian society?

Anti-communism as a Tool for the Military to Take Power

Anti-communism was a central force in Indonesia's political crisis after 1965. Not only did the state violently exclude and persecute anyone identified as "communist", but religious institutions, such as the Catholic church and the Muslim ummah, also showed their opposition to communism. Many religious actors understood anti-communism in defensive terms as support for the national ideology of "Pancasila" and for religion. However, anti-communism was not a uniquely Indonesian phenomenon but set in a Cold War context which defined transnational anti-communism by religious actors. In Australia, the anti-communist Roman Catholic movement led by Bob Santamaria would come to support the anti-communist movement in Indonesia, especially after 1965. In Italy, the Catholic Church led by Pope John Paul II (1978–2005) took a strong anti-communist position. A transnational anti-communist network thus influenced anti-communist ideas and events in Indonesia.

However, anti-communism has not always been dominant in Indonesia. In his 1 June speech at the dawn of Indonesian independence in 1945, President Sukarno introduced Pancasila as the nation's overarching ideology. Declaring themselves supporters of Pancasila, leftist groups, such as PKI and its affiliated mass organisation Peasants Front of Indonesia (*Barisan Tani Indonesia*—BTI), gained enormous popular support with the PKI finishing the fourth largest party in the 1955 elections. The PKI used this to put pressure on religious groups and even to eliminate some of them from the political stage, such as Islamic Party "Masyumi". The PKI—which had a close relationship with Sukarno—persuaded him to arrest several anti-communist religious leaders on suspicion of being collaborators with separatist group "the Free Papua Movement" (*Organisasi Papua Merdeka*—OPM). American evangelist Harold L.B. Lovestrand was arrested on suspicion of supporting a local revolt (Lovestrand, 2018); and Buya Hamka, an *ulama* (Muslim scholar), was imprisoned on suspicion of attempted subversion (Hadler, 1998).

The PKI did not gain widespread popular support by accident. While other political parties were busy with national-level politics, the PKI tried to exert its political influence by approaching people at the grass-root level. The PKI organised social activities, such as political education and literacy training, in order to build a solid mass base. Moreover, together with the Peasants Front of Indonesia (*Barisan Tani Indonesia*—BTI), they encouraged and organised farmers to reclaim land that was occupied by hajjis.[1] They argued that hajjis

[1] A Muslim who has been to Mecca as a pilgrim.

had manipulated the land reform law to obtain certain land rights and that therefore, this land must be returned to the people.[2]

After Sukarno learned about the involvement of the United States and the United Kingdom in local revolts (1957–1961) (Conboy & Morrison, 2018), as well as the role of the two countries in provoking the Indonesia-Malaysia confrontation (1962–1966) (Wardaya, 2008), he came to support the anti-Western stance of the PKI. Many foreign cultural centres were attacked and burned, movie theatres that broadcasted western movies were sabotaged, and western songs were banned for being considered contrary to Sukarno's "continuing revolution" (Muhidin & Yuliantri, 2008). The PKI accused Islamic party Masyumi of collaborating with the CIA for an anti-communist movement, which exacerbated the political conflict. Subsequently, in order to seize American-owned properties, members of the PKI attacked several churches and their properties (Willis, 1977: 83). The communists accused foreign missionaries of collaborating with rebel troops and in time made them sign a statement that they would not impede the functioning of the government (Lovestrand, 2018).

The PKI's gains, as well as the party's closer relationship with Sukarno, sparked a fear in other political parties as well as the right-wing army leadership that the communists would take the lead of the country (Willis, 1977: 72). One of the big winners in Indonesia's first general election in 1955, the PKI had become the third-largest communist party in the world by the 1960s (Verelladevanka, 2022). The potential political threat that the PKI was seen to represent soon resulted in a political triangle of three forces vying for power: President Sukarno, the PKI, and the army.

Unsurprisingly therefore, certain political and religious groups became stauncher in rejecting communism (Wanandi, 2012). For instance, Catholic bishops including Albertus Soegijapranata SJ, the first native Indonesian bishop who was known for his pro-nationalistic stance, announced their opposition to communism and Marxism. Soegijapranata also took a clear stance against Sukarno's idea of uniting the country under one umbrella, through the concept of *Nas-A-Kom* (nationalism, religion, and communism) (Gonggong, 2012: 117–118). Furthermore, certain religious parties lined up to openly show their rejection of Sukarno's *Nas-A-Kom* idea, such as the Catholic Political Party and the modernist Muslim Party Masyumi (Steenbrink, 2015: 162). They considered communism as atheism, and therefore contradictory to the first principle of the national ideology Pancasila: Belief in the Almighty God.

However, the PKI's political domination was brutally eclipsed. The September 30 Movement (also known as G30S), conducted by the Cakrabirawa Presidential Guards, kidnapped and assassinated seven military officers

[2] The BTI and the PKI would chase "bad guys" or who they called as "seven village devils", namely the evil landlord, the loan shark, the harvest speculator, the capitalist bureaucrat, the middleman, the bandit, and malevolent authority. See also "Kaum Tani Mengganyang Setan-setan Desa" by D.N. Aidit, 1964.

on October 1, 1965. The military, under the command of Major General Suharto, took control, and subsequently accused the PKI of spearheading the planned coup. This accusation triggered the largest anti-communist purge and mass killings in modern-day Indonesia. People were killed in military operations and militia activities, with a recent scholarly consensus settling on a figure of 400,000–500,000 victims (IPT 65, 2016). Mass arrests took place, and by 1970, 116,000 people were in detention.

The Cold War was also a contributing factor to anti-communism, as Western countries, and in particular the United States, feared that Indonesia would fall into communist hands. The United States, Britain, and Australia were engaged in operations against the PKI, supporting the Indonesian army in its repressive operations by providing training for the top military authorities, providing ammunition, and developing propaganda. Suharto, who came to power in 1967, would use fear of communism to justify the 1975 invasion of newly independent East Timor to an international as well as the domestic audience (Wahyono, 2021).

The banishing of the PKI through the enactment of the Provisional People's Consultative Assembly Decision in 1966 (TAP MPRS 25/1966) symbolised the alignment of Indonesian politics with the Western side of Cold War bipolarity. Claiming that the army had crushed the left-wing coup attempt, the new regime of Mayor General Suharto sought to eradicate all left-wing elements from the Indonesian body politic with the help of religious and other vigilante groups.

New Order Anti-communism and the Historiography of GS30

Soon after the September 30 Movement of 1965, the military under Suharto announced the danger of communism returning as a formless organisation (*Organisasi Tanpa Bentuk*—OTB) or as invisible communists. The populace therefore needed to stay vigilant. The military emphasised their constant surveillance of the latent danger. In Dutch newspaper "Telegraf", Sudomo, one of the officers in charge of the Operational Command for the Restoration of Security and Order (*Komando Operasi Pemulihan Keamanan dan Ketertiban*—Kopkamtib), stated that the 1965–1966 operation that followed succeeded in eliminating about 500,000 alleged communists (the 1981 Cardinal's Social Program's report).

Suharto's New Order regime (1966–1998) would constantly present communism as an existential threat that had to be confronted by a united nation. Government critics were regarded as disruptive of "national security, stability and unity" and labelled as PKI sympathisers or communists (Adityawan, 2008). For example, when the United Development Party (*Partai Persatuan Pembangunan*—PPP), an Islamic-based political party, nominated Jaelani Naro for vice president in 1988, Suharto openly stated that candidates who lacked majority support should withdraw:

> The PPP may appeal to other voices. If it does, it can be interpreted as provoking other factions to agitate. And if so, it may create mistrust among the factions...it may threaten our unity and integrity...and possibly be accused of trying to break our unity. And such a doctrine belongs only to communists. (Suharto, quoted in Dwipayana & Ramadhan, 1991, 550)

Under the New Order government, religion was increasingly exploited as an instrument of political power (Steenbrink, 2015) and press freedom was restricted (Estrelita, 2010). The military launched anti-communist propaganda, including an anti-PKI campaign. As part of this, General Sugandhi Kartosubroto, Head of the Defense Information Center and Daily Head of the Armed Forces, popularised the term "Gestapu" (September 30 Movement) to refer to the G30S, recalling Gestapo atrocities (Matanasi, 2018). Meanwhile, to emphasise the PKI's alleged involvement, Suharto and his followers also referred to the movement as G30S/PKI.

The military authorities also spread rumours demonising members of *Gerwani* (also known as Indonesian Women's Movement), a women's organisation closely affiliated with the PKI which advocated for gender equality, including through championing women's labour rights and taking a stand against polygamy. These rumours claimed that Gerwani activists seduced generals by performing erotic nude dances, while singing "Genjer-genjer", a song often featured in PKI cultural performances. The women were said to then torture and kill the generals, before dumping their bodies into a well (Wieringa & Katjasungkana, 2020: 30).

The purpose of such stigmatisation was to create a regime free from the influence of communism. In 1973, Suharto inaugurated the Pancasila Sakti Monument site developed in the late 1960s. Here, the seven military officers assassinated at the G30S incident are portrayed as statues, with the mythological Garuda appearing in the background. A large bas relief depicts the chronology of events of the G30S, including a heroic Suharto giving orders. A nearby building houses several life-size statues depicting the cruel process of torture and assassination of the seven military officers by PKI sympathisers. In short, the monument shows the brutality of the PKI and the heroism of Suharto, despite the fact that the responsibility for the events has yet to be demonstrated.

A commemorative ceremony, Sacred Pancasila Day, was held at the site every 1 October throughout the New Order Regime (McGregor, 2002), and focused on Suharto's heroism in crushing the September 30 Movement (G30S) (Adityawan, 2008: 146). The memorial service invokes how Javanese kings historically used ceremonies aggressively to display their symbolic power, in order to reinforce the legitimacy of their rule (Moedjanto, 1987).

In 1984, Nugroho Notosusanto, then Minister of Education and Culture, launched the propaganda docudrama "The Betrayal of G30S/PKI" written and directed by Arifin C Noer, which recounts the G30S through an anti-communist prism with blood-drenched dramatic effects. From 1984 until

1998, the movie was broadcasted annually on September 30 on the national television station. It was also compulsory for schools, from elementary to high school, to bring their students to view the film at the Communist Betrayal museum, housed at the Pancasila Sakti site.

The culture of anti-communism was also bred through history teaching, including a book on Indonesian history produced by the New Order government. General Nasution, one of the army generals who survived the G30S incident, commissioned several historians from the Universitas Indonesia as well as the Institute of Defense and Security History to write on G30S. This book eventually became the standard textbook for all national history books, which had to conform to the narrative of the book or else were prohibited. For example, in 1995, the Attorney General's Office banned the book "Bayang-bayang PKI" or "In the Shadows of the PKI" published by the Institute for Studies on the Free Flow of Information (*Institut Studi Arus Informasi*—ISAI), which attempted to present other suggestions of who masterminded the G30S (Adam, 2018).

The Ghost of the Indonesian Communist Party in Post-Suharto Indonesia

The post-Reformasi Era, which was expected to bring change, has been caught in the shadow of the New Order. When Abdurrahman Wahid became Indonesia's fourth president in 1999, he brought relief to 1965 survivors, partly because of his policy of removing the "ET" (Ex *Tahanan politik* or former political prisoners) mark from their identity cards. However, sub-district authorities record not only the names of former political prisoners accused of being communists, but also who they married, the number of children they had, and where their children went to school (Affan, 2019).

The "rise of the PKI" (*kebangkitan PKI*) and "the ghost of the PKI" (*hantu PKI*) are recurrent fears in post-Suharto Indonesia, which, as historian Asvi Warman Adam explained, are used to eliminate government critics (Setiawan, 2020). For example, in the two presidential elections of 2014 and 2019, the charges that the PKI was the mastermind of the September 30 movement were used to attack civilian presidential candidates. Arguably, the Indonesian Democratic Party of Struggle (*Partai Demokrasi Indonesia Perjuangan*—PDI-P) has been the most exposed to communism-related allegations, given that it was founded and is led by Megawati Sukarnoputri, the daughter of Sukarno who was relatively close to the PKI during his time as president. When Megawati's leadership of PDI was dismissed by a Suharto-backed faction, Megawati's followers in 1996 seized the PDI headquarters in Jakarta. The police and military attacked Megawati's followers, and blamed the ensuing riots on the People's Democratic Party (*Partai Rakyat Demokratik*—PRD), a small, leftist activist party, which was declared by some generals to be communist. Ever since, it has been claimed that there are many "communists" within the subsequently founded PDI-P (Hearman, 2014). These rumours

intensified when Joko Widodo (Jokowi) was appointed presidential candidate by the PDI-P in 2014 and made a promise to resolve past human rights abuses, including the mass killings of 1965–1966 (Rahman, 2014). A 2021 Saiful Mujani Research and Consulting (SMRC) survey on "Public Attitudes Toward Pancasila and the Communist Threat" found a strong correlation between fears of PKI's rising and electoral choices. In the 2019 presidential elections, those who believed in a PKI revival mainly voted for Prabowo Subianto, General Suharto's son in law, who is close with Islamic groups (Saputra, 2021). This suggests that the narrative of 1965, which originated under the New Order regime to maintain its longevity, has mutated into a widely reproduced political commodity in post-Suharto Indonesia.

The Jokowi administration (2014↓) has tried to take steps towards reconciliation. In 2016, a "National Symposium: Dissecting the 1965 Tragedy, Historical Approach" was held, to which the government invited families of the victims to speak openly. The same year, President Jokowi ordered the investigation and the disclosure of mass graves of the 1965–1966 anti-communist massacres (Teresia, 2016). However, due to military opposition, these orders have yet to be carried out. Instead of following Jokowi's orders, the Indonesian police and military responded by clamping down on anything considered communist-related. This included confiscating T-shirts with hammer and sickle logos and books on Marxism, as well as cancelling various events. These moves were supported by some conservative groups, militant groups and police and military officials, including Defense Minister Ryamizard Ryacudu (2014–2019). One of Indonesia's most potent anti-communist militias, the Islamic Defenders Front (*Forum Pembela Islam*—FPI), went as far as to declare that it would not be permissible to apologise to the communist victims of 1965. Muhammad Rizieq Shihab, the leader of the FPI, stated that such an apology would only lead to the re-emergence of communist ideology and threaten Muslims (Amindoni, 2016).

In 2016, President Joko Widodo appointed Wiranto, the last commander of the Suharto-era military, to the position of Coordinating Minister for Political, Legal, and Security Affairs (Nathaniel, 2020). Unsurprisingly, during Wiranto's tenure, no one has been held responsible for the 1965–1966 massacres; nor has the state apologised to its victims. Wiranto stated that the government had formed a joint team between the Attorney General's Office, the National Commission on Human Rights (*Komisi Nasional Hak Asasi Manusia*—Komnas HAM), as well as the Indonesian Military and the National Police (TNI/Polri) to address human rights violations during the Suharto regime. However, instead of solving the cases, Wiranto argues that the government's actions in 1965–1966, such as massive arrests and executions were rescue actions related to national security.

Events related to the defunct Communist Party of Indonesia, and to former political prisoners accused of being communists, are often cancelled or attacked citing national security. In 2016, several victim-survivors of the 1965 events, who were trying to find justice through the International People's

Tribunal of 1965 (IPT 65) in the Hague, were confronted upon their return to Indonesia by groups calling themselves anti-communist. Later, in 2017, a meeting at the Indonesian Legal Aid Institute (*Yayasan Lembaga Bantuan Hukum Indonesia*—YLBHI) in Jakarta of several former political prisoners was violently disrupted (Anya, 2017). In 2020, thousands of members of Islamic organisations in Solo, Central Java, gathered and held up various banners with messages demanding "Destroy the PKI". A replica of the PKI flag was burnt at the event, to symbolise their rejection of communism (Asia Today, 2020).

In 2017, the Indonesian Military Commander, General Gatot Nurmantyo called the military to hold a public screening of propaganda film "Pengkhianatan G30S/PKI", the narrative of which casts the PKI and its affiliates as responsible for the assassination of the seven military officers. Since then, every year before September 30, propaganda banners that encourage Indonesians to recall the "sin" of the PKI for attempting a coup in 1965 are displayed and in several places, local authorities or the military organise public screenings of the propaganda film.

Scholars and activists have tried to set history right. Just after the fall of Suharto, new Education Minister Juwono Sudarsono (1998–1999) stated that the Indonesian National History published since 1975 was unsuitable, and made sure that the term G30S/PKI was replaced by G30S *tout court* (Adam, 2005). However, the revisions subsequently made did not substantially change the narrative presented under the New Order regime. A 2004 Competency-Based Curriculum (*Kurikulum Berbasis Kompetensi*—KBK) proposed by the Minister of Education and Culture, which discussed various versions of the G30S, was not approved due to protest by Islamic elites to the House of Representatives, since it did not place responsibility with the PKI for the 1948 Madiun Affair (communist rebellion), nor the 1965 September 30 Movement (G30S) (Adam, 2018). Despite such setbacks, the pursuit to set Indonesia's history of communism straight has continued. The historian Asvi Warman Adam coined the term "historical rectification" referring to the 1965–1966 anti-communist purge (Harbowo & Purnamasari, 2020). It has received a positive response from victims of the military regime of Suharto, because it implies that there was a historical error for three decades and, therefore, brings hope for rehabilitation (Adam, 2018). Megawati Sukarnoputri, in 2020, asked Minister of Education and Culture Nadiem Makarim to rectify the historical record about the 1965 incident (CNN Indonesia, 2020).

Successive Indonesian governments have nonetheless tightened control over festivals, film screenings, and seminars on the 1965–1967 massacres of communists, and prohibited books and documentaries. For instance, in 2009, the Attorney General's Office announced the banning of "Lekra Tak Membakar Buku: Suara Senyap Lembar Kebudayaan Harian Rakjat 1950–1965" (Lekra never burning books, voice from Harian Rakjat, 1950–1965) by Rhoma Dwi Aria Yuliantri and Muhidin M. Dahlan, on the grounds that the book could disturb national ideology. The banning relies on the enactment of the Provisional People's Consultative Assembly Decision (TAP MPRS) no.

25 of 1966, which outlawed communism, Marxism, and Leninism. The same year, the book "Pretext for Mass Murder: the September 30 Movement and Suharto's Coup" by John Roosa was also banned for going against official history (Heryanto, 2014). Screenings of "The Act of Killing" by American filmmaker Joshua Oppenheimer, a documentary portraying the perpetrators of the 1965 Indonesian genocide, were shut down by police and attacked by Islamists and anti-communist militant groups. Later, his films were banned from being screened in Indonesia (Antoni, 2014), and Oppenheimer may not be able to enter Indonesia (Shatz, 2015).

The Suharto regime's anti-communist propaganda continues to echo in Indonesia, reverberating into the future. PKI descendants bear the stigma of being children of "infidels" or "traitors to the nation". Even the term "child of the PKI" has become a mocking insult. Uchikowati, a human rights activist whose father was arrested because of his involvement in the PKI, testifies that many children of political prisoners have had to endure such insults (author's interview with Uchikowati, December 2014). Utati, a former People's Youth (*Pemuda Rakyat*, PR) member who was sent to prison, also testified that she had to hide her identity as a former political prisoner from her children, so that they would avoid the shame (author's interview with Utati, December 2014), and she is not alone in this experience. Lestari, a former Gerwani member, had to live apart from her children since they refused to accept her (author's interview with Lestari, December 2014).

Conclusion

Through its preservation in the collective memory, as well as in contemporary Indonesian cultural and political life, anti-communism can be seen as the cement of a social vision. In an archipelago of thousands of multilingual, multicultural, and multi-religious islands, anti-communist propaganda succeeded in uniting people around a common narrative, which no other religion or ideology could achieve. The 1965 "victory" over a domestic enemy now conditions many elements of society in terms of values, religiosity, law, politics, and economics. Some social actors today seem to be content with this official narrative, both because of their historical responsibility for the physical and political eradication of communism, as well as their pragmatism in using a malleable and convenient tool to steer the contemporary Indonesian politico-religious chessboard.

It seems difficult today to imagine that this commemorative narrative of anti-communism will be publicly challenged, as various interests continue to converge on maintaining it. Nevertheless, this tool can be double-edged. In a society where power and religion are constitutionally intertwined, the threat of being accused of communism, which is expressed through accusations of atheism or blasphemy, is not to be taken lightly. Paradoxically, by attacking the highest institutional representatives, it can symbolically degrade the image of

governmental functions and divide people, even reawakening old resentments that anti-communism had contributed to burying.

The legacy of the New Order, from this point of view, remains powerful. It is necessary to lift the veil on the reality of historical facts; to make amends for past injustices, including systematic massacres and torture without trial; to offer apologies and even compensation to former political prisoners who are still alive; to restore their rights as well as those of their families; and finally to grasp the incoherence of the alleged communist threat in order to enable progressive thinking in the Indonesian political landscape, which can only contribute to making Indonesia a rich democracy.

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CHAPTER 16

'The Underbelly of Indonesia–China Relations': Excerpts from an Interview with Faisal Basri

Daniel Peterson

Faisal Basri is one of Indonesia's pre-eminent senior economists, in addition to being an academic, former politician, and a founding member of Indonesia's National Mandate Party (Partai Amanat National). He has served as Commissioner of Indonesia's Competition Agency (Komisi Pengawas Persaingan Usaha), economics advisor to President Abdurrahman Wahid, Chairman of the Institute for Economic and Social Research, Education and Information at Indonesia's Chamber of Commerce, and Chairman of the Oil and Gas Governance Reform Team.

Could you [first] tell me a bit about your work and professional experience?

I've spent almost all of my career on campus, teaching and researching, since 1981. I've been teaching since I was a student. Then, on campus, I became Director of the Institute for Economic and Social Research (*Lembaga Penyelidikan Ekonomi dan Masyarakat*), and then, Chairman of the Department

The original interview was conducted in Indonesian via Zoom on 23 November 2021. Once transcribed in the original Indonesian, I translated the interview into English. For brevity's sake, immaterial parts of the interview were then omitted.

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_16

of Economics on campus. After that, I entered politics, where I took part in the establishment of the National Mandate Party (*Partai Amanat Nasional*, PAN) and became its secretary-general. But I only lasted two years—it wasn't for me. So, I returned to campus to teach and continue my research. Then, I became Commissioner of the Indonesian Competition Agency, or *Komisi Pengawas Persaingan Usaha* (KPPU)—I was there for six years. Then, I became director at a private higher education institute, then a few other things: I was a presidential advisor during the Gus Dur (Abdurrahman Wahid) era, assistant president of economics. Then, I was at the Indonesian Chamber of Commerce (Kadin), where I became the chairman of Kadin's Research Institute called LP3ES (*Lembaga Penelitian, Pendidikan dan Penerangan Ekonomi dan Sosial*). Then, I was appointed chairman of the Oil and Gas Governance Reform Team (*Tim Reformasi Tata Kelola Minyak dan Gas Bumi*, *Tim Anti-Mafia Migas*). And a few other things. That's more or less a general picture.

Are you still teaching at the University of Indonesia?

I retired because I returned to PAN so that I could run for governor of Jakarta as an independent candidate, along with Jokowi [in 2012].

So, from all your professional experience, what have you learned or discovered, or what do you know, about the Indonesia–China relationship, particularly in terms of the economic and the political?

Coincidentally, my undergraduate studies focused on international economics and, of course, international economic relations: trade; investment; then regionalism—I studied ASEAN (Association of Southeast Asian Nations). My undergraduate thesis was on ASEAN. And then I advanced my research, looking at international trade, international economics, because there was little focus at the Institute of Public Education (*Lembaga Pendidikan Masyarakat*, LPM), which concentrated on international economics at the time. So, if there was a research project from the Ministry of Foreign Affairs, or from one of several institutions with an international connection, I was always involved, including in projects on China. I also taught at the Faculty of Social and Political Sciences at the University of Indonesia (FISIP UI), in the International Relations Department. Currently, we have a project from the Foreign Affairs Ministry on the Indonesia–China relationship. But my focus isn't China—it's international relations.

But from what you know, do you perhaps have an opinion on the impact of the One Belt, One Road initiative on Indonesia. I'm somewhat confused as to why [President] Jokowi and [Coordinating Minister of Investment and Maritime Affairs] Luhut have favoured China over Japan, for example. So, it's clear that Indonesia really needs new infrastructure, but if, for example, we look at the Mass Rapid Transit (MRT) in Jakarta, it was built by Japan. It was high-quality and everything arrived on schedule. If we look to the Jakarta-Bandung fast-train, however, it's a mess. And I know, maybe last month, you were interviewed about the fast-train, and from the beginning the budget agreed to by Indonesia and China was around $5 billion, and now

it's already blown out to $8 billion, maybe more, who knows? So, that's what I was hoping to discuss with you. Why do you think Indonesia has opted to go with China over Japan in terms of the construction of infrastructure—and is there, perhaps, something else going on in the background?

OK, so firstly, I happened to meet with Luhut at his house, so I can share this with you in greater depth. I was invited to his house, and I was happy to attend. Then, in relation to the fast-train, I also recently met with Deputy Minister of State-Owned Enterprises, Kartiko (Kartika Wirjoatmodjo). He was the one who restructured the finances. So, I know first-hand why they went with China over Japan. Initially, the proposal was drafted by JICA (Japan International Cooperation Agency). Then, there was also a proposal from China, which used the same consultant, so things already looked suspicious. Ultimately, China was chosen. Why was China chosen? Because China didn't require a government guarantee (*jaminan negara*), so it was pure business-to-business. It's not pure at all—at all—but [it was] business-to-business. Japan requested [of Indonesia] a government guarantee, so it would set the government's mind at ease. So, the question is—[and bear in mind] I didn't talk with the Japanese, but I analysed things based on my experiences with Japan, because I used to have routine meetings with the Deputy Japanese Ambassador in Indonesia [some] 15 years ago. He told me that Japan had proposed a Jakarta-Surabaya railway—via Cirebon, via Semarang. It was really good, in terms of distance and a raft of other things. But the Indonesian government, for some reason, insisted on Jakarta-Bandung. So, the Japanese also worked on that, but in their eyes, Jakarta-Bandung wasn't feasible. Therefore, they didn't want a business-to-business arrangement—they only wanted to finance the project and to provide technical assistance.

According to Luhut and Kartiko, Japan was stubborn, while China was more flexible, so China was chosen. But I think, if we start from the beginning, the project itself wasn't feasible, which explains why Japan wasn't interested and why it wanted a government guarantee. For example, if, in the middle of the project, it turned out not to be profitable, and it had to be subsidised, the Japanese government didn't want to have to subsidise it. That was a matter for the government, so it was logical in my eyes. And Japan was only going to charge 0.2% interest; China was going to charge 2%. So, the cost of capital was more expensive—that was the first thing. Luhut also conceded that the project was problematic and that he was asked to sort it out. He said it's actually garbage—that he had inherited garbage. They gave him garbage. Garbage. Why? Because it didn't undergo a normal process—it was forced through by Rini Soemarno. So, Rini Soemarno, at that time, was a presidential election campaign fundraiser for Jokowi, so she had a special connection to Jokowi. All ministers attended a meeting in [Coordinating Minister for Economic Affairs] Darmin Nasution's office and he himself, the Coordinating Minister for Economic Affairs, didn't support the proposal. But it was Rini who forced it through, and the President agreed. So, it was a *fait accompli*.

At the same time, Rini was also an Indonesian government special envoy for China investment matters. You might recall or have heard that Jokowi really wanted to encourage investment, so he appointed several ministers as special envoys: Rini to China; the Minister of Energy and Mineral Resources [Sudirman Said] to the Middle East to deal with oil; then [Minister of Communications, Ignasius] Jonan to Korea, and several other ministers, which I can't recall, but they were special envoys. Rini played a very important role at that time as special envoy to China—not only the fast-train, but other loans, 100s of which Rini herself procured. So, Rini procured a US$6 billion loan from the Development Bank of China for three state-owned banks: *Bank Mandiri*; BRI (*Bank Rakyat Indonesia*), and BNI (*Bank Negara Indonesia*). At the first stage, each bank received US$1 billion; at the second stage, another US$1 billion. So, $3 billion; $3 billion; [and] $6 billion [in total]. And Kartiko, the deputy minister of State-Owned Enterprises, confirmed that when I met with him last month, [while] Luhut [confirmed it to me] just last week. So, the question is, why did these officials, whom I frequently criticise, invite me to dinner? I asked myself the same question. Part of what they told me is already in the public domain. So, they also told me the bad stuff. They have to handle it together. It's almost impossible that nothing is going on behind the scenes.

That's more or less the background, up to when [Ignasius] Jonan didn't take part in the [fast-train] ground-breaking, as Minister of Transportation. Ultimately, [Former Transportation Minister] Emil Salim also declared in an interview that [the high-speed rail] was an impermissible practice, and that it should belong to the Minister of Transportation. At least, the Minister of Transportation should be consulted but this didn't happen. Consequently, inter-ministerial relations at the time were tense—that's the first thing. Then, as I said earlier, I've been writing in my blog about the fast-train for the past five years. You can say that this project isn't feasible. Worldwide, the average distance of any fast-train is 500 km, so it isn't feasible. I have said that this fast-train is a property project, not a transportation project, because of the influence of Lippo Group. Therefore, they have a station near a big Lippo Group project, the name of which I can't recall.[1] It's a large property development near Karawang—a Meikarta project, a new city in Karawang. So, there's a new station in Karawang.

Then, there's Walini. There used to be a station there but now it's been dropped for tourism construction or whatever. The point is, it's a mess. At the end of the line in Bandung there is a project—at the final station, there is a large Summarecon Agung Group property project. And I met with Mochtar Riady [Indonesian financial magnate and the founder and Chairman Emeritus of Lippo Group]—he was critical of me and what I said about the fast-train not being feasible, but in front of around 500 Chinese entrepreneurs, he said it's feasible. I gave a presentation there, then Mochtar Riady was given a right

[1] Rolling Hills Karawang.

of reply to my presentation. So, it's full of vested interests and it's not a transportation project. There's a lot of property involvement there and you can simply calculate—not estimate—how much profit these property kings are making. It's because of the fast-train. At the beginning, [the fast-train project] was already poor. If an infrastructure project is lumpy, it has to be seen through till the end. It's difficult to cancel midway through and [to do so would be] politically unsavoury. We warned them from the outset as to why it needed to be continued. Now, they want to revise it because, throughout the process, Luhut and Kartiko explained to me what the government was doing.

So, the fast-train comprised a 75% debt from the Development Bank of China, with just 25% equity. From the 25% equity—the name of the company is PT KCIC (*Kereta Cepat Indonesia China*)—60% of the consortium is Indonesian; 40% of the consortium is Chinese. Of that 60%, there are four state-owned enterprises—*Kereta Api Indonesia* (PT KAI) (25%); *Jasa Marga* (12%); *Wijaya Karya* (38%); and *PTPN Perkebunan* (25%), the plantation company, because it contributed Walini—Walini is a plantation area. But this state-owned enterprise—this is a big project, right?—this state-owned enterprise isn't particularly capable. No one had deposited any capital. So, for example, Jasa Marga didn't deposit any money, but Jasa Marga's deposit was the leasing of elevated Jasa Marga land along the Jasa Marga toll road. Then, Walini (PTPN) contributed land. Wijaya Karya works on concrete. PT KAI also doesn't have much money—ultimately, they didn't contribute any capital. It fell to the state to help them—the bank decided to draw on IDR 4.33 trillion from the state budget, so it's not business-to-business anymore. So, there is also a government guarantee, because it ultimately drew on the state budget at the same time. But that's how it is.

I said in an interview you may have already listened to that the capital—the internal rate of return (IRR)—wouldn't even be returned by doomsday (*kiamat*). I mean, in terms of the project, what is the rate of return? That return has to be greater than the interest rate. If it's lower than the interest rate, the project isn't feasible because it would be better to store the money in the bank and accrue interest, right? The IRR here was negative, according to my calculations. According to the government's calculations, of course it's feasible. There's no way the government would have carried on, but they relied on assumptions that were beyond reason. So, the IRR could be feasible because it depends on assumptions, right? [But] those assumptions were unachievable. I'll show you the calculations later—they're only rough. I don't have the document, but it is very easy to calculate. The fast-train's capacity is 601 passengers; the fare is IDR 290,000, which I rounded off at IDR 300,000. Then, how many trips? How frequently does the train make the journey? I calculated it as 18 times per day: 18 times from Jakarta; 18 times from Bandung; 36 times. And I assumed the train would be at 100 per cent capacity—full of passengers. Unbelievable, right? Even then it wasn't feasible with those assumptions. The project would later have investment costs, then operation costs, right? I calculated the operation costs as being higher than

the daily income, so it would also lose money. Every year, state funds will have to be allocated to subsidise it, so it's truly scandalous.

According to the OJK (Financial Services Authority) website, China has already given US$3 billion.

$6 billion. (3 × 2).

Oh, twice. Mandiri, BRI, BNI?

Without the banks requesting anything. So, here's the money—like that. Banks normally [respond] to a request, right? This is to expand, right? And they don't have any serious liquidity problem.

So, why do you think China was prepared to grant so much money? There's no way Japan would have done that, is there?

Japan is tight, rigid, normal—everything is on the table; nothing happens under the table, right? Governance in the Jokowi administration is becoming increasingly poor. They work well with other states that have relationships with actors whose governance is also poor. So, they're tuned in—that's the key—they don't need transparency or accountability. So, I'm often requested by the KPK (Komisi Pemberantasan Korupsi or Anti-Corruption Commission) to provide input. Last month, I attended the KPK. Then, Laode [Muhammad Syarif], the former KPK commissioner, told me that there isn't one single corruption case related to China. If, for example, there is a transaction with China in a corruption case, or a corruptor escapes to China and their case could be resolved by the Chinese government, China doesn't cooperate at all. [The Jokowi administration] is comfortable [with this scenario].

So, China doesn't want to cooperate with the KPK? Of course. And if the KPK wanted to investigate a case connected to China they'd have to cooperate with China, without which it would be difficult, right?

Yes, correct, and they've tried over and over and never been successful. But to return to your question, why is China so easy like that? Perhaps Chinese actors are also corrupt, because even though it's said that corrupt officials are hanged, the data show that those corruptors arrested by the Chinese government are those without close ties to Xi Jinping's government. So, if one of Xi Jinping's people is corrupt, they're afforded protection.

OK—I get it because, as you said, if governance is lousy on both sides, both actors are a good fit, right?

Water and oil don't mix, right? Only oil and oil, or water with water. Perhaps it's natural law, right?

That's it—natural law. So, do you think that vaccine diplomacy—because the majority of Indonesians, to my knowledge, have been vaccinated with Sinovac or Sinopharm, right?

Yes—I've also had Sinovac twice. I didn't have a choice.

Yes, that's the thing, but has it had an impact on the Indonesia–China relationship at the political level?

If you and I engage with the Indo-Pacific concept, on the Western side there's the US, France, the United Kingdom, Japan, Australia. They wanted to exclude China, right? But the concept of the Indo-Pacific in Indonesia

supports China's inclusion. In terms of global geopolitics, Indonesia plays an important role in terms of encouraging China to enter the arena. Clearly, that's Indonesian foreign policy. Even though what's happened subsequently differs somewhat, Myanmar has been supported by China, and ASEAN has never been tough on Myanmar, apart from recently. China tried to approach ASEAN to invite Myanmar to an ASEAN sessional hearing, but ASEAN refused. So, I don't know why Indonesia hasn't supported China, or has rejected China's diplomatic advances to include Myanmar, because Myanmar is a member, right?

But do you think there is a reason China wants to make Indonesia the Sinovac vaccine production hub of Southeast Asia?

I don't think so.

So, it's just because Indonesia is the largest country in Southeast Asia?

If we look at the Indonesia–China economic relationship, China is the largest destination for Indonesian exports—the largest. China is also the largest origin of Indonesian imports. For China, Indonesia isn't the largest, but for Indonesia, China is the largest. Then, in terms of FDI, foreign direction investment, Singapore is the largest annual foreign direct investor into Indonesia. Second is Hong Kong; third is China; fourth is Japan. I forget from thereafter. The US is still a big contributor, even if, cumulatively, Japan is the biggest. From the beginning, Japan remained the largest [FDI contributor], but, in the last five years, the composition [of FDI contributors] was as I mentioned. China is very much aware that the China issue in Indonesia is very sensitive, given the number of anti-China incidents [that have occurred in Indonesia]. So, I think China tries to ensure that it isn't seen to be dominating Indonesian FDI—that's what the data and facts reflect. A few days ago, I met with someone from the US embassy, from their political wing—just a few days ago, in the afternoon for a coffee. He confirmed it. So, I said, 'Actually, in Indonesia, the largest foreign investor is China. Why? Because Chinese companies enter Indonesia via Singapore and Hong Kong, in order to make it seem more diversified. It makes sense, right?' It makes sense. And I said to this US embassy official, 'You obviously know the data, right?' So, he said, 'Yes, that's [correct].' So, what is unique about this is that Singapore is number 1; Hong Kong is number 2; China is number 3; and investment from Singapore is huge—[around] US$7 billion [per annum]. So, it's unique. And I am certain; very certain—not 100 per cent—but very much sure, that the greatest beneficial owners of FDI in Indonesia are from China.

The question is, why? Because China is different from the US. China doesn't have what the US has—the US has greater self-sufficiency, right? [The US] has oil, gas, coal, a large agricultural industry. The point is that the US is not particularly reliant on other countries economically. China is not the same. China has an energy deficit. China is the second largest producer of coal, and yet it continues to import coal. America doesn't need to import coal. [China] is truly dependent on raw materials, and Indonesia has a lot of the raw materials that China needs. Whatever that is, Indonesia has almost all

of it: coal, crude palm oil, tin, nickel, a whole variety; it's perhaps only copper that China doesn't need.[2] The smelter was put into operation to gain access to China, and there are hundreds of thousands of hectares. Freeport has already returned land concessions to the government and, as you might know, a lot of people scrambled for these concessions, including Luhut. Luhut has mining activities in Papua, right? So, Luhut brought China into the picture later, and this is connected to geopolitics. I don't understand why, but it's to do with the balance of power. China and Australia are going to build nuclear submarines near Papua—it's all about China's response because Indonesia is too important geopolitically—[Indonesia] is the main 'business' in the Asia–Pacific.

I'm sure you'll know something about this next question: do you think the proposed bilateral currency swap agreement between Indonesia and China will have a positive or negative effect? My sense is it will have a positive effect on the bilateral relationship because now, the US dollar won't be as crucial or won't influence Indonesia–China trade deals, but you might have a more in-depth take.

A lot of countries have bilateral currency swaps in place, not just with China. They exist within ASEAN, and with Japan too. But it's an agreement. In practice, such a facility is rarely used. So, business-to-business, US hard currency is still used, despite such efforts. If Indonesia exports to China, China pays in yuan/renminbi. If Indonesia were to import from China, it would use the rupiah, then reconcile the difference later; for example, Indonesia in rupiah, China in renminbi, but, in reality, [that difference] is marginal. Such agreements do indeed exist.

What do you think are the main factors influencing the Indonesia–China bilateral relationship? I'm also interested in the role of business groups, former politicians, former military generals, academic circles, journalists, and family ties. From what you know, who is the most influential in terms of the bilateral relationship?

Chinese entrepreneurs in Indonesia. They're most comfortable conducting business in the same language, the same culture, and there are still emotional ties to their ancestors. That's the most important thing. Many entrepreneurs in Indonesia own factories in China, specifically to produce goods for the Indonesian market. In terms of those officials—generals, and the like—they call it an extractive industry; those with government concessions. In the case of nickel, it's very easy. Indonesia has prohibited itself from exporting nickel to the rest of the world since the beginning of 2020, but I obtained data from the China Customs Administration stating that China imported US$3.4 million worth of nickel from Indonesia in 2020. And between January and August 2021, China imported 404,000 tonnes [of nickel].

Is this in any way related to what I read a few days ago, where you were quoted about the influx of Chinese foreign workers entering Indonesia?

[2] China is the world's third largest producer of copper (Garside, 2023), while Indonesia is considering a ban on copper concentrate exports by 2023 (Argus Media, 2021).

You said, 'They're not specialists; they're chefs, drivers, etc.'[3] So, people are coming—notwithstanding the ongoing pandemic—they continued to enter Indonesia between January 2020 and August 2021—33,834 foreign workers entered. Do you think this is related somehow? I mean, foreign workers, the prohibition on nickel exports and the like, and how China continues to import [Indonesian nickel]?

(…)Why were there as many as 33,000 arriving at Sam Ratulangi Airport? It means they weren't tourists; rather, they were workers sent to the areas around Sulawesi: Morowali, Konawe. I'm relying on a proxy, but my proxy makes sense, right? Workers were coming, but how? I also have information on that. They hired aeroplanes—they weren't on regular flights; there were no regular flights from China. From [China], they hired smaller planes: Wings Air, to go to Morowali. From Morowali, they fanned out everywhere. There is no way I could obtain that manpower data—no way—but no one denied it. No one said I was stupid, muddled—not one, even up to the present moment. So, we use whatever tools are available to reveal what happened. Meanwhile, Luhut told me there were only 3,400 workers that came from China. I said, 'Pak Luhut, you're lying.'

And what did Luhut say?

He was silent. Then, he said: 'Oh, Faisal – China built the factory. We don't have anyone who could have [built] it. So, this is their turnkey for bringing in workers. After the factory is complete, they go home.' That was Luhut's argument to me. I said: 'Why are there [Chinese] gardeners, Pak? Why are there [Chinese] security guards, Pak?' And I showed him their qualifications because one of the smelter factories had an open recruitment policy in China, and I had [the relevant documents] translated into Indonesian by a sworn translator. I have all the documents in Indonesian, and it's all there: gardeners, excavator operators, warehouse attendants, statistical experts. They had nothing to do with the factory. For example, there was a marksman. I was surprised—there's a marksman?! No—they shoot the furnace; the kiln has to be fired upon like a gas stove, right? There has to be a special type of marksman. 'So, there's no problem with one of them entering Indonesia,' I said.

Yes, if [the person] is an expert; if Indonesia doesn't have the expertise, there's no problem.

So, a government regulation was issued, Number 34 of this year (2021), enabling foreign workers to fill 2500 positions in Indonesia. Recruitment has been liberalised, except human resource development. Human resources can't be filled with foreigners. So, it's free now; it's been legalised.

That's related to the Law on…

[The Law on] Job Creation. It came from that.

[3] Faisal said that the self-imposed ban on nickel exports 'has only rendered Indonesia a heaven for Chinese nickel smelters in Indonesia (CNN Indonesia, 2021; Syahputra, 2021).

It seems to me like there's a lot going on behind the scenes. I'm not sure if you want to talk about what I had in mind next—I have a few other questions, but they're all related to military and geostrategic issues.

I want to raise one point related to Indonesian sovereignty. I helped Susi [Pudjiastuti] when she became Minister [of Marine Affairs and Fisheries]. I was appointed by Susi as a task force member—it was called Task Force 115. Why 115? Because it was based on Presidential Regulation 115.[4] There, [within the task force] there were maritime specialists and the like. Coincidentally, at the time, I had just finished up with the Oil and Gas Mafia task force. Two days after I finished my time there, Susi came into my office and asked me to join Task Force 115, which I did happily. So, I went from the Oil and Gas Mafia task force to the illegal fishing mafia [task force]. At that time, Susi was very tight on state sovereignty. She monitored—there was a special monitor in her office and in the workroom displaying the movement of all vessels in Indonesia in real time. It showed the Chinese vessels—and a lot were captured. You may have heard in the news that Chinese vessels were captured, but it never happened. Chinese fishing vessels were safeguarded by their coast-guard when they would enter the Natuna waters. This is my concern. This is our sovereignty. And there is a large oil and gas reserve there, and China is very aggressive in the South China Sea. I was worried we'd [be forced into a] compromise, because Susi and Luhut used to fight a lot—[they] would argue amongst themselves; cabinet meetings would become heated [with] the two ministers debating. Luhut wanted Chinese vessels to be permitted to enter.

Why? [I mean,] I know why, but [tell me].

[There's] a lot of money there.

Exactly.

A lot of money. Before Susi became minister, there was an MOU that made provision for a quota of 2000 Chinese fishing vessels to enter Indonesian waters, officially. That's what Susi cancelled. I heard about this first-hand from Susi and was provided with the documents. I was also provided with an office at the Ministry of Fisheries, but I never used it. I don't usually go into the office.

In 2016, there were many Chinese incursions in the North Natuna Sea , and Jokowi, of course, made that announcement and held that cabinet meeting in the North Natuna Sea (Connelly, 2016***). And I just heard that there was a Chinese warship [in the North Natuna Sea], but Jokowi didn't say anything; there was no official government announcement (***Kompas, 2021***). So, this made me think there's something suspicious going on. Why in 2016 was Jokowi quite firm, while now he didn't say anything? Was it because when Susi was still minister, she was very popular, and Jokowi couldn't ignore***

[4] *Peraturan Presiden Republik Indonesia Nomor 115 Tahun 2015 Tentang Satuan Tugas Pemberantasan Penangkapan Ikan Secara Ilegal (Illegal Fishing)* [Presidential Regulation No. 115 of 2015 on the Task Force for the Eradication of Illegal Fishing].

what she said. If Susi wanted to make a fuss, the majority of Indonesians would side with her? Do you agree with that assessment?

I agree. At the time, I heard it from a friend, an American. He does a lot of work in Indonesia. He submitted his research findings on the popularity of Indonesian figures [and] Susi was number one. He even asked me, 'How could we make Susi a presidential candidate?' It got to that point because based on that survey, Susi had a real chance. So, Susi wasn't given another position because of her popularity; she had to be kicked out of the cabinet because she was dangerous.

Ahok was [arguably] the same. Those in Jokowi's inner circle saw it as an opportunity to excommunicate him because they wanted to be Jokowi's next vice president. So, from the military's perspective, with these conflicts in the South China Sea, etcetera, do you know if there is a difference of opinion within military circles in terms of [Indonesia's] cooperation with China?

I'm sure there is, but conditions are getting softer because Prabowo is also weak on China. I don't know why. Prabowo never issued a statement about the Chinese warship entering [the North Natuna Sea]. Whereas he's the Minister of Defence. Everything's perfect, is it? Whereas when Prabowo was campaigning for the presidency, he talked about sovereignty, etcetera, but now he's very weak.

Why do you think that is?

As far as I know, Prabowo also has business relations with China. All of a sudden, the Indonesian government permitted the construction of two new cement factories in East Kalimantan. One of the cement factories is a joint venture with Prabowo. The other one, so I've heard, is with Luhut. Previously, Prabowo and Luhut managed *Kiani Kertas*.[5] The two of them are connected. So, it's not the national interest, but private interests and personal interests that are destroying Indonesia. Can you imagine? Conflicts of interest make for the worst conditions in Indonesia. The deputy minister I mentioned earlier, Kartiko, is the deputy minister of State-owned Enterprises and is also now the deputy chairman of the Indonesian Chamber of Commerce (Kadin). Can you imagine? And I warned him, because he was a junior classmate of mine—I'm already old: 62 years of age; almost 20 years older than Kartiko. I said, 'Mas Tiko, the root of corruption is conflict of interest.' As a result, Kartiko walked away from the deputy chairmanship of Kadin because he is a representative of the government and the people, not of businessmen. But how loose. Doesn't it make you sad? These are the worst conditions in Indonesia.

[5] PT Kertas Nusantara, formerly PT Kiani Kertas, is a paper factory, the sole owner of which is Prabowo Subianto. Previously owned by Indonesian businessman Mohamad 'Bob' Hasan, PT Kiani Kertas was bequeathed to Prabowo by his former father-in-law, President Suharto (Anwar, 2019). In 2004, Luhut Pandjaitan was listed as the company's Chief Commissioner (*Komisaris Utama*). In 2005, the company underwent a debt restructuring - it was US$170 million in debt to Bank Mandiri—and received a US$50 million financial injection from Prabowo's younger brother, Hasim Djojohadikusumo (Pebrianto, 2019).

How do you think Indonesia should balance its interests vis-à-vis China and its interests vis-à-vis Western countries, such as Australia, the United States, and others?

Make it all transparent. Everything on the table and then we evaluate what is best for Indonesia. That's one. Secondly, Indonesia's concern is a peaceful Pacific, such that military spending is low. We don't want to enter into an arms race. Indonesia has a lot of debt. Our income per capita is still low. If we were to [enter into such a race] and face these tensions, Indonesia's relationship with Australia would turn sour and suspicious, right? Australia has nuclear capabilities again, [but] ASEAN has a nuclear weapon-free zone agreement. If mutual suspicions grow, arms expenditure will increase, which would be really bad for Indonesia. That's why we want peace and stability. Indonesia plays an important role—it keeps its distance from China and the United States. Indonesia is free and active (*bebas dan aktif*), in accordance with our Constitution, and Indonesia is respected by all parties because of its stabilising influence. That's my view, as a layman.

OK—that makes sense. So, what's the best way for Indonesia to balance its cooperation with China and its cooperation with Japan?

Make everything open; put metrics in place. What does Indonesia need? What are the strong characteristics of the United States, of Japan, of China, of Korea, of Australia? We need to meet those metrics so that peace and stability are guaranteed. Our interests also need to be met. That would be a very constructive [approach]. In terms of the military, I was recently asked to deliver a lecture at Seskoad. Are you familiar with Seskoad? It's the Army Command and Staff College (*Sekolah Staf Komando Angkatan Darat*) in Bandung. All generals go through Seskoad before they become generals. I was invited to deliver a lecture to 400 participants at Seskoad, some of whom were from overseas: from Papua New Guinea, from India, from Australia, although it was via Zoom. It seemed to me that this group of generals there was concerned with the China issue because of communism—the military is allergic to communism. They don't see the progress but it's always in the back of their minds; there's a trauma in the military vis-à-vis China's support of the Indonesian Communist Party. It's still palpable.

Are there officers in the military who object to Prabowo's response to China's actions in the South China Sea, for example?

I've never heard of any. Perhaps there are but I've never heard of any.

Surely there are those who disagree or who would want Prabowo to be firmer with China. Wasn't [Military Commander-in-Chief] Andika educated in the United States?

Yes.

So, is he likely to be more pro-West and pro-US?

The scenario is that he's paired with Puan [Maharani] or something to that effect. He's incredibly ambitious, even if, to me anyway, he lacks the necessary political capital. He's also a liability. I don't really see him as a promising candidate in Indonesia.

So, what do you believe are the biggest challenges for Indonesia related to the bilateral relationship? Perhaps good governance? That's what we've already discussed and, as you said, [Indonesia and China are like] 'oil to oil.'

I strongly support the research findings of Daron Acemoglu and colleagues who wrote that phenomenal work on democracy and development. What is interesting about their conclusion is that they're political scientists and economists, collaborating together, so it's really good—*Why Nations Fail*, *The Narrow Corridor*, and that phenomenal work on democracy and development—on causality, on relationships.[6] Because [Seymour Martin] Lipset in 1959 said development first, democracy later, right? So, we saw the emergence of USAID, AusAID, to help newly independent countries develop, so that democracy would follow. The United States didn't care—if the regime was authoritarian, it would still help, right? Including Suharto. That's changed now. I don't know whether it's influencing foreign policy, but that study says, 'Democracy does affect growth.' So, democracy first. In Indonesia, our democracy index score under Jokowi has continued to fall (Economist Intelligence Unit, 2020). Therefore, I feel like the most important element in the coming years is how we improve the quality of democracy in Indonesia. At least, the core of democracy is freedom of speech. This is what I'm worried about because our model is freedom of speech, right? If we can't speak, like what I have said in public, then they prevail. This is what threatens the oligarchs; the oligarchs are unimpeded and then the relationship between the rulers and businesspeople will destroy Indonesia—destroy it. So, that's why Indonesians have to continue to voice their concerns free from coercion, without being imprisoned. That's why they've tried to muzzle us. That's the biggest challenge. We can't reach a point where we lose our greatest treasure, which is our freedom. It's being repressed at the moment. After that, we have a lot of things we can do. We can make corrections; I can speak freely, but freely doesn't mean without basis. What I mean is that people should be able to convey a concept without fear, because now that fear is everywhere. Even radical activists are scared to speak out now. And life in prison is sickening. You don't see the sun if you're in police headquarters. I once visited a friend at the prison at police headquarters and it was frightening. At the same time, campuses are quiet, because on campus—rectors, deans, etcetera—they are slaves to power. You should see the state the University of Indonesia is in now (thumbs down). It's systemic. I think it's dangerous. It's the root of that danger.

That's interesting because I never thought that the Indonesia–China bilateral relationship could have an impact on constitutional guarantees. It's Article 28E(2) [that guarantees freedom of speech]. When you've criticised the Jokowi administration's China policies, have you been afraid? Perhaps

[6] I believe Faisal meant Daron Acemoglu et al. (2019).

not that you'd be put in jail, but that you might be sanctioned or silenced by a government actor?

It's not a problem if I'm silenced. I've never received anything from the government. (…) A few days ago, there were 10 people, on Sunday afternoon. We met at a restaurant at SCBD (Sudirman Central Business District) called Batik Kuring. There were alumni from IPB (*Institut Pertanian Bogor*, Bogor Agricultural Institute) and ITS (*Institut Teknologi Sepuluh Nopember*, Sepuluh Nopember Institute of Technology) Surabaya. There were also several others. They [explained that they] were concerned that I'd be poisoned. I said, 'I don't deny it.' But they are concerned that someone will try to harm me. They've advised me to take my own water wherever I go. Indeed, I take water with me wherever I go. But when I was at Luhut's house, I drank the tea they served, because I didn't think Luhut would poison me. Coincidentally, when I met Luhut, he was flanked by two people: they are my former students. It was a type of guarantee—they were my witnesses. I was content. (…) When my children were young, there was a cardboard box bomb placed out the front of my house and the bomb squad had to come, but it was only a hoax because the box had cables in it, but it was empty. There was no bomb. They were essentially sending me a message telling me not to be so outspoken.

Who was it from?

I don't know. I attended the police station. But I told you what happened to my home—it was just an empty box designed to scare me. But 1998 was definitely the most dramatic in terms of threats. I was scared. I live in a Kopassus (Army Special Force Command) area, but the most dramatic situation was when I was chairman of the oil and gas governance team—the oil and gas mafia. That was because trillions of rupiah were at stake. This money was flowing in every direction. Because what I found at the time was that almost everyone was involved. All of PDI (*Partai Demokrasi Indonesia*, Indonesian Democratic Party) were involved; generals; kidnappers; SBY (former president Susilo Bambang Yudhoyono) was involved, his family—all their names were there. It got to the point where Kopassus were sent to my house, but I said, 'Later, if I receive any more threats.' There turned out not to be anymore.

Do you have a prediction for the direction of the Indonesia–China relationship, in the short-, medium-, and long-term? Obviously, it will depend on who the next president is, but if you have any predictions, please share them with me.

In the short-term, it seems the government will be heavily reliant on China. So, because of that, China will undoubtedly be asking for something. And because neither [Indonesia nor China] are transparent, [and] governance is poor, we don't know what concessions will be granted. We can't hope for much. High quality investors can't enter Indonesia now, so Indonesia is relying on China and dictator states: Qatar, Abu Dhabi, Saudi Arabia, etcetera. A few days ago, Jokowi returned to Dubai [after visiting] the United Kingdom. These countries granted Jokowi a lot of concessions and granted Indonesia billions of US dollars in investment aid. That's why the Cikampek toll road is

now called Sheikh UAE [Mohammed bin Zayed Skyway], right? We already know—it's already transparent.

In the medium-term, I feel that, finally, this current government's relationship with China will hit the roof and the scandals will be exposed. They will at least be scrutinised by the incoming regime and exposed. I know for a fact that the KPK is investigating the smelter case—they told me directly. So, what will happen? Now, they're blackmailing because there's an unholy coalition between these criminals—it's unholy.

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PART IV

Vernacular Institutions

Check for updates

CHAPTER 17

What's Asia Got to Do With It? "Asian Values" as Reactionary Culturalism

Mark R. Thompson

Introduction

A common misunderstanding about the "Asian Values" discourse is that it is about Asia. Originally it involved a more prosaic conservative championing of Confucian values by Singaporean prime minister Lee Kwan Yew, which had been key to his political thinking since the 1960s (Barr, 2000: 310). It only came to be labeled "Asian" in the early 1990s to serve as a causeway connecting the views of Lee and another major advocate in Southeast Asia, Malaysian prime minister Mohamad Mahathir, who like the majority of Malaysians is Muslim (Barr, 2000: 313; Thompson, 2001: 157). Government-linked intellectuals in Singapore, particularly Kishore Mahbubani (1992, 1995) and Bilahari Kausikan (1993, 1997), took the lead in a brief international debate about these supposedly distinctive Asian norms.

But this would have only been a plausible discursive strategy if "Asia" could be meaningfully defined as a single value community or at least made up of overlapping ones. The search for such common Asian norms has been termed "Asianisms," the "multifarious discursive and material constructions of Asia" (Frey & Spakowski, 2015). The debate about such shared values and cultural practices in the region has distinguished intellectual lineage. Major thinkers in Japan, India, and China—particularly Okakura Tenshin, Rabindranath Tagore,

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_17

and Zhang Taiyan—pursued it in the early twentieth century as an "an intellectual and cultural effort until it was overtaken by the Japanese military for imperialist purposes" (Duara, 2010: 969). This earlier project has recently been the subject of renewed attention by several influential Asian intellectuals such as Prasenjit Duara (2002, 2010) and Amitav Acharya (2010). This lack of engagement with Asia as a region has made the Asian Values a strikingly parochial discussion and strongly essentialist with a Sinicist bias leading to constant slippage between Asian and Confucian values, which can be traced to Lee's original intent (Barr, 2000: 313).

But while advocates of Asian Values showed no serious interest in drawing on, much less contributing to a learned discussion of regionalized norms, this has not kept defenders of distinct Asian norms such as Mahbubani from claiming to be able to speak on behalf of Asians. Mahbubani (2011, cited in Emmerson, 2013) wrote: "Asians are too polite. Sometimes it takes a relatively rude Asian, like me, to express our continent's true feelings." One commentator, Donald Emmerson (2013: 167) quipped sarcastically: "Unable as I am to fathom the 'true feelings' of more than four-billion people, I cannot know whether they feel they are living in Mahbubani's world or not."

Shortly after the Asian Values debate began, it was noted that claims made by its proponents were in fact very similar to those made earlier in Africa and elsewhere by authoritarian rulers and their apologists (Economist, 1992). They too had criticized individualist, competitive, "Western"-style liberal democracy as culturally inappropriate to more collectivist, consensual societies in which respect for authority and hierarchy were upheld. Nobel prize-winning economist Amartya Sen (1997: 37, cited in Jenco, 2013: 237) argued that the culturally specific aspect was largely irrelevant as "so-called Asian Values... are not especially Asian in any significant sense." Even an influential Singaporean scholar Beng Huat Chua (1999) who has shown some sympathy for the Asian Values discourse "as a potentially salubrious invocation of communitarian values over liberal capitalist self-interestedness, argued that its goals could be better sustained without claiming any particular Asian affinity" (Jenco, 2013: 237). Malaysian cultural critic Farish Noor (1999, cited in Hoon, 2004: 161) argued that, "Like the Arabian Phoenix of Mozart's opera [*Così fan Tutte*], everyone knows about Asian Values, but nobody knows where they are."

So what is the Asian Values discussion if not actually about Asian norms? Sen (1997) claimed it is largely an instrumentalization of supposed cultural values by authoritarian rulers to justify nondemocratic rule. In their effort to "other" supposed "Western values," authoritarian advocates of Asian Values have engaged in a crude cultural essentialization (Tatsuo, 1999). Dieter Senghaas (1995) noted that Asian Values are also not different in kind from traditional anti-individualist, hierarchical, and authority re-enforcing values in the West, such as those prevalent in slave owning antebellum American south. A striking historical parallel to (and forgotten progenitor of) this discourse is how apologists of Imperial Germany in the nineteenth century criticized individualist, liberal Western, particularly French "civilization" (*Zivilisationskritik*)

in order to uphold collectivist, authoritarian German culture (Thompson, 2001).

This shows the real issue involved is not "Asia" versus the "West," but rather authoritarian versus democratic modernity. A culturalist argument misdirects away from a dispute about the way in which the modern world should be constructed. Conservative thinkers in Imperial Germany attempted to demonstrate that authoritarianism could go hand-in-hand with an advanced form of modern living by pointing to Germany's distinctive *Kultur*. This has led Kanishka Jayasuriya (1997) to compare the Asian Values debate with Jeffrey Herf's (1984) description of early twentieth-century Germany's "reactionary modernism."

As alluded to above, conservative culturalism in Imperial Germany is historically connected with several of its manifestations in Asia. After studying various Western political systems, the Meiji Japanese reformers chose to model their political system on Imperial Germany's (Martin, 1995). This included constructing cultural difference as a means to fend off pressures for democratization. A prominent Meiji-era slogan was *wakon-yōsai* (和魂洋才; Japanese spirit and Western technology) (Carr, 1994). In the interwar period, the controversial "Kyoto school" philosophers argued that modernity could be "overcome" by a reliance on Asian (and particularly Japanese) cultural values (Harootunian, 2002; Heisig, 2001). In doing so, they were echoing the civilizational critique of conservative German culturalists. Japan was a model for many authoritarian regimes in Northeast and Southeast Asia, particularly South Korea (president Park Chung-hee had served in the Japanese military), Malaysia (Mahathir's "Look East" slogan), and Singapore (Lee's "Learn from Japan" campaign) (Thompson, 2019: Chapter 2). The lineage of reactionary culturalism from Meiji Japan to Singapore and Malaysia is not difficult to discern.

A key premise in the Asian Values discourse is cultural relativism (Barr, 2000: 310). Norms proposed as universal, particularly related to human rights, are, upon closer examination, actually "Western" in origin and applicability. Asia is radically divergent from the West because of its distinct historical and cultural background. The basic premise of this authoritarian culturalist discourse about democracy is that there is no general standard of democracy but only culturally specific ones. What is commonly proclaimed as the universal character of democracy is in fact a "Western" version of it involving unbridled freedom and selfish individualism.

The Asian Values discourse can be best summed up as a series of dichotomies: particularism versus universalism, the nation-cum-family versus individualism, social and economic rights over political rights, and noninterference in a country's domestic affairs rather than the enforcement of international norms. It is claimed that this demonstrates that human rights are not universal and cannot be globalized and that "other nations should not interfere with the internal affairs of a state, including its human rights

policy" (Hoon, 2004: 155). Asian values can be understood as a form of reactionary culturalism which involves the invocation of Asian culture(s) to justify the rejection of "Western" democracy as culturally alien (Thompson, 2019: Chapter 5).

The plan of the remainder of this chapter is as follows. In the next part of the paper it will be shown how the Asian Values debate occurred in the context of perceived external and internal challenges by Singaporean and Malaysian electoral authoritarian governments in which proclaiming democracy as culturally alien proved a useful autocratic tool. The subsequent part points to how earlier versions of such reactionary culturalism in Southeast Asia, e.g. "Thai-style democracy," functioned similarly. The subsequent section discusses how reactionary culturalism shaped political agendas, as efforts by democratic oppositionists throughout Southeast Asia to develop a counter narrative of "vernacularised" liberalism demonstrated. What follows shows how, unsurprisingly, an Asian Values-style exculpatory discourse has been revived alongside a recent autocratization wave in Southeast Asia. In the penultimate section, it is suggested the essentialist character of influential studies of political culture and constructivists' search for a common regional identity have inadvertently help inspire and also legitimate reactionary culturalist discourses. The conclusion briefly explores the importance of more complex understandings of culture before it is invoked in political discourse.

Asian Values as Internal and External Defensive Mechanism

As mentioned above, advocacy of Asian Values by authoritarian leaders and government-linked intellectuals in Singapore and Malaysia provoked an international debate about the appropriateness of democracy in non-Western countries during the early 1990s (Emmerson, 1995; Hoon, 2004; Robison, 1996; Sen, 1997; Subramaniam, 2000). Asian Values were chiefly propagated by electoral authoritarian regimes in Singapore and Malaysia, countries with relatively high living standards. Despite prosperity, their governments argued that "Western" democracy remained culturally inappropriate, defying the "iron law" of modernization theorists claiming wealth leads to greater political openness (Thompson, 2019). In economically advanced Singapore and Malaysia, civil liberties are not often openly violated but democratization is usually still stoutly resisted. In such a context, claims of Asian Values accompany the state's attempt to co-opt an increasingly affluent and well-educated population.

The coexistence of high living standards and illiberal politics makes Singapore and Malaysia international exceptions to the "rule" that democracy follows economic development thanks to the rise of a large middle class. Singapore is the wealthiest non-oil-producing country in the world that is not a democracy, and, before the regional economic crisis of 2007–2008, Malaysia was the second most prosperous nondemocratic country whose export earnings were not primarily based on oil. Yet high income levels and large middle

classes have not led to substantial political liberalization (except briefly later in 2018 in Malaysia) (Thompson, 2019: Chapter 1).

It is striking that the championing of distinctive Asian Values by highly Westernized government officials in Singapore and Malaysia coincided with the rise of democracy movements and growing individualism in the 1980s. A few years later, the new Singaporean prime minister Goh Chok Tong was warning that Singaporeans must avoid "Western" democracy, a free press, foreign television, and pop music, as these "could bring the country down" (cited in Economist, 1994). Asian Values were the antidote to all that was wrong with Westernization. Rising crime and divorce rates, the rise of the gay rights movement as well as new tastes in music, television, and film were linked to an electoral swing away from the ruling People's Action Party (whose vote share fell nearly 20 percent between 1980 and 1991). The importance of maintaining Asian Values could thus justify both draconian laws regarding personal behavior and a crackdown on political opposition. In short, the Singaporean state had created an ideology to combat democratic tendencies and individualism despite the country's advanced stage of economic development (ibid.).

In Malaysia, after a crackdown on opposition in the late 1980s led to Western criticism of the government's human rights record, Prime Minister Mahathir bin Mohamad defended "Asian" notions of governance and accused the West of "ramming an arbitrary version of democracy" down the country's throat (cited in Vatikiotis, 1992). At the same time, he attacked growing decadence in the West, holding up Asian Values as an alternative. As in Singapore, the Malaysian government used a culturalist argument to discredit demands for liberal democracy and individualism, pointing to the hazards of unchecked Westernization.

But besides fending off threats of domestic democratic opposition, the Asian Values discourse was also offered as an external defense of autocratic rule. It rejected liberal democracy as history's Hegelian end as Francis Fukuyama (1992) had (in)famously propagated.[1] The U.S. and Western Europe were "triumphalist" in the early Cold War era, pressuring countries in Southeast Asia and elsewhere in the world to democratize (Subramaniam, 2000: 24). The U.S. "had just won the Cold War, Europe was a Union, and markets were multiplying, growing and becoming increasingly more open," which prompted the U.S. and Europe to respond with "uncharacteristic enthusiasm" to export democracy and human rights throughout the world (Barr, 2000: 313). In addition, "resentment at past colonial and neo-colonial exploitation by the West was never very far below the surface" (ibid., 314). At the same time Singapore and other authoritarian Southeast Asian countries

[1] Although Fukuyama (1998: 227) defended his thesis from the "Asian exceptionalists," he also considered the "excessive individualism and self-indulgence, deterioration of the family and all the pathologies that stem therefrom" a credible aspect of the discourse, indicating Fukuyama's conservative values despite his liberal claims (cited in Subramaniam, 2000: 32).

were celebrating their world-beating economic growth rates, while also being insecure about their own hold on power, as discussed above.

Thus, Asian Values were used both against Western efforts at democratic conversion and to silence domestic opposition (Hoon, 2004). A "combination of western and Asian confidence and insecurity boiled onto the world stage in 1993 when a series of United Nations conferences on human rights coincided with a peak in American threats to cancel or put conditions on China's Most Favoured Nation (MFN) trade status because of its poor human rights record…The West's new-found assertiveness on human rights was perceived as a hypocritical attempt to keep Asia subservient to the West politically and economically" (Barr, 2000: 314).

But the discourse appeared to wither during the 1997–1998 Asian financial crisis as economies in the region slammed to a halt. Asian "family values" now seemed to promote corruption and cronyism, not rapid growth and social harmony. It was harder to argue human rights had to take a back seat to economic considerations when economies were crashing. Critics of Asian Values could hardly suppress their *Schadenfreude*. They argued that the region's Machiavellian leaders, who had hidden dictatorial ways behind a culturalist disguise, had finally been unmasked (Lee, 1997). Long frustrated that their criticisms were parried by the obvious "evidence" that Asian authoritarians had limited personal liberties in order to promote economic development, they could now claim following Albert Camus that those denied freedom may one day find themselves without bread as well. This led journalist Frank Ching (1998) to ask "Are Asian Values Finished?".

In fact, Asian Values were far from finished even if they would be re-labeled. In part, this was due to the fact that such culturalist essentialism in the service of authoritarianism had a long tradition in Southeast Asia. This explains why democrats in the region felt the need to embed their liberal demands in culturalist arguments in order to avoid being called "un-Asian." Furthermore, a new wave of autocratization has been accompanied by a revival of Asian Values-style arguments. Cultural essentialization also received succor from the methodologies of the comparative study of political cultures and regional constructivists. Although often declared dead, the Asian Values discourse appears to have many lives.

Other Authoritarian Culturalist Discourses in Southeast Asia

Parallel narratives of "Western" democracy being culturally inappropriate were propagated in Thailand (Thai-style democracy), Indonesia (*Pancasila*-democracy), Myanmar (Buddhist authoritarianism), and the Philippines (the *Tadhana* project). These discourses each offered a distinct form of culturalist legitimation for authoritarian rule. What they share is a similar pattern of "reactionary culturalism" constructed in order to counter the "threat" posed

by internal democratization movements and external pressure to liberalize (Thompson, 2019: Chapter 4).

Already in the late 1950s and early 1960s, but also recurring in subsequent decades, it was argued only "Thai-style" not "Western" liberal democracy was appropriate to Thailand with its indigenous "despotic paternalism" based around military rule and the monarchy (Chaloemtiarana, 2007; Hewison & Kitirianglarp, 2010). Suharto's "New Order" regime in Indonesia interpreted the country's five-point *Pancasila* ideology as showing authoritarian rule was most suitable to the country's indigenous values while "Western" democracy was alien (Ramage, 1995). Ne Win, the military leader of Burma from 1962 to 1988 (renamed Myanmar by a later junta) claimed to have introduced an authoritarian form of government based on Buddhist principles to "more authentically represent the traditional Burmese polity of the precolonial era" (Matthews, 1993: 414).

Ferdinand E. Marcos (1971), who declared martial law in Philippines in 1972, "could not hide his contempt for liberal representative democracy" (Curaming, 2020: 87). Marcos sought justification for this claim in a multi-volume official history project called *Tadhana* (fate) which employed some of the country's leading young historians. It was in the "indigenous buried in the very distant past that the spectre of Marcos's project lurked" (ibid., 87–88). Marcos aimed to consign all ideologies of "foreign provenance"—from Marxism to liberalism—to Philippine history's waste bin. With its "emphasis on the indigenous," the *Tadhana* project allowed Marcos to encode his authoritarianism "in a historical, scholarly and presumably authoritative template" to what otherwise would be a "patently self-serving political project" (ibid., 88).

Counter-narratives of "Vernacularised" Liberalism

Despite the obvious essentialism of Asian Values and similar forms of reactionary culturalist discourses in Asia, they have significantly shaped political discourse in the region. Efforts by democratic oppositionists throughout Southeast Asia to develop a counter narrative of "vernacularised" liberalism demonstrate the agenda setting character of authoritarian critiques of "Western" liberalism (Thompson, 2022). Hoon (2004: 156) writes that claims about non-Western, Asian Values allowed autocratic regimes in the region to dismiss their domestic opponents "as opposing the national interest or simply being un-Asian."

Liberals responded by framing demands for upholding civil liberties and installing democratic rule in religious-communalist terms. Such language accorded legitimacy to liberal principles through their enculturation (Hefner, 2000, 2019: 380). Authoritarian and liberal culturalist discourses are dialectically related, with dictators responding to claims about liberalism's supposed universal applicability with assertions of cultural particularism against Western democratic impositions. This, in turn, triggered a reaction by Asian liberals

pointing to the tolerant and humanistic nature of the region's religious traditions (Thompson, 2015). Vernacularized liberalism was influentially championed by oppositionist and later South Korean president Kim Dae Jung (1994) and the aforementioned Amartya Sen (1997) who both attacked the hubris of authoritarian claims that liberal democracy was culturally alien to Asia, insisting instead there are strong precedents for liberal democratic principles in traditional Asian societies.

Vernacularized liberalism has been a central narrative of several anti-dictatorship struggles in Southeast Asia against the despotic and corrupt rule of dictators, such as Ferdinand E. Marcos of the Philippines, Suharto of Indonesia, Najib Razak of Malaysia, and the post-1988 junta in Myanmar. Opposition leaders such as the Philippines' Corazon C. Aquino, Indonesia's Wahid Abdurrahman, Malaysia's Anwar Ibrahim, and Myanmar's Aung San Suu Kyi framed their democratic appeals which generated mass support in culturalist terms, gaining substantial "moral capital" in the process (Kane, 2001). They were at the forefront of movements of civil society activists, business leaders, and communalist groups. Religious organizations articulating liberal democratic demands—e.g., the Catholic Church in the Philippines, the traditionalist Nahdlatul Ulama and the modernist Muhammadiyah in Indonesia, "Muslim democrats" in Malaysia, and Buddhist monks in Myanmar—were also decisive in mobilizing and organizing for protests and electoral campaigns against dictatorships (Barry, 2006; Bush, 2009; Hamid, 2018; Slater, 2009; Walton, 2016).

To discuss one example briefly, the leader of Nahdlatul Ulama (NU) which is the largest Muslim group in Indonesia, Suharto critic and later president Abdurrahman Wahid denounced the attempt to utilize the cultural relativism characteristic of Suharto's "*Pancasila*-democracy" to undermine liberalism while pointing to democratic lessons that can be learned from Islam (Barton, 2002). Wahid called for the respect of civil liberties and a reform of government to eliminate corruption and restore economic growth (Hefner, 2019). Developing the so called "*fiqh* paradigm" long predominant among NU leaders, Wahid argued Islam is not the "foundation of the state" but rather it is a "as a social-ethical resource for the peaceful and harmonious running of the state" (Rochmat, 2017: 173). Wahid reconciled Islamic *Syari'ah* law with liberal democracy under Indonesia's *Pancasila* ideology of the plurality religious belief and the importance of tolerance while opposing the authoritarian instrumentalization of religion (ibid., 173–174).

But in Singapore, liberals have been less successful in countering the authoritarian claim that democracy is culturally inappropriate in the city-state. This appears puzzling when one considers that it is a highly globalized society where knowledge of Confucianism was so limited that when the government launched a "Religious Knowledge" curriculum in schools, foreign experts had to be flown into the country (Vasil, 1995). There are many reasons for the weakness of opposition in Singapore—the relative success of the regime in

terms of "good governance," economic growth, and welfare measures particularly regarding public housing, arrests of key antigovernment leaders, media controls, libel suits as part of an "authoritarian rule of law," manipulated electoral laws, and opposition party fragmentation (Ortmann, 2019; Rajah, 2019; Rodan, 1996; Tan, 2013). But precisely the lack of a dominant religious tradition and powerful communalist leaders able to construct a counter discourse of vernacularized liberalism appears a key factor when the city-state is compared to the other Southeast Asian countries (Slater, 2009). Singapore has remained an outlier in electoral Southeast Asia with liberalism, portrayed as "Western," still successfully "disavowed" (Chua, 2017).

The Revival of Exculpatory Culturalism during the Recent Autocratization Wave

All of Southeast Asia's major electoral or semi-democracies have regressed, often significantly, over the past decade. This was particularly obvious with military coups in Thailand in 2014 and Myanmar in 2021 (Kongkirati & Kanchoochat, 2018; Thawnghmung & Noah, 2021). Democratic backsliding via executive aggrandizement has been subtle but steady in Indonesia under Joko Widodo (elected president in 2014) while it was much more dramatic and bloody with the election of Rodrigo R. Duterte as Philippine president in 2016 (Mietzner, 2018; Thompson, 2021). Malaysia's brief democratic experiment began after an opposition coalition won a surprise victory in the 2018 general election. But it quickly ended after the alliance collapsed (Case, 2021). Cambodia transitioned to full blown "hegemonic authoritarianism" with a severe crackdown on what remained of open opposition to the regime and sham parliamentary elections in 2018, giving strongman Hun Sen an iron grip on power (Morgenbesser, 2019). Small (though significant in the island state's political context) opposition gains in several recent elections in Singapore have been counterbalanced by mounting restrictions on civil society and internet freedoms (Ortmann, 2019; Freedom House, 2020). This backsliding has often been accompanied by a revival of culturalist authoritarian arguments similar to the Asian Values and similar discourses accompanied above. It too had an exculpatory aim—legitimizing an authoritarian turn as culturally appropriate.

In Thailand, for example, the "military-monarchical" regime returned to familiar arguments of "Thai-style" democracy mentioned above to justify a crackdown on opposition and electoral irregularities while real power continues to reside with the army and the king (Rojanaphruk, 2018). It has been described as a "mix of Siamese palingenetic ultranationalist sentiment with re-interpretations of a conservative Buddhist ideology which is based on the morality and right of the rulers to rule" which for "the military–monarchy nexus embodies a supreme source of secular morality and power with the right to dominate and where the ends (always) justify the means" (Taylor, 2021). This provoked strong push back from a youth-led protest movement which openly transgressed the taboo against criticizing the monarchy's central role

alongside the military in upholding authoritarian rule (Cheng & Thompson, 2022; McCargo, 2021).

In Cambodia, Hun Sen has mobilized "regal references" to support his cult of personality despite there being an enthroned King. This was utilized in order to make Hun Sen appear like a "king-like leader whose power needs no check" and project unrestricted power (Norén-Nilsson, 2021b). Severe limits have been placed on civil liberties, with the major opposition party dissolved by the government. These repressive measures were justified by the Cambodian government through "a line of argument which echoes the long-standing Asian values debate" (Lim, 2018: 1). An author celebrating strongman rulers in Asia in a pro-government news outlet argued that "Western-style democracy is not a real need in Asia" as it does not fit with "the Asian mind set and the mind set of each country" (cited in Norén-Nilsson, 2021a: 96–97). Thus, Hun Sen could be seen as upholding Asian values when he dissolved an opposition party despite foreign criticism (ibid.).

In the Philippines, president Duterte defied international criticism of the massive human rights violations involved in his "war on drugs" in which tens of thousands have been killed by police vigilantes (Thompson, 2021). When the UN special rapporteur on human rights made a request to investigate the killings, Duterte's government rejected it, with the president's spokesman claiming UN was seeking to impose "liberal Western values" on "an Asian nation that places premium on common good" (cited in Claudio, 2017: 103). Duterte himself, "always more pithy," claimed "if it involves human rights, I don't give a shit" (ibid.). Lisandro Claudio (ibid.: 104) adds: "To put things in blunt and moralistic terms: my president is slaughtering my countrymen by the thousands, justifying the murders by dismissing liberalism and human rights as 'Western.'".

Political Culture, Regional Constructivism, and Reactionary Culturalism

One insightful but often overlooked strand of research on the genesis and continued prevalence of an Asian Values-style discourse is its methodological roots in the often highly essentialized comparative study of political culture and the search of regional identities by constructivists. Essentialized notions of culture in such studies inadvertently helped inspire and legitimate an Asian Values-style authoritarian discourse.

Scholarly work is of relevance because Southeast Asian authoritarian leaders have paid attention to it. For example, Lee Kwan Yew and Malaysian prime minister Mahathir Mohamad were both strongly influenced by the work of the prominent American Asian studies scholar Ezra Vogel (Siow, 2020). Singapore's ruling party was so impressed it invited him to visit and lecture in the island state on several occasions. In Malaysia, Vogel's book *Japan as Number One* (1979) "prompted then-prime minister Mahathir in 1981 to launch the

Look East Policy" (ibid.). Zakaria, (1994: 126) provides an illuminating anecdote from his interview with Lee Kwan Yew about Asian Values: "At the close of the interview Lee handed me three pages. This was, he explained, to emphasise how alien Confucian culture is to the West. The pages were from the book *East Asia: Tradition and Transformation* by John Fairbank, an American scholar."

Comparativist scholars of political culture have developed an essentialized framework for studying "culture" (even in some cases using it to defend "indigenous" authoritarian values). In terms of political culture, Samuel Huntington's (1993, 1996) "clash of civilisations" argument has been (rightly) criticized as highly essentialist (in lieu of multiple references I offer my own overview of the debate: Thompson, 2004). The point most relevant here is his argument that modernization leads to a "resurgence" of indigenous cultures. Huntington explicitly references the Asian Values discussion approvingly (Huntington, 1996: 96 and 109). Daniel Bell (2000: i) opts for a "middle position" in which he "criticises the use of 'Asian values' to justify oppression" but also suggests there is a "need to take into account East Asian perspectives on human rights and democracy" to create an "as-yet-unrealised Confucian political institution that justifiably differs from Western-style liberal democracy."

Beyond these normative political cultural engagements with the Asian Values discussion, even explicitly value neutral discussions are relevant in this regard. Englehart (2000: 563) argues that while Singapore's ruling party can be easily condemned for its "cynical use of the Asian Values argument" which involves a "simplified, essentialist interpretation of culture in an attempt to solidify its own power and deflect criticism," the Anglo-American study of political culture "has unwittingly lent credibility to this endeavor." Englehart suggests that such studies, following in the tradition of Gabriel Almond and Sidney Verba's influential book *Civic Culture* (1963), have "relied on a view of culture that conforms to an essentialist use of the term," which instead of admitting to "the complexity of cultures" simplifies "them in ways that make them more tractable for study" (Englehart, 2000: 563). He adds in this book and subsequent studies it inspired, culture is often approached as "a static and primordial set of attitudes and dispositions" with "certain orientations" seen as "typical of a given population and to determine the ways in which they can interact with political institutions. They remain more or less fixed in a population over time and determine the kinds of political institutions those people can have" (ibid.). Political science has been stuck with an essentialist view of culture while anthropologists have taken a more flexible approach, more sensitive to cultural complexity, the multiplicity of traditions in cultures, and constant change (ibid., 566).

In addition, some constructivists' "search" for a common Southeast Asian regional identity have led them to become sympathetic to the Asian Values discourse. For example, Gürol Baba (2016) has argued that the normative-based Asian Values discussion can help overcome "ethnic, cultural, political,

territorial, and historical diversities" in Southeast Asia and thus may contribute to the formation of a "normative/ideational" Southeast Asian identity. Ksenia Efremova (2021: 104) argues that in the Association of Southeast Asian Nations (ASEAN) "cultural relativism… constitutes the fundamental base of its normative vision." It has become a "norms provider" based on the rejection of "Western universalism and struggle to find their own way in world politics" (ibid.).

Conclusion

Commonly misunderstood to be about Asia, the "Asian Values" discussion was from its beginning in the 1990s used as a tool by "soft" authoritarian regimes in Singapore and Malaysia both to delegitimize domestic democratic opposition and to fend off Western pressures to democratize. Originally dubbed "Confucian values," it did not contribute to, much less take cognizance of a long-running "Asianisms" debate about common values in the region. Instead it offered a crude culturalist justification for authoritarian rule. Earlier versions of this reactionary culturalism in the region functioned similarly, e.g., "Thai-style democracy," *Pancasila*-democracy in Indonesia, the *Tadhana* project in the Philippines, and an authoritarian interpretation of Buddhism in Burma/Myanmar. But such discourses have shaped the political agenda. Southeast Asian liberals felt it necessary to frame their demands for civil liberties and democratic reforms in religious-communalist terms to avoid being seen as overly Westernized. Not surprisingly, an Asian Values-style exculpatory discourse has been revived alongside a recent autocratization wave in Southeast Asia.

It was also argued that this kind of discourse was both partially inspired, and is legitimated by the often highly essentialized comparative study of political culture and the search for a Southeast Asian regional identity by constructivists. Claudio (2017: 104) goes further by criticizing scholars in the Global North studying the region who show sympathy for the "problematising" of human rights by authoritarian culturalists. Scholars should be careful about inadvertently becoming apologists for illiberalism "because we in the Global South just might get it in the form of a bloodthirsty autocrat," he says referring to president Duterte of the Philippines who, as discussed above, has said he could care less about "Western" human rights (ibid.).

Lily Zubaidah Rahim (1998: 70), who sees the "Asian way" discourse as involving "self-orientalising rhetoric which has served to reify a Western orientalist conception of Asia," makes an important point about its patriarchal character:

> Primarily articulated by men of privilege, the cultural nationalist "Asian way" discourse is strongly patriarchal in orientation and has little to say about women, ethnic minorities, child labourers, guest workers and other marginal groups in society. They have been rendered invisible and speechless in the triumphalist

> "Asian way" discourse. In extolling the virtues of the traditional "Asian" society and family, it is generally the patriarchal state and traditional family structures that are implied. Such structures are based on an inherently hierarchical relationship between the political elite and the masses, husband and wife, and authoritarian ties between parents and children. Not surprisingly, few women have adopted a high public profile in championing the cultural nationalist discourse… (ibid.: 69–70).

In an empirical analysis of the Asian values discussion, So Young Kim (2010: 227) has subjected claims about the supposed distinctiveness of cultural values in Asia to a comprehensive statistical analysis of value surveys. She shows that surveys of Asians and non-Asians reveal the evidence actually "*contradicts the claims of the Asian values proponents*. In particular, *it calls into question the cultural defenders of authoritarian rule in East Asia*" (ibid., my emphasis).

But despite the obvious essentialism behind and lack of empirical support for Asian values, Englehart (2000: 567) has argued that without a more sophisticated view of culture which takes into account its complexity and contradictions, it is difficult to respond to Asian Values-style arguments. Cultures contain multiple traditions, including "subaltern strands" which given the right conditions, "may eventually emerge as dominant." There is a "need to be able to recognise that the debate over human rights and democracy in a place like Singapore is not really a debate between two cultures, one Asian and one Western" (ibid.). Rather, Asian Values and similar discourses in the region involve a "reactionary culturalist" defense of an authoritarian form of modernity based on a hierarchical, patriarchal view of society intolerant of diversity and strongly opposed to broader political participation.

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CHAPTER 18

Military Norms in Southeast Asia: Comparing the Cases of Thailand and Burma

Paul Chambers

Introduction

Militaries as security service-providers have enjoyed monopolies of violence and in some countries have been leading political actors. They are imbued with the resources of labor, material, ideology, and symbolism in their soldiering, weapons, mission, and pageantry. As armed laborers, their purpose is to defend their nation-state while protecting regimes in power and are privileged to enjoy being honored as heroes. However, militaries of every country are vernacular forces with different cultural-historical histories which have been chronologically shaped by varying levels of authoritarian legacies, popular acceptance, and roles in championing national integration. When militaries go to war or prosecute counterinsurgency, they tend to enjoy legal impunity. All militaries, as societal institutions, are influenced by military norms. However, the political norms of militaries (or military norms) have generally shifted over time. Where sultanistic personalities (inside or outside of militaries) exert enormous influence over senior armed forces officials, then militaries sometimes re-align from disciplined defense of state and regime to becoming subordinate to such patrons.

Such has been the case in Southeast Asia where armed forces have been conditioned by political norm change which is still ongoing. Following decolonization, the militaries of Southeast Asian countries became subject to

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_18

political norm dynamics in terms of shifting practices—which affected their political roles—across time. In the cases of Vietnam, Lao PDR, Cambodia, and Brunei, militaries became entrenched under single party structures or absolute monarchies. In Singapore and Malaysia, the armed forces became mostly dominated by hegemonic parties. Militaries in the Philippines, Timor-Leste, and Indonesia (though the latter's post-1998 military is still somewhat autonomous) have come under more democratic civilian control. Thailand and Burma[1] represent two regional countries where the military has been the dominant actor. But in all cases, militaries have spearheaded security, state-building, and development. They have possessed overlapping registers of identification and belonging in the sense of loyalty to nation-state, loyalty to regime, and loyalty to the corps. They have been traditional, vernacular forces redefining but also redefined by associated political norms. The transformation in their norms has changed their roles.

This chapter argues, based upon a New Institutionalism framework, that Thai and Burma militaries have followed a path in which changes in self-identification have led to political norm shifts that have then contributed to changing military roles. Thus, the evolution of military norms in Thailand and Burma has been a function of structure and agency, with Thai military norms legitimizing the military's positioning as a junior partner of monarchy in dominating Thailand, while Burma's military norms have legitimized its sole lording over Burma. In Thailand, following its role in overthrowing absolute monarchy, the military became more factionalized amidst national emergencies and ironically came to depend on the country's popular monarchy for legitimacy, dressing itself in royalist norms to maintain its near preeminence. For Burma, after leading the country out of colonialism, through insurgencies, following its 1962 coup, and beset by sanctions, the military adopted norms of intra-military control which became ingrained through hierarchical personalism. Imbued with a siege mentality against civilian challenges, it overthrew a 2011–2021 superficial democracy and again seized power in 2021, resurrecting its norms of military control based upon a perceived privilege of monopoly over politics and the economy. In both countries, what were the norms which were established to guide militaries, how did they originate, and how did they affect militaries? How did they shift over time? How are military norms continuing to influence militaries in Thailand and Burma? This chapter

[1] This chapter uses the country name "Burma" rather than "Myanmar." The 1947 constitution made "Burma" the official name of the country. After 1948 independence, an elected government continued to use this name. Following the 1988 coup, the new military junta changed the name to "Myanmar," a more formalized version of "Burma." The junta's name-change for the country was an attempt to find legitimacy at the United Nations given that other countries accepting the move would implicitly accept the junta as the legitimate regime. Those who continue to use the term "Burma" (including this chapter) practice defiance of the military regime's semantic preferences and thus its legitimacy.

will address these questions. Following this Introduction, the chapter examines literature on military norms, offering a New Institutionalist perspective. It then looks at the case of Thailand. This is followed by the case of Burma. The chapter offers its comparative findings in the conclusion.

Military Norms and New Institutionalism

Literature on military norms has broadly discussed military professionalism in terms of a military which effectively provides security but also obediently accepts civilian control.

Huntington postulated a politically neutral professionalism, un-warped by participation in politics, isolated from society, and concerned with the efficient achievement of its tasks of expertise in violence, responsibility to its client (the state) and corporate unity (Huntington, 1957: 7–18; 71). What Huntington calls "objective civilian control (or maximizing military professionalism) not only reduces the power of the military to the lowest possible level vis-a-vis all civilian groups, it also maximizes the likelihood of achieving military security (ibid.)."

Huntington was not without his critics. Janowitz (1964) disagreed with Huntington, arguing that military professionalism must be sensitive to politics, integrated within society, and that subjective, rather than objective, civilian control is preferable so as to ensure civilian supremacy over the military. Subjective civilian control is concerned with inculcating political values and practices into the military, as an institution and profession. Militaries tend to obey civilians because of "meaningful integration with civilian values (Janowitz, 1964: 420)." Nevertheless, Finer (1962) noted that "many highly professional officer corps have intervened in politics—the German and Japanese cases are notorious…The fact is, however, that…belief in …civil supremacy…has been historically effective only in those countries where civilians have imposed it, and through superior forces reinforced their legitimacy over time with socio-economic performance that conformed to mass expectations (Finer, 1962: 20–26)."

Military academies have served as essential centers for the inculcation and transmission of military norms, values, and beliefs. These schools shape and define cadets' identities and worldviews, often ensuring the coherence of military attitudes across multiple generations of students. Indeed, academies can shape military norms to the extent that officers may feel that their values are superior to those of governments in office, contributing to the potential for military coups (Finer, 1962; Geddes, 2003; Janowitz, 1977; Nordlinger, 1977; Stepan, 1971). Military socialization within academies can affect corps hierarchy, discipline, cohesiveness, ideology, and consciousness, sometimes leading to conflicts with civilian governments (Geddes, 2003: 54; Nordlinger, 1977). Education through academies can enhance the chances of a coup through (1) the building up of shared norms among school classmates and (2) the creation of networks of trust among officer schoolmates, both of which

are necessary for conducting coups (Böhmelt et al., 2019). Academies can also inculcate national security doctrines which rationalize political intervention in society (Stepan, 1973).

Nevertheless, focusing upon trust and networks begs the question as to how norms, values, and beliefs develop within a political structure across time. New Institutionalism (NI) offers a lens through which the norms of politically powerful institutions such as the military have developed across time (Croissant et al., 2013). Two NI variants (Historical and Sociological Institutionalism) are particularly instructive. Historical Institutionalism or HI seeks to explain the evolutionary chronology of institutional persistence and change, stressing how institutions shape not only strategies but also the development of preferences, goals, and interests (Steinmo et al., 1992: 9). The approach offers explanations about how events in history either constrained or offered opportunities that affected institutional resilience or transformation. Beginning from the institutional point of origin, initial institutional patterns become chronologically reinforced, producing persistent impacts upon contemporary configurations (Pierson, 2004). According to this framework, military norms have evolved across time, influenced by historical institutionalist factors of historical legacies, path dependence, and critical junctures. Historical legacies are prior contextual conditions of the past, which, once created, become quite self-reproducing, and entrenching (Collier & Collier, 1991; Pierson, 2004). Path dependence is an evolutionary trajectory whereby, once actors make certain institutional choices, "the costs of reversal are very high. There will be other choice points, but the entrenchments of certain institutional arrangements obstruct an easy reversal of the initial choice" (Levi, 1997: 28). Path dependence is central to other historical institutionalist factors because other factors can only help determine, strengthen, or weaken the path—but these factors are themselves not the path. Critical junctures are "short, time-defined periods, where antecedent conditions allow contingent choices that set a specific trajectory of institutional modification that is difficult to reverse (Page, 2006: 88)."

Meanwhile, Sociological institutionalism highlights "the ways in which institutions develop through culture—perhaps through tradition, myth, or ritual—and are thus culturally constructed (Hall & Taylor, 1996: 13–17)." Sociological institutionalists ask not what utilities caused an institution to be created, but instead, what cultural factors lead to its creation (Nichols, 1998: 482–483). The approach views institutions in terms of symbols, "cognitive scripts and moral templates that provide the 'frames of meaning' guiding human action (Hall & Taylor, 1996: 13–14)." Institutions also tend to socially construct norms, identity, and preferred behaviors, with change occurring when change becomes socially legitimate. Epistemic communities, using such norms of social expectation to affect human behavior, are influenced by, but also influence, political culture.

Ideational factors define what civilians and soldiers consider to be legitimate behavior (Croissant et al., 2013: 54). For civilians, if "the political culture of

the overall society" accepts military intervention across society, then it will be more likely to occur; for soldiers, where their military mindset openly allows intrusions across civilian affairs as "guardians of the nation," then it will more likely happen (Croissant et al., 2013: 54; Loveman, 1999). Political norms thus affect both civilians and military officials alike. For the latter, such norms are institutional frames of interpretation which socially evolve while exerting an effect on military mindsets, becoming military norms. Such norms are also influenced by identities of belonging and loyalty: nation-state, ruling regime, and corps. Indeed, within security services, patronage and clientelism can also influence military norms. The path dependence of dominant military norms—as social institutions—begins at the inception of militaries. But the character of these norms is influenced by historical legacies—of authoritarianism and relative mass obedience. As militaries persist as bureaucratic institutions over time, they become susceptible to changes in their norms and behaviors—which are themselves swayed by changing military doctrines, patrons, and needs. Militaries can also be influenced by civilian pressures toward achieving civilian control, degree of military cohesion, and level of any national emergencies (Croissant et al., 2013: 51–56). Where an abrupt change or critical juncture in military unity occurs, then there can be a realignment in the path of a military's "institutional ethos" (McCoy, 1999: 346). Militaries resistant to democratic change in military norms tend to rank loyalty to nation-state, king, or military service ahead of subservience to civilian governments. Such militaries are prone to stage coups or strengthen autocratic superstructures. Ultimately, dimensions of both historical institutionalism and sociological institutionalism help to understand how changing military norms can alter the roles of militaries.

Thailand's Military: From Royal Servant to Unrivaled Autocrat and Back

The path of Thailand's powerful military originated in 1852, when Siamese King Rama IV (1851–1868) created a permanent standing army. There subsequently developed a navy, police, and air force existing under an autocratic absolute monarchy. Though the king relied upon these forces for security, they depended upon him for budgeting and legitimacy. Military norms were overshadowed by the ideational pageantry of monarchization, or total subservience to monarchy, since the military was directly linked to the palace. It acted as a "monarchised military" (Chambers & Waitoolkiat, 2016: 6), a social construction enshrined into law which:

> defines the military in terms of ideological dynamics, symbols, rituals, and processes which enhance its legitimacy. The monarchized military derives the legitimacy of its authority from historical–cultural legacies, whereby soldiers secured a patrimonial monarchy that evolved to oversee a capitalist, monarchized state (ibid.).

Under monarchized military education, "cadets were deeply indoctrinated in loyalty to the king, the military, and the country" (Battye, 1974: 498). But with *esprit de corps* stirred by a reverence for Japan's then-militarism-nationalism, the indoctrination of cadets in the essentiality of military institutions infused norms of military honor and nationalism that began to churn against royal absolutism (ibid.: 500).

In 1932, military officers joined civilian bureaucrats in overthrowing the absolute monarchy, establishing a semi-authoritarian polity with limited elections. The experience represented a critical juncture because the armed forces became the unrivaled institution of power across the country. Historical legacies of authoritarianism, combined with the breakdown in royal cohesion and the 1929–1933 national emergency of economic depression, provided conditions which produced a realignment in the path dependence of dominant clout from monarchy to military. Regarding royalism, only symbols of ornamental obedience to monarchy persisted. Military norms became imbued with state-led nationalistic and militaristic dogma, where the soldier was a national hero, protection of nation-state was paramount, and irredentist-fascist conceptions of a dominant Thai warrior race were ubiquitous. Military education was heavily influenced by martial modes from Japan and Germany. The height of this militarism-fascism came under the regime of Field Marshal Phibun Songkram (1938–1944) (Murashima, 1986: 70; Wright, 1991: 97–98). Though Thai civilians briefly established electoral democracy in 1946, it was decimated by a palace-endorsed 1947 military coup which prevented any critical juncture disrupting the path of entrenched, post-1932, militarist norms in the armed forces.

The post-1947 putsch period was lorded over by an alliance between the military and re-emergent monarchy (as junior partner), both reliant on the United States. In 1949, the US West Point system of military education began to slightly influence Thai military norms. Armed forces dogma became centered on anti-communism, developmental militarism, and, less prominently, monarchization (Chambers, 2020a, 2020b: 74). The focus on security led again to the peripheralization of monarchy and ascendance of military and police between 1951 and 1957. Beginning in 1952, Washington initiated the International Military Education and Training (IMET) program which boosted networking between the US and Thai militaries and augmented Thai military capacities, but was unsuccessful in its attempt to instill values of civilian control, democracy, and professionalism into soldiers (Chambers, 2013: 24).

Thailand's 1957 coup transformed Thai military norms significantly. Coup-leader Field Marshal Sarit Thanarat re-established monarchy as central to the military credo, producing more influence for monarchy and more legitimacy for military. Nevertheless, the armed forces remained the dominant partner (Chaloemtiarana, 2007: 119). Washington's implicit backing for Sarit's coup suggested that the US did not necessarily support civilian control.

The continuing path dependence of military dominion was reflected in the 1960 Defense Act, under which the military would be specifically utilized to safeguard the monarchy, combat insurrection, develop the country, and protect national interests (Chambers, 2020a, 2020b: 76). Anti-communism became a Cold War raison d'être, merging the interests of the military, monarchy, and the United States. During 1964–1976, US soldiers were barracked in Thailand as part of anti-communist missions in Southeast Asia, while communist insurgency prevailed during 1965–1983. In pursuing Counterinsurgency (COIN), Thailand's military used COIN doctrinal tactics,[2] which included use of repression and rural development projects to win hearts and minds—with US support. Counterinsurgency also gave the armed forces a rationale for limiting civilian control.

The October 14, 1973, end of military dictatorship offered opportunities for limited transitions in military norms. Societal pressures for democracy and the rise of progressive army chief Gen. Krit Sivara suggested that the military would finally accept elected civilian control. Gen. Krit's support for military norms favoring civilian control forced a role change in the military—it retreated to the barracks (Zimmerman, 1978: 51). But Krit died suddenly in 1976; Thailand was beset by growing turbulence; both the King and the United States became receptive to renewed autocracy; and elements within Thailand's army were plotting takeovers. These factors led to a bloody October 6 massacre of students which enabled another military coup.

Nevertheless, intense military factionalism prevented any group from taking charge, thus permitting the palace to rule the country through favored ultra-rightist civilian Thanin Kravichien. But subservience to monarchy was at the time not a role acceptable to military leaders and Thanin was ultimately overthrown in a 1977 coup. The 1977 coup was not thoroughly endorsed by the king, enhancing tension between palace and then-Premier Gen. Kriangsak Chomanand (Handley, 2006: 277).

During this time, military norms were intensely debated in the increasingly factionalized armed forces. Though anti-communism, developmental militarism, and monarchy remained important, senior officers were bitterly divided between those wanting a return to the pre-1973 period of military dominance and others (aligned with the late Gen. Krit) who preferred civilian rule over a powerful military. Meanwhile, there were several cliques of younger officers. Two were ideologically progressive. The first, the "Young Turks," castigated the capitalism of corrupt businesspeople/politicians, who made communism appeal to peasants, and advocated military tutelage under which clean social reforms could commence (Bunbongkarn, 1987: 13). Another group, "Democratic Soldiers," sought to develop the countryside; win the hearts and minds of Thai communists; as well as boost the democratization of Thai society and military norms (ibid.: 15).

[2] Defined as "The blend of comprehensive civilian and military efforts designed to simultaneously contain insurgency and address its root causes" (United States 2009).

Unity returned to military ideology with the palace-engineered ascension to the premiership of General Prem Tinsulanonda in 1980. Prem was a popular, anti-communist, arch-royalist army general, highly trusted by King Bhumipol. A 1981 coup against Prem failed due to its lack of royal support. No coup thereafter could be successful without monarchy's endorsement. Thereupon, the military assumed the role of junior associate to monarchy in a mutual power partnership over Thailand. This partnership buttressed the dominance of monarchization over any military norm in Thailand. Prem's informal clique advocated limited democracy and was called "Professional Soldiers" (Ockey, 2007: 104). The military thereupon reached its highest stage of monarchization since 1932. Though Prem stepped down in 1988, 1991 saw soldiers again stage a coup ostensibly to safeguard the palace. By that time, military norms were so permeated by royalism that it determined military roles: in May 1992, King Bhumipol verbally could (and did) force military strongman Gen. Suchinda Kraprayoon to resign the premiership and retire into oblivion. This, combined with Prem's continuing presence, the Cold War's 1991 end and a May 18–19, 1992, military massacre of civilians, vastly expanded royalist norms throughout the armed forces and diminished the military's own prestige—except in serving monarchy (Chambers & Waitoolkiat, 2016: 7).

From 1992 until 2006, Thailand was led by elected governments, though the country was a guided democracy, since the King and Prem (sitting on the King's Privy Council) dominated the realm. During this period, monarchization followed by security sector reform and support for democracy, became central features of military ideology. The military was now partly monitored by an elected parliament. From 1998 until 2001, Army Chief Surayud instituted military downsizing and greater transparency of military budgets (McCargo and Pathmanand, 2005: 132).

Highly popular Prime Minister Thaksin Shinawatra (2001–2006) attempted to place the military under his personal control, tinkering with military factions. During this time, there were efforts to make elected civilian control the central military norm. Most of Thaksin's core military appointees perceived that their professional roles required them to answer to the elected Premier ↓ Thaksin. Meanwhile, because of his influence across the military, Thaksin was able to appoint his cousin as Army Commander. However, amidst enormous opposition to Thaksin from disaffected military factions and the palace itself, the army ousted him on September 19, 2006, claiming that he had challenged the king (Royal Thai Army, 2006). The event eroded normative military backing for unbridled civilian control once and for all (Chambers, 2020a, 2020b: 79).

Following the 2006 coup, military norms resumed their focus on monarchization and developmental militarism, reflecting the continuing path of a powerful though monarchized military. Junta leaders oversaw the enactment of a 2007 constitution which established a half-elected Senate; weakened political parties; and near military autonomy over its affairs. Still, pro-Thaksin

political parties were able to win the next three elections (2007, 2011, and 2014). The military as an institution increasingly concentrated on the norm of safeguarding monarchy. Here was a value which most Thai people would support. The military thus began to take a leading role in launching criminal accusations of *lèse-majesté* (insulting the king) using Criminal Code Article 112. As such, the military sought to legitimize its role as defender of monarchy and thus enhance military clout across society (Chachavalpongpun, 2011).

On May 22, 2014, Army Chief Gen. Prayuth Chan-ocha overthrew Thailand's elected pro-Thaksin Pheu Thai government. The coup leaders belonged to the Queen's Tiger Guard faction and a leading motive for the coup was again that the ousted elected government had challenged monarchical power. The new National Council for Peace and Order (NCPO) junta asserted that it would reestablish peace and restore the rightful position of the monarchy (Baliga, 2014; NCPO, 2014). Political disunity and conflict had disrupted the political order under the monarchy and necessitated the coup (Ministry of Foreign Affairs, 2014). It was thus essential for the military to intervene to stabilize Thailand under greater guidance by monarchy and military. Through its 2014–2019 junta, the NCPO carried out the role of maintaining autocracy while it transformed military norms so that they explicitly emphasized monarchization and developmental militarism under a national security credo. Its ability to overturn popular civilian rule and rule by decree demonstrated that monarchized military authoritarianism as a cognitive script could persist since no critical juncture emerged after 1932 to alter this path and place it on a course toward more democratized military norms. The military importantly oversaw the 2016 royal succession of King Rama X—Maha Vajiralongkorn, remaining loyal to the palace.

The junta also enacted the 2017 constitution which mandated a completely junta-appointed Senate to help select a Premier (Charuvastra, 2017). Any amendments to the constitution required one-third of the junta-appointed senators' votes to pass. The constitution also allowed unelected candidates as Prime Minister, including ex-junta leaders or ex-military personnel. In this way, NCPO head Prayuth was "elected" Prime Minister in 2019. Though popular elections occurred, democracy was limited. The same individuals leading the 2014–2019 junta remained in power in Thailand's post-2019 era ↓ Generals Prayuth, Prawit Wongsuwan, and Anupong Paochinda. They had been leading figures in Thailand's military since 2006 and firmly opposed progressive/liberal changes in military values. Thus, the autocratic, arch-royalist, military norms of the 2014–2019 junta persisted astride Thailand's post-2019 façade democracy. This post-2014 elevation of the monarchized military's power was wholeheartedly supported by the king. However, post-2016 King Rama X attempted to enhance royal control over the military and its norms even further by making the army's 1st Division Infantry Division into a palace appendage; establishing a separate Royal Security Command; and creating a royally endorsed army faction called "Red Rims (Chambers, 2020a, 2020b)."

Ultimately, because Thailand's armed forces fulfilled its role as monarchized military, its persevering path of power—as an underling to the palace—continued unabated. In 2022, arch-royalism followed by developmental militarism continued to outweigh other military norms.

Burma's Military: From Post-Colonial Guardian to Despot

With a long pre-colonial history of Burman kings using repression to consolidate power, historical legacies of autocracy long permeated Burma's past. Under British colonialism (1885–1948), the monarchy was forcibly terminated, and colonial forces were tasked with quelling Burman uprisings. Though a British Burma Army mostly possessing ethnic minority soldiers had been established in 1937, the path of Burma's powerful, Burman-dominated modern military, as it has continuously existed until the present day, began in 1941, during World War II.

Following initial training by the Imperial Japanese Army (IJA), the Burma Independence Army (BIA) was formed. Advised by IJA's Suzuki Keiji, and led by Aung San (father of Aung San Suu Kyi), in 1942 it embarked as a guerilla force alongside the Japanese against allied soldiers in British Burma. As victory approached, the BIA morphed into the Burma Defence Army and then, following Japan's establishment of the State of Burma in August 1943, the Burma National Army (BNA) was founded. General Aung San became Defense Minister whereas General Ne Win commanded the BNA, which was mostly comprised of Burman-ethnicity recruits. Under the Japanese, Burmese forces engaged in some violent massacres of ethnic minorities, especially the Rohingya and Karen (HRW, 2013; Selth, 1986: 491). In August 1942, the Japanese created an Officer Training School in Yangon (Aung, 2020). During this time, military norms were heavily influenced by the Japanese martial ethic of Bushido combined with Burman nationalism—ingredients which strengthened the path dependence of a robust, militaristic culture. The BNA became the most powerful institution for the Burmese.

In March 1945, the BNA under the leadership of Aung San rebelled against Japan, and joined the Allies. The BNA became the Patriotic Burmese Forces (PBF). When British colonization temporarily returned following World War II, the British unsuccessfully sought to integrate the PBF into a new British-controlled National Burma Army (NBA) which included Burman and non-Burman recruits. If the British had been successful in the integration efforts, they would likely have been able to influence the nationalistic military norms imbued within the BNA/PBF. As such, the NBA offered a brief but unsuccessful challenge to the PBF. Burma achieved independence from the British in January 1948. But BIA founder, colonial premier, and father-of-the-nation Aung San was assassinated in July 1947. His death weakened moderate voices in the fledgling armed forces, in Burmese, "Tatmadaw," which took that name at 1948 independence. Moreover, the Tatmadaw increasingly came

to be dominated by the hardline General Ne Win (Seekins, 2007: 19–24). Viewed by many Burmese (and viewing itself) as the deliverer of independence, savior from communism, and Burman-centric unifier against ethnic minority secessionist threats, the post-1948 Tatmadaw quickly became the sturdiest part of Burma's early state bureaucracy. Its officers were xenophobic in worldview partly because of their combat against racial groups along the borders, but also because of US-supported Nationalist Chinese anti-communist soldiers who fled to and occupied parts of Burma during the 1950s. Tatmadaw soldiers viewed themselves (and were viewed by many Burmese) as indispensable champions of the nation. The Tatmadaw's Defence Services Academy, established in 1955, inculcated graduating officers from the Army, Navy, and Air Force, with the values of defending and leading the nation (Hla, 2001). Increasingly, Tatmadaw officers perceived civilian rulers as uselessly corrupt. Military norms reflected a growing belief that the military could and should manage the state alone (Steinberg, 2021: 2). As this belief became dominant across the Tatmadaw, a cognitive path dependence commenced whereby the military thought itself most capable and deserving of lording over the country.

Nevertheless, initially, the Tatmadaw served Burma's democratically elected governments starting from 1948 independence. Under Prime Minister U Nu, civilian administration was weak, party politics was volatile, and ethnic minorities were suspicious of the central government. U Nu instituted a foreign policy of neutralism, seeking to keep Burma free from external conflicts. Yet, instability along the borders continued unabated. Thus, the military under General Ne Win found itself fighting multiple ethnic secessionist wars on a growing number of fronts. Still, the Tatmadaw's first military doctrine, originated during the early 1950s, advocated strong anti-communism, containing China and "coping with foreign invasion, rather than suppressing insurgency" (Myoe, 2009: 17). For the Tatmadaw, U Nu's government seemed to be excessively weak in the face of encroaching communism. Thus, it pressured the prime minister to step aside and allow Ne Win to rule between 1958 and 1960 (Myoe, 2009: 56).

New elections brought Nu again to the premiership, but Ne Win's 1962 coup ended civilian control altogether. Meant to stanch what the Tatmadaw felt was the civilian-led disintegration of Burma, the overthrow of democracy institutionalized the Tatmadaw's complete control over the country for the next fifty years. Ne Win appears to have been seen as a descendant of (and the heir to) Burman kings (Taylor, 2015: 11). Following the putsch, severe autocratic rule mixed with ideological rigidity was instituted. Ne Win enacted what he called the "Burmese Path to Socialism," establishing a one-party socialist state, with state-led autarky, a xenophobia-based reduction of relations with other countries, and Tatmadaw control of the country. The isolated, nationalistic neo-stratocracy was imbued with "extreme personalisation of power—a traditional and continuing aspect of Burmese authority" (Steinberg, 2021: 2). By 1964 the Tatmadaw's doctrinal emphasis had shifted to counterinsurgency alongside preparation to fight a foreign invasion, with the military stressing

a scorched earth counterinsurgency policy of "Total People's War" (Myoe, 2009: 19–23). Nevertheless, Ne Win maintained contacts with a select number of countries. Indeed, he visited the United States in 1966 and maintained close ties with Thailand's military leadership.

In 1974, Ne Win administratively transformed his regime, though he remained in sole control. The Pyithu Hluttaw or People's Assembly governed the affairs of state, though actual power was centered in the Council of State, alongside the Burma Socialist Program Party, a military proxy party. The Assembly, Council, and party all answered to Ne Win, who, even though resigning from the military in 1974, became State Council chair and President of Burma. Though no longer an active-duty military official, he continued to dominate the Tatmadaw.

Meanwhile, the Tatmadaw maintained total control over the country. By 1988 it had decimated Burma's economy. The military responded to the proliferation of civilian demonstrations in August 1988 by brutally suppressing them. The result was Western sanctions and a pariah status for Burma among the international community. Meanwhile, a new generation of Tatmadaw leaders, assembled as the State Law and Order Restoration Council (SLORC), had usurped power from Ne Win. SLORC immediately established a new military doctrine dubbed "people's war under modern conditions." Given the world's loathing of the Tatmadaw, the doctrine expressed the need to oppose external security threats (Myoe, 2009: 196). The military norms during this period incrementally adjusted toward a siege mentality of the state and regime alike against external and internal threats. The result was the dualization of society: the Tatmadaw as the guardian "us" versus civilian Burmese "them,"—potential state enemies (Callahan, 1999: 56). Therefore, the path dependence of Tatmadaw overlordship, rationalized as the custodian and champion of national security traced back to World War II and national independence, persisted. Military norms only changed with regard to method of managing Tatmadaw power over civilians, rather than in terms of Tatmadaw ever becoming accountable to these.

SLORC did allow somewhat fair elections to take place in May 1990. In fact, the junta had promised an election following the 1988 crackdown. But this did not necessarily reflect a move toward progressive norms in Tatmadaw thinking. Instead, as the election approached, SLORC head Saw Maung, apparently perturbed about the growing public outpouring for democratization, was very ambiguous about what might transpire if SLORC lost the election. When the National League for Democracy (NLD) scored a landslide victory and demanded control over the legislature, the junta's reaction was surprise, suspicion, and rejection, corresponding to the military's perennial distrust of civilians (Tonkin, 2007: 40–49). SLORC had already placed NLD head Aung San Suu Kyi (ASSK), daughter of father-of-the-nation and father-of-the-Tatmadaw, Aung San, under house arrest. 1990 set the stage for a much more pronounced "bunker mentality" by the junta

against international and domestic opponents. In 1997, SLORC was reconstituted as the State Peace and Development Committee (SPDC), reflecting the ascension to power of younger senior officers led by Gen. Than Shwe, who had succeeded Saw Maung in 1992 (Refworld, 1998). Also in 1997, despite its military-dominated pariah status, ASEAN allowed Burma to join the organization.

In February 1999, SPDC leaders declared the defense policy and missions of the Tatmadaw. Emphasizing the importance of "non-disintegration of the Union; non-disintegration of national solidarity; and perpetuation of national sovereignty," the SPDC declared that it was preparing for a "disciplined, flourishing democracy," a nationalistic, somewhat socialistic market economy, and a modern, strong military which would safeguard the national interest, avoid external dependence while preventing interference in Burma's internal affairs, and make the armed forces the hub for the strength of the country (Myoe, 2009: 3).

These changing military norms allowed for apparent movement toward a slight relaxation of rigid autocracy. Indeed, Intelligence head Gen. Khin Nyunt, Prime Minister since 2003, had begun to start a "road map" toward democracy. However, in the case of the Tatmadaw, institutional persistence overcame any moves toward institutional change. Hardliners in the Tatmadaw saw Kyin Nyunt as too moderate and moved to clip his wings. Amidst reports of an intra-SPDC struggle, he was arrested in 2004 (Zaw, 2004). In 2005, the increasingly hardline-led SPDC moved the seat of government from Yangon to the more defensive location of Naypyitaw. In 2007, it ordered a bloody crackdown on protesting Buddhist monks.

But in the mid-2000s, amidst intensifying cleavages within the SPDC, its leader Than Shwe, a committed hardliner, began to support moves toward a watered-down democracy where the Tatmadaw would remain autonomous. Than Shwe was apparently supportive of the transition partly to protect himself and his family from being targeted by future military leaders. Military moderates such as Gen. Thein Sein pushed toward democratization partly on the advice of the business community (Clapp, 2015: 5–6). Impelled by changing norms and pressure from ASEAN, in 2008, the SPDC enacted a constitution (following a dubious referendum) under which elections could occur, but which would allocate 25 percent of parliament to Tatmadaw representatives, require over 75 percent of parliament's approval for constitutional amendments, and indirectly forbade Aung San Suu Kyi from becoming president.

In November 2010, principal Tatmadaw-backed political party Union Solidarity and Development Party (USDP) won an election which the NLD boycotted. Afterward, Aung San Suu Kyi was released from house arrest. In 2011, the USDP's Gen. Thein Sein took office as President and the SPDC was dissolved. Encouraged by the United States and European Union, Thein Sein implemented reforms which incrementally improved political space. In 2012, Aung San Suu Kyi was elected to the legislature in a by-election. In March

2015, an agreement was tentatively reached between the Tatmadaw and 16 insurgent groups. Though Thein Sein was considered a military moderate, he saw the Tatmadaw in the role of serving the interests of the people by safeguarding national security and continuing to be involved in national politics, rather than by submitting to civilian control (Fisher, 2015).

In November 2015, the NLD won a resounding election victory, resulting in its domination of parliament and formation of a government. Since Aung San Suu Kyi had been banned from holding the presidency, two of her loyalists successively held it and she instead held the position of State Counselor. In 2017 an NLD legal expert, who had found constitutional methods to reduce Tatmadaw political power, was assassinated by individuals linked to the military (Moe et al., 2017). During 2017–2020, a struggle grew between the Tatmadaw and NLD over constitutional amendments, with the Tatmadaw unsuccessfully seeking more military power, the NLD unsuccessfully seeking more civilian control (Chambers, 2021). But the November 2020 election, which resulted in another NLD parliamentary super-majority, ensured that the NLD would have more chances to legally challenge Tatmadaw clout. Claiming electoral corruption, on February 1, 2021, Tatmadaw commander Gen. Min Aung Hlaing led a coup, instituted military rule which ended the country's "disciplined democracy," and returned Burma to Tatmadaw hardliner preferences of military control. Despite significant opposition, at the time of writing in 2022, junta control continues. The resurrection of autocracy in Burma should not be surprising because Tatmadaw norms perceive the military as the national guardian and manager of the state.

Three factors continue to define the Tatmadaw: its claimed legitimacy as the iconic, anti-foreign, anti-colonial champion of Burman-led nationalism; its durability of united corporate identity across time; and its intense distrust of civilian leaders and the civilian population (Myint, 2021). Tatmadaw internal unity continues to be anchored by ideological symbolism that it is the country's savior; military elite access to economic resources; and the creation of the Tatmadaw "family" where soldiers train and farm together; their wives attend meetings with fellow military wives; their children go to military schools together; and commanders pyramidically control the finances of soldiers (Kyaw, 2021). Meanwhile, the 2015–2020 government's attempt to control the military reawakened the Tatmadaw's long-held suspicions of civilians. The 2021 coup also showed that military unity was too cohesive to permit a critical juncture toward democratization. Authoritarian legacies and a continuing path dependence whereby the state was mostly dominated by the autocratic, insulated Tatmadaw, also prevented any such transition from occurring. From 1962 until today, the Tatmadaw's military values have only been influenced in ways aimed to enhance military interest. Its norms have identified it as Burma's necessary leader: in national security, developmentalism, and politics. As such, no critical juncture allowing for civilian control over the Tatmadaw in terms of institutionalized organization of norms change ever occurred in Burma.

Conclusion

The militaries of Thailand and Burma remain two of the most powerful in Southeast Asia. Their history has involved the evolution of norms, values, and interests which have rationalized their development as both national guardians and power beneficiaries. At the beginning of this chapter, three questions were asked: In Thailand and Burma, what were the norms established to guide the militaries, how did they originate, and how did they affect the militaries? How did these norms shift over time? How do norms continue to influence the militaries of these two countries?

In answer to the first question, initial military norms were meant to instill a mindset for effectively overseeing the capacities of a security force. In the case of Thailand, these norms derived from the needs of a kingdom. For Burma, they originated from the necessities of a guerilla force built from scratch. These norms affected the militaries in different ways. In Thailand, the military initially was a royal servant. But the path of its power led it to overturn monarchical absolutism and seek to rule alone. Realizing a need for royal legitimacy, it accepted monarchy as a junior power partner. But finally, the monarchy's ideology was so influential for the military that it became the palace's junior partner. As for Burma, the military was always the most powerful center of resistance to colonialism, foreign interference, or rebellion. Thus, after 14 years of independence, the military fomented a coup in 1962 and generally continued in power until 2011. During the following ten years of limited democracy (2011–2021), military autonomy persevered. By 2021, given that the military was cohesive enough in valuing a dominant political role, another coup could oust another semi-democracy.

In answer to the second question, in both Thailand and Burma, historical legacies had entrenched a path dependence of powerful militaries dominated by cognitive scripts of martial ideologies. But both militaries' norms shifted over time based on surrounding circumstances. For Thailand, in 1932 an absolute monarchy appeared to have overcentralized power amidst an economic emergency. An anti-royalist military coup was the result. But military coups occurred again and again, as the armed forces saw a special role for itself as coup-maker to spearhead military developmentalism and, increasingly, protector of the kingdom. This reflected a norm shift following the 1932 critical juncture. Eventually, as the military became extremely factionalized, the monarchy in 1980 became military unifier, with the result that the armed forces became junior partner to monarchy in a power relationship. Burma's military went through fewer steps than did the Thai military. The Tatmadaw was only created during World War II. For Burma's military, leading the country out of colonialism was akin to Thailand's military-led ascension from palace control. The Tatmadaw only allowed frail civilian control during 1948–1962. Afterward, the norms of military dominance and control influenced the Tatmadaw's role to be either administrator of society (1962–1988; 1988–2011; 2021–Present) or behind-the-scenes influencer (2011–2021). No

critical juncture has brought about civilian control over military norms in either country.

In answer to the third question, military norms in Thailand and Burma—rationalizing a leading role for autocratic armed forces—have become so entrenched that these norms have become powerful cognitive scripts, which have persisted in building up the perceptions of soldiers and their societies that these militaries deserve political power. Such a mindset will help to sustain the path of military clout while preventing the achievement of more political space for civilians in the two countries anytime soon.

Both Historical and Sociological Institutionalism have thus been crucial in explaining how particular military norms—as cognitive scripts—have evolved across time to condition the behavior of two armed forces. Based upon these two variants of New Institutionalism, this chapter has argued that the evolution of military norms in Thailand and Burma has been determined by path dependence in which changes in self-identification have led to political norm shifts that have then contributed to changing military roles. The history of military norms in these two countries has been a function of structure and agency, with Thai monarchized military norms legitimizing the military's positioning of what has come to be its junior partnership to monarchy in dominating Thailand; while Burma's autocratic military norms have legitimized what has almost always been its topmost overlordship over Burma. Neither country has experienced a critical juncture toward civilian control, with Thai military clout explained through the lens of royal necessity while Tatmadaw behavior has reflected its singular, siege mentality drive for survival. Such norms correspond with socially constructed martial roles which will linger on into the future and be difficult to change. The continuing interventions of these militaries demonstrate that their adventurism derives from values and norms, and that any changes in their thinking will require an unprecedented historical circumstance—unlikely to happen anytime soon.

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CHAPTER 19

Grounding the Shifting Political Registers in a Potent Cambodian Landscape

Courtney Work

Introduction

Potency. Life-giving earth energy that is tapped by various acts of Prowess. Every economic act by every species is a manifestation of prowess. This is the knowledge, skill, and practice that translates potency from one form to another. Potency is amoral and creation and destruction are relative. The denuded forest landscapes of capitalist logging, for example, are just right for the exemplary prowess of opportunistic mushrooms (Tsing, 2015). One fellow's destruction is another's delight. Prowess among humans, however, has acquired a moral patina. In the contemporary moment, this morality seems to facilitate the violent transformation of life-producing elements towards satisfying a rather narrow range of delights for an even more narrow range of beneficiaries. This is maladaptive, even for the beneficiaries of the violent extraction.

Joining a growing number of humans from various fields and backgrounds interested in exploring the possibilities within this transformative process, the following pages unpack the morality of exploitation from three distinct sets of political norms visible in contemporary Cambodia. The first is the "cosmic polity" (Sahlins, 2017: 46–61), in which human actions are governed and guided by powerful non-human "chthonic sovereigns", addressed in Cambodia as ancient ones (*neak ta*) and referred to as 'spirits' in academic productions (Work, 2017, 2019). The second is divine or sacred kingship

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_19

(Graeber, 2011; Mabbett & Chandler, 1995), which captures cosmic polities and bifurcates political norms into human-based governance and religion. The third is the contemporary moment of international organisations, banks, corporations, and nation states (Ferguson, 2006; Käkönen & Thuon, 2019), which continues human-based governance and captures earth energies while denying all religious or cosmic premises. Each set of political norms creates different economic possibilities, along with the conditions "to imagine or deny alternative production systems" (Dove, 2019: S310). These are all tangled in multiple mythic inversions and obfuscations.

The following pages claim only to pull at a few of these tangled threads that are already woven into an obscuring cloak. This cloak, like those worn by human and elephant shamans when they shape-shift into each other's collectives (Howell, 2015), conceals one form while revealing another. Michael Taussig (2003: 150) refers to this shaman's technique as the "skilled revelation of skilled concealment". The objective of this chapter is to follow the threads of potent earth energies as they weave through three admittedly 'ideal' sets of political norms. Then to deploy those threads in the weaving of new fabric, the pattern and form of which is not yet known, but whose origin in potency will guide the emerging image.

The discussion begins with an outline of the basic propositions and foundational truth claims from which this analysis begins and proceeds to discuss the overlapping and changing political norms of the above-named systems for moral and effective production. Concluding remarks are put forward in an exploratory and humble spirit (Holbraad & Pedersen, 2017), using an ethnographic vignette from my most recent field trip (January 2023) to invoke the discarded third of 'religion' and disrupt the feedback loop created when ancient states are compared to their modern counterparts. The modern seems as if it is something wholly new and different, masked by its utopian stories of education, poverty reduction, and human rights all put forward in the clear presence of voracious extraction, dispossession, and neglect. Throughout the chapter, 'religion' is presented through the stories of autonomous people confronted by 'the state', through the epistemologies of a few generations of academics, and through the author's encounters with the Kingdom of Cambodia and its modern-day councilors in the international development-conservation-climate-change complex from 2005 until the present. This is an admittedly massive cast of characters and the author begs indulgence as she brazenly weaves the argument through a broadcloth, picking up only particular threads and leaving aside numerous others to make a claim about the political norms upholding both utopian ideals and resource capture, and the fecundity and carnage they make possible—together.

Basic Concepts

The discussion begins with a provocation by David Graeber who suggests that states have a dual character, being at once "forms of institutionalised raiding or extortion, and utopian projects" (2006: 65). Graeber points to the disconnect between the written 'utopian' record of state forms and the experiential documentation of autonomous persons encountering those violent entities. This provocation is the starting point of my reading of the data, from which emerge a few propositional hinges that will ground the ensuing analysis. The first hinge suggests that all land and resource use engages directly with a sentient and potent resource base (Chao, 2018; Gibson et al., 2018), and that the work of cutting, building, and eating is *experienced* and *shared* by all participants, sometimes eating and sometimes being eaten. The second proposition is that the sentient and potent resource base, referred to here as 'earth energy', is 'enstoried' by humans engaging with it in ways that establish a certain mutuality of experience between the eaters and eaten (Work, 2019, 2023), "tribute-givers and tribute-takers" (Collins, 1998: 566). My thoughts (Work, 2019, 2022a, 2022b) are situated in a common sense reading of our growing collective understanding of the biosphere, DNA, and the profound interconnectedness of all forms of life.[1] These thoughts are deepened by the fact that particularly potent places identified in Cambodia (and globally) tend to be rich in fresh water, stone, and minerals, also known as 'natural resources' (Baumann, 2022; Guillou, 2017a, 2017b; Povinelli, 2016). The stories that capture earth energy and ground the morality claims of such capture will be unpacked below, but the three ideal types I describe here, the cosmic polity, divine kingship, and the modern state, exist simultaneously. One set of stories does not give way to another in an evolution of ideas, but each way of telling the story gives rise to different kinds of ideas and practices that bump into each other in the contact zones.

There does seem to be a set of loosely shared ideas about earth energies that are visible in the skills, stories, and practices of people whose systems have been consistently overtaken by state formations during the past five or so thousand years. Philip Descola (2013) shows the outlines of this global sentient-world political economy and Marshall Sahlins (2017) posits that this is the original political society. Sahlins (see also, Wessing, 2017) shows some of the mechanisms through which the sentient base is captured by kings for extraction. This act of appropriation consistently gives rise to a symbolic utopia that connects the king to locally-enstoried earth energies using the ritual technologies of priests who de-localise them into universal cosmic systems (Collins, 1998; Mabbett, 1985; Tambiah, 1976; Wolters, 1999; Work, 2019). The symbolic

[1] My DNA and that of a tree share striking similarities. Contrary to the machine model of Descartes, DNA is not a code, but seems rather to be a set of possibilities for environmental interactions. The idea that the human animal is uniquely sentient in this amazingly complex system is, I suggest, a superstition cooked up in a particular environment, which created a perhaps short lived (in planetary terms) selective advantage.

utopia of kings was labelled 'religion' by a collection of scribes re-working sentient-world stories during the decline of priest-king collaboration in Europe (Asad, 2003; Masuzawa, 2005). Today the collection of skills, stories, and ritualised acts that have been and continue to be used by (still) colonised people to engage with enstoried earth energies is also labelled 'religion'. This religification of the foundations of political economy obscures the potent energies that fuel it and causes the prowess used to tap it to be set aside from, and analysed as if outside of, modern political and economic pursuits. Thus obscured, sentient-world politics and techniques of prowess were removed from the contact zone of 'modern' states and their political norms, creating an echo chamber in which the ancient and modern states became the only models for political order.

Having set up the founding "truths" of the world from which this chapter springs (that sentient-world politics are obscured first by ancient and then by modern states through resource capture and religification) the discussion will now shift to describe indigenous economics through the lens of (recently dispossessed) shifting cultivators in Cambodia with whom the author is most familiar, using some corroborating data from other places.

Potency and Cosmo-Political Norms

The oldest and perhaps only sustainable form of human-manipulated production and consumption is shifting cultivation (Dove, 2015; Dove & Kammen, 1997). It is a highly adaptive system that consistently increases biodiversity and carbon stores in the landscapes where it is practised (Fox et al., 2009; Scheidel, 2018). Nonetheless, modern state actors have labelled it 'slash and burn' agriculture and continue to blame it for forest destruction and biodiversity loss (Fox, 2000), this will be picked up again below. Analysis begins here with the cosmic polity and the "enstoried earth energies" sometimes called spirits or gods (Work, 2019), that are embedded in swidden landscapes (Condominas, 1977; Padwe, 2020). Cosmic polity is a term coined by Marshall Sahlins (2017) in an essay that posits social hierarchy in all human societies. Even in an 'egalitarian' social order (Howell, 2012), there is an ultimate authority that can, as Carl Schmitt famously suggests of the sovereign, "decide on the exception" (1985: 6). That authority, in a cosmic polity, is not human. Sahlins calls them meta-persons; I have referred to them as "chthonic sovereigns" (2019), and their stories twist them in and through natural forces of volcano and wind, elements of water and stone: they can be 'found' on mountains, in caves, in the sea, in clouds. In Cambodia, mountains, islands, and water sources are consistently recognised as local authorities, chthonic sovereigns of a cosmic polity.

There is a growing body of work grappling with other-than-human agency, which can be immaterial, like a meta-person or the wind, and material, like water or stone. Part of what this chapter explores is the ways that the material

and the immaterial, the concrete and discursive, are intertwined and self-referential. Chthonic sovereigns are semi-historical figures in the stories people tell about them, and are also the rock, or the fresh water stream. In fact, a number of the gods and spirits I have met in former swidden landscapes look suspiciously like 'the landscape'. They are rock formations, swamps, springs, ponds… and this earth energy, this pond god, constitutes society in very mundane ways. The pond physically connects the biological actors in the area: everyone comes here for a drink, and the water seeps into the ground, is held by tree roots and flows into rivers and streams. In Southeast Asia (and elsewhere, Povinelli, 2016) the pond is ritually engaged and enstoried as part of long-standing life-enhancing kinship relationships with the 'ancestors': Pond, Termite, and Rock (Baumann, 2022; Hocart, 1953; Povinelli, 2016; Sahlins, 2008, 2017). It is through these locally particular, yet globally structured (Descola, 2013), politics that the human inhabitants of a given landscape engage with the 'resources' they use to make a living. Their continued success in a region depends on proper comportment and the skillful deployment of particular technologies in order to access food (and to enhance comportment). The former is dictated by the potent earth energies, and the latter is prowess.

This is a place-based system (Guillou, 2017a, 2017b; Mus, 1933), and I take certain liberties with its generalities and particularities in this section, sketching a pervasive logic that is visible in my own data from Cambodia and generalisable to data on "cosmic polities" from other times and places. Within the political norms of the cosmic polity, failure to acknowledge the non-humans managing an area, or unskillful execution of the prescribed techniques for procuring resources, can result in a variety of calamities. The most common of these are illness, accidents, sudden death, or the withholding of plants and animals from the hunting-gathering human. Other calamities include storms, floods, droughts, and other potency-disrupting phenomena (Allerton, 2013; Wright et al., 2020). The resulting system is not one in which people are paralysed by fear, but rather one in which the rituals, procedures, and taboos offer a sense of security and comfort (Howell, 2012). There is a mutuality of existence and an understanding that elements and energies are produced, consumed, and redistributed within cycles of inevitable dearth and abundance (Dove & Kammen, 1997). The overriding political project is communal well-being, with the "prerogative of forest regrowth" (Ironside, 2013: 185). Importantly, the community is conceived beyond human actors and is understood to include all the creatures and elements that create the system, what Mario Blaser calls an "emplaced collective" (Blaser, 2019: 84).

The idea of anarchy in this political-economic system is impossible. There is never a situation in which land, resources, and the procedures necessary to procure them are not governed. This was one of the most surprising revelations gained while deeply hanging out in a 'settler' collective at the frontier of development in western Cambodia (Work, 2019, 2020). Even in the absence of national infrastructure, the land was 'owned' by the invisible non-human ancestor. With promises that they were "only poor" people who would not

"eat you to bits", individual settler families negotiated for permission to dwell, and for support and protection in their pursuits (Work, 2019: 86). Wealth is seen as evidence of skillfully navigating potency with insight and hard work, but especially of having ritual skill that is used to manage relations with earth energies. Ritual skill is both a collective and individual endeavour. Individual hunters would observe certain taboos, and the hunting collective would perform particular rituals for the various guardians of the land, the plants, and their animal kin. The rituals are performed in the register of kinship: land and water are coded as ancestors (Povinelli, 2016; Work, 2019), prey animals are often engaged as potential wives or lovers and their non-human guardians treated as brothers-in-law, the cultivated plants are often the children of the women who tend to them (Århem, 2015; Descola, 2013).

Elements are enstoried through encounters. In the settler village, dreams informed people to come to particular "potent places" (Allerton, 2013; Guillou, 2017a), an underground freshwater stream for example, and build huts, make offerings, and throw parties (Work, 2020, 2022a). In the Prey Lang forest in north-central Cambodia, former swidden agriculturalists now venture deeper into the damaged forest to tap resin trees and find forest products. In these new landscapes, they encounter new ancestors, recognised through accident, illness, and dreams. Not every rock formation, pond, or termite mound is an ancestor, but each one could be. When a hut is placed at a potent location, people know that an ancestor requests recognition at this place. Travelers, prospectors, and settlers know to introduce themselves, to be careful, and to make an offering as they pass by: accidents stop once the appropriate comportment is established. Non-human ancestral sovereigns exist on a spectrum from unknown, unpredictable, and dangerous to known, still unpredictable, still dangerous, but open to communication. The unknown entities exist in the deep forest and are especially dangerous precisely because they could be anywhere and no one knows their particularities. Shamans and village founders would encounter these unknown energies and learn how to dwell with them in a new place. These roles often entangle village founders personally with enstoried elements (Tannenbaum & Kammerer, 2003; Wessing, 1999).

The entanglements of village founders with earth energies are not ordinary acts of prowess that ensure the health and productivity of the every day, these are entanglements of exceptional prowess enacted by skilled technicians. Even still, in every swidden landscape there are places where known and enstoried earth energies refuse all access, founders and settlers alike. These 'sacred forests' are places where people tread lightly and only when necessary, and also places that both conceptually and practically organise the boom and bust economies of the forest (Coggins & Chen, 2022). Even within the settled and known territories, not all things are open to negotiated extraction, but through attempts at negotiation and the attendant encounters with potency, lineages emerge and get ensconced in stone (Baumann, 2020; Janowski, 2015; O'Connor, 2003). There is an important distinction between the shaman and

the chief, however. The shaman taps potency using exemplary prowess to direct it into and out of sick bodies, their own bodies, and to communicate with enstoried energies (Kim, 2015; Taussig, 2003; Viveiros de Castro, 2007). The political norms of chiefs on the other hand can rely on the shaman to act (discursively and/or actually) as an intermediary with enstoried energies of rice, water, and stone that are deployed towards production, but the excess is managed and redistributed by a chief cosmically bound to enrich the emplaced collective (Dove & Kammen, 1997; Reynolds, 1995).

Cosmic polities in which ultimate authority rests in non-human forces, whether they have egalitarian or hierarchical social structures for humans, consistently present collective systems that favour system health over individual success and produce landscapes of high biodiversity (Dressler et al., 2018; Fox et al., 2009; Maharani et al., 2019). The political norm of the cosmic polity tends towards subsistence production and collective solidarity, mediated through communications with non-human ancestors achieved through trance, dream, and possession events. Norms are upheld and adjusted through this process and norm-defying acts are uncommon and maladaptive. What is important and interesting is the political power of norm-defying acts. In the stories of non-human 'gods', 'spirits', 'meta-persons', earth energies, etc., they are anthropomorphised and are attributed with human or non-human origins. Their stories of power often begin in some norm-defying act of deception, of incestuous union, of self-sacrifice, or of cataclysmic violence (Graeber, 2011; Guillou, 2017b; Herrmans, 2020; Sahlins, 2017). It is from these "enstoried earth energies" that the king grabs his power.

Kings and Priests Capturing Potency

While the chiefs of the cosmic polity may emerge from within the collective, conquering big men (non-lineage chiefs/kings) explicitly mark themselves as external to society or the dominant lineages (Norén-Nilsson, 2013; Sahlins, 2008), often through acts of norm-defying, violent, or deceitful acts. In Cambodia, the legend tells of an Indian prince who landed in the Mekong delta where the Naga princess paddled out to meet him. He shot at her with his magical bow, frightened her, and clothed her, after which her father the Naga King gave her in marriage to the prince and sucked up the waters to give them land (Chandler, 2008: 18). In another version of this same story, the prince receives the quest and the magical bow from his personally entangled and enstoried tree energy. When he arrives at the foreign shore, he is attacked by the local ruler, Liu-ye, whom he defeats with his magical bow and marries, taking over the kingdom (Coedes, 1975: 37). Both stories recount exceptional violence and intimate relations with enstoried earth energies (Davis, 2008). In the first story, the earth energy is Cambodia and the Naga king sucks away the water to give the prince and his new "bride" the land. In the second story, the earth energy is a tree that supplies the magical bow used by the prince to subdue and "marry" the autochthonous ruler. Either way, the stranger obtains

the land through rape and violence supported by enstoried earth energy. Even more importantly, and often glossed, is the new political norm this acquisition of land and lineage creates in the region (see Ladwig, 2022 for an important discussion of this).

Even though kings can be made through arbitrary violence, they are consistently sacralised through ritual (Graeber, 2011: 1), and their control of any territory continues to depend on appropriate relations with earth energies (Aeusrivongse, 1976). In Cambodia and other Theravada Buddhist-influenced polities, these relations are mediated by Brahmin priests (Leclère, 1899: 377–379; Tambiah, 1970: 252–263). The significance of layered Buddhist and Brahmanist ritual technologies for territorial appropriation is beyond the scope of this paper (see, Davis, 2022; Thompson, 1996, 2016). The line I am following here is how the exemplary prowess of land-appropriating kings obscures potency, which like the stranger king is external to human society but engaged through the idiom of kinship. These are the propositions upon which the entire edifice of 'civilization' hinges (Graeber & Sahlins, 2017). The king reveals himself as the potent centre, re-signifying and concealing nodes of enstoried earth energy with his universal gods, and appropriating the customary offerings (Aeusrivongse, 1976; Coedes, 1975; Davis, 2016; Mus, 1933). This is the shaman's trick (Taussig, 2003: 153), and the theme of revelation and concealment helps to make visible the enduring political elements of economic engagements between prowess and the potency it seeks to harness.

The earliest king-based social formations in Southeast Asia emerged directly from forms of territorial organisation in which non-human ancestor-mountain-water-stone life-creating power was the centre around which villages formed (Aeusrivongse, 1976; Baumann, 2020; Mus, 1933; Sahlins, 2017; Work, 2019). This shaman's trick is accomplished through violence and marriage into autochthonous clans. The shift to patrilines embedded in this process is important (Thompson, 2016) as is the re-signifying of locally potent earth ancestors into universalised gods that are then pacified and mediated by priests. We see these processes consistently throughout the history of the region. The priest with his cosmologies and temples regularly travels out in advance of the king, converting locals, placing new iconography down on top of already potent places, and receiving the traditional offerings for the gods of the land (Aeusrivongse, 1976; Ang, 1990; Guillou, 2017b; Hayashi, 2003).

It is commonly asserted that chthonic sovereigns eat people, in the same way that people eat pigs, and when someone cannot be cured of an illness or dies suddenly in an accident, this is framed as a tribute for the angry and/or hungry earth energies (Gibson, 2006; Sprenger, 2018; Valeri, 2000). Similarly, the king eats the kingdom across South and Southeast Asia and both kings and priests are tribute-takers, eating the food produced by others (Chandler, 2008; Davis, 2016; Forest, 1991; Heine-Geldern, 1942). Padi rice is the food of kings in Southeast Asia. Rice cultivation predates all state formations in the region (Dove, 2019), but irrigated padi is commonly held to distinguish the lowland agrarian states from the upland shifting cultivator (Coedes, 1975). It

is the padi rice that pays the king in taxes and feeds both kings and monks, but "foodgetting" is not for either. This activity is "an aspect of a lower animal nature and thus appropriate to slaves, peasants, and women" (Davis, 2009: 50; Friedman, 2000: 481). Peasants were both forced and persuaded to put hunting aside and come down from the hills to join the Buddha in peaceful and bountiful rice production (Porée-Maspero, 1962: 586–587).

Padi cultivation is not as productive per capita as swidden and requires considerably more labour (Dove, 1985). As such, it is unlikely that people would switch to padi rice to enhance their subsistence. Violence was one method, but some suggest that there were other enticements, like status or honours for chiefs. It is possible that the "theatre state" described by Clifford Geertz (1980) was also a mode of persuasion and spectacular enticement. The real wealth of ancient kings does not come from the padi, however. It comes from trade, largely facilitated by "tribal people" whose access to the luxury goods, woods, resins, spices, animals, and people of the "wild" forest and mountains, fuelled imperial expansions (Reynolds, 1995: 426; Scott, 2009; Zucker, 2013: 29). Padi rice had a different function. It fed the priest-king ensemble and bound the life-giving potency of food and the labour required to create it into the irrigation schemes of the king (Davis, 2016). This intensified land use, transformed space, created excess and social hierarchies, and bound people to their padi fields, all of which increased the influence of the king and destabilised the power of cultivators as well as their potent base.

Rituals that give thanks to the rice and bind it to the village fields and granaries were once ubiquitous (Ang, 2004; Porée-Maspero, 1962), as were rites reconstituting the intimate ties between non-human resource 'owners' and kings (Graeber & Sahlins, 2017). Sahlins follows Hocart's presentation of his data to argue that "the gods precede the kings who effectively replicate them" (Sahlins, 2017: 23). The possibility of human-based authority over resource access comes from the cosmic polity and the original non-human resource 'owners' in a given territory (Graeber & Sahlins, 2017: 14; Work, 2019). In pursuit of territory and to justify a share of local production, a king must deal with the locally enstoried energies of the water and land in a way that exceeds the shaman who clears the forest and founds the village. In Cambodia, Brahmin priests ritually create the king out of enstoried earth energies, Buddhist monks control those energies, and the king proclaims adherence to Buddhist moral codes (Ledgerwood, 2008; Thompson, 2004). Buddhist monks also control ghosts and the dead (Davis, 2016). Through Buddhist/Brahminist technologies, the king is substantiated by the ability to consume life and manage death (Davis, 2016; Thompson, 2004), mimicking the earth energies. This inversion conceals the avarice of the ruler behind the revealed cosmic morality of the Buddhist monk. One last story helps illuminate the explicit revelation of one thing within the concealment of another.

The story comes from Davis' (2016, 2022) treatment of the establishment of the sanctified *vihear* of the Buddhist temple complex in Cambodia. The *vihear* is bound by a string that makes the boundary *sima* (Carbine & Davis,

2022; Kent, 2022; Kent, this volume), within which Buddhist monks can be ordained and other specialised rites can be conducted. The ceremony establishing the *sima* boundary involves (among other things) dropping a string that is attached to head-sized stones at eight points around the space to be sacralised, and at its centre. Prior to the *sima* ceremony, another ceremony to *Kruṅ Bālī* must be performed in order to use the land. This common ceremony that precedes all building projects in Cambodia involves offerings to the Naga king, *Kruṅ Bālī,* an "explicitly non-Buddhist, nonhuman, original sovereign power" through which the land is transferred from the original sovereign to the king (Davis, 2016: 133). The *sima* ceremony conducted afterwards enlivens the new temple and cedes the land to Buddhism through "an act of symbolic, sacrificial violence" in which blood is dripped onto the centre stone that is dropped into the temple foundation by the king or a representative (Davis, 2016: 129). For Davis, the ways that the king establishes himself through the violent appropriation of "wild" earth energies, which are then controlled and "civilised" by Buddhism, are ritualised in the ceremony to create a Buddhist temple (Davis, 2022: 206). It thus conceals the violent appropriation of the king, which I suggest remains incomplete as evidenced by the necessary tribute to the Naga king. It also conceals the human sacrifice rumoured to empower and protect buildings across Asia, through a ceremony in which blood is dripped onto the five stones that drop with the *sima* into the ground (Davis' discussion and footnotes, 213–217; Kent, 2022: 156, fn, 44–45).

The exceptional prowess of revealing a sort of utopian benevolent care while concealing the institutionalised violence of extraction and construction necessary to bring it into being continues in the present condition of modern political economy, which will be drawn out in the next section.

Extractive Industry, Conservation, and Consuming Potency

Modern states modelled on Euro-colonial political norms, cleansed of religion, and focused on extraction and economic growth, were put in place directly on top of political and economic norms that had been created by kings masquerading as cosmo-political representatives (Baumann, 2020; Beban & Work, 2014). By inventing "world religions" as a social category separate from political economy (Masuzawa, 2005) and creating the possibility for kings to 'own' the land that their priests had appropriated from enstoried earth energies (Asad, 2003), the European colonisers obscured the potent base from which both politics and economies emerge. So-called modern rational scientific propositions created a mechanical world that local priests and kings also used to enhance their sovereignty over the still-potent sentient world and to cleanse both politics and religion of their self-organising potentials (Edwards, 2007; Hansen, 2007; Thongchai, 1994). This is an unfinished

project, as evidenced by earth energy's potent responses to extreme extraction and economic growth and the discourses rising up in their wake.

Nonetheless, mechanical world propositions continue to inform powerful projects of extraction and accumulation that have transformed global systems of human sociality as well as the systems of its potent base (Chakrabarty, 2020; Dunlap & Jakobsen, 2020). This transformation did not take place independently of previous political economies, neither have their traces disappeared (Ladwig, 2022). Just as the kings exploited sentient land and labour using the political norms of the cosmic polity to increase their wealth and power, modern colonising states deployed norms from the kings for their own exploitation. The most recognisable was slavery, and 'uncivilised' persons who had been enslaved by the kings, with the help of powerful chiefs (Padwe, 2020), slid naturally into the labourers on colonial era plantations and then all plantations thereafter following the colonial model (Baird, 2011; Ironside, 2013). Plantation labour is made possible by land ownership, and property is only possible when sentient actors can be made into things (Strathern, 1999). Following this, I argue that modern nation states were only possible after sentient earth ancestors were captured by kings and their priests.

The trade that made kings out of chieftains also made colonisers out of European kings. With industrialisation, the potency-disrupting accumulations of extractive, hierarchical territorial state formations increased palpably, giving rise to the 'modern' equivalent of the sacred forest. Yellowstone National Forest was the first such landscape, established on volcanic land already designated potent by the original inhabitants of the region. The United States government created a precedent in 1872 to withdraw the land from settlement and private industry, which conveniently facilitated the removal of the original inhabitants (Whittlesey, 2002). Conservation initiatives spread to the extraction colonies of Asia in the early 1930s, where the disturbing morality dyad of conservation and industrial state-making became even more visible. Conservation was not only an act of legitimate protection of important 'natural' formations in the face of rampant landscape transformation, but also an effective form of territorial control, making it possible for nation states to "extend their authority over the margins" (Baird, 2009: 216). This has led many scholars to suggest that these initiatives were not about conservation at all, but about the forced resettlement of local populations, which often resulted in increased forest degradation (Peluso, 1992; Sivaramakrishnan, 1999; Work et al, 2022).

In the contemporary era, the explicitly political and economic structural positions of priests and kings continue, but they are further fractured, renamed, and bureaucratised. They are now visible in organisations like the United Nations (UN), playing the same role as Brahmin priests who recognise sovereign nations that engage in democracy and human rights. This was explicitly the case in Cambodia, when the UN refused to recognise the Vietnamese-controlled State of Cambodia and invited Khmer Rouge leaders to hold on to Cambodia's UN seat (Short, 2004), and then brokered the

1993 elections that allowed Hun Sen to remain in power (Cock, 2010). The new nation is given life through the ritual of funding, provided by organisations like the World Bank, wielding rights-based discourses to influence policies for national extraction. The environmental violence of these acts must be countered and concealed by conservation zones managed by the likes of Conservation International, playing the role of peaceful Buddhist monks. These conservation zones at first facilitate territorialisation (Baird, 2009; Fairhead et al., 2012; Le Billon, 1999), and then carefully excise industrial uses with glossy reports featuring charismatic flora and fauna (Work et al., 2022; Work & Thuon, 2017; Milne, 2022). The focus is not on 'sustainable use' but on caretaking through nonuse, which also excises all small-holder and indigenous uses of 'state land' which get coded destructive. Concealed within the language of 'slash and burn' agriculture and other destructive local practices like hunting (Fox, 2000; Milne & Adams, 2012), are the twin forces of industrial plantations, factory farms, and the now 'illegal' trade in forest products (timber, medicine, and wild animals) that has only intensified since the rise of the earliest kings.

When we juxtapose contemporary capitalism with the cosmic polity, the role of kings emerges not as something archaic and wholly different from the modern state, but as an intimate foundation out of which the king could truly emerge. David Graeber (2017) notes that "Kings…insist that they stand outside the legal or moral order and that no rules apply to them. Sovereign power is the power to refuse all limits and do whatever one likes… [but kings often] lead lives so circumscribed, so ringed about by custom and ceremony, that they can barely do anything at all" (421). Nonetheless, local respect for the laws of the cosmic polity, like taking only what you need and returning what is taken through offerings, were eroded under the king. Boomgaard (1991) shows how the kings made it possible for peasants and autonomous 'tribal' chiefs to break the cosmo-rules and blame it on the king. Because the king has set himself up as the representative of the enstoried earth energies, he becomes an intermediary and can take responsibility for cosmic transgressions when he demands an excessive amount of timber, for example. In this way, the moral economy of the cosmic polity could remain intact conceptually, and be subverted in practical terms.

There is an important structural symmetry between the consecrating power of Brahmin priests, the morality of Buddhist monks, and the ways that contemporary sovereignty is recognised, funded, and made moral. The United Nations created the ritual structures in which human rights and environmental protection protocols should be enacted. They also create the sovereign through the recognition of political protocols like democratic elections. But, and this is the key element of the modern state, they are not local and have no authority over land-based sovereigns. This is made clear in the case of Cambodia (Work et al., 2022), where the modern sovereign, created through recognition by the United Nations, is free to issue concessions to private investors in protected forests, is free to dispossess autochthonous

communities of their lands and practices, and still continues to receive loans from development banks and recognition of their sovereignty regardless of their transgressions of accepted moral codes. The development banks stand between the "developing" nations, buffering their sovereigns from colonial expenses of extracting directly from the people. Instead, extraction is externally funded and the earth energies are exported directly to markets, both local and global, through a locally generated sovereign fiat and externally funded corporate capture.

Industrial agriculture enacts a similar slippage, and has been posited as the opposite of a "moral economy" in that it guarantees neither environmental nor social sustainability (Dove & Kammen, 1997: 92). Inadequate studies of green revolution industrial rice proclaim its effectiveness in terms of crop yield, while concealing the required inputs of both human labour and planet labour in the form of fossil fertilisers (Ibid: 96). But the shaman's trick of skillfully revealing a skilled concealment continues as poor industrial yields are attributed to 'natural' processes. The nature of monocrop landscapes makes them more vulnerable than forest swiddens to pests, floods, and droughts. And it is these that are consistently cited as the 'reason' for poor yields (Dove & Kammen, 1997: 94; Ollinaho & Kröger, 2021), thereby blaming 'nature' for the crop failures endemic to monocrop industrial landscapes, which in an indigenous economy signal displeasure or disagreement from earth energies. The earth energies are not out of the picture, however—especially in Cambodia, where local big men and industrial capitalists alike make offerings to them to facilitate extreme extraction (Work et al., 2022).

The modern secular state conceals the enstoried energies of the earth that made the king possible—both through tales of sovereign entitlement and through the material processes that make the food—by revealing the religion of kings and their priests. The 'success' of modern industrial agriculture is another shaman's trick that reveals high yields while concealing both their costs and their impossible sustainability. It creates expectations of "success versus failure" that are in direct contradiction to the cycles of abundance and scarcity recorded in swidden landscapes and to the cycles of cash cropping in which abundance lowers profit (Dove & Kammen, 1997: 93; Mahanty, 2022). Modern conservation enacts the same trick, revealing the protection of vital 'natural' spaces while concealing the dispossession required to 'protect' these areas and also the extreme extraction that they at once excise and contain (Milne, 2022; Work & Thuon, 2017). This creates a politics in which success is proclaimed by the boundary itself, having little to do with what goes on inside of it. In Cambodia, conservation boundaries not only intimately trace industrial boundaries, but they also accommodate industry within them (Harbinson, 2016; Narim, 2015), provocatively mirroring the rites establishing the sacred boundary of a Buddhist temple that holds the violent sacrifice of the king at their centre (Davis, 2016: 127–29).

A Humble Provocation

During a recent (January 2023) fieldtrip investigating "intangible heritage" in the Prey Lang forest of north-central Cambodia,[2] I was told a story that so beautifully contextualises the ideal–typical form of political norms I analyse above that I will unconventionally end this chapter with an ethnographic nugget and some exploratory closing thoughts.

The earth energy is here the Blue Dragon King, *sdec nāg khiev*, that communicates with the local Kuy population through/as a limestone karst located adjacent to the Prey Lang Wildlife Sanctuary. Another karst landscape is located close by, within the protected area, as is a marble formation (metamorphosed limestone) referred to as Ancestor Snouk. The local Kuy people report social relations with these rock formations for many generations. Communication happens through dreams and through each location choosing the body of a selected human (*rup*).

The rugged karst is well known as a place where land animals find sanctuary in the caves and gullies of its spinney crags. Water pools in these crags as well, hosting turtles and supporting birds. Hunters, both human and non, find food, water, and often shelter with the Blue Dragon King. The human hunters report being punished with illness if they are careless at this vital spot. Tigers take care here as well, and local reports claim that one tiger works for the Blue Dragon King. I cannot speak tiger and they are notoriously difficult to interview, but territorial monitoring is a tiger-consistent activity and the tiger is often seen by locals making the rounds to the other recognised ancient ones (*neak ta*) in the area. These include the marble slab, the other limestone karst, a lake, two swamps, and a large rock formation at the Mekong river that traps flood water behind it in the dry season. All of these locations are sites for veneration and offerings by local humans that require particular types of respectful comportment while nearby.

Please, dear reader, pause here for a moment to consider what these ancient ones are. They are often translated as 'ancestors' or as 'spirits', but they are also (perhaps first and foremost) key nodes in the landscape providing food and water. This 'religious' system, as Hocart (1936: 3) provocatively suggests, is "not a system of government, but of an organisation to promote life… by transferring life from objects abounding in it to objects deficient in it". The title carried by this limestone karst, the Blue Dragon King, refers to none other than *Kruṅ Bālī*, the Naga king, featured in the 'origin' stories of the early kings, who sucked up the water to give his new 'son-in-law' the land of Cambodia, and who must still give permission for all building projects.

When a mining company arrived inside the Prey Lang Wildlife Sanctuary in early 2022 to extract the marble that is Ancestor Snouk (yes, *inside* the *protected area*), according to local accounts the company offered pigs, wine, and festivities to the ancestor for several nights before they began digging

[2] Funded by Taiwan National Science and Technology Council, 111-2410-H-004-119.

out the stone. Shortly after the marble mine opened, representatives from the provincial office of the Ministry of Environment came to pay a visit to Ancestor Blue Dragon King and also to survey the other, much larger karst that is Ancestor Pointy Limestone, *neak ta kaṃbao crung*. They brought their own spirit medium, who works with Ancestor Blue Dragon King at the provincial centre (the trans-local elements of powerful *neak ta* in Cambodia are noted, but under-theorised as part of the state-making argument I make here. Further research will provoke another essay).

Local people were angry that they had not been consulted about these mining plans or about the visit from the spirit medium. The provincial officials conducted a ceremony asking permission to create an eco-tourism site at the karst. Ancestor Blue Dragon King is reported to have said, *you can have your eco-tourism, you can even have your road, but do not touch the stone*. The woman who typically provides her body for the ancestor was excluded from the ceremony. There are surveyors at the site at the time of this writing, and large areas of the surrounding forest have been cleared for mine development. The area around Ancestor Blue Dragon King has also been cleared and 'developed' for eco-tourism. The large road runs right by the site, which was recently forested and remote. Now, the site has benches for tourists, tree stumps, and signs on the remaining trees stating their names.

This short story depicts a part of much larger engagements in the Prey Lang landscape, where the "institutionalised raiding" of corporate actors is countered by "utopian projects" of both conservation and development donors (Graeber, 2006: 65; Work et al., 2022). This story brings out the importantly neglected 'superstitions' of local people to reveal them as potent sources of life. This goes beyond my previous argument that this animist 'religion' is better understood as political economy (Work, 2019), and puts some real flesh onto Hocart's suggestion about an 'organisation to promote life'. Setting this alongside the shaman's trick of global development, which reveals skyscrapers while concealing the death of the life-giving ancestors they require, I hope to change our conversation a bit. This is not about multiple worlds or about the agency of things, this is about ongoing possibilities of life.

This brief chapter has outlined three distinct sets of political norms present across (but not limited to) Southeast Asia, critically engaging in their overlapping logics which is narratively illustrated through an ethnographic encounter. In contemporary political economy, the ruthless corporations are supposed to be managed by a bureaucratic government, which is supposed to be controlled by international bodies of social and ecological conservation. Industrial corporate production puts forward the promise of wealth and progress, yet industrial plantations and the cash crop economies they engender are inherently unstable. Conservation is the utopian counterpart to the violence of industrial extraction, and the state of global forests today, coupled with the changes to the life support system that their demise causes, will give rise to another shaman's trick. Taussig (2003) shows how researchers into shamanic

healing watched the shamans and declared them frauds and tricksters, not realising that everyone, including the shamans, already knew that they were. The skill and the trick are necessary to guide the non-human healer into the sick body (138–139). As researchers of political norms, we may be falling prey to the same trick. The kings, councilors, prime ministers, and captains of industry know they are lying, cheating, and stealing—in a dramatic spectacle that we watch with horrific anticipation.

The original potency of water and of land, from which grew the stories of gods, their kings, and corporations, has been consistently concealed by utopian projects revealing exemplary prowess and exclusionary access to potent resources. As the system continues to crack, we might question the content of development and progress that is transforming our ancestors. If we are too busy, that might be OK. The ancestors look like they will go on making life with or without us, a truth to which unmonitored urban landscapes and trash islands in the ocean can readily attest.

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CHAPTER 20

Moderate Islamic Organisations and Contestation Over Political Theology: The Responses by Nahdlatul Ulama and Muhammadiyah Towards Islamism in Indonesia

Alexander R. Arifianto

Introduction

Indonesia—the largest Muslim-majority country and the third largest democracy in the world—has long been hailed as a success story where Islam and democracy have been able to accommodate each other, and where moderate Islamic groups and intellectuals have been thought to dominate Islamic discourse. This image has been reinforced by Indonesia's two largest Islamic organisations, Nahdlatul Ulama (NU) and Muhammadiyah, which have long commanded significant authority on the right to interpret and speak for

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_20

Islam in Indonesian society. Islamic intellectuals such as Abdurrahman Wahid, Nurcholish Madjid, and Ahmad Syafii Maarif[1] have promoted moderate religious discourses. Institutions such as the National Islamic Educational Institutes (IAIN) have trained tens of thousands of Islamic religious teachers according to a curriculum that integrated Islamic thought with Western-influenced social science and humanities. These were taken by observers as evidence that moderate Islam was the dominant Islamic discourse in Indonesia over the past three decades (Hefner, 2000; Hefner & Abidin, 2021).

However, this consensus has come under a strong challenge after the 2016–2017 Defending Islam rallies. During these events, a total of approximately one million people were mobilised by a coalition of conservative and hard-line Islamist groups against the Jakarta Governor Basuki Tjahaja Purnama. The rallies created a shockwave throughout the nation, as they demonstrated that the influence of Islamism in Indonesian politics was much stronger than what was previously thought. The 2019 presidential election campaign, marked by divisive and sectarian rhetoric between conservative Islamist and moderate Islamic political activists, further reinforced the contention between the two groups first seen during the Defending Islam rallies.

The rising influence of Islamist organisations in Indonesia and the concomitant slow yet steady decline in religious authority of moderate Islamic groups, including NU and Muhammadiyah, have attracted much attention in recent scholarship on Indonesian Islam, including by Van Bruinessen (2014, 2015), Hadiz (2016), Mietzner and Muhtadi (2018), Arifianto (2020b), and Sebastian et al. (2021). The findings from these works, while insightful to understand the current situation, also raise new research questions: How do moderate groups respond to increasing ideological and political competition from Islamist competitors? What kind of tactics do they deploy against their rivals? Do the Islamist pressures undermine moderate and democratic norms that the moderate organisations have promoted in Indonesian political discourses over the past few decades? These are important questions for scholars studying political Islam at a time in which adherence to democratic norms and values are widely thought to be declining throughout much of the world, including in Indonesia.

The chapter aims to answer these research questions through an examination of NU and Muhammadiyah responses towards rising conservative Islamism in Indonesia and how the internal dynamics and the relations of each group with President Jokowi's regime help to shape their divergent

[1] Abdurrahman Wahid (1940–2009) was chairman of the Nahdlatul Ulama (1984–1999) and was then Indonesia's first democratically elected president (1999–2001). Nurcholish Madjid (1939–2005) was a neo-modernist Indonesian Islamic intellectual who was well known for his thoughts on religion-state separation and opposition to the Islamic state. Ahmad Syafii Maarif (1935–2022) was a former chairman of Muhammadiyah (1998–2005) who initiated reforms to promote moderate Islamic thought within his organisation. For further readings on these Indonesian Islamic reformers and their thoughts, see for instance Barton (2003) and Arifianto (2012) on Wahid, Kurzman (1998) and Arifianto (2012) on Madjid, and Maarif (2019) and Arifianto (2012) on Maarif.

responses. It is structured as follows. The first section reviews recent literature on previous scholarship on political Islam in Indonesia. It argues much of this scholarship is dominated by interest-based explanation, which is limited by its inattentiveness towards theological norms that often serve as *raison d'être* for political motivation and action of various Islamic groups. Then I outline a new framework based upon a political theology approach and develop a typology of Islamic groups to analyse how moderate groups—particularly NU and Muhammadiyah—seek to promote their interpretation of Islam in Indonesian society despite facing challenges from their Islamic rivals.

The second section gives a brief history of NU and Muhammadiyah, discussing the evolution of their political theology over the past four decades. The third section discusses the ideological and political challenges posed by new Islamist groups. The fourth section discusses NU and Muhammadiyah divergent responses to these challenges and contextualises them in light of their respective political theologies. The final section discusses the insights provided by the NU and Muhammadiyah cases and how these contribute to the broader literature on political theology and political Islam.

Political Theology: Understanding Political Islam in Indonesia

In order to reach a nuanced understanding of why and how moderate groups combat growing Islamic conservatism in Indonesian society, scholars need to move beyond what I would categorise as 'thin' interest-based explanations that are frequently utilised in recent scholarships on political Islam in Indonesia.[2] To fully understand the rationales behind moderate group's counter-Islamism actions, we need to closely examine 'thick' ideological-based variables such as *political theology*—defined as "shared ideas about legitimate political authority, which is situated in core doctrinal teachings, yet adapted to circumstances of time and place" (Philpott, 2007: 505). This involves "interpreting and analysing politics –institutional arrangements, sources of authority, patterns of order, purposes, and justifications of rule, and so forth– in the context of theological concepts and categories" (Bain, 2020: 3).

Political theology is not a static set of beliefs that are largely unchanged throughout time and space, rather, it is continuously evolving and influenced both "by historical development and by the circumstances of time and place" (Philpott, 2007: 508). Hence it may vary between different factions within a similar religious tradition, even though these might draw legitimacy and resources from an identical scriptural text or from a similar dogma being passed down from one generation of believers to the next.

[2] For instance, see recent works by Hadiz (2016) and Mietzner and Muhtadi (2018, 2020).

In order for a particular political theology to prevail and dominate discourse—whether within a given religious group or in society in general—it needs to be endorsed and promoted by *norm entrepreneurs*. These are individuals or collective actors "who invent or deploy ideas and information to produce significant structural change" (Goddard, 2009: 251). These entrepreneurs act as *brokers*, defined as "actors who bridge structural holes in fragmented networks, who maintain ties with actors who would otherwise remain unconnected" (Goddard, 2009: 257). Their success depends on their ability to occupy strategic positions within a structure (i.e. organisations) which gives them flexibility compared to other network actors, their capacity to introduce new ideas and norms (i.e. political theology), and their capability to ensure these ideas and norms are diffused throughout the fragmented network structures (Goddard, 2009: 263).

In this chapter, I argue that *norm brokers* have played a significant role by introducing and promoting new ideas and theologies within Islamic organisations including NU and Muhammadiyah—organisations which are internally divided into different ideological and political factions, not to mention different religious leaders. Norm brokers played a crucial role in the introduction of moderate Islamic ideas within NU and Muhammadiyah during the 1980s and 1990s, and in the instrumentalisation of these ideas by both organisations as they faced an increasing competition from Islamist rivals during the 2010s. This leads to my argument that political theology is an important explanatory variable for the strategy and decisions taken by religious groups when facing ideological competition. Political theology may complement, and in certain contexts substitute, interest-based theoretical explanations.[3]

In what follows, I define *Islamists* as those who subscribe to a political theology which articulates "the idea of the necessity of establishing an Islamic government (…) which implements the *shari'a* (Islamic law)" (Ismail, 2004: 616). I disaggregate this definition further into two separate categories: conservative and hard-line Islamists. *Conservative Islamists* are individuals or groups of Muslims who believe in the orthodox—often literal—interpretation of Islamic texts, according to the Qur'an and the sayings of the Prophet (*sunnah*). This includes a belief in the application of Islamic law (*sharia*) as a societal, legal, and political foundation of a Muslim-majority state. However, conservative Islamists usually advocate for the implementation of these beliefs through peaceful and democratic means such as participating in elections, parliamentary debates, and peaceful protests. Examples include Islamist political parties such as the Prosperous Justice Party (PKS), quasi-official clerical associations such as the Indonesian Ulama Council (MUI), and factions

[3] Several theoretical frameworks in political science utilise interest-based explanations to account for the political motivation of religious actors. Most notable is the *political economy of religion* framework, which argues that religious actors seek to maximise their influence in society in order to retain their power and privileges. Works utilising this framework include Gill (1997, 2008) and Warner (2000).

within NU and Muhammadiyah that subscribe to a more conservative political theology. This contrasts with hard-line Islamists, who often pursue their agenda to implement orthodox interpretation of Islamic teachings through physically threatening verbal rhetoric and/or physical violence against religious minorities and ideological opponents. Examples include the infamous Islamic Defenders Front (FPI) and Islamist terrorist groups such as Jamaah Islamiyah (JI) and Jamaah Ansharut Daulah (JAD).

Meanwhile, *moderate Islamic organisations*—in this case, NU and Muhammadiyah—are those which lend support to the following norms: (1) promote contextualised interpretations of Islamic texts rather than those based on literalist ones, (2) support democratic political norms and institutions—including willingness to participate in a free and fair election—while rejecting efforts to enact and implement Islamic principles in state and society, and (3) promote tolerance towards religious minorities, both Muslim as well as non-Muslim. Admittedly, *moderate* is a value-laden term,[4] and the application of moderate policies within each Islamic organisation is often problematic—as many members of the organisation reject the aforementioned norms either in whole or in part. Hence, one can measure whether an organisation is committed to moderation by analysing whether it has consistently followed a set of 'moderate' premises it has committed to follow within a certain time period (say a decade or more).

Nahdlatul Ulama and Muhammadiyah as Moderate Islamic Organisations

Indonesia's democratic experience cannot be understood apart from the role played by two of its Islamic civil society organisations—NU and Muhammadiyah. Both have deep roots within Indonesian civil society, having existed for more than a century.[5] During the rule of Suharto (1966–1998), both organisations were among the few that remained relatively independent from the regime's iron grip. Hence, both NU and Muhammadiyah became autonomous civil society organisations and independent centres of intellectual

[4] Jillian Schwedler warned that if adapted narrowly, "moderate" can be interpreted as any group that is considered to be non-threatening to the state ruler and political elites, while "radical" is applied to any external group that "strongly oppose the power configurations to the status quo" (Schwedler, 2011: 350). A more nuanced definition of moderation is one which allows Islamic groups to express their dissent and grievances towards the ruling regime, while following peaceful, democratic, and legitimate means of expressing them. The definition I have deployed above is one that is of the later.

[5] Muhammadiyah was founded in 1912 to counter the prevalence of 'non-orthodox' Islamic teachings promoted by traditionalist-leaning Islamist clerics and to 'purify' Indonesian Islam from such teachings (Federspiel, 1970). Meanwhile, NU was founded in 1926 as an association which organised traditionalist-oriented ulama to band together against criticisms and attacks on their rituals and practices from modernist Islamic groups like Muhammadiyah (Bush, 2009).

and political life, both during the twilight of the Suharto era and after his downfall in 1998.

NU and Muhammadiyah also play a role beyond Islamic religious propagation. They are particularly active in the provision of education, healthcare, and other social services to Indonesians, irrespective of the recipients' ethnic and religious background.[6] Since the 1998 *Reformasi*, leaders and activists from both organisations have also played a more overt political role through parties linked with them, namely the National Awakening Party (PKB) for NU and the National Mandate Party (PAN) for Muhammadiyah. Through these political parties, NU and Muhammadiyah have lobbied for favourable legislation, gained cabinet minister positions, and secured state patronage for their respective constituencies.

NU's political theology is based upon the Islamic texts contained in the Qur'an, the hadiths, writings of classical Islamic jurists (*qiya*), and consensus among contemporary ulama (*ijma*). Its theology is also influenced by localised customs and rituals originating from Javanese cultural traditions. These localised rituals include *slametan*—communal prayers to celebrate the birth of a child, marriage, and other family events—and *tahlilan*, prayers recited to commemorate deceased family members or relatives. Altogether these features characterise the core of the traditionalist Islamic theology that helps to shape NU's political outlook.

According to Rumadi, current director of the Institute for the Study and Development of Human Resources (*Lakpesdam*),[7] NU is committed to respecting indigenous Indonesian culture, since it believes religion is "not only formed by texts and divine revelation, but also by local culture" (Rumadi, 2015: 130). Based upon these understandings, Ahmad Siddiq, NU supreme leader (*rais aam*) from 1984 to 1991, argued that NU followers ought to follow four Islamic principles, namely *al-tawassut* (moderation), *al-tasamu* (tolerance), *al-tawazun* (balance), and *al-i'tidal* (justice) (Burhani, 2012: 570) and place them as a foundation of NU's effort to promote theological moderation as initiated by his counterpart, NU chairman Abdurrahman Wahid, during the mid-1980s. These norms also shaped NU's political outlook, as they showed that beyond its 1984 adaptation of the Indonesian national ideology Pancasila, the organisation is credibly committed to promote religious and political moderation. This is done in spite of the actions of the Suharto regime, which threatened the organisation with further repression if it refused to adopt Pancasila as its ideology (Bush, 2009).

[6] As of 2019, Muhammadiyah is owning more than 5000 clinics and hospitals, 10,000 schools and kindergartens, and 174 universities (Nashir et al., 2019: 4). Meanwhile, NU reports to be linked to nearly 30,000 Islamic schools (*pesantren*) and at least 31 universities throughout Indonesia (NU Online, 2018).

[7] Lakpesdam is a NU affiliate which is tasked to promote religious tolerance and interfaith dialogue through its training programmes for NU activists. Its chairman, Rumadi, is widely considered as one of the leading young NU intellectuals and an emerging leader within the organisation.

These four principles were championed by 'norm brokers' within the NU to transform the organisation's political theology during the early 1980s. This was a crucial period because their reinterpretation helped to transform NU from an Islamic organisation advocating the adaptation of Islamic principles as a foundation of the Indonesian nation-state to one which believed NU could support an Indonesian state based upon secular nationalist principles (Bush, 2009). The most prominent 'norm broker' was the late Abdurrahman Wahid, who was the NU general chairman from 1984 to 1999. Wahid responded to the Suharto regime's call for the NU to prove that it did not oppose the regime by firstly agreeing to adopt Pancasila. In 1984, NU thus abandoned its prior support for Indonesia to become an Islamic state and declared its support for Pancasila (Bush, 2009: 54–55). Wahid helped to introduce and promote a political theology centred on moderation, tolerance, and support for democracy in the organisation, based on the teachings of prominent NU clerics including Ahmad Siddiq.

During his 15-year chairmanship, Wahid contributed to transform the organisation from a conservative to a moderate Islamic entity. This entailed advocating moderate norms such as religious tolerance and pluralism in the Indonesian public sphere, against a significant number of NU clerics and followers. The institution of these norms within NU put the organisation in direct contrast with the Suharto regime, which aligned with elements of conservative Islamists to seek legitimacy for continuing its authoritarian rule throughout the 1990s (Hefner, 2000).

In 2015, the four aforementioned principles were reinterpreted by Said Aqil Siradj—NU chairman in 2010–2021—as integral principles of *Islam Nusantara* ('Archipelagic Islam') which combines classical Islamic thought, its interpretation (*tafsir*) by generations of NU clerics (including by Wahid and Siddiq, as outlined above), and a whole host of rituals and practices originated from pre-Islamic Java—all of which reinforced NU's vision that Islam as practised by NU is moderate and compatible with Indonesian nationalism and its diverse traditional cultures (Hasyim, 2018).

During the 2015 NU national congress (*muktamar*) in Jombang, NU chairman Siradj announced a new theological innovation, *Islam Nusantara*, designed to consolidate the moderates' hold over NU in the face of growing ideological challenges. Derived from the term *pribumisasi Islam* (Islamic indigenisation) introduced by Wahid (2015), its proponents explained it as a synthesis combining traditionalist Islamic theology with local customs, rituals, and traditions. As NU chairman Said Aqil Siradj stated:

> Islam Nusantara is an Indonesian-style Islam, which adopts Sunni Islam (*Ahlusunnah wal jamaah*) principles, promotes tolerance, strengthens Islam as a blessing for humanity (*rahmatan lil alamin*), and is based on the principles of balance (*tawazun*), moderation (*tawassut*), tolerance (*tasamu*), and justice (*i'tidal*). (Hasyim, 2018)

Siradj further elaborated that *Islam Nusantara* places the NU in between two ideological poles, "the radical pole which is very rigid or strict and confrontational, and a liberal pole which is very compromising, permissive, and hedonist" (Siradj, 2010). Consequently, Islam Nusantara serves as an alternative to the Islamist vision that rejects any compatibility between Islamic teachings and non-Islamic ideologies and argues that fundamental reform of the Indonesian society requires the adoption of Islamic principles at individual, family, society, and state levels.

Similarly, Muhammadiyah has sought to renew Islamic theology through a contextualised interpretation within contemporary society (Arifianto, 2012). During the first two decades of Muhammadiyah's existence (1912 to the 1930s), there were tensions between two streams of political theologies within the organisation. Norm brokers who argued that the organisation's mission was to promote Islamic reforms through social and charitable missions (Fauzia, 2017) opposed others who argued for a purist interpretation of Islam, sought to expel 'heretical innovations' (*bid'ah*) and largely rejected non-Islamic ideas and value systems (Federspiel, 1970: 71). While the first position was the prevalent viewpoint within the organisation during the first decade of its existence, the later view began to predominate from the 1930s onwards when conservative clerics, including Haji Rasul (father of Hamka, the first chairman of the Indonesian Ulema Council [MUI], 1975 to 1981) exerted influence within the organisation. In addition, the rising influence of Wahhabism in Saudi Arabia; and the founding of NU in 1926, also pushed Muhammadiyah in a theologically conservative direction which it maintained until the 1990s (Burhani, 2006).

Beginning in the early 2000s, norm brokers including Ahmad Syafii Maarif (chairman of Muhammadiyah from 1998 to 2005) and Moeslim Abdurrahman (an intellectual who co-founded the Muhammadiyah-linked Maarif Institute) sought to change the conservative theological viewpoint. They deployed new methods to interpret religious texts, such as hermeneutics, and put such texts in contemporary contexts—incorporating insights from modern sciences and social theory as part of Muhammadiyah theology (Arifianto, 2012: 169–170). Young Muhammadiyah activists called for the organisation to embark on a theological reform similar to what NU had started in the 1980s, in order to adapt the organisation's political theology to the Indonesian rapid socio-political transition and to adjust to the country's increasingly multi-religious and multi-cultural dimension (Arifianto, 2012: 171–172).

Maarif and Abdurrahman wished for Muhammadiyah to become more tolerant towards non-Islamic faith and to engage in alternative forms of proselytisation called 'cultural propagation' (*dakwah kultural*), centred on the promotion of interfaith cooperation to resolve common social problems like poverty and social injustice and the promotion of socio-economic empowerment for the poor and other marginalised groups (Burhani, 2018a: 444–445). *Dakwah kultural* was also aimed to counter conservative Islamists within

Muhammadiyah who rejected the accommodation of Islam with local culture and traditions (Burhani, 2018a: 445).

Under the chairmanship of Syafii Maarif, the organisation consequently underwent a major theological reform in which it adopted moderate norms such as religious tolerance and pluralism, especially towards non-Muslims. However, counter-reactions from more conservative Muhammadiyah activists were significant. This was revealed in an internal survey which indicated that approximately 43 per cent of the organisation's regional leaders considered Muhammadiyah activists from its progressive wing to have deviated from the basic tenets of Islamic teachings as propagated by the organisation (Burhani, 2018a: 445).

Growing Islamism and Its Effects Within NU and Muhammadiyah

Political Islam has since Indonesia's 1998 democratic transition been characterised by an ongoing struggle between moderate Islamic proponents within NU and Muhammadiyah, their opponents within both organisations, and their Islamist rivals who advocate for further integration of orthodox Islamic principles into the Indonesian state and society. The struggle between moderates and Islamists has taken place at both ideational and interpersonal levels. Many Islamists have referred to moderate interpretations as an "invasion of ideas" (*ghazwul fikri*), while moderates have been concerned that Islamists are engaging in a campaign "to Arabise Indonesian Islam and wipe out local practices and liberal interpretations that had been influential among wide segments of the population" (Van Bruinessen, 2015: 47–48). This culminated in the 2016–2017 Action to Defend Islam (*Aksi Bela Islam*) rallies which successfully ousted former Jakarta governor Basuki Tjahaja Purnama—a Chinese-descent Christian Indonesian—from public office. Scholars who studied the roots of these rallies concluded that during the previous decade, Islamist groups had managed to propagate their ideas effectively through innovative, new outlets, such as campus preaching organisations, the Internet and social media, and popular propagation (*da'wa*) activities held in large shopping malls, government ministries, and state-owned enterprises (Arifianto, 2019, 2020a; Slama, 2017).

While NU and Muhammadiyah have been consistent (at least in their official statements) in their efforts to promote moderate norms such as democracy and religious tolerance over the past two decades, they face increasing competition from newer and more conservative Islamic groups. Benefiting from the open political space of the *Reformasi* era, dozens of Islamist groups—ranging from the Muslim Brotherhood-influenced Prosperous Justice Party (PKS), Hizb ut-Tahrir Indonesia (HTI), Islamic Defenders Front (FPI), and various streams of Salafi movements—were established and received legal recognition to propagate their interpretations to the Indonesian Muslim faithful (*umma*).

In addition to the ideological challenge from new Islamist organisations, NU and Muhammadiyah also face a strong ideological challenge from within their own ranks, by clerics and activists adhering to more conservative viewpoints. This fragmentation erodes the authority of top leaders to speak on behalf of the Indonesian Muslim *umma*. Muhammadiyah has consequently lost many of its members over the past decade to PKS, HTI, and various Salafi groups. A recent public opinion survey indicates that only 5 per cent of Indonesian Muslims self-identify as Muhammadiyah followers (Mietzner & Muhtadi, 2020: 71). This is approximately equal to 12 million Muslims, a number far below the 30 million figure often claimed by the organisation's leaders.

In South Sulawesi province, many former Muhammadiyah followers have left for *Wahdah Islamiyah*—a quasi-Salafi Islamist organisation which has rapidly gained members and support from local politicians in its two decades of official existence (Nubowo, 2021: 183–184). Remaining Muhammadiyah members often express sympathy towards the positions advocated by *Wahdah Islamiyah* and other Islamist groups.

In 2006, Muhammadiyah leadership issued a decree which required all of its members to be primarily loyal to Muhammadiyah rather than any other Islamic organisation. Muhammadiyah's official position—that it is primarily a religious and socio-cultural, but not a political organisation—has motivated many of its followers to join more conservative and politicised Islamic organisations like PKS, HTI, and the Majelis Mujahidin Indonesia (MMI). This is because those groups' mission to 'purify Islam' as both a religious and political ideology (*al-din wa al-dawlah*) is more overt than that of Muhammadiyah (Burhani, 2018a: 451). For instance, MMI openly declares in its constitution that it seeks to transform Indonesia into an Islamic State (Ahnaf, 2020), while HTI seeks to make the Indonesian state part of a global Islamic caliphate (Arifianto, 2019; Muhtadi, 2009).

Within NU, the most serious ideological challenge against its moderate leadership comes from within its own ranks. A new faction called 'Straight Path NU' (NU *Garis Lurus*, NUGL), founded in 2015, seeks to overturn the moderate norms of religious tolerance and pluralism introduced by Wahid in 1984. NU *Garis Lurus* proponents believe that such norms have "violated the original teachings of NU founder Hasyim Asy'ari and hence are not compatible with Islam" (Iqbal, 2020: 100). Founded by several junior NU clerics with theological training from the Middle East, the faction commands millions of followers both in person and on social media.

While former chairman Said Aqil and NU leadership board members tend to dismiss NUGL as representing a small minority of "militants" within NU, this faction in reality consists of a sizeable network of locally influential NU clerics united against the moderate Islam agenda promoted by the NU leadership (Kayane, 2020: 84–91). NUGL-affiliated clerics and activists managed to have a strong presence in the 2015 NU *muktamar* in Jombang. Even though they did not manage to defeat Said Aqil in his re-election bid during

the *muktamar*, they signalled the NU leadership that they were backed by a significant number of *kyai* who were dissatisfied with his leadership (Kayane, 2020: 88–91). They also indicated to the NU leadership that moderates were no longer ideologically dominant among the rank-and-file.

NU and Muhammadiyah's Strategy to Counter the Islamist Challenge

Faced with increasing competition from new and conservative Islamist organisations, both NU and Muhammadiyah have reformulated and repackaged their political ideologies so as to win back their ex-followers. The two organisations pursue, however, different strategies. NU has come out very strongly to oppose these new Islamist groups, particularly against FPI and HTI, labelling them as 'radical' and alien to the moderate Islamic values compatible with Indonesian sensibilities. It also has closely aligned itself with the Indonesian state to curb these groups' influence. Meanwhile, while also condemning these new conservative groups, Muhammadiyah tends to seek a middle ground in its dealings with them, while avoiding a close relationship with the state.

NU utilised its newly rebranded ideology *Islam Nusantara* to differentiate itself from Islamist-leaning organisations. From the very start, *Islam Nusantara* has thus been framed by NU leaders as an antidote to the perceived 'radicalism' of Indonesian Islam that is thought to have come from the influence of Islamist groups influenced by transnational ideologies. These groups—HTI, *Tarbiyah* movement linked with PKS, and various Salafi groups—are often lumped together as 'Wahhabis' or 'Saudi-Islamists' by *Islam Nusantara* proponents within the NU. The NU's acceptance of unorthodox customs and traditions has enabled its leaders to differentiate the organisation from other Sunni Islamic groups. For instance, senior NU *kyai* Mustofa Bisri declares that:

> …genuine Islam, *Islam Nusantara*….has been supplanted by Saudi Islam, a grasping and materialistic Islam, coarse, cruel and savage. The Wahhabi view is just a ghoulish nightmare that keeps the world awake at night, trembling in horror. (Loveard, 2016)

Groups such as HTI, PKS, and various Salafi groups were portrayed by NU senior clerics as "agents of Arabization" (Burhani, 2018b: 5). The ideological and political struggle between NU and these groups is considered by many NU activists as "being at least as important, if not more so, than violent struggles in the Middle East and South Asia and even efforts to counter domestic violent extremist groups" (Woodward, 2017: 240).

Many critics within NU have opposed Siradj's promotion of *Islam Nusantara*, including his predecessor, the late Hasyim Muzadi. Siradj's faction is however in full control of NU leadership board and has side-lined critics

without difficulty. The blocking of *NU Garis Lurus* website by the Indonesian Ministry of Communication allegedly came at the NU leadership's request (Iqbal, 2020). Hence, even though NU has a significant Islamist contingent, its leadership has been willing to use strongarm tactics to push NUGL back into a marginal public space.

NU's attempt to promote a moderate political theology through Islam Nusantara also relies on a close alliance with the Indonesian state, as seen in the strong endorsement by and support for Islam Nusantara from the Joko Widodo ('Jokowi') government. This has emboldened NU to take tough—sometimes violent—measures to exclude Islamist opponents from the public sphere. For instance, Banser, a militia group affiliated with Ansor—the NU youth wing—has frequently disrupted HTI-sponsored gatherings and forcefully disbanded *da'wa* activities conducted by popular Islamist preachers such as Felix Siauw, considered to have close ties with HTI (Burhani, 2018b: 18). Ansor's tactic to disrupt peaceful activities has been criticised by human rights activists. For one activist, this tactic "echoes the strategies adopted by the Indonesian Army to disrupt the Indonesian Communist Party (PKI) activities during the mid-1960s" before it launched a massacre against PKI members and activists in 1965 and 1966.[8]

In sum, NU has adopted an aggressive strategy to counter the perceived conservative Islamist challenge against its ideological and political hegemony over the right to speak on behalf of Indonesian Muslims. In line with how the organisation has historically sought to differentiate itself from other Indonesian Islamic organisations, NU promotes a distinction between itself and conservative Islamist organisations whom it accuses of bringing 'foreign' (Arabic) influences to divide Indonesian Muslims and to establish an Islamic or a caliphate state in Indonesia. This logic undergirds confrontational NU campaigns to disrupt the activities of Islamist organisations perceived as rival contenders to win the hearts and minds of Indonesian Muslims, particularly the millennial generation (Arifianto, 2019).

Muhammadiyah, on the other hand, promotes less confrontational strategies vis-à-vis conservative and hard-line Islamist groups. In response to NU's propagation of *Islam Nusantara* from 2015, Muhammadiyah rebranded its ideology as "Islam with Progress" (*Islam Berkemajuan*) during its national congress (*muktamar*) held in Makassar during the same year. Muhammadiyah leaders have criticised *Islam Nusantara's* defence of local cultural traditions, arguing that some traditions are incompatible with Islamic values and scientific progress.[9] *Islam Berkemajuan*, by contrast, emphasises the compatibility between the basic tenets of Islamic principles; Indonesian nationalism; and

[8] Author's interview with Aan Anshori, a human rights activist affiliated with NU (Surabaya, 4 February 2020).

[9] Haedar Nashir, "Towards Islam with Progress: Muhammadiyah Role in 21st Century Indonesia," public lecture delivered at S. Rajaratnam School of International Studies, Singapore, 26 October 2017.

knowledge obtained from scientific research. The theological foundation of *Islam Berkemajuan* is said to be based upon:

> …the theology of 'kindness' (*Al-Ma'un*) to bring actual proselytization (*da'wa*) and renewal (*tajdid*) in the living struggle for the Islamic community, nationality, and universal humanity. Islamic transformation with progress is a religious perspective which is derived from the Qur'an, Sunnah, and the utilization of independent reasoning (*ijtihad*) in the context of a complex 21st century modern lifestyle. (Muhammadiyah, 2015: 64)

The decree also declares that *Islam Berkemajuan* is a rejection of the expression of violence in any form, including terrorism, and aims to promote religious tolerance and Islamic moderation:

> *Islam Berkemajuan* is Islam that promotes anti-war, anti-terrorism, anti-violence, anti-repression, and anti-backwardness…. It positively supports ethnic, racial, communal and cultural diversity[10] by promoting the message of peace, tolerance, and middle way (*wassatiyat*) in every walks of life. (Muhammadiyah, 2015: 64–65)

In addition to *Islam Berkemajuan*, the 2015 Muhammadiyah *muktamar* also issued a decree affirming the organisation's loyalty to the Pancasila and to Indonesia as a unitary nationalist state (NKRI). It declared that "Pancasila is a national consensus (*dar al-ahdi*) and a national creed (*dar al-syahadah*) to make Indonesia a safe and peaceful nation (*dar-al-salam*)" (Muhammadiyah, 2015: 67). It further affirmed that: "While Pancasila is not a religion… [it] is Islamic because the substance of all its principles is fully compatible with Islamic teachings and values" (Muhammadiyah, 2015: 68). The *Islam Berkemajuan* and the *Dar-al-ahdi-al-Syahadah* decrees rejected the Islamists' call for the establishment of an Islamic state, in particular, those of HTI to make Indonesia part of a global caliphate.

However, Muhammadiyah's effort to combat growing Islamic conservatism within the organisation is ambiguous. Unlike NU, Muhammadiyah's theologically diverse leadership structure consists of members from both moderate and conservative factions. Haedar Nashir—the current Muhammadiyah chairman (since 2015)—has a reputation for speaking out against the "infiltration" of Muhammadiyah by conservative Islamist groups.[11] He is considered to have been instrumental behind the issuance of the *Islam Berkemajuan* theology

[10] It should be noted that the words 'anti-radicalism' and 'religious diversity' were not included in this statement, which indicates the Muhammadiyah leadership's effort to accommodate the views of its religiously conservative members.

[11] Before he was elected Muhammadiyah chairman in 2015, Nashir had written books (2001, 2007) in which he strongly criticised transnational Islamist ideologies such as Ikhwanism (Muslim Brotherhood) and Salafism. He argued for a renewal of Muhammadiyah ideology in order to promote Islamic core values but also recognised Indonesia as a nation-state for all Muhammadiyah followers.

during the 2015 *muktamar*. However, the Muhammadiyah national board also comprises theologically conservative members, including at different times the late Yunahar Ilyas, Dahlan Rais, and Goodwill Zubir. In decision-making, a consensus acceptable to all needs to be reached.

Some Muhammadiyah members harbour sympathies for PKS, HTI, and various Salafi groups, with some regional board members and their affiliates (*amal usaha*) even thought to be members of one of the later organisations. Abdul Mukti, Muhammadiyah general secretary, stated that any Muhammadiyah national and regional leaders must profess complete loyalty to the organisation if they wish to retain their leadership position:

> If you are interested in HTI, MMI, PKS, Salafism, or something similar, please leave Muhammadiyah…Muhammadiyah never 'fires' its followers. But it does not mean bringing other ideologies into Muhammadiyah will be acceptable. Such behaviour is a violation of the organisational ethics. (Nashir et al., 2019: 9)

A significant number of Muhammadiyah members—particularly those from the younger generation—sympathise with conservative Islamist groups supporting the 2016–2017 Defending Islam (or 212) movement. For instance, Muhammadiyah Youth Wing (Pemuda Muhammadiyah) and its militia Kokam supported the 212 rallies and helped provide security protection for prominent 212-linked preachers such as Bachtiar Nasir and Felix Siauw, so their *da'wa* activities would not be disrupted by Ansor/Banser (Burhani, 2021: 87).

The Muhammadiyah leadership asserts that it is aware that many younger members have secondary affiliations with the aforementioned groups and that many also participated in the 212 movement. In fact, Muhammadiyah-affiliated preachers who were also leaders of the 212 movement—such as Bachtiar Nasir—are believed to be more popular among its rank-and-file members compared to the organisation's top leaders.[12]

When the Jokowi administration issued the special regulation (Perppu) which authorised it to ban HTI in July 2017, Muhammadiyah reaffirmed its commitment to the Pancasila and condemned HTI for seeking to promote an Islamic caliphate "which threatens to overturn an existing political system within a Muslim-majority state" (Muhammadiyah, 2017). However, the youth wing, Pemuda Muhammadiyah, issued a separate statement that it disagreed with the Perppu, stating that "it opposes judgmental and punitive measures against an ideology". It also stated that while Muhammadiyah opposes the caliphate-based political system advocated by HTI, it supports

[12] A regional Muhammadiyah leader in West Java revealed that only about 200 people attended a lecture by Muhammadiyah chairman Haedar Nashir's in Bandung held weeks after the 212 protests. At least 5000 people attended a *da'wa* by Bahtiar Nasir and Amien Rais (former Muhammadiyah chairman) held about a week earlier, however—both were prominent figures in the 212 protests (Nashir et al., 2019: 10).

the latter's effort to promote "a humanitarian civilization based upon Islam" (Antaranews, 2017).

While some moderate Muhammadiyah leaders have called for a stronger stance against the Islamists (Nashir, 2007), more conservative members—particularly those from the younger generation—clearly wanted the organisation to accommodate the Islamists' political agenda expressed in the 212 rallies and to take a stance against the Indonesian state in general and the Jokowi government in particular. The organisation's leadership seemingly now follows a "middle way" between continuing Muhammadiyah's theologically moderate position in regard to issues such as inter-religious dialogue and tolerance, and outspokenness against the Jokowi government.

Conclusion

In this chapter, I have analysed how two Indonesian Islamic organisations with moderate political theology—namely Nahdlatul Ulama and Muhammadiyah—utilise their theological resources to deal with the challenge against their ideological hegemony over Islam in Indonesia posed by newer and more conservative Islamist groups. I argue that political theology helps explain the moderate Islamic organisations' motivation, and provides the rationale for their actions responding to growing Islamic conservatism in Indonesia. This account of the more moderate organisations' motivations and actions is more nuanced than 'thin' explanations that argues the activists of these organisations are motivated to counter the Islamists due to their interests in gaining political power and patronage from the state (Hadiz, 2016; Mietzner & Muhtadi, 2020).

The above close examination of how NU and Muhammadiyah have sought to counter their conservative Islamist challengers through political theologies demonstrates that the two organisations have had varying levels of success. Both NU and Muhammadiyah experience a strong pushback from conservative Islamists internally as well as externally. They, respectively, introduced the moderate ideologies of *Islam Nusantara* and *Islam Berkemajuan*, which are compatible with Indonesian nationalism and cultural traditions. Both ideologies are also utilised to counter the Islamist's ideological narratives aimed to lure their followers away from NU and Muhammadiyah.

Nahdlatul Ulama appears to be more successful in its countermeasures against Islamism, because its political theology makes it easier for the organisation to differentiate itself from that of the later groups. It also has a moderate leadership hierarchy that is ideologically cohesive and able to control the organisation at the national level—notwithstanding the existence of rival factions, like NUGL, with more conservative theological views. The NU leadership was therefore able to effectively implement *Islam Nusantara* ideology and to pursue an alliance with the Jokowi regime to marginalise its rivals within the Indonesian Islamic public sphere. However, NU has also promoted harsh rhetoric in its campaign against conservative Islamists and deployed exclusivist

and sometimes violent tactics through its youth wing *Ansor* to disrupt and marginalise FPI, HTI, and other Islamist rivals.

On the other hand, Muhammadiyah has given mixed and ambivalent responses to growing Islamic conservatism within its own ranks. Its political theology, which has historically promoted the purification of 'heretical innovations' (*bid'ah*) and a close relationship between Islam and politics, shares similarities with those of Islamist groups such as PKS and HTI. The moderate faction within the organisation that has advocated for a more inclusive political theology faces significant resistance from conservative Islamist factions. Muhammadiyah has an ideologically diverse leadership board with members from both moderate and conservative backgrounds, arguably making its leadership more inclusive and representative of rank-and-file members' theological diversity than that of NU. However, this diversity also serves as a stumbling block for the organisation, preventing it from articulating a coherent response towards the growing influence of Islamism within its ranks.

To conclude, NU has been more successful than Muhammadiyah in its effort to counter the challenge from conservative Islamists against its authority in post-*Reformasi* Indonesia. This is due to its more heterodox and nuanced Islamic interpretations, which make it more easily distinguishable. In addition, NU's leadership is committed to promoting moderate Islam by marginalising ideological challenges from NUGL and Islamist-leaning NU clerics. However, this relies on the organisation's close alignment with the Jokowi government, which arguably reduces NU's credibility as a promoter of moderate norms and democracy in Indonesia. The repression of Islamist groups such as HTI, considered by the government to be 'politically troublesome', is particularly problematic.

Meanwhile, Muhammadiyah is able to retain its role as an independent civil society organisation which promotes democracy and freedom of expression for all Indonesians, including conservative Islamists. It also has a more diverse leadership than NU, comprising members from broader theological perspectives. This diversity in theological and political views, however, comes at the price of accommodating conservative leaders and activists, resulting in the inability of the organisation to discipline some of its senior leaders and rank-and-file followers who participated in the 212 protests and collaborated extensively with other Islamist organisations in other occasions in recent years.

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CHAPTER 21

The Rights of Indigenous Peoples in Southeast Asia: Recent Advances and Current Challenges

Isabel Inguanzo

The Concept of Indigenous Peoples in Southeast Asia

Southeast Asia encompasses a great ethnic diversity. Global Human Rights organisations estimate that around 100 million people identify themselves as indigenous peoples in the region (IWGIA, 2020). However, there is no accurate official data because many of the states in the region do not officially recognise the existence of indigenous peoples within their borders (Erni, 2008). As in Asia more generally, those who self-identify as indigenous—and therefore maintain their original cultures and economic, political and social systems—have typically barely been acculturated by Western powers or by previous pre-colonial societies (Scott, 2009; Tauli-Corpuz, 2008).

The definition of indigenous peoples in international and UN forums and documents, such as the 169 ILO *Indigenous and Tribal Peoples Convention* of 1989, has for decades entailed the idea of the 'original occupants of a territory'. Under such frames the moments of colonisation and decolonisation involving an overseas colonial power became key to the definition of the 'indigenous' person or people (Martínez Cobo, 1986). This definition was very much influenced by South and North American experiences, but was problematic when applied to Africa or Asia. In Southeast Asia, ethnic dynamics, patterns of colonial acculturation, legal pluralism and processes

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_21

of nation-building before and after independence were different from those experienced in Latin America (Inguanzo, 2016).

As a result, some Asian governments do not recognise indigenous peoples' rights because they refuse 'to accept that the ones who were least assimilated under the previous colonial regimes should be considered indigenous peoples' and as a result they 'still insist that there are no indigenous peoples in their countries or that the whole population is indigenous' (Tauli-Corpuz, 2008: 78, 80). Although the attitudes of Asian governments towards the validity of the concept of Indigenous Peoples in their states vary considerably, some countries have strongly rejected the concept, such as Myanmar or Indonesia, both in turn influenced by the categorical denial of the concept by China and India (Kingsbury, 1998). These states proclaim themselves strong defenders of indigenous peoples' rights, but without any obligation towards their own citizens, since they do not recognise the internal presence of indigenous peoples in their territory, only indigenous peoples beyond their borders. The words of the Indonesian delegate Muhammad Anshor, in the vote on the United Nations Declaration on the Rights of Indigenous Peoples in 2007, are a perfect example of this position:

> Given the fact that the entire population of Indonesia has remained unchanged since the time of its colonisation and subsequent independence, and the fact that Indonesia is a multicultural and multi-ethnic nation that does not discriminate against its people on any grounds, the rights stipulated in this Declaration accorded exclusively to indigenous peoples are not applicable in the context of Indonesia. However, we will continue, in accordance with our national laws, to promote and protect the traditional collective rights of the sub-ethnic communities that we call *Masyarakat Adats*, which are not equivalent to indigenous peoples as referred to in the Declaration. (General Assembly, 2007)

However, from the late-Suharto era onwards indigenous peoples have advocated for a specifically indigenous identity—*adat* identity—as a way 'to strengthen community rights over and against state and corporate claims' (Afiff & Lowe, 2007). In a similar vein, although the government of Laos does not recognise the presence of indigenous peoples in the country, and refers to them only as ethnic minorities, local and transnational civil society and international organisations on the ground are increasingly using the concept of indigenous peoples (Baird, 2015). In Myanmar, the term 'taingyinthar' is claimed not only by the Burmese government to identify 'truly Burmese' citizens, but also by ethnic minorities who identify themselves as Indigenous Peoples in international forums (Dunford, 2019).

Thailand, that was never colonised, presents a different case. Defining Indigenous Peoples as the 'original occupants of a territory' makes little sense here, demonstrating that this definition:

> makes an unjustified distinction between long-distance aggression and short-distance aggression, and it is logically impossible to establish a cut-off distance.

> Moreover, it assumes that the cultural differences that exist between peoples is a simple linear function of distance, such that mere proximity creates a presumption of shared values. (Daes, 1996)

In the end, all these states oppose the recognition of indigenous peoples within their borders and their associated rights because they are afraid this recognition might jeopardise state and nation-building processes. However, recent research conducted in Southeast Asia has found that such fears are misguided. According to McMurry (2021), recognising indigenous peoples' lands 'increases both indigenous self-identification and compliance with the state'.

In fact, some states in the region, notably the Philippines and Malaysia, have incorporated indigenous peoples in their nation-building processes to the extent that indigenous peoples are explicitly recognised in their laws and Constitutions. However, though the Malaysian government has recognised the existence of indigenous peoples both in Sabah and Sarawak, it has been more ambiguous in relation to the indigenous peoples inhabiting the states of Peninsular Malaysia. In fact, the *Orang Asli*, the indigenous peoples of Peninsular Malaysia, have been excluded from the category of *bumiputera*, that usually designates ethnic Malays in Peninsular Malaysia and native people in Sabah and Sarawak (Dentan et al., 1997).

Therefore, given the great political, social and cultural diversity that encompasses Southeast Asia, the indigenous peoples of the region, represented and participating in the United Nations workshop on 'The concept of Indigenous Peoples in Asia' held in Thailand in March 2007, unanimously agreed on what some of them had already expressed in other international forums:

> that a general definition of the concept of indigenous peoples was neither desirable nor necessary. It was agreed that the identification of groups that are to be recognised as indigenous peoples had to be done at the country level in an open process of consultation and discussion. Only this approach, it was stressed, allows for the flexibility needed to do justice to the diverse social, cultural and political contexts encountered in the Asian region. (Erni, 2008)

The State of the Rights of Indigenous Peoples in the Region

Legal Recognition

Across the globe, the legal recognition of the rights of indigenous peoples has often taken the form of multiculturalism. According to its advocates (Kymlicka, 1995), the full enjoyment of individual rights is dependent on the recognition of collective socio-economic and political rights for the relevant ethnic and national groups within a particular state, in this case indigenous groups. As a result, the literature on the rights of indigenous peoples focuses

on different sets of rights to assess the scope of multiculturalism in diverse legal settings. According to Van Cott (2000) a constitution is multicultural with regard to indigenous peoples, when it recognises: (1) a multi-ethnic society, (2) indigenous customary law, (3) land rights, (4) official indigenous languages, (5) bicultural education for indigenous communities and (6) indigenous political autonomy.

The adoption of this multicultural framework in Asia has been contested, even rejected by some Asian authoritarian leaders that consider multiculturalism as another form of Western moral imperialism (Kymlicka & He, 2006; Miller, 2011). The unequal incorporation of multicultural arrangements in Southeast Asian legal systems is noticeable when Van Cott's analytical framework is applied to the region, especially in terms of the recognition of the rights of indigenous peoples. Inguanzo (2014) shows how up to 2010, the level of formal recognition of the rights of indigenous peoples was higher in the Philippines, East Malaysia (the states of Sabah and Sarawak), Cambodia and to some extent Indonesia, while very low in Vietnam, Laos, East Timor, West Malaysia, Thailand and Myanmar. As opposed to other regions such as Latin America, in Southeast Asia indigenous cultural rights, such as bicultural education and to a lesser extent the recognition of indigenous languages as official languages, are barely recognised within states.

However, although just a few states acknowledge the existence of indigenous peoples, most states recognise that their societies are multi-ethnic. For example, as explained above, Vietnam, Laos and Myanmar define their states as multi-ethnic, but they consider that all nationals are indigenous to the land. In Thailand, up until the 1980s and 1990s only around 50% of people belonging to the so-called 'hilltribes' (upland ethnic minorities identifying themselves as indigenous peoples) had formal citizenship. In fact, even those members of forest communities with formal citizenship inhabiting protected areas lacked substantive citizenship rights such as primary education, health or freedom of mobility or freedom from arbitrary arrest (Vandergeest, 2003).

Land rights of indigenous peoples are better protected in the Philippines, as a result of the Indigenous Peoples Rights Act (1997); in the two states of East Malaysia (recognised both in the Malaysian Constitution and the secondary legislation of both states); and to a lesser extent, in Cambodia through the Land Law (2001). In other states land rights are far less protected. The recognition of indigenous customary law and indigenous political autonomy follows the same pattern.

During the last decade (2011–2021), indigenous peoples across the region have witnessed different advances and setbacks in terms of legal recognition of their rights. On the positive side, in 2012 in Indonesia, Aliansi Masyarakat Adat Nusantara (AMAN)—in English, The Indigenous Peoples' Alliance of the Archipelago, which is the national civil society organisation representing all indigenous movements in Indonesia—successfully requested that the Indonesian Constitutional Court review the Basic Forestry Law of 1967 (already amended in 1999). In its Decision (MK 35/2012), the Constitutional Court

ruled that 'customary forests' do not belong to the state (Filer et al., 2020), thus widening the legal recognition of the rights of indigenous peoples to forests (Dhiaulhaq & McCarthy, 2020).

In East Timor, Portuguese and Tetum (the majoritarian indigenous language spoken by 25% of the population) are now the official languages of the country, while other minoritarian indigenous languages are not. In 2017, Tetum was explicitly recognised as an official language in the judicial sector, however, most judges and jurists do not speak it and interpreters in indigenous mother-tongue languages remain unavailable (United Nations, 2019b). The Constitution of Timor-Leste also recognises customary law. The 2017 Land Law represents an advancement since it deals with a special regime on the determination of ownership, but complementary legal developments are still needed (United Nations, 2019b).

In Thailand, the impact of new legal developments related to indigenous peoples right to land has been more ambiguous. Historically, indigenous communities in Thailand have suffered military persecution and eviction from their lands and have been denied participation in the management of protected areas where they live (Nepal, 2002). In 2019, two new acts entered into force: the National Land Policy Committee (NLPC) Law and the Community Forestry Law, and two other laws were amended: the National Park Law and the Wildlife Preservation and Protection Act. These four pieces of legislation regulate the relationship between Thai authorities and communities living in or in the vicinity of National Parks. Controversially, the *National Parks Act 2019*, while considering the participation of indigenous communities in conservation projects within the borders of National Parks, explicitly excludes land rights for such communities, and gives state authorities full control over those projects (United Nations, 2020). Indigenous organisations have also expressed concerns about the process of demarcation, documenting and survey of communities' land (IWGIA, 2020).

Finally, Myanmar has also witnessed contradictory legal developments in terms of the rights of indigenous peoples. With the limited political liberalisation undergone between 2015 and 2021, the country took some steps in the legal recognition of collective rights related to indigenous peoples. For example, in 2015, Myanmar ratified the International Convention on Economic, Social and Cultural Rights (ICESCR). However, Myanmar noteworthily also issued a reservation stating that the right of self-determination recognised in the International Convention should not be applied to any group within the state of Myanmar.[1]

In 2018, Myanmar's Parliament passed an amendment to the 2012 Vacant, Fallow and Virgin Lands Management Law. The purpose of the amendment was to introduce the requirement of a permit to use the targeted lands. The

[1] Similar reservations were made by the states of Thailand and Indonesia when they ratified the Convention.

amended law explicitly recognised customary land and *taungya* (hill cultivation land) as two exceptions in the application of the amendment. However, procedures for the recognition of these lands were lacking and the terms 'customary and *taungya* land' as well as 'virgin, fallow and vacant land' were so broadly defined that the amendment gave administrative and judicial bodies wide discretion to determine whether land is customary or *taungya*. In response, seven United Nations Special Rapporteurs jointly sent a letter to the Government of Myanmar warning that these potentially arbitrary decisions could easily result in severe violations of the rights of indigenous peoples such as forced evictions of their lands (United Nations, 2019a).

Implementation of the Rights of Indigenous Peoples

As shown in the previous sub-section, the legal recognition of the rights of indigenous peoples in the region is uneven. A further challenge resides in the implementation of these legal rights. This sub-section will examine the main implementation challenges in the region with regard to two rights that indigenous activists across the region raise as crucial: indigenous land rights and indigenous autonomy.

Implementation of Land Rights

Today, across the globe, indigenous land rights and other associated basic human rights are mainly threatened by extractive industries (Anaya, 2013; Burger, 2014). Other industries and businesses also have enormous negative impacts on indigenous peoples. For example, a recent systematic literature review of the socio-economic impacts of large-scale tree plantations found that the most affected region is Southeast Asia (Malkamäki et al., 2018). According to the authors, the main negative impacts involve loss of land, worsening of employment and livelihood conditions and health and food insecurity. This comparative study suggested that land titles can protect against these negative impacts. Since the state of land titling in the region is very uneven, this again suggests that the full enjoyment of land and associated basic human rights varies a great deal from country to country.

In Cambodia, although customary land rights are recognised under the 2001 Land Law, the Cambodian government offers no meaningful consultation nor compensation for activities developed in indigenous land by external actors (Filer et al., 2020), except for those holding land titles (Dwyer, 2015). There are many instances of land grabbing by multi-national and Asia-based companies (Baird, 2014; Thuon, 2018), somehow tolerated by the Cambodian government, which has tried different tactics of reform, repression and re-territorialisation to ensure its own survival (Loughlin & Milne, 2021). As mentioned above, land grabbing and alienation affect indigenous communities in several dimensions. For example, a recent study conducted in Cambodia has found that land alienation has impacted gender relations in indigenous communities in different ways, notably with regard to the division of labour

(Frewer, 2017). In neighbouring Laos, land rights of indigenous peoples are usually not respected, and many indigenous communities suffer from forced eviction from their homelands, severely impacting gender relations (Kusakabe et al., 2015) and food security (Friis et al., 2016).

In Indonesia, the implementation gap of land rights is asymmetrical, in part due to the different relationships between indigenous communities and local authorities (Van der Muur, 2018). There have been micro-successes at the local level in terms of cultural rights and attempts to redress past injustices and economic imbalances (Tyson, 2011). However, the implementation of land rights is often contingent upon the political will of district officials, as well as upon access to justice, which is sometimes denied to indigenous communities (Dhiaulhaq & McCarthy, 2020). With regard to the social impacts of industrial tree plantations in the country, these are very irregular across islands, and largely dependent on the intermediating role of the state, but also on the type of plantation (Pirard et al., 2017). As a result, the impact of this type of industry is worse in Kalimantan than in Java. However, developments are also unequal within islands and across companies. For example, the implementation of the Free Prior and Informed Consent (FPIC) was initially contested by oil palm companies, but became more accepted once these companies started to sell their products to European markets, where FPIC was valued by customers (Filer et al., 2020).

Also in Malaysia, the fulfilment of land rights is uneven and very much depends on the relationship between state governments and activists on the ground. Most of the times, indigenous communities need to defend their territories and lands rights through litigation, although in Sabah, Selangor and Perak there have been more opportunities for cooperation and mediation between indigenous communities and state governments (Aiken & Leigh, 2011b). On the opposite end of the spectrum, in Sarawak, the state government has issued new legislation to curtail land rights, for example by legally restricting community mapping (Aiken & Leigh, 2011a). As a result, in this state as in most states of peninsular Malaysia, land rights are constantly endangered by the actions of both the state government and corporations (Raman, 2006).

In a similar vein, the decentralised structure of Myanmar has allowed the recognition of indigenous land tenure and indigenous land titles by some states, including Karen state (Dunford, 2019). However, as explained above, this indigenous land tenure is virtually unprotected against business interests due to the Vacant, Fallow and Virgin Lands Management Law.

In the Philippines, the process of recognising land titles is also uneven throughout the country, but the number of indigenous land titles has constantly increased from the early 2000s to 2018 (Mcmurry, 2021). Here, the claims and processes of recognition of ancestral domains are not limited to land, but also include water resources in coastal areas (Capistrano, 2010; Capistrano & Charles, 2012). Finally in Timor-Leste, land legislation

concerning customary ownership and registration is still pending. In the meantime, the government has launched different programs to register customary land, but 'very few communal titles have been registered and concerns have been raised that sacred sites, water resources and other protected areas of communities have not been adequately mapped' (United Nations, 2019b). Similar to the Philippines, in East Timor, indigenous movements claim that indigenous rights associated to territory are not limited to land, but should also include customary marine tenure (McWilliam, 2002).

Self-Determination and Decentralisation

Throughout the region there are different structures of asymmetric decentralisation (He et al., 2007). Some of them have been designed to enhance indigenous self-government, in regions or states where indigenous populations are concentrated. However, the extent to which these institutionally decentralised structures have fostered indigenous self-determination or indigenous political autonomy is far from clear, and again varies between and within countries.

Malaysia is a federal state where the practice of indigenous self-government is asymmetrical. While on paper the states of Sabah and Sarawak are two autonomous native states recognised under the Constitution, the indigenous peoples of the states of Peninsular Malaysia barely experience the right to self-determination or self-government. In Peninsular Malaysia, it is the *Yang di-Pertuan Agong* (King) who selects the senator in charge of representing the *Orang Asli* in the National Parliament (Nordin & Witbrodt, 2012), while state governments appoint indigenous leaders or *batins* in other instances (Subramaniam, 2011). This means that *Orang Asli* of Peninsular Malaysia are not even able to select their own leaders. In East Malaysia, indigenous peoples are in principle able to designate their own state leaders. Yet, even if indigenous peoples constitute a majority in these two states and many elected officials are indigenous themselves, this does not necessarily mean that state parliaments and executives are accountable to indigenous communities' claims. In Sarawak, where many legislators are indigenous, the state assembly has passed several laws curtailing indigenous rights (Aiken & Leigh, 2011a). In both states there have been demands of secession and, as a response, the federal government has tried to impose its power (Case, 2007). Across all Malaysian states, different studies have pointed to the need of including indigenous communities in decision-making processes regarding their lands (Inguanzo, 2022; Raman, 2006).

In other Southeast Asian countries, indigenous peoples inhabiting vast portions of territory have claimed greater political autonomy, including the Karen in Myanmar, the Cordillerans in the Philippines or the Papuans in Indonesia (Bertrand, 2011; Dunford, 2019). In response, special autonomy regimes are granted or foreseen to be granted to some of them. However, in practice these have generally not been implemented. A Cordillera Autonomous Region was foreseen in the Filipino Constitution, but has not been officially

recognised yet: the region remains an Administrative region. In Indonesia, special autonomy was granted to West Papua, but the central government exercises harsh control over it and its citizens (United Nations, 2020). The Cordillerans in the Philippines have had a greater ability to influence constitutional debates on self-determination, as compared to Papuans (Bertrand, 2011). In other islands within Indonesia, new decentralisation laws encourage district officials to exploit natural resources as a way of generating their own regional incomes, which usually go against the interests and rights of local indigenous communities (Duncan, 2007). This has quashed hopes that decentralisation could serve as an opportunity to recover indigenous forms of land tenure and governance.

Beyond classic decentralisation structures, some authors have argued that the right to indigenous self-determination may be applied through mechanisms of multi-level governance (Alcantara & Morden, 2019; Doyle, 2020). In that vein, indigenous peoples can participate and have a say on their uses of their land, either through bilateral agreements of co-management or correct implementation of the right to Free, Prior and Informed Consent. However, even in places such as the Philippines, where the rights of indigenous peoples are better protected, most of the time the political will to genuinely empower and support indigenous peoples through these types of arrangement is lacking (Doyle, 2020; Major et al., 2018).

Indigenous Movements' Successes and Challenges in Upgrading Rights

The resonance of indigenous movements also varies greatly throughout the region (Inguanzo, 2018; Inguanzo & Wright, 2016). In some countries, indigenous movements face a very closed political opportunity structure within their own states and therefore address many of their actions and discourses towards the international community. This is particularly the case in Cambodia (Thuon, 2018) and Myanmar (Dunford, 2019). Similarly, the indigenous movement in Thailand stems from the global indigenous peoples movement and has grown in connection with international organisations (Leepreecha, 2019). In fact, the main regional organisation of indigenous movements, the Asian Indigenous Peoples Pact, is based in Chiang Mai, in northern Thailand. As a result of these frequent interactions with indigenous rights international regimes, the indigenous movement in Thailand has advocated for two interrelated elements: first, being considered indigenous peoples instead of simply 'hill tribes', and second, obtaining citizenship rights for indigenous communities (Morton & Baird, 2019; Vandergeest, 2003). Thai indigenous movements were key players during decades, advocating for the review of long-lasting forestry laws that did not recognise their citizenship rights (Morton & Baird, 2019). The relative success of new laws and amendments enacted in 2019 can be understood as a direct result of Thai indigenous movements.

In Indonesia, the indigenous movement commands a great deal of resonance, through AMAN, an organisation representing a nation-wide alliance of indigenous peoples (Duncan, 2007; Van der Muur, 2018). The Indonesian indigenous movement has made important advances, such as the Decision MK 35/2012 of the Constitutional Court, mentioned above. Yet, with regard to specific land conflicts, the indigenous movement usually has lower political leverage than for example peasant movements, both in terms of numbers and resonance of their claims and mobilising discourses (Dhiaulhaq & McCarthy, 2020).

The indigenous movement in neighbouring Malaysia encompasses a set of diverse non-governmental organisations that pursue a wide variety of resistance actions, from blockades, to community organisation, to litigation (Aiken & Leigh, 2011a). Still, the indigenous movement is more resonant in Sabah and Sarawak as compared to states in Peninsular Malaysia (Inguanzo & Wright, 2016). This is due to several factors. Indigenous peoples constitute a minority in West Malaysia, while they form a majority in both Sabah and Sarawak. Indigenous organisations in Peninsular Malaysia have also encountered opposition within civil society, notably from conservationist groups (Aziz et al., 2013).

Finally, in the Philippines, several civil society organisations belonging to the Filipino indigenous movement have been key to advancing the recognition of the rights of indigenous peoples (Inguanzo, 2013, 2018; Lusterio Rico, 2007) and remain so.

Indigenous Movements and Activists Under Threat

Throughout the region, indigenous communities and indigenous rights' defenders suffer similar forms of violations of their civil and political rights, although the intensity varies across countries and political contexts. Forced displacement of indigenous communities is common in Laos (Kusakabe et al., 2015), Cambodia (Loughlin & Milne, 2021) as well as in West Papua, Indonesia (United Nations, 2020). The problem of forced displacement is aggravated by the militarisation of zones inhabited by indigenous communities. This has been common in Myanmar, Indonesia (specially in West Papua) and the Philippines. Indigenous peoples in the Philippines are located in militarised zones—notably in Cordillera and Mindanao—and therefore suffer the consequences of political violence. However, indigenous communities are themselves involved in processes of peacebuilding and the creation of indigenous peace zones (Macaspac, 2019).

In terms of civil rights, the Government of Laos does not allow civil society organisations to register as non-profit organisations if they are affiliated as ethnic groups, which severely curtails the indigenous movement in the country (Baird, 2015). In Cambodia, NGOs related to land rights are intimidated and human rights defenders have been imprisoned (Loughlin & Milne, 2021). In Thailand, indigenous leaders defending the indigenous land rights have been

called traitors by political officials and have received death threats (Morton & Baird, 2019); there has been at least one case of murder and disappearance (IWGIA, 2020). In the Philippines, the Duterte Administration (2016–2022) infamously persecuted human rights and environmental defenders, including indigenous activists (Delina, 2020; Lamchek & Sanchez, 2021). Duterte even accused the former United Nations Special Rapporteur on the rights of Indigenous People, Victoria Tauli-Corpuz, of being a terrorist (OHCHR, 2018). In Malaysia, persecution of indigenous activism has been particularly intense in Sarawak for decades (Aiken & Leigh, 2011a; Amnesty International, 1997, 2018).

Conclusion

As shown in this chapter, the state of the rights of indigenous peoples in Southeast Asia is uneven, both in terms of legal recognition and implementation. The Philippines is the country where these rights are fulfilled to the greatest extent, both on paper and in practice. On the other side of the spectrum, in Myanmar these rights are most at risk. There are also important differences within countries, where some but not all indigenous communities are exposed to external actors who jeopardise their lands and associated rights. Recent changes on the domestic political arena in the countries of the region have yielded both advances and setbacks for the rights of indigenous peoples. These political transformations have either enhanced or inhibited the resonance and actions of indigenous movements on the ground, leading on the one hand to legal and local successes in Indonesia and East Timor, and on the other hand to the persecution of activists in Cambodia and the Philippines.

Nonetheless, the sources and nature of threats to the rights of indigenous peoples closely resemble each other across these different country contexts. Throughout the region, the main challenges to the rights of indigenous peoples come from extractive industries, the agroindustry, armed actors and non-democratic governments. Indigenous peoples face similar violations both of their collective indigenous right to land, and of their civil and political rights as citizens and activists. While indigenous movements adapt their repertoires and specific demands to the different political contexts they are located in, the Asian Indigenous Peoples Pact serves as a platform for presenting a united voice in international forums and for sharing strategies and knowledge among activists.

The COVID-19 pandemic has reinforced existing regional dynamics regarding the rights of indigenous peoples. According to the Asian Indigenous Peoples Pact (2020), the pandemic has had a number of significant impacts on indigenous peoples across the region (AIPP, 2020). First, the COVID-19 pandemic further disrupted the access of indigenous communities to basic services, while culturally appropriate information about the disease was generally lacking. Second, during lockdowns many communities forbade the access of outsiders to their communities and resorted to traditional structures and

practices of decision-making, information sharing as well as medicine. These trends are understood to have strengthened indigenous cultural, political and social systems. However, lockdowns also severely affected the economic livelihood of many communities, since access to local markets was often restricted. Surprisingly, lockdowns did not stop land grabbing, but instead accelerated it. Many national and local governments guaranteed the continued activity of extractive and plantation companies, but limited or prohibited indigenous mobilisation, resistance and blockades on the ground.

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CHAPTER 22

Khmer Buddhism and the Moderation of Political Power in Cambodia

Alexandra Kent

Introduction

For centuries, Khmer Buddhism has played a central role in moderating the exercise of worldly power in Cambodia. The brotherhood of monks (*sangha*), the *dhamma* teachings and the space of the pagoda historically represented a realm of virtue that transcended and was independent of secular interests. The *sangha* could bestow legitimacy upon appropriately deferential rulers, but could also rise up in resistance against rulers who transgressed Buddhist norms. In this way, Khmer Buddhism might be said to have performed as Cambodia's only source of legitimate opposition to the otherwise incontestable power of her rulers.

This chapter is concerned with the factors that have increasingly mitigated against the *sangha's* ability to recover its former role after its complete destruction during the Khmer Rouge regime (1975–1979). I argue that these have to do with the way the *sangha* has been drawn into the secular realm of politics since 1979, firstly under Vietnamese occupation until 1989, then within the framework of UN efforts to graft multi-party democracy onto Cambodia's authoritarian political culture. As we shall see, and despite the best efforts of some monks to revive monastic power, the past three decades have seen the silencing of Cambodian monks perceived as a threat to Prime Minister Hun

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_22

Sen's authority. Today, the chances of the *sangha* recovering its once so significant power to protect its congregations from the excesses of abusive rulers seem ever more remote, given China's increasing support and legitimisation of Hun Sen and his nascent dynasty.

I shall first present a brief history of the arrival of Buddhism to Cambodia and its interweaving with pre-existing religious practices. I describe the relationship between Khmer Buddhism, the spirits of nature and the powers of the King. There follows a description of the historical lead up to the complete annihilation of Buddhism under the Khmer Rouge, and then its state-controlled revival under the Vietnamese-supported People's Republic of Kampuchea (PRK, 1979–1989). This period marked the beginning of an unprecedented entanglement of Khmer Buddhism with secular politics.

The last thirty years of Cambodia's history—the period that Strangio (2014) has called "Hun Sen's Cambodia"—has witnessed a major resurgence of Buddhism and many Cambodians initially invested great hopes in the restoration of moral order through Khmer Buddhism. However, as we shall see, the grafting of liberal democratic norms onto Cambodian political culture, deregulation of the market and a swing in the balance of geopolitical influence from the West towards China have meant that the *sangha's* potential to confer legitimacy upon Cambodia's ruler by moderating his exercise of power has been ever more stifled. Following an eruption of resistance to Hun Sen by lay people and outspoken monks in 2013, Hun Sen's shift to hegemonic authoritarian rule, supported economically and normatively by China, meant the hopes that many Cambodians had once pinned upon their monks have ultimately been dashed.

The Land and Spirits of Cambodia

When Theravada Buddhism spread throughout Cambodia in the thirteenth century, it subsumed but did not eclipse pre-existing animistic practices. It came to play a role in domesticating the wild, dangerous powers of both land and people (Bizot, 1976; Chouléan, 1988). Buddhism was implanted into a world inhabited by a range of spirit beings. The source of all life—known as the *maja tuk maja day* (literally owner of the water and land)—manifested in specific forms, such as rivers, mountains, great ancient trees, peculiarly shaped rock formations, termite stacks, wooden *linga*[1] and more. The term *neak ta* (or *lok ta*) was adopted to refer to these spirit forms as well as to guardian spirits, human ancestors and deceased heroes. Some spirits derive from wild (*prei*) dangerous jungle areas, outside of the civilised space (*srok*[2]) of the village. Others are capricious ancestor spirits that can protect a community but also turn against people. The analogous relationship between the sacred

[1] Sanskrit for "sign" or "signatory symbol". A votary object in Hinduism symbolising the generative power of the god Siva.

[2] This word is also used to denote the land of the Khmer people, *srok Khmer*.

geography of the Buddhist pagoda and its constituency is suggested by the fact that the *neak ta* of the community and that of the pagoda were located at the northeastern limit of the village and pagoda compound respectively. Further, the pagoda area is enclosed by a ritually demarcated boundary known as *sima*, which once marked out the area within as beyond the control of secular power.[3] The pagoda thus housed the power to establish order in an otherwise inchoate world (Davis, 2022; Kent, 2022). The role of the monks in preserving order is apparent in the fact that they wrote works of moral instruction, known in Khmer as *chbap* (the Khmer term for "law") (Harris, 2005: 86–89). These provided moral instruction to all lay people, including the political and aristocratic elite.

The relationship between the monks and the ruler was also one of moral modulation. The political fulcrum of the ideal pre-modern Cambodian polity was the righteous king (*dhammaraja*), a status achieved by showing deference to the monks and practising the ten kingly Buddhist virtues known as *dasa rājadhamma*.[4] Fifteen years ago, Heng (2008: 311) described how, despite Cambodia's tumultuous history since the mid-1970s, most Cambodians were still looking to earlier ideals of political configuration as their moral compass, stating that "in general, Khmer people believe that peace and development can only come about when the government knows how to unite modern state governance, *anachak* [the 'wheel' of state affairs], with traditional governance, *Buddhachak* [the 'wheel' or way of life of Buddhism] both conceptually and in practice." He explained that Cambodia's modern ideal of political configuration, now phrased as the trinity of Nation, Religion and King, identifies the duties of the ideal king (ruler) to steer the chariot of society (nation) safely by keeping the two wheels on an even course. At the time he was writing, he claimed that the messianic search for a Just Leader (*Preah Batr Dhammik*) who adheres to these principles was still vivid in Cambodian popular imagination.

The extent to which these imaginings of order will survive in coming generations is a moot point. A Cambodian in his forties recently told me that his contemporaries, but more frequently his parents' generation, sometimes compare today's regime to the stories of a legendary "Gangster King" (*sdech peal*), who usurped the throne and ruled with greed and cruelty, enraging both the people and the spirits and resulting in a deluge. The king was forced to flee, while his subjects drowned or died of disease. However, "nowadays," he said, "most people don't know these stories any more … They just say all

[3] Penny Edwards (2008: 138) notes that the angular, containing walls around Angkorean monasteries and temples are, similarly, referred to by the term *sima*, indicating "long-standing indigenous practices of marking off the divine from the mundane and the sacred from the secular." Analogously, the borders of the *srok Khmer* can be referred to as *sima*.

[4] According to the Pali Text Society's Pali-English Dictionary, one of the meanings of *dhamma* is "king's rule," i.e. rule of governing, norm of kingship. This is usually given as a set of 10 norms referred to as *dasa rājadhamma*: dāna, sīla, pariccāga, ajjava, maddava, tapo, akkodha, avihiṃsā, khanti, avirodhana (alms-giving, morality, self-sacrifice, honesty, kindness, self-control, non-anger, non-violence, forbearance, righteousness).

leaders are the same. They promise to do this and that, but after the elections they don't keep their promises—they just want a position so they can do corruption. For me, I think the tenfold duties of the Buddhist King only exist in books, not in real life." Nevertheless, sections of the monkhood still draw upon this traditional conception of the relationship between the ruler's virtue (or lack of it) and the wellbeing of all that comprises the *srok Khmer*.[5]

The Death of Khmer Buddhism

Cambodia edged towards independence from the French Protectorate (1863–1953) on what Harris (2005: 228) referred to as "a breaking wave of Buddhist activism and martyrdom that had its seeds in the late nineteenth century." The charismatic King Sihanouk, who would secure independence by 1953, drew upon both his royal status and Buddhist norms to ground his authority. In 1947, he ordained for three months and then became an avid sponsor of the religion. As both the "father of independence" and major patron of Buddhism, his popularity grew. Notwithstanding Sihanouk's harsh intolerance of any opposition, he aligned his self-presentation according to the ideals of a compassionate Buddhist father of his people, whom he referred to as his children. In his favour was the fact that the 1950s and 1960s were relatively peaceful times in which popular expectations of a royal ruler, who presented himself as virtuous, and a strong *sangha* were largely borne out. Cambodians now began to see themselves as a people of virtue who were protected by Sihanouk, the Buddha, local monks and the spirits of the land.

However, 1970 saw the opening of a sinister chapter in Cambodia's history as the United States war with Vietnam spilled over the border while Cambodia's own home-grown communist insurgents were gathering strength in jungle hideouts. Thousands of villagers fled to Phnom Penh, and in the ensuing chaos, Sihanouk's General, Lon Nol (allegedly spurred on by the US) usurped his position in a 1970 *coup d'état*. Striking back, Sihanouk aligned himself with the communist Khmer Rouge, while Lon Nol presented himself as a true Buddhist leader, who was now gathering his people against communist and Vietnamese non-believers. At this time, Harris (2013) notes, prophecies began circulating among Cambodians predicting the demise of Buddhism.

On 17 April 1975 Khmer Rouge forces marched into Phnom Penh and within three days had cleared the city of its population, forcing them out into the countryside to begin its radically secular agrarian moral cleansing programme. Society was to be wiped clean of its history and restarted as a *tabula rasa,* or from "year zero" (Ponchaud, 1977). The state-produced metaphor could be said to have reduced the two wheel configuration of *anachak* and *Buddhachak* to a single, terrifying "wheel of history" as its axis

[5] See Thompson (2004) for a discussion of the parallels between the wellbeing of the body of the King and that of his kingdom.

of "progress": "As the wheel of history inexorably turns, if you are in its path and if it touches your arm, it will crush it; if it catches your leg, it will roll over that, too" (Locard, 2004: 211).

This de-historicised, state-authorised dictate was not simply a slogan—the new revolutionary norms were imposed forcibly such that virtually all facets of pre-revolutionary Cambodian society were crushed—religion, kinship, markets, money, private property, hierarchy and royalty. "Enemies" of these new values were to be rooted out for re-education or, commonly, elimination. Cambodia's monks were forced to disrobe, pagodas were emptied and many were repurposed as workshops, storehouses, pig-sties or torture centres and prisons (Harris, 2013).[6] By 1978, the Khmer Rouge minister of culture, information, and propaganda, Yun Yat, had declared Buddhism dead and the ground clear for the foundations of a new revolutionary culture. Sihanouk was held under house arrest. In less than four years, Cambodia had lost two of its major cultural axes—a kingly figure and the *sangha*—and the country suffered. An estimated one quarter of the population perished from overwork, starvation, disease or torture and execution.

State-controlled Regeneration of the *Sangha*

In late 1978, the Vietnamese invaded the country and by January 1979 had established a compliant regime in Phnom Penh through which to impose their own variant of socialism. As a leader of the Vietnamese-sponsored rebel army which had fled the Khmer Rouge, Hun Sen was appointed Deputy Prime Minister of the Vietnamese-installed People's Republic of Kampuchea (PRK) and later became Prime Minister in 1985.[7] The now liberated Sihanouk went into exile and, in 1981, established the royalist resistance movement FUNCINPEC (Front Uni National pour un Cambodge Indépendent, Neutre, Pacifique et Coopératif). The PRK set about restoring markets, money, roads, hospitals and schools and permitted Cambodians to return to their homes or flee the country. Importantly, especially since the regime stood in opposition to the Cambodian monarchy, the PRK also saw value in regenerating Khmer Buddhism. They proposed that Cambodia's morally just communist revolution had been perverted by a handful of genocidal traitors: the Pol Pot-Ieng Sary-Khieu Samphan clique (Ledgerwood, 1997: 82), whereas the Vietnamese would now impose a desirable form of socialism that would include a revived *sangha*.

In September 1979, the Vietnamese sponsored the re-ordination of seven former Khmer monks who were then able to ordain others and formally re-establish the Cambodian *sangha* (Keyes, 2022: 60–61). The state now permitted the ordination only of men over the age of fifty, and it forbade

[6] A number of survivors have documented their experiences of the regime in memoirs. See, for example, Pin Yathay (1987), Loung Ung (2000), and Rithy Panh (2023).

[7] This makes him one of the world's longest-serving leaders.

them from performing the traditional alms round, which had formerly enabled donors to make merit. This meant that politically unproblematic features of pre-revolutionary religious life (such as weddings, funerals and seasonal rituals) could be revived, while the potential of the *sangha* to acquire real influence was constrained.

The youngest of the re-ordained monks, the Venerable Tep Vong, was subsequently appointed head of a unified *sangha*, merging the Thommayut and Mahanikay orders. He was given explicitly political positions as Vice-President of the National Assembly and Vice-President of the Central Committee of the Kampuchean United Front for National Construction and Defence. This meant that the pinnacle of the *sangha* lost any semblance of moral independence and became broadly viewed as a part of the political machinery of the new regime. The institutionalised *sangha's* autonomy to put a moral brake on secular power wielders was thus kept firmly in check. The party that evolved under the supervision of the Vietnamese, the Kampuchean People's Revolutionary Party (KPRP), rebranded as the Cambodian People's Party (CPP) in 1991, has since continued to support—and control—the Venerable Tep Vong, elevating him in 2006 to the position of Supreme Patriarch of both revived Buddhist orders in what Larsson (2015) has described as a form of "religious disenfranchisement".[8] He is widely considered to be lacking in Buddhist education and to be acting as a mouthpiece of the government.

Remaking the Khmer Buddhist Kingdom

Vietnamese efforts to earn legitimacy in Cambodian eyes proved largely futile and civil war persisted throughout the 1980s. But with the ending of the Cold War and dwindling Soviet support to Vietnam, the Vietnamese began withdrawing from Cambodia. The warring factions signed Peace Agreements in Paris in 1991. With the Vietnamese gone, the revival of Khmer Buddhism flourished. Sihanouk returned to Cambodia from exile and was reinstated as King. This marked the birth of Cambodia's Second Kingdom, with the motto Nation, Religion and King (*cheat, sasana, mohaksatr*) (Norén-Nilsson, 2016a, 2016b). The way was also clear for a wave of foreign-sponsored liberal values to sweep into Cambodia, with imperatives to introduce multi-party democracy and liberalise the economy. Communist norms were rapidly replaced by consumerism and purchasing power (Kent, 2007).

The notion of peaceful cession of power from one party to another was entirely novel to Cambodian political culture, and it did not take root. The United Nations Transitional Authority in Cambodia (UNTAC)-supervised democratisation process 1991–1993 simply shifted the competition for power

[8] The Thommayut order was restarted upon Sihanouk's return from exile and reinstatement as King in 1991, when he appointed the Venerable Bour Kry as its Supreme Patriarch. In 2006, the Venerable Non Nget became Supreme Patriarch of the much larger Mahanikay order and the Venerable Tep Vong, who had been Supreme Patriarch of the Mahanikay order from 1991 to 2006, became Great Supreme Patriarch of both orders.

from war to elections, which "meant complying with the expectations of the international community, when necessary, and protecting power in undemocratic and frequently violent ways, when possible" (Gottesman, 2003: 349). Thus, when Hun Sen's CPP lost to Prince Ranariddh's FUNCINPEC party in the UN-organised 1993 general elections, Hun Sen refused to peacefully cede power. Rather than risk a return to violent conflict, King Sihanouk brokered a power-sharing arrangement between the leaders of the two parties. And just four years later, in 1997, a death knell sounded for FUNCINPEC when forces loyal to Hun Sen fought and defeated FUNCINPEC forces on the streets of Phnom Penh. This meant that while Cambodia continued to hold elections, an illiberal form of democracy was evolving, illustrating what Schmitter and Karl (1991: 78) describe as the fallacy of electoralism—a misguided belief that merely holding elections will channel political action into peaceful contests among elites, regardless of what factors may constrain winners.

The new 1993 constitution, which enshrined the right of universal adult suffrage, included monks as voters in a multi-party democracy. This was decided by the head of UNTAC against an explicit request from the heads of both Cambodian monastic orders, Supreme Patriarchs Tep Vong and Bour Kry, that monks be excluded from the vote. UNTAC's refusal meant monks became absorbed into the Cambodian electorate for the first time ever. As Lawrence (2022a) observes, the Cambodian constitution stands out as one of the world's only constitutions to recognise Theravada Buddhism as state religion—yet not include a religious exemption to the universal franchise for its monastics.

As the country became increasingly absorbed into the global marketplace, the most significant instrument of power shifted from arms to property and capital. The *sangha* too was becoming monetarised as a flood of international NGOs tried to engage monks in foreign-sponsored development projects and as politicians began making large monetary donations to monks, who were then obliged to show loyalty to their patrons.

Traditionally, monks had been respected authority figures with strong grassroots anchorage in local communities throughout the kingdom. As recently as in the 1960s, many remoter villages had enjoyed relatively autonomous lifestyles that were of little interest to urban power holders (Vickery, 1999 [1984]: 1–4), but the changes in the political importance of village monks, the democratisation process, the privatisation of land and natural resources, and improved road networks all helped make accessing peripheral areas both more interesting and feasible for urban elites. This meant that when monks became voters in 1993, politicians had both the means and motivation to control them in rural areas, particularly if the monks were popular.

The powerful could exert influence by creating patron-client relationships with village authority figures, who in turn control the monks and villagers under their authority. Intervention by high-ranking people into village life also began taking place within the sacred space of pagodas, such as by presiding

over ground-breaking ceremonies. Aware of the risks of displeasing party officials, abbots have usually been keen to attract their patronage (Kent, 2007). The CPP thus learned how to woo the monks to its side, silence opponents, purchase patronage, and instal government-friendly pagoda abbots. As Hughes (2006: 486) has shown, gift-giving by the newly enriched "big brothers" (*bang thom*) enabled Hun Sen and his CPP supporters to present themselves as "keepers of tradition—not so much in that they require continued observance of the tradition, but that they can bend it to their will, with sufficient menace that overt challenge is not possible."

Many marginalised, disenchanted young men from rural areas began ordaining as monks during the 1990s to gain access to food and education. This exacerbated mistrust between indigent monks and the swelling elite, but it also made monks susceptible to menacing manipulation by wealthy donors. Some monks yielded more or less willingly to the new pressures. Those who resisted and were perceived by elite figures as a threat were subjected to various forms of coercion, including expulsion from pagodas, intimidation and violence. The renowned teacher of Vipassana Meditation, the Venerable Sam Bunthoeun, was shot as he was entering a pagoda in central Phnom Penh, just months prior to the 2003 elections. He died later in hospital. Although no one has ever been prosecuted for the murder, and various stories circulate about the reason for the killing, some contended that the murder was politically motivated (Öjendal and Lilja, 2009: 241). Whatever the truth, his death subsequently kept many monks in fearful silence.

Yet, as monks with more impressive monastic credentials than the Venerable Tep Vong began returning from exile in the 1990s, the credibility of the politicised ecclesiastical hierarchy became increasingly contested. At the same time, a new generation of young and internet-savvy monks began acquiring Buddhist education and monks who showed leadership qualities and had moral legitimacy in the community were becoming problematic for Hun Sen and his CPP following (Soeung & Lee, 2017).

The politicisation of the *sangha* leadership was also becoming glaringly evident. Following the 1998 general elections, monks were among those who protested about election irregularities. When the protests broke out, Cambodians were shocked by "… the willingness of the police to use violence against Buddhist monks, who had come to take prominent roles in the protests" (Marston, 1999: 15). Prior to the general elections in 2003, Supreme Patriarch the Venerable Tep Vong proclaimed that it was contrary to their ascetic vows for monastics to cast votes. This was endorsed by CPP supporters but condemned by many Cambodians as a statement of the Patriarch's subordination to the CPP, which was anxious about monks' moral surveillance. Monks were thus divided over whether or not they should vote, reflecting the wider struggle by politicians to secure the influential backing of a Buddhist clergy that was now pondering how to play its role in a democratic future.

In 2004, the ailing Sihanouk abdicated and his son, Norodom Sihamoni, was elected new king by the Throne Council. The death of King-Father

Norodom Sihanouk in October 2012 signalled for many Cambodians the demise of Cambodia's last god-king (Norén-Nilsson, 2016b). The childless bachelor Sihamoni contrasted sharply with his father. He had spent most of his life in Czechoslovakia and France, where he dedicated himself to classical dance.

Lawrence (2022b) has discussed the tensions pertaining to the role of the monarch as outlined in the 1993 constitution. While the constitution provided for a ceremonial role for the monarch, it also cast the monarch as "'guarantor' of Cambodia's independence and sovereignty (Article 8), the rights of its citizens (Article 8), and the independence of its judiciary (Article 132); or as (2) 'arbitrator' to ensure the regular functioning of government (Article 9)" (Lawrence, 2022b: 383). Lawrence notes that in the context of the CPP's ever-tightening grip on national institutions, neither Sihanouk nor Sihamoni have been able to execute this "safeguarding" power. This has largely stymied the monarch's influence over the political sphere, although both Sihanouk's and Sihamoni's absences from the country at the time they were to sign controversial legislation is read by many Cambodians as a mark of royal disapproval (Lawrence, 2022b: 392).

As Norén-Nilsson (2013, 2022) details, in the early 2000s Prime Minister Hun Sen also started fashioning the narrative of his own rule according to that of a reincarnation of the sixteenth-century King Sdech Kân—a commoner who, thanks to his own merit, toppled the king and ascended to the throne himself. In this way, Hun Sen surpasses the genealogical line of today's royal family and elevates himself above the sitting king. This both reconciles his image as a revolutionary with that of king-like leader, and functions as a declaration of his supreme and incontestable legitimacy.

Consuming the Land from Under People's Feet and a *Dhammocratic* Moment in 2013

Although some 75% of Cambodians still relied on agriculture as a major part of their livelihoods, by 2012, the Cambodian state had granted around 2 mn hectares of land as concessions to private corporations to create monoculture plantations, extract minerals, log hardwood and construct hydroelectric dams. By 2020, this area had more than doubled. To make way for this flood tide of so-called development, communities that traditionally respected the spirits of the land were displaced from areas their forebears inhabited for generations (Work, this volume). Communities, spirits and forests have been disappearing at an exponential rate as the new, consumerist way of relating to the land literally gained ground (Kent, 2020). Monks as well as spirit mediums have been prominent in efforts to protect both the natural environment and the communities that have been forced off their ancestral lands. The CPP anticipated another easy victory in the July 2013 general elections, but by this time, the rampant greed and disenfranchisement of the most vulnerable had

left many Cambodians desperate for a change in leadership. CPP complacency was shattered by the votes of embittered youth and former CPP loyalists enraged by land grabbing, corruption and the culture of impunity among the politically connected. Online media had also broken the government's stranglehold on press coverage of the campaigning. The increase in popularity of the merged opposition party, the Cambodian National Rescue Party (CNRP), now presented a real threat to Hun Sen's iron rule. Five years earlier, the CPP had won 90 of the 123 seats in the National Assembly, whereas in 2013, according to official election results, it won just 68 seats while the opposition took 55.

The opposition responded by alleging electoral irregularities such as ghost voting, document fudging, and voter disenfranchisement. Five monks were also reported to have been beaten in their pagoda on election day, and this helped galvanise a movement known as "The Independent Monks' Network for Social Justice", a group of advocate monks who began uploading information to the internet to reveal social injustice and promote equality (Le Coz & Besant, 2014). The founder of the network, the Venerable But Buntenh, proclaimed, "We will monitor any government and support social justice. At the moment there is no justice" (Erker, 2014).

After the elections, protests broke out with monks prominent among the protesters who gathered at Phnom Penh's Freedom Park. Journalists reported that monks were even seen addressing the crowds of opposition party supporters. These monks claimed that although their seniors disagreed, they were convinced it was their duty to support the people on whose alms they depended. "We've been eating our people's food, and now our people, our nation, is experiencing injustice, so we can stand and help them," a Venerable named Keo Somaly was quoted as saying to a reporter (GlobalPost, 2013). When the government cracked down on the protests and closed off Freedom Park with barbed wire in January 2014, Buddhist monks were ever present, demanding that the barriers be removed. Monks also played a leading role in other protests in 2013–2014, supporting striking garment workers in their demands for higher wages and backing those who had been evicted from their homes in land disputes.

In November 2013, the Venerable But Buntenh organised a 25 km march of 40 monks and a dozen or so youth volunteers through the dense jungle of the Areng Valley. The march was to protest about a Chinese company's plans to build a hydroelectric dam, flooding 20,000 hectares of forest. The protest included drawing an 80-metre-long saffron cloth around some large trees. This practice of "ordaining" trees has often been used both in Thailand and Cambodia to demarcate the trees' sacred status and protect them from loggers. The Venerable Ngim Saosam Khan, 33, was quoted as saying he was optimistic about making a difference: "In Cambodia, monks have *power* and can stand up to the government if something is wrong … So the government and many companies are not happy with our work because we are disturbing their [quest for] money" (Forsyth, 2013, italics added). However, this upsurge

in popular resistance to the leadership was short-lived. By 2017, efforts by the laity as well as from within the *sangha* to hold the powerful accountable had effectively been quashed (Norén-Nilsson, 2019).

Defeating the *Dhamma:* Unfettered Autocracy

The shock for the CPP of the 2013 elections was compounded by the CNRP's strong performance in commune elections in 2017. With national elections looming in 2018, the CPP stalwarts were quick to act. In September, CNRP President Kem Sokha was arrested on charges of treason, and in November, his party was dissolved by Supreme Court order over accusations that its leaders were conspiring to overthrow the government.

This meant that the CPP ran unopposed in the July 2018 elections, claiming all of the 125 seats in the National Assembly and marking the dawning of a new era of hegemonic authoritarian rule (Loughlin & Norén-Nilsson, 2021). Behind this political spectacle lay a series of other changes—legal reforms, closures of independent media outlets, criminalisation (and indeed assassinations) of activists, and the creation of state-controlled social media platforms, all of which took place in the context of China's increasing provision of economic support and legitimacy for the CPP's rule.

Significantly, there was a corresponding escalation in the harassment of activist monks. Prominent among the monks who protested in 2013 was the Venerable Luon Sovath, a monk from Siem Reap (nick-named the "multi-media monk"), who witnessed his family and fellow villagers being violently evicted from their homes in 2009. After this, and at great risk to his personal security, he began representing and supporting communities and human rights defenders across Cambodia using essays, poetry, songs, and videography to raise awareness for victims of human rights abuses. As land grabbing and forced evictions of people from their property gathered speed, the Venerable Luon Sovath increased his activity, despite threats of arrest and disrobing. In 2011, Supreme Patriarch Non Nget banned the Venerable Sovath from pagodas, claiming that he had "violated" religious policies. In 2012, the Venerable Sovath received the Martin Ennals Award for human rights for his advocacy work (Martin Ennals Award, 2012). The Cambodian judiciary then began bringing various felony "incitement" charges against him (Witness, 2014). In 2020, the Venerable Sovath was defrocked following an online disinformation campaign, after which he sought temporary refuge in Switzerland.

Similarly, the Venerable But Buntenh, who had founded the Independent Monks' Network for Social Justice in 2013, also incurred the wrath of the government for his stance on corruption, land dispossession, and environmental degradation. He was at the forefront of various public protests, including the protest to protect the Areng Valley mentioned above. His network also founded a mobile radio station and spearheaded a campaign to protect Prey Lang forest. In January 2018, the Venerable But Buntenh and

two other prominent civil society activists were charged with fraud over accusations of misappropriating funds collected for the funeral of political analyst Kem Ley, who had been assassinated in July 2016. Denying the accusations, the three activists noted that the lawsuit came amid the 2017 government crackdown that had paved the way for the CPP's victory in the 2018 general election.

The Venerable But Buntenh immediately fled Cambodia to the United States. A statement by government spokesman Phay Siphan again captures the tension inherent in how government figures demand an apolitical role for monks despite the monks' constitutional voting rights: "I don't call him a monk. He just wears monk's clothes. He is a political activist. His speech is not monk's words. It is just the language of someone who does politics against Samdech Hun Sen" (Narin, 2018). Another "activist monk", the Venerable Bor Bet, took refuge in Thailand in November 2020 to avoid arrest after having joined protests in Phnom Penh to demand the release of incarcerated labour union leader Rong Chhun. Life for Khmer monks who were willing to speak out against injustices was becoming ever more precarious.

By December 2021, a new draft law regulating monks' behaviour came before the Ministry of Cults and Religions. It originally proposed prison terms of six months to five years for monks who "act against the decisions of authorities at all levels" (Dara, 2022). Not only did the draft law threaten the civil and political rights of all Cambodians enshrined in the 1993 Constitution, but perhaps more troublingly, monks were now set to see their long legacy of resistance against secular authorities and injustice completely stamped out by legislation (Dara, 2022).

This draft legislation had immediate effects on prominent monastic figures. The same month, the Venerable Bor Bet was arrested in a temple south of Bangkok and taken to an immigration detention centre, sparking concerns he would be deported to Cambodia (RFA, 2021). However, like the Venerable Luon Sovath, he was granted asylum in Switzerland where both vow to continue their criticism of the situation in Cambodia using social media. In an interview in January 2022, the Venerable Bor Bet pointed out that the tradition of rebellion among monks is nothing new, but dates back a century (Dara, 2022). These cases illustrate the way in which the *sangha's* capacity to perform any variant of their traditional role in putting a brake on the excesses of power holders has been strangled.

The Spirit of China in Cambodia

Chinese migrants have a long history of engaging in trade in Cambodia, often intermarrying with Khmers. Since the 1990s, a new wave of Chinese migrants has been arriving in Cambodia and the impact of Chinese norms and money has been felt increasingly throughout the country. Some Cambodians initially held out hopes of rapid enrichment, but by around 2010, this began giving way to growing tensions. The new Chinese were establishing patron-client

relationships with officials, and their social mobility was aided by their use of rent-seeking and crony capitalism, thus underpinning Cambodia's political-economic order in which ethnic Chinese dominate, and the disparity between elites and the general population is widening (Chheang, 2022).

A Cambodian acquaintance whose paternal grandfather came to Cambodia from China explained to me in 2020:

> Before 2017, Khmer people who had Chinese ancestors were proud to make offerings to them, because their livelihoods improved each year. But around 2018-2019, Khmer-Chinese people began feeling ashamed to celebrate this ceremony, because of all the problems created by those Chinese …. Khmer people also see that some rich Chinese can buy a position working with the government—even though they can't speak Khmer. They own lots of businesses here, even small businesses such as barbers' shops, selling fruit, fixing motorbikes and driving tuk-tuks.

In the last few years, he had asked his wife to stop preparing any offerings or putting Chinese stickers up outside their apartment. "Those stickers used to be a sign of happiness," he said. "But now they remind us of trouble, so we keep the stickers inside."

Cambodia illustrates how twenty-first-century Chinese expansionism is operating—enabling Beijing to rewrite the rules of global trade and security and preclude challenges to its multiplying global interests. In 2006, Cambodia and China signed a treaty of "Comprehensive Partnership of Cooperation." China increased its loans and aid portfolio to Cambodia, began providing military aid and became increasingly involved in constructing contentious hydropower plants (Chheat, 2022). President Xi Jinping's "Belt and Road Initiative" (BRI) has been welcomed by Prime Minister Hun Sen as a means to boost "regional and global cooperation in terms of hard and soft infrastructure, economy, trade, investment, cultural exchange, people-to-people connectivity, and so on" (Press and Quick Reaction Unit, 2019). Cambodia's deep-sea port town of Sihanoukville, previously a sleepy beachside town, became known as China's first port of call on its massive initiative. Chinese hotels and casinos mushroomed, essentially transforming the town into a Chinese enclave. Chinese investments in the country, which include large casinos and real estate projects, also largely lack transparency and accountability, thus fueling corruption.

Chinese companies have been awarded some half of Cambodia's 4.6 million hectares of economic land concessions and they are responsible for a considerable acceleration of environmental degradation and disenfranchisement of communities. For example, China's Union Development Group alone was reported in 2017 to have cleared some 36,000 hectares of forest in the largest national park in the country—Botum Sakor—for "development", leading to the displacement of thousands of embittered locals. When a Reuters reporter

tried to enter the zone, a ranger forbade them, threatening to call in the military police who provide security for major concessionaires like this, and stating, "This is China" (Kent, 2021).

Observers see a correlation between the Cambodian leadership's relationship with China and the consolidation of CPP power through the intensifying crackdown on all dissenting voices—within politics, civil society, the media as well as the *sangha*. Loughlin (2021), for example, notes that ties between authoritarian regimes enhance their chances of survival in moments of crisis such as experienced by the CPP after the 2013 elections.

Some reporters have proposed that Hun Sen's use of Chinese-style oppression sits uncomfortably with most Cambodians:

> The prime minister speaks in legal terms, referencing Cambodia's UN-backed 1993 constitution and concepts such as the rule of law and human rights that he frequently disregards in practice. Cambodians' affinity for the West makes the strongman's embrace of China a difficult sale, forcing him into this kind of manipulative language. But this camouflaging suggests the prime minister's awareness of his dwindling support and perhaps his weakening grip on power (Dunst, 2019).

Indeed, while the outlawing of the opposition CNRP in 2017 was decried as the "death of democracy" by Western observers, it was endorsed by Beijing as a means to ensure continued stability and "development" in Cambodia (Kent, 2021). China's "face mask" diplomacy during the Covid crisis—providing medical supplies, vaccinations and medical training to Cambodia—may since have helped boost the CPP's performance legitimacy (Luo & Un, 2021), but the events of 2017–2018 are nevertheless regarded by observers as the final step in Cambodia's slide from competitive into hegemonic authoritarianism (Loughlin & Norén-Nilsson, 2021), despite or as evidenced by the regime's intense search for legitimacy through royal imagery since (Norén-Nilsson, 2022).

Troublingly, comparisons may even be made between today's leadership and the Khmer Rouge era, when the moderating power of the *sangha* was also crushed. Norén-Nilsson (2013: 7) describes how the nineteenth-century prophecy known as the *Putth Tumneay* foretells that a Just Leader (Heng, 2008) will bring peace to Cambodia after a time of violent inversions of order, in which the ignorant take power and Buddhism is destroyed. Although this prophecy has been mainly associated with the Khmer Rouge, Norén-Nilsson notes that the text has also been seen by political opponents to apply to the incumbent CPP regime, with its roots in communism. Indeed, Courtney Work (personal communication) noted while doing fieldwork in Prey Lang forest in north-central Cambodia that some people even compare the Khmer Rouge era favourably to the situation today. One man of the Kuy ethnic minority, in his fifties, thus stated: "Pol Pot only killed the people; he didn't touch the forest. Now, *everything's* gone." In sum, Cambodia's shift towards hegemonic

authoritarianism with Chinese endorsement have left the *sangha* and Buddhist norms of righteous rule with virtually no avenue to exercise influence over the country's leadership.

Conclusions

This chapter has focused on the longstanding role Khmer Buddhism has held in moderating the exercise of worldly power in Cambodia. For centuries, the *sangha*, the Buddhist teachings, and the sacred space of the pagoda represented a cultural realm that could both confer and deny leaders the moral legitimacy to rule. In this sense, Buddhism performed as the only source of legitimate and effective opposition to the otherwise boundless power of rulers. Following an historical background to the introduction of Buddhism to Cambodia in the thirteenth century, and its ultimate destruction under the Khmer Rouge regime (1975–1979), I have explored a number of factors that have impacted negatively upon its recovery in the post-Khmer Rouge era.

Firstly, I discussed how the *sangha* has been drawn into the secular realm of politics since 1979, initially during the Vietnamese-supported PRK, then in the framework of UN efforts to graft multi-party democracy onto Cambodia's authoritarian political culture. The politicisation of the ecclesiastical hierarchy through the figure of the Supreme Patriarch, the Venerable Tep Vong, and the inclusion of monks in the electorate in the 1993 constitution, both contributed to the erosion of the monks' autonomy and, consequently, their moral authority.

The constraints upon the revival of monastic authority have been all the more significant given parallel economic and political developments in Cambodia. Economic liberalisation, and ever greater connectedness both within the country and between Cambodia and the global economic forum, have created competition over and opportunities to extract resources. In this climate of consumerism, Hun Sen's leadership style has facilitated accumulation by his elite networks through dispossession of the vulnerable (Springer, 2013). The *sangha*, too, has been influenced by the norms of consumer culture, and the powers residing in the pagoda, subject to purchasing power.

Further, we have seen how Hun Sen fashioned his rule according to familiar Cambodian notions of royalty—as supreme and meritorious—while he simultaneously elevated himself over the sitting monarch.

I have discussed how these trends towards an increasingly predatory society, in which the powers of the elite have grown unchecked since the early 1990s, ultimately led to an eruption of opposition in 2013, when the population tried to use electoral means to oust Hun Sen's CPP from power. I have paid particular attention to the role played by monks in this period of unrest, despite the regular intimidation of monks deemed to be politically threatening ever since the early 1990s. This was, perhaps, the final effort by members of the *sangha* to reclaim the moral authority over the leadership that it had traditionally held. The presence of the new Chinese in Cambodia and Beijing's

growing global influence at this time helped Hun Sen consolidate his power and silence opposition, including that of the *sangha*.

The *sangha* has thus been stripped of its traditional capacity to transcend partisan politics. Its ability to protect the Khmer people and their land from the cruelty and greed of secular power holders has been more or less extinguished. The Cambodian people are left with neither a modern democratic system nor their traditional cultural system to safeguard their interests. Against this background, I propose, the chances of the *sangha* recovering its once so significant power to protect its congregations from the excesses of rulers seem ever more remote.

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CHAPTER 23

Social Regulatory Regimes in Northern Vietnam: How Interpersonal Network Norms, State Laws, and Market Rules Interact

Emmanuel Pannier and Michaël Bruckert

Introduction

The coexistence of several normative systems within a single society is now a universal and widely studied phenomenon (Reyntjens, 2016; Twining, 2010). However, the nature of these different normative regimes, their relative importance in the regulation of social relations, and their concrete modes of interaction vary from one society to another. These aspects are less often studied and this is where field research can help, in support of and in addition to theoretical discourses on institutions and norms. It can help apprehend the concrete and polymorphous manifestations of institutional pluralism according to the socio-historical contexts. In this perspective, this chapter aims to describe and analyse the multiplicity of normative systems in northern Vietnam, how they interact with each other and how they can be transformed.

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_23

We hypothesise that in Vietnam the social regulatory regimes of the state and the market are competed against but also nurtured by alternative normative systems that occupy an important place in the regulation of society, especially the norms that regulate interpersonal networks (Pannier, 2015). This phenomenon is not unique to Vietnam, but it is particularly interesting to study in this country for at least two reasons. First, its political history amplifies the phenomenon of multiplicity of normative regimes.[1] Indeed, Vietnam has since the end of the nineteenth century experienced the imposition of a colonial system on a mainly peasant society, governed by its own codes, but framed by an imperial regime with a more or less powerful bureaucratic system, partly inherited from a long period of subjection to the Chinese feudal empire (from 111 to 968). Vietnam then experienced the transition in the 1950s to a socialist system organised around a centralised collectivist economy, and finally the establishment in the 1990s of a market economy oriented towards liberal globalisation but still overseen by the Communist Party (Papin, 2003). These different modes of normative ordering of social and economic relations have followed one another but have not systematically supplanted the norms specific to each regime. There is more of a "stratification" (Bierschenk, 2014) through superposition and entanglement, which gives Vietnamese society a particularly composite appearance (Tréglodé, 2018).

The second reason for focusing on the issue of normative plurality in Vietnam is that, contrary to many studies on this topic (Meagher, 2012; Reyntjens, 2016), the country is not in a "weak state" situation: the authority of the party is strong, the social and political system is stable, and the government has the means to enforce its laws (Duchère, 2017). This situation does not, however, prevent the existence of structuring alternative normative registers, the deployment of recurrent deviant practices, and the existence of a multiplicity of immanent practical norms, far removed from official norms, but which regulate interactions at all levels of society.

This chapter proposes to study the plurality of norms in Vietnam through two case studies: the first study looks at the way in which ethnic populations in the northern mountainous areas navigate between norms of local society and state regulations, and the second describes the institutional arrangements in the case of online food sales in Hanoi. These two field studies help establish a classification of the interactions between different normative regimes in Vietnam and beyond. This classification is intended to extend and complete the ones by Chauveau et al. (2001), Helmke and Levitsky (2004) and Olivier de Sardan (2021).

[1] Vietnam's constitutive ethnocultural diversity as well as the intensity of the "cultural transfers" that have shaped the country (Aubert-Nguyen & Espagne, 2015) also contribute to the proliferation of normative systems.

Polymorphous Social Regulatory Regimes

The concept of "social regulatory regime" helps us understand the diversity of normative systems in Vietnam and their modes of interaction. It refers to a system of norms that regulates relations and exchanges, reduces uncertainties, creates trust, arbitrates conflicts, and ensures cooperation within a social space (Lordon, 2011; Pannier, 2021). Social regulatory regimes encompass institutions and their sets of norms and are characterised by their effects: they allow for the (re-)production of social relations or, to use Arendt's conceptions of politics, living and acting together (Arendt, 1958).

Three ideal–typical modes of social regulation can be distinguished: interpersonal networks, the state, and the market. These three regimes can be compared to Polanyi's (1957: 250) three "forms of integration"—reciprocity, redistribution, exchange—and Graeber's (2011: 100) "three main moral principles on which economic relations can be founded"—communism, hierarchy, and exchange. Their meaning is nevertheless broader, as it is not confined merely to economic relations but includes political, socio-cultural, and institutional interactions. They partly overlap with some of the "worlds" conceptualised by Boltanski and Thévenot (2006): the domestic world, the market world, the civic world, and the industrial world. These regimes of social regulation are distinguished here for the sake of analysis, but in fact they interact, intertwine, and are interdependent. Thus, in this chapter, the phrase "interactions of social regulatory regimes" describes the way in which different normative systems meet.

In Vietnam, several studies address the plurality of norms and how they interact—as it is a ubiquitous phenomenon—but rarely do they focus on these dynamics as an object of study in itself. For example, there is abundant literature on the relationship between the state and various forms of local institutions, whether they relate to everyday politics (Kerkvliet, 1995; Kerkvliet & Marr, 2004) or to customary practices (Bui, 2000; Phan, 1999). Nonetheless, these studies do not make use of the conceptual contributions of normative pluralism (see Chapter 2) and sometimes even essentialise, reify, or homogenise the norm systems involved. There are also studies on the tensions between various modes of governance of natural resources, in particular, irrigation (Jourdain et al., 2011), land tenure (Sikor, 2006), and forest management (Hoàng et al., 2019). Nonetheless, but for a few exceptions (Linh, 2016; Pannier, 2021), these studies often remain focused on explicit norms, leaving aside the more implicit and tacit forms that regulate everyday life. Nevertheless, some studies in the field of economic anthropology address the issue of normative pluralism head on by thoroughly exploring the social regulation of market relations (Endres, 2014; Endres & Leshkowich, 2018; Horat, 2017; Lainez, 2020; Lam, 2019). There are also some recent studies in urban sociology that analyse hybrid forms of local governance developed in a context of rapid urbanisation (Labbé & Fauveaud, 2022; Tran & Yip, 2019). Finally, research on corruption within the administration demonstrates how

these transactions are embedded within the social logics that govern interpersonal networks (Nguyen et al., 2022). However, most of these studies focus on the encounter between two regulatory regimes and none of them attempt to broaden the subject in order to define a typology of the ways different normative regimes interrelate.

Our Case Studies: A Tày Village in Vietnam's Northern Upland and Online Sales in Hanoi

The data for these case studies were collected during qualitative and micro-quantitative field surveys. Between 2009 and 2013, ten field trips (115 days in total) took place in the northern highlands, within different villages in the commune. The commune is in the province of Lào Cai in northern Vietnam. In 2010, it comprised four ethnic groups, mainly Tày (97%), with 4846 inhabitants. The main activities are agriculture (rice growing, animal husbandry, cassava, corn, forestry) and extra-agricultural jobs. During the surveys, we stayed in local homes and collected data in different ways: immersion, observations, informal discussions, and formal interviews (90 in total) with villagers and official authorities.

The case study on online sales is part of the Urbal project (2019–2021) studying innovative urban food systems. Semi-structured interviews were conducted with 21 sellers and 20 buyers who use social media for their transactions, as well as with ten agricultural businesses and cooperatives selling products on a website operated by the Hanoi city authorities. These sellers and buyers work or live in Hanoi province and two adjacent provinces (Hà Nam and Hưng Yên). The buyers interviewed were selected to be representative of online food buyers. They are mostly women between the ages of 30 and 40 years old who work. Three interviews were conducted with Hanoi city authorities (Department of Agriculture and Agricultural Products Quality and Certification and Analysis Centre) and supplemented by informal meetings. Four half-day participatory workshops with about 50 people (sellers, buyers, public authorities, consumer associations) were organised to help characterise practices related to online food trade.

"Building a Civilised Way of Life" in the Highlands of Northern Vietnam[2]

In the aftermath of Vietnam's reunification in 1975, assimilating highland ethnicities and getting them to adhere to the values of socialism became central issues in a context of national unity building and of asserting socialism (Hardy & Nguyễn, 2004). According to the official party line, this integration as well as the development of the country would only be possible through the

[2] The data presented here are based on a comprehensive study on the same question published by Pannier (2016).

elimination of "mores and customs" (*phong tục tập quán*) considered "backward" (*lạc hậu*) and through the profound transformation of local modes of social organisation deemed incompatible with the socialist modernisation effort (Michaud, 2009; Turner, 2022).

To this effect, the "building a civilised way of life" (*thực hiện nếp sống văn minh*) program was launched in the highlands of northern Vietnam in 1976. This program aimed to reform a wide range of social practices, spanning religious rituals, life-cycle ceremonies, ritual exchange practices, and village festivals. Behind the official rhetoric of respect for cultural diversity, this program was part of a dynamic of internal colonisation aiming at a double assimilation: rendering the ethnic minorities more like the *Kinh* (the Kinh are the majority ethnic group) as well as turning them into socialists (McElwee, 2004). In addition to the stated objectives of "modernization", "cultural progress", and "integration" of ethnic groups, these campaigns aimed to infuse the party-state (its laws, morals, and ideology) into the daily lives of the villagers in order to replace the locally produced norms, better control them, and guarantee the unity of the national territory (Pannier, 2016). The initial situation is thus a confrontation between exogenous state norms and endogenous local norms.[3]

As a result of these state interventions combining awareness campaigns, regulations, and sanctions, many norms and practices have been abandoned. For example, in the Tay community where we conducted our study in Lao Cai, forced and arranged marriages, once the norm until the late 1990s, no longer take place, as well as the practice known as *ở rể để trả lễ*, whereby the groom would live temporarily with his future wife's parents in order to help them with their daily work while waiting for his parents to raise the sum needed to pay the "bride price" (*thách cưới*). As for funerals, the members of the deceased's lineage can no longer freely choose the place of burial. Each lineage now has a specific area subject to authorisation by the communal authorities, far from dwellings and water sources.

New norms on the length of ceremonies, on the simplification of protocols, and on ceremonial exchanges have also been introduced. The objective is to undermine local forms of solidarity that compete with national solidarity and to reduce non-productive expenses (Malarney, 2002; Pannier, 2016). In the studied villages, funerals, which used to last between four and five days in order to carry out all the rituals, must now last no more than two days. To ensure public order, nightly rituals cannot be held between 11:00 p.m. and 5:00 a.m. Villagers have reported sanctions given to those who violated the rule. The many steps formerly necessary to seal a marriage (up to nine steps), each with their share of ceremonial exchanges, have now been officially reduced to two.

[3] It is understood that these "endogenous" norms are not homogeneous and are themselves the result of exchanges with other normative systems (including the Viet imperial power), taking the shape of borrowings, assimilations, and hybridisation. Nevertheless, in the present case, the interaction has been more externally imposed.

Although in practice there are more steps than those stipulated by the law, the simplification of protocols and the reduction in the number of steps advocated officially have been embraced by the villagers and are now becoming the new dominant norm.

These new official norms and the changes in practices that they provoke have a profound impact on the regulation of alliances, village sociability, relationships with the spirits, the relationships of obligation sealed by ceremonial exchanges, and the relationship with time. These changes, driven by state interventions and sometimes imposed through coercive measures, are not just adopted because of coercion. Some norms have been adopted because they have advantages, and others, considered too restrictive, are not followed. In the latter case, local norms endure in opposition to new state norms.

This second scenario is particularly evident in the case of marital regulations. The new law on family and marriage adopted in 2000, as well as the ministerial decisions[4] and the numerous local regulations aimed at its application,[5] set the framework for the new laws. For example, it is stipulated that women are not allowed to marry before the age of 18 years and men before the age of 20 years, that the wedding ceremony must not take place before the marriage has been officially registered with the People's Committee, and that the marriage certificate must be signed in order to register a child in the father's name.

Nevertheless, the census on marital status in the commune studied indicates many discrepancies. Some villagers have established a household and have children but have not organised a marriage ceremony or registered a marriage. In other cases, it is far more common for households to organise the wedding ceremony and officially register the marriage once the spouses are already living together and have children. Sometimes the spouses are under the legal age for marriage, this is one of the reasons why marriages are officially registered after a few years of living together. These practices appear to be transgressions of the state norms of the "civilised way of life", but they are legitimised by local norms, according to which it is not necessary to be legally of age or to hold a marriage ceremony in order to establish a home and have children. It is sufficient to announce the union to the ancestors and to the family circle and to validate it through a ceremony. The important thing is that both families are in agreement, that the local community witnesses the event and that the ancestors are informed. The wedding ceremony can be organised after this validation, especially when the family has gathered the means to compensate the bride's family ("bride price") and to organise large-scale festivities. Despite the legal reforms and the sanctions sometimes put in place

[4] Chỉ thị 27-CT/TW [Ministerial Directive no. 27 on the "Implementation of the Civilised Way of Life In Weddings, Funerals, Festivals", dated 12 January 1998].

[5] Quyết định 305/2002/QĐ-UBND [Decision 305 of the Provincial People's Committee on "Guidelines for Implementing the Civilised Way of Life in Weddings, Funerals, Festivals, and Belief Activities in Places of Worship in Lào Cai Province", dated 26 July 2002].

by the authorities, these local norms continue to shape local practices. They therefore contradict the official norms established by the government. During a field trip in March 2022 in a neighbouring commune inhabited by Hmong and Dao populations, we came across a large poster reminding the population that the non-respect of the minimum age for marriage "is breaking the law" (see 23.1). The presence of this type of message, and threat, is indicative that these campaigns are still relevant and that the population has not completely assimilated the new rules dictated by the government.

Between the two scenarios described above => "(substitution and resistance)" there is a third one. The villagers have partially implemented certain external norms by combining them with those already in existence. A typical example is matrimonial payments. Practices relating to the "bride price" were strongly condemned by the central power. There are prohibitions at all levels, from national laws to "village customs" (*hương ước*) to provincial decisions (Pannier, 2016). When villagers are interviewed, they claim that this custom no longer exists. However, when one observes the practices, one finds that payments from the bridegroom's parents to the bride's parents still exist. The custom has evolved by integrating elements from state norms.

The first important change concerns the financial weight of these transactions: it is no longer a question of demanding a large amount from the



Fig. 23.1 State campaign to disseminate the official norms on marriage "Marrying under the age of 20 for boys and 18 for girls is a violation of the law"

groom's parents. The transaction is thus more a cordial arrangement than an obligation to which the donors must submit, even if these two aspects coexist. As a result, the husband's parents no longer need to save money for several years in order to be able to meet the recipients' demands, as was often the case before. Therefore, the *ở rể để trả lễ* practice mentioned above disappears and the practice of *thách cưới* no longer increases the risk of a potential debt spiral. In short, these marital transactions have a smaller impact on the family economy, which was one of the major objectives of the party-state when imposing the reforms. In addition, the villagers have changed the meaning attributed to these matrimonial transactions. When asked about the payments, they explain that they are not to "buy the bride" but to compensate for the costs of the wedding ceremony covered by the bride's family. If we dig a little deeper, we understand that the idea, which used to be paramount, of compensating for the "loss" of a household member and of her work effort is still present. Nevertheless, it is now second to the practical aspect of financing part of the ceremony at the bride's home, and to the social aspect of formalising and sealing the alliance between the spouses' parents. Thus, among the different meanings of this practice, those that are the most sensitive to the moral and legal requirements of the party-state persist, but are relegated to the background, and others, less subject to pressure, come to the forefront, whereas they were once secondary. The introduction of external norms has led to a re-evaluation, not a disappearance, of the meanings attributed to the practice, allowing divergent normative systems to combine. This third case of combining distinct normative systems is close to, but distinct from that of village customary rules, which is a case of blending.

In the study commune, as in most rural localities in Vietnam, there are village convention (*hương ước*) documents that record the specific rules of each village. These customary laws regulate a wide range of social domains: organisation of life-cycle ceremonies, maintenance of public order, hygiene rules, environmental protection, pasture management, etc. Theoretically, these laws are meant to record local norms, which were initially oral and later written down by the villagers. In practice, the central government instigated and supervised the drafting of these village convention documents and ratified them.

The former vice president of the commune's party told us how he wrote the first *hương ước* in 1985, following a request from the district People's Council as part of the campaign "building a civilised way of life". In 1998, when he was the chairman of the people's committee, he took over the customary chart to adjust them according to the new standards of the ministerial directive no. 27 dated 12 January 1998 on the "implementation of the civilised way of life in marriages, funerals, festivals". At the time of our research, the latest village convention documents dated to 2007.

All the village convention documents available in the various villages of the commune were consulted, as well as those archived at the district's cultural

service. Except for a few details, the contents of the latest village convention documents from 2007 are identical from one village to another. They follow a common structure established by the government's culture services. In addition, most of the norms promoted by the above-mentioned "building a civilised way of life" reforms are present. In other words, customary law is now a relay for official state norms and reflects the central government's strategy to regulate social relations in the villages.

Nevertheless, these village conventions are not just a system of exogenous or state norms. They are re-appropriated by the villagers and applied on a daily basis. Each year at a village meeting, these laws are validated and sometimes amended by the inhabitants (and subsequently ratified by official authorities). Some of the clauses are drafted by the villagers themselves, especially those related to the nature and the amounts of the ceremonial gifts for weddings and funerals in the context of neighbourly relations.

Thus, local oral norms are written down, formalised, recognised, and eventually modified by the central government and its local representatives. Conversely, state norms are added to these customary documents, introduced into the villages, and then implemented and modified by the villagers in their daily practices. In addition, these village conventions combine a local system of sanctions, executed by the villagers, with legal sanctions under the authority of the commune's People's Committee. In addition to self-enforcement by villagers, the use of legitimate coercion and an appeal to public authorities is possible in the case of repeated rule breaking. In short, these customary laws mix various systems of regulation and a repertoire of social, legal, and moral norms to the point that it is difficult to establish their respective boundaries: they are the result of a normative hybridisation process.

This case study on the implementation of the "building a civilised way of life" policy shows how the state has succeeded in introducing its modes of regulation into the mountain villages, but this incursion, initially marked by opposition with local norms, has finally given rise to a multitude of forms of articulation between distinct normative regimes, ranging from substitution to hybridisation through combination. A similar process becomes evident, differently, in online food sales in urban areas.

The Multifaceted Institutionalisation of Online Food Sales in Hanoi

Online sales of everyday consumer products have increased significantly in Vietnam in recent years, against the backdrop of economic liberalisation, the rapid spread of new technologies, and the emergence of urban lifestyles. Most Vietnamese now own a smartphone, and most urbanites regularly order products online (Dong, 2018). Public health measures taken from 2020 onwards to limit the Covid-19 pandemic (physical distancing, lockdowns, market closures, etc.) have reinforced this trend, especially for food purchases (VietNamNet News, 2022).

Since the reopening of Vietnam to the market economy in the late 1980s, Vietnamese urban consumers have favoured purchasing food in markets (Wertheim-Heck & Spaargaren, 2016). In the marketplace, the long-term interpersonal relationships formed with vendors as well as the immediate physical contact with the products provide certainty or cues about the quality of the food purchased. Thus, freshness is assessed directly through the food's appearance, taste is validated by the repeated experience of satisfactory purchases at the same stand, while food safety is estimated through the information provided by vendors with whom relationships of trust are established over the course of interactions. The purchase price is also largely defined by the nature of the interpersonal relationship, particularly the degree of intimacy and the length of time it has been in place. In addition to marketplaces, many urban residents buy certain fresh (fruit, vegetables, fish) or highly valued (rice, handicrafts, etc.) products directly from family members or close friends. The development of supermarkets, supported by public policies, has so far only marginally challenged these practices, as the percentage of fresh food purchased there remains low (Wertheim-Heck & Raneri, 2020).

The online sale and purchase of food products is partly transforming this urban food landscape, reconfiguring the relationships between producers and consumers, the mechanisms for evaluating quality, as well as those for creating trust. Several distinct normative systems, sometimes complementary, sometimes competing, frame these emerging practices, structuring different transactional arrangements and social relations.

An increasing number of purchases are made on online shopping platforms belonging to private national (Tiki, Sendo) or international (Lazada, Shopee) companies. However, the use of these websites for the acquisition of fresh food products, whose quality is more difficult to standardise and stabilise than that of processed foods (canned goods, dry goods, etc.), is still limited. In the absence of direct contact with the seller and in the impossibility of physically evaluating the quality of the products, trust is mainly established through the mention of certifications, technical standards (ISO norms, certificates of good agricultural practices, etc.) or brands of reputable producers, as well as the publication of test results for compliance with sanitary norms, photographs of the products, or information on the production protocol.

Consequently, a new system of norms, based on impersonal and objectified confidence-building mechanisms, supervised by state authorities and evaluation bodies, in theory autonomous, is emerging. These labels and certifications seem to be increasingly recognised by the population. However, a certain distrust of public institutions, fostered in particular by a system of "bribes" that makes it possible to obtain certificates without respecting quality standards, and by the virtual absence of controls following the issuance of these certificates (Pham & Dinh, 2020), limits the generalised recognition of these new systems (Wertheim-Heck et al., 2014).

Parallel to these purchases on corporate platforms for online commerce, a large part of transactions, especially for the acquisition of fresh products

or products with specific qualities (fruit varieties, so-called "safe" products,[6] products linked to a territory called *đặc sản*, etc.), is carried out within bilateral relationships, through social media such as Facebook or the instant messaging app Zalo. In these small-scale transactions, sellers post information on what they offer on a personal page and buyers order directly from them via instant messaging or the phone. While some sellers are food trade professionals, others are individuals who sell food online to supplement their main income. These transactions take place in an intermediate normative system which lies between the impersonal dematerialised market regime of online commerce platforms and that of interpersonal exchange networks within a society of acquaintances.

Indeed, according to the fieldwork surveys, these social media-mediated market transactions are often embedded in interpersonal networks: consumers use these devices to buy products from sellers with whom they have established prior personal ties or who have been recommended to them by friends or relatives. Through the technical means of social media, personal networks can easily be extended to second- and third-degree relationships, without weakening trust. Many people use social media to buy products directly from family members, friends, or acquaintances. It is also common in agricultural universities or agricultural government services for an employee to take advantage of the contacts he or she has developed with certain "virtuous" producers in order to resell their products to office colleagues and relatives. In other instances, consumers order from vendors they have met in person (in stores, at fairs, or when visiting) and whose products they have tasted before buying online. In doing so, they extend, reconfigure, and render partially virtual pre-existing supply networks which are embedded in interpersonal networks. When a personal bond connects buyers and sellers in this way, it is rare that the purchase choice is motivated by the existence of certifications or other institutional marks of quality. "If I trust the seller, the information on the package is not so important to me", says Trang, a 40-year-old shopper who uses Zalo to order fruit and vegetables from a store in her neighbourhood on the outskirts of Hanoi.

In this setting, it is not simply the encounter between supply and demand coordinated by a price system and guaranteed by state institutions that induces and regulates the interaction between buyer and seller (as in the ideal–typical case of exchange on a market), but rather the existence of a pre-existing personal relationship. Repeated satisfactory transactions in turn allow the relationship and mutual trust to be renewed and strengthened, thus encouraging new market transactions. This trust can also be reinforced by the good "reputation" (*uy tín, danh tiếng*) of the seller, built through the exchange of positive opinions within the group of inter-acquaintances or in the public comments of customers on social networks. This is one of the social rationales that characterise ceremonial exchanges within interpersonal networks:

[6] Agricultural authorities certify as "safe food" (*thực phẩm an toàn*) that produced by producers and processors who meet certain safety standards.

reputation, "loosing face", and social control constitute a powerful mode of regulation that ensures compliance with norms, particularly of reciprocity and trustworthiness (*sòng phẳng*), and thereby trust between exchangers (Pannier, 2015).

Since the beginning of the 2010s, the party-state has been trying to stimulate online buying and selling practices, considering online commerce a powerful growth lever because it multiplies the possibilities, temporalities, and spatialities of the commercial transaction. Nonetheless, it also wants to control it: to keep hold over a difficult to control sector because it is partially virtual and because of the tendency of the actors within it to make arrangements on the fringes of legality.

Several decrees have been issued to facilitate and regulate these emerging market structures. Decree 52/2013/ND-CP became effective in 2013. It aims to establish a competitive online market aggregating supply and demand, in which information about products (quality, price, etc.), vendors, and terms of service (delivery methods and times, exchange and refund policy, etc.) circulate transparently. Sellers must be licenced, mechanisms for dispute resolution exist, and a system of penalties for illegal practices (fraud, sale of prohibited or counterfeit products) is in place. The decree considers that online sales and purchases are made under the aegis of an "electronic contract" (*hợp đồng điện tử*) guaranteeing the legal responsibility of the different stakeholders and the transparency of interactions between potentially independent or unknown actors. These regulations aim to formalise and standardise the transactions, the objects exchanged, and the exchange partners. By providing a legal framework for this new sector, the government seeks both to institutionalise an efficient impersonal market and to establish fiscal and sanitary control. According to the party-state's ambition, two main measures are meant to promote buyer confidence in the purchase of food products online: on the one hand, formalising and professionalising the sector, and on the other hand, the use of certifications concerning the health safety of the products sold. In addition to a market logic, this new normative system therefore favours technical standardisation and the enforcement of norms by official institutions. It corresponds to the model of the civic-industrial city described by Boltanski and Thévenot (2006).

By seeking to institute and formalise online trade in this way, the state seeks to substitute its normative order for the practical norms and interpersonal arrangements spontaneously implemented by users. Nevertheless, despite these new state-market mechanisms and systems of norms, the sector of online food sales remains relatively unregulated by the state and its authorities, and many transactions escape its control. By seizing the mediating resources of social media rather than private commercial platforms, urban consumers are creating an informal *sui generis* market for food purchases. In addition, by privileging online purchasing within their interpersonal networks, they are moving away from the legal, technical, and sanitary norms and public control that the state tries to impose from above.

However, the norms imposed by the government and those followed by users do not just oppose each other, they can also intertwine. In their practice of online shopping, actors navigate between different regulatory regimes, applying one or the other depending on the types of products sought, the context of the transaction, and their relationship with the vendors. While fresh and quality food products are typically purchased within an interpersonal network through social media, processed or standardised products may be acquired on large-scale platforms operated by private companies deemed trustworthy by their reputation or apparent compliance with recognised standards. Similarly, sellers can use multiple types of media simultaneously to sell their products.

The interplay between normative regimes can also occur at the level where trust is established. For the purchase of products whose qualities cannot be fully assessed at a distance (fresh food products in particular), users call upon both the regulatory system of the impersonal market and that of the state, but they are sometimes not enough: for trust to be established, the market transaction may require non-commercial resources, or more-than-market resources, which are interpersonal relations and the norms that regulate them (Pannier, 2015). Thus, while institutional-market norms apply to the evaluation of "extrinsic" (visually perceptible) qualities, the norms of interpersonal relations are mobilised to establish trust with regard to the seller's attitude and in the evaluation of the "intrinsic" (non-perceptible) qualities of the product.

Depending on the context, regulation through personal relationships—what Giddens calls "facework commitment" (1991: 80)—can therefore overshadow, but also complement, formal institutions—"faceless commitment"—in establishing trust and reducing uncertainty. In online buying and selling, the different normative registers at work can thus coexist and ignore each other, but also interact, oppose each other, or merge.

Classifying Modes of Interaction Between Normative Registers in Vietnam and Beyond

These case studies confirm that "on the one hand, norms change (sometimes quickly), adapt, hybridise, and are created; on the other hand, norm pluralism is the rule, not the exception" (Olivier de Sardan, 2008: 14). A third constant can be identified, often mentioned but rarely conceptualised: The various normative systems not only coexist and evolve, but they also interact and maintain power relationships among them, which translate into various modes. Based on these Vietnamese case studies and the contributions of Chauveau et al. (2001), Helmke and Levitsky (2004), and Olivier de Sardan (2021) (see Chapter 2), the following five categories of modes of articulation between normative registers can be proposed: separate coexistence, opposition, substitution, combination, and hybridisation. These ideal–typical categories refer to empirical situations that are not fixed. Frequently the encounter or the balance

of power between coexisting normative systems evolves and moves from one mode of articulation to another.

1. Separate Coexistence

Separate coexistence refers to the co-presence of different normative registers that do not necessarily function within the same domain but work in parallel, each regulating a specific social domain of its own, without interference from another regulatory regime. This is the case, for example, in situations where specific norms regulate the gift system, other norms regulate market exchanges, and still others state services. This is also the case when a consumer buys online a food product from a seller with whom he or she has no other relationship than that which motivates the exchange. The consumer uses a market platform and money as impersonal mediation resources. Market prices, the contract, the logic of equivalence, and the legal obligations governing the formal market sphere are the main norms that regulate the transaction, without interference from rules and obligations that govern interpersonal networks. Even if state laws guarantee the exchange, state, and market regimes of regulation are complementary but remain compartmentalised: each dictates the rules over its own domain. Once the market has been established, the state does not intervene in the setting of prices or in the execution of the transaction, except in the case of disputes. The separate coexistence of normative registers can be further subdivided into various sub-types, ranging from simple compartmentalisation to different normative systems that ignore each other, through juxtaposition. However, a careful study of empirical evidence indicates that different normative systems present within a single society are rarely completely watertight.

2. Opposition

Opposition refers to situations of power relations between antithetical normative regimes. In online sales in Vietnam, this type of articulation is illustrated by the refusal of many sellers to register with the Ministry of Commerce, and thus their desire to maintain their activity in informality, and conversely by the party-state's desire to impose mediation and control in the bilateral relationships that sellers and buyers spontaneously establish through the use of social media. The opposition that exists between marriage laws and local norms among the ethnic populations of northern Vietnam are also characteristic of this mode. Marriage laws still struggle to replace local norms, and transgression and circumvention strategies remain frequent, despite existing sanctions.

Contradictory situations between various normative systems and local resistance to the imposition of external norms are common in Southeast Asia (Michaud, 2009; Scott, 2009) in general, and in Vietnam in particular (Kerkvliet, 1995; Lam, 2019; Sikor, 2006; Turner, 2022). This can be explained in part by the fact that a centralised state system around the Communist Party at the national level is a relatively recent development (from 1975 onwards) and has often been imposed by force, especially in the South and among ethnic minorities in the mountains. Moreover, reopening to a market economy with the "Renovation reforms" (*đổi mới*) in the late 1980s did not completely remove the routines and rationales of the collectivist planning system, leading to even more situations of opposition between normative regimes. Opposition between normative systems can evolve into the suppression of norms or the substitution of one normative system for another.

3. Substitution

Indeed, despite resistance and opposition, our case study in the mountain area shows how the party-state manages to impose its norms to the detriment of existing ones, just as the rules of the globalised liberal market have taken over a large part of the economy. This is another type of interaction: substitution, in reference to the replacement or absorption of one normative system by another. Substitution can occur in multiple ways, ranging from substitution by violence to voluntary substitution, with varying degrees of constraint and freedom in between these two extremes.

For example, in the highlands of northern Vietnam where we conducted our surveys, particularly among the Tày and Dao populations, forced and arranged marriages, once dominant, are now almost non-existent, many rituals have disappeared, and the content and duration of ceremonies have been profoundly modified to be compliant with state normative injunctions. If this substitution is today striking among the ethnic minorities of the northern mountains, because it is in progress, a similar process took place among the Kinh in the past (Malarney, 2002). These policies aimed at reforming customs reflect a broader dynamic: that of introducing modes of state regulation into remote villages in order to assert the dominance of state laws and supplant locally produced rules and solidarity. As Pelley states "State institutes and party organisations have explicitly aimed to create a new national culture, both in the restricted sense—new notions of aesthetics, new civic ceremonies, new curricula for public schools, new forms of mass entertainment—and in a broader sense as well: new economies, new kinds of labour, new sorts of hierarchies and exclusions" (1998: 389).

Finally, it should be remembered that Vietnam is not the only state implementing these processes aimed at replacing, sometimes forcibly, one normative system with another. Apart from colonial interventions with their civilising mission, any process of expansion and reinforcement of a centralised state

apparatus that only recognises citizens as equal before "the" Law is part of this phenomenon (Clastres, 1974). It is then necessary to observe, according to each case, how substitution operates concretely, between destruction, repression, subordination, exclusion, encompassment, and absorption, which can be considered as many sub-types of this type of normative system interaction.

4. Combination

Despite their violence, processes of substitution should not obscure the multiple assemblages that take place when normative regimes meet or even clash. Combination is frequent, and perhaps even the most widespread situation. The case of online sales described here is one of these forms of mixing between state, market, and interpersonal network norms. When using social media to purchase food products, market norms regulate certain aspects of the exchange (expression of needs, pricing, payment, etc.) and the rationale of interpersonal networks helps to generate trust and reduce the uncertainty pertaining to the transaction and the intrinsic qualities of the products. Similarly, when a private platform puts up for sale a product certified by government authorities, market norms rule certain aspects of the transaction such as the "objective 'natural' description" (Orléan, 2011: 95) of the goods, while the state's technical standardisation guarantees the product's quality.

This study also demonstrates the ease with which Tày populations implement certain state norms related to marriage by combining them with those already in existence, thus making it possible to respect both their customs and the rules prescribed by the party-state. These complementary arrangements help reveal the amount of leeway that villagers still have within an apparently rigid and authoritarian system. They are not just automatons subject to customary norms or state laws, but also actors, who navigate between these different repertoires and use them to their advantage, depending on their abilities, resources, and membership in certain networks as well as existing power relations.

This type of interaction between normative systems is very broad and deserves to be detailed in sub-categories according to whether it is based on complementarity, imitation, accommodation, convergence, adaptation, superimposition, layering, instrumentalisation, compromise, and overlapping. What these various forms have in common is that these "composite set ups" (Boltanski & Thévenot, 2006) are "functional" in that the actors pick and choose the norms of each register, at least temporarily, to sustain an interaction, an activity, a social relationship, or the social order.

5. Hybridisation

Finally, the last type of interaction is hybridisation. This term is often used, especially in the work on hybrid governance (Meagher, 2012; Reyntjens, 2016), to describe a situation where several normative systems coexist. Yet

hybridisation refers to a phenomenon that is not a simple juxtaposition or combination. It concerns cases where, following a "process of *mutual,* albeit not necessarily equal, penetration" (Yang, 2000: 478), two (or more) entities blend together, giving form to a new whole that integrates and agglomerates elements from the two initial entities. Described above are the village convention documents of the Tày people: a result of such a process, a hybrid between ancient implicit oral conventions, explicit customary norms, and state rules, so that it is difficult today to distinguish between what belongs to one normative register or to the other. Even the status of these customary norms, as well as their system of sanctions, is a product of hybridisation, since they are at the intersection of the social, the moral, the customary, and the legal.

Hybridisation is thus a complex assemblage which can result from a violent power struggle between normative regimes, from a compromise, from an accommodation, or from an agreement. Notwithstanding, whatever the process, it ultimately leads to a fusion which "is no longer a situation of two different entities entering into a relationship but of their merging into one" (Yang, 2000: 485). The modes and forms of hybridisation are multiple and need to be explored on a case-by-case basis to empirically identify the diverse existing sub-categories.

Concluding Discussion: The Proliferation of Immanent Practical Norms

This chapter has attempted to outline some of the facets of normative pluralism in Vietnam, from which a classification of modes of interaction between different normative registers has been developed. This approach, combining typological distinctions with a systematic work of contextualisation, brings to light certain socio-political dynamics characteristic of contemporary Vietnam.

This analysis of the multiple forms of articulation between divergent normative regimes, ranging from separate coexistence to hybridisation through substitution, opposition, and combination, indicates that alongside and within the transcendent systems of official (bureaucratic, market, and cultural) norms, a large repertoire of more or less implicit immanent rules proliferate and also regulate social relations and everyday behaviour. An important part of these are "practical norms" as defined by Olivier de Sardan (2021): deviations from explicit official norms and the result of regulated non-observant behaviour. Notwithstanding, as shown, a number of these immanent norms may initially exist independently from the official norms, and only become deviations when new rules are imposed from outside (Tréglodé, 2018; Turner, 2022). Moreover, some of these norms do not pre-exist the new official norms, they do not simply stem from an already existing social system in which official norms are embedded: these immanent norms are also invented on a daily basis as a means to orchestrate interactions.

These immanent practical norms are malleable, can evolve according to circumstances, need little mediation, and are embedded in interpersonal relationships. They are based on the principle of endogenesis (Le Roy, 2007), i.e., they are generated within the social group, they emerge from the interactions and power relations between group members and can be directly modified by them. These characteristics give them a constantly evolving character, flexible and easily adaptable to different situations, as well as rendering them unstable, uncertain, and arbitrary. These types of regulations can be found in irrigation management (Pannier, 2021), in how the market economy functions in north Vietnam (Endres, 2014), in banking institutions (Le & Nguyen, 2009), in party bureaucracy and institutions (Gainsborough, 2010) or in the tactics crafted by mountainous populations to circumvent, contest or resist what Turner calls the "slow forms of infrastructural state violence" (Turner, 2022). These practical norms are constituted by and constitutive of power relations and strategies of domination.

A specific study explaining why these immanent practical norms are particularly prevalent in Vietnam is needed. Some of the issues put forward to explain their importance in Africa (Olivier de Sardan, 2021) can be found in Vietnam, such as the weak application of official rules, leading the different actors to make arrangements and develop alternative systems. These practical norms would then compensate for the uncertainties and dysfunctions that are linked to the high degree of arbitrariness in how rules are applied. Nonetheless, most of the contextual elements put forward to explain the phenomenon in Africa (weak states, failure of the market economy, political instability, the interplay between political parties, the absence of stable majorities, etc.—Olivier de Sardan, 2021) are absent from Vietnam, where a strong single-party state ensures significant political stability. Other issues necessarily come into play.

The following hypothesis can be put forward: if in Africa, practical norms respond to the failure of the central state (or to the absence of official rules to regulate large domains of life), in Vietnam, they respond, at least partly, to its attempted omnipresence. With the establishment of the communist regime from 1945 in the north and 1975 in the south, Vietnam found itself in a situation close to post-revolutionary China "where people have had to deal with a modern state perhaps more powerful and socially pervasive than any in [its] long history" (Yang, 1994: 320). The new regime firmly supervises and controls the population, from social and cultural life to the organisation of agricultural and industrial production, food distribution, health, housing, travel, births, marriages, distribution of the means of livelihood, and so on. The proliferation of immanent practical norms would in this context be a social response to the attempted penetration of state power in all areas of life. It would also be an act of resistance to the establishment of impersonal, top-down normative systems based on abstract principles (the state, the homeland, the party, modernity, civilisation, progress, the market, etc.), according to which the actors are anonymous individuals who theoretically can be replaced and are equal before the law.

On the contrary, practical norms—bottom-up, immediate, and modifiable according to circumstances—instil fluidity, flexibility, and contingency into this system. By interacting with the regimes of state and market regulations or by interfering with them, they generate a kind of unstable balancing act, constantly renegotiated, between the fluid and the permanent, between instituting and instituted practices, between improvisation and planning. Beyond the important variations dependent on time period, region, social milieu, and ethnicity, we argue that this ambivalence reflects a political state that is transversal to Vietnamese society, which Lordon calls (2019: 143) the "mesomorphic states of the political". In chemistry, mesomorphic refers to an intermediate organisation of matter, between that of a single crystal solid and that of a liquid. Liquid crystals are the characteristic example. By analogy, "mesomorphic states of the political" could designate specific institutional arrangements where a significant part of fluidity, impermanence, and variation infuse the necessarily organised, fixed, and stable aspects of the institutional. In the flow of these institutional arrangements, actors can then be, either alternatively or concomitantly, "receivers" and "prescribers" of norms. The mesomorphic states of politics would embody "institutions in permanent emergence, the raw institution, institutional bubbling, the incessant motion between rule creation and rule transgression, precisely so that it does not become an institution in the current sense of the term, that is, relatively external to the subject, fixed, and sometimes transcendental" (Godbout, 2010: 500, *our translation*). Although these situations are not dominant, they seem to reflect an important part of everyday politics in contemporary Vietnam and beyond in Southeast Asia.

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CHAPTER 24

Malay Kingship in Contemporary Malaysia: From Cultural Legitimacy to Social Proficiency

Marie-Sybille de Vienne

As trade expanded and Western pressure on Southeast Asia increased throughout the nineteenth century, the sole way for Southeast Asian polities to preserve some political independence was by introducing Western institutional and economic frames so as to avoid these being imposed by force. The Westerners promoted abstractions—Nation-State, Liberal State—that were particularly noxious for Southeast Asian societies, since they tended to modify the link of subordination between the King and the State. This state of affairs induced the development of a more depersonalised administration; by inventing administrative nationality and effective borders delimitations, citizenship and ethnicity were created from scratch. With modernisation, a new class of executives took shape: first, the military, with the creation of permanent armies, then civilians, with the development of legal codes of Romano-Germanic inspiration and Western training. These new elites resented not only the resilience of traditional hierarchies, but also the yoke of colonial administrations. Kingship was increasingly perceived in the Malay world as both compromised by its collaboration with the invasive colonial governments—which denied democracy beyond their metropolitan territories—and antithetic to the ideologies conveyed by the same colonial West, such as the teleology of progress, its application of modernisation (Mikaelian, 2022) and its economic correlate, so-called development.

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_24

Western colonial presence could thus have been expected to obliterate Southeast Asian kingship—colonised or not—by the time of independence. Yet, four kingdoms remain in contemporary ASEAN, namely Thailand, Cambodia, Brunei, and Malaysia. The Malay Sultanates persisted within the Federation of Malaya (1948–1963), before and after independence; subsequently, after its enlargement as Malaysia in 1963, the Federation maintained the model of a constitutional rotating kingship. Federal Malaysia today includes 9 sultanates out of 13 states, making it a contemporary laboratory of modern Malay kingship. To examine the resilience of kingship in contemporary Malaysia, it is necessary to first go beyond present legislation to evaluate the cultural legitimacy of Malay kingship through its historical and semantic dimensions, which place kingship—alongside Islam—at the core of Malay identity. Thereafter, I will examine the construction of the Federal and States constitutional framework. Finally, I shall explain how contemporary Malay kingship has been able to maintain its legitimacy since the 1960s by using three emblematic tools enabled by modernisation: education, networking, and entrepreneurship.

Malay Kingship: Cultural Semantics

The fundamentals of modern Malay kingship (*kerajaan Melayu*, Andaya, 2001: 315–330)—starting with the Malaka sultanate up to its destruction by the Portuguese—can be grasped through its myth of foundation (Chambert-Loir, 2005), *Sulalat al-Salatin* (genealogy of Kings, aka *Sejarah Melayu*) compiled for the first time around 1612 (Chambert-Loir, 2017) from ancient lore. It first relates the beginning of the Malaka dynasty: the enthronement of Sri Tri Buana (the forefather of Malay kings) in Palembang; then, following one of the numerous versions of the chronicle,[1] the foundation of Malaka by Raja Iskandar, Sri Tri Buana's great-great-grandson, in the late fourteenth century and the miraculous conversion to Islam of Raja Iskandar's son, Raja Tengah, during his sleep.

Turning the clock back again, the mention of Palembang in the *Sejarah Melayu* refers to Srivijaya: excavations undertaken by P. Y. Manguin (1987, 2019) locate the epicentre of this ancient Malay kingdom in Palembang. There is no indigenous or narrative source which describes the organisation of Indianised kingship in Srivijaya other than the epigraphs (de Casparis, 1956; Griffiths, 2018), particularly the Telaga Batu (c. 686), which mention titles. However, it is possible to reconstruct some pieces of the puzzle by combining the various epigraphic documents with Indian, Chinese and especially Arab sources, and to compare the results with the latest archaeological data. Judging from these scarce and fragmented elements, Srivijaya's kingship was based on a conception of space in terms of river basin, of which the king occupied

[1] According to Chambert-Loir (2017), 45 manuscripts of the *Sejarah Melayu* have been recorded to date, with hundreds of manuscripts lost; 31 are scientifically usable.

the mouth. The *mahārāja* of Srivijaya, who bore the ancient Malay title of *(h)āji* (king) and whose usual address, judging by seventh-century inscriptions, was *punta hiyang* "Your Holiness", managed the riparian communities outside the royal domain through local chiefs. Downstream (*hilir)* was a social space controlled through *datu(k)/dato*; as for the upstream (*hulu*, mountainous uncontrolled space), it escaped the tutelage of the king as long as it supplied the army and the royal domain with manpower.

A high place of Sanskrit culture, Srivijaya practised Tantric Buddhism and became a powerful thalassocracy. The expeditions of the rival Indian Chola (Thanjavur) empire against Srivijaya during the eleventh century triggered a progressive decline of its commercial network. In the fourteenth century, the Siamese gradually took over the principalities of the Malay Peninsula; following the rejection of Javanese hegemony, Palembang was destroyed by Majapahit. The last scion of the Srivijaya lineage fled to Singapore, where he rebuilt an Indianised kingship. To resist the joint pressure of the Javanese and Siamese kingdoms, who held him in a vice-like grip, the third king of Singapore (Linehan, 1947) plaid the card of the Indo-Muslim networks, in the wake of Islamised Pasai or Perlak in north Sumatra. With the conversion of the founder of Malaka, who took the name of Iskandar and the title of Sultan, Islam was now anchored on both sides of the Malaka Strait. It was only with the foundation of Malaka that the world "Melayu," which previously had designated a kingdom in Sumatra, qualified the Muslim rulers of Malaka and their local Muslim subjects (Andaya, 2001).

The impact of this change of paradigm on kingship can be seen in the terminology related to political power in the oldest Malay texts written in Jawi script, which date back to the end of the fourteenth century, and have been indexed by the Malay Concordance Project.[2] These are the *Hikayat Bayan Budiman* (c. 1370), *Hikayat Amir Hamzah* (c. 1380), and *Hikayat Raja Pasai* (c. 1390)[3]—the first two have been adapted from Indo-Persian models, and the latter is purely Malay. In this corpus, five words are used to designate the king: *Yang di-Pertuan* "the one who has been made the lord" (16 occurrences in the first two texts); the ancient Malay word *āji* (25); the Indianised term *raja* (119); the Arabic title of *sulṭān* (342); and the vernacular Malay *tuanku* ('my lord', 524[4]), of which use appears similar to those the Siamese *chao*. The indigenous word *tuanku* is thus more present than *sulṭān* in the corpus; *sulṭān* is three times more frequent than *raja*, while the ancient Malay *āji* was only marginally present.

[2] The Malay Concordance Project (hosted by the Australian National University, https://mcp.anu.edu.au/) is a corpus of presently 165 classical Malay texts, transcribed from Jawi in Latin script, which can be searched (but not read) on-line.

[3] As the Malay cultural background is absent from the *Hikayat Muhammad Hanafiyyah* (c. 1380), translated from Arabic, it is excluded from the present corpus.

[4] Including adding the suffix *-lah*.

From the beginning of the sixteenth century (as shown by the *Sejarah Melayu*), princes sometimes hold the title of *pangeran* (*pengiran*), etymologically "the one who controls the downstream *(h)ilir*"—a title of Javanese origin, still in use in Brunei today. Far from being merely a semantic vestige, this term indicates a certain institutional topology, as all Malay sultanates (including Brunei) developed along rivers, from mouth to upstream. It was the *raja* that determined the polity and not the territory that made the king: *kerajaan* [where there is a raja] (Milner, 1981) refers to the government, as well as the kingdom.[5]

Returning to the King himself, judging by the previous lexical remarks and in particular the use of the word *raja* (a title is still in use by the ruler of Perlis and by Perak's royals), it can be hypothesised that the Islamisation of kingship resulted in its partial desacralisation. Kingship lost its function as a link between the world of Gods and the world of Men: sultan means "the one who has power". However, available Malay sources depict a much more nuanced positioning of the Malay King. Not only did Malay kingship became consubstantial with Islam, as shown by the motto "Sultan, Shah [King in Persian] and *nāṣir al-dunyā wa'l-dīn* [helper of the World and Religion]" (Milner, 1981) minted on the first Malaka coins, but, as his Abbasid and Persian forebears, the Malay king was considered as *zillullahi fil-'alam* [Allah's shadow on Earth][6]: "the imam of all human beings because all the Kings bring the order of the Prophet SAW, because the King is the shadow of Allah ta 'ala and replaces the Prophet".[7] As such, the *cap halilintar*[8] given to the sultans of Perak (who pin it on their headgear) during their installation bears the inscription "Sultan Muhammad Shah[9] *Dzil Allah fil-Alam*"—a ritual performed anew in May 2015 for Sultan Nazrin Shah.

Even more subtly, Malay kingship maintained up to present court rituals with partly Brahmanic structures (de Vienne, 2021). In six out of the nine Malaya sultanates (Johor, Perak, Pahang, Selangor, Negeri Sembilan and

[5] "The denizens of these past Malay sultanates considered themselves living not so much under geographically defined states […] but under rajas," (Raja Nazrin Shah, 2004, 7).

[6] The qualifier *Zillullahi fil-'alam* is mentioned 7 times in the *Sejarah Malayu*, as in *Undang Undang Melaka [The Laws of Malaka]* and the *Adat Raja Raja Melayu [Custom of Malay Kings]*.

[7] *Hikayat Bayan Budiman*, ca. 1371 (ed. Winstedt, 1966, 141: 3)—author's translation.

[8] The *cap halilintar* [lightning seal] is a small stick bearing a silver seal, the handle of which is made of a "thunder" wood (*gempita*): it is thus the equivalent of the *vajra*, the diamond lightning of the god Indra. Its origins date back to the seal of Sang Sapurba, the ancestor of the Minangkabau kings and the elder brother of Sang [Nila] Utama, himself a son-in-law of the founder of Melaka (*Pertabalan*, 2017: 54, 121).

[9] Sultan Muhammad Shah ascended the Perak throne in 1744.

Kelantan),[10] in the chiefdoms of Negeri Sembilan and in Brunei, enthronement includes a rite of lustration (*istiadat bersiram*, comparable to the one performed in Thailand which there gave its name to the coronation ceremony or *ratchaphisek*[11])—even though the religious dimension of all celebrations relating to Malay kingship is fully Islamised, with prayers all along the ceremonies and the presence of clerics reading al-Quran.

Malay kingship is thus a multifaceted symbolic device at the crossroads of an Indian legacy, Islam as a State religion, and local custom (*adat-istiadat*), which confers to the royal institution a full cultural legitimacy as the nexus of Malay identity. This is illustrated by the name given to national ideology in Brunei: *Melayu Islam Beraja* "Malay=Muslim and having a king".

Institutionalising Malay Sultanates Within a Malayan Kingdom

The Attrition of Kings

Notwithstanding their identarian legitimacy, the survival of Malaysia's princely states was far from obvious. The residential system implemented by the British since the treaty of Pangkor (1874) progressively restrained the effective power of the Malay rulers vis-à-vis custom and Islam in the protectorates (Perak, Selangor, Negeri Sembilan and since 1888, Pahang), the resident administering in the rulers' name. The setting up of the Federated Malay States (FMS) in 1895 further reduced the function of the rulers to rubber-stamping the Resident-General's decisions,[12] the latter becoming the head executive of all the states in 1896. A first *durbar*[13] (conference of FMS rulers) convened in 1897. Conversely, the five unfederated Malay states remained independent—formally. In Johor, though sultan Abu Bakar implemented administrative reforms and granted a constitution in 1894 declaring the sultanate a sovereign state, his son Ibrahim, lured by British rhetoric, applied for an adviser in 1909. Five years later, he consented to the advisor's supervision by the Governor of the Straits Settlements (aka High Commissioner), but resisted further encroachments. Kedah, having been financially rescued by Siam in 1905, had to accept the creation of a State Council and appointment of a financial advisor by Bangkok. As Siam transferred its suzerainty over Kedah, Perlis, Kelantan and Terengganu to the British in 1909, the four states fell under British

[10] As Kedah, Kelantan, Perlis and Terengganu were under Siamese suzerainty up to 1909, no coronation ceremony could be performed for the sultan, as there could be no other kings than the Siamese and his deputy. Sultan Ismail was the first sultan of Kelantan to undergo the coronation ceremony (on 25 January 1921), marking the full sovereignty of Kelantan Darulnaim.

[11] From Sanskrit *abhiṣeka*, anointment (de Vienne, 2021).

[12] Called Chief Secretary to the Government from 1911 onwards (Suwannathat-Pian, 2010: 20–86).

[13] In Moghul and British India, the convening of dignitaries.

orb, though remaining as Johor independent—but infeudated—states, which resulted in the presence of a British adviser too. In any case, the five unfederated Malay rulers preserved much more effective political power than those of the Federated Malay States. Terengganu even adopted a constitution by its own in 1911. British grip induced an upsurge of Malay nationalism and the creation (among others) of the *Kesatuan Melayu Muda* (KMM, Young Malay Union) in 1938.

Things changed when the Japanese Greater East Asia Co-Prosperity Sphere expanded to Southeast Asia in 1942. Johor fell under the direct supervision of Sionan, aka Singapore, in July 1942; the other Malay states became provinces ruled by a Japanese governor under the Malaya Military Administration (MMA), which included the other side of the Malacca strait, their rulers losing their kingly status (Suwannathat-Pian, 2010: 102) and (in the unfederated Malay States) their political prerogatives. Two months later, however, the Japanese accepted the use of honorific titles by the former rulers; in January 1943 they recognised their authority over Islamic affairs and restored their pensions. In October 1943, the MMA abandoned Sumatra, while the suzerainty of the four northern sultanates was first retroceded to Thailand, then to the British in August 1945. At the end of the Japanese occupancy, who set up Malay chief ministers answering directly to their Japanese supervisors, the role of the Malay rulers was reduced to almost nothing but historical reminiscences.

The British wanted both to refrain from recognising any Malay ruler before evaluating his war-time behaviour, and compel all Malay rulers to surrender their sovereignty, meaning that if and only if the latter accepted to abandon their rights they could be confirmed as rulers—though the constitutions of Johor and Terengganu explicitly forbade their rulers to do so. Moreover, as not all of the rulers' councils had been consulted either, the rulers' signature could be contested. For the first time in history, all Malay States would be federated in a single structure, the Malayan Union, including two former Straits Settlements, Malacca and Penang. As the question of citizenship for non-Malays raised the opposition of Malay nationalists, these joined efforts with the rulers to abolish the Malayan Union plan. Hence the foundation of UMNO (United Malays National Organisation) at Johor's Istana Besar (Grand Palace) on May 11, 1946. As declared by Dato' Onn bin Jafaar (UMNO's first president) the following day (12 May 1946) at the Palace, "the rulers of this Malay land will never again ignore their subjects […]" (Suwannathat-Pian, 2010: 124). This new paradigm was illustrated by demonstrations against the rulers of Kedah and Kelantan at the end of 1947, over the right of the sultans to appoint a chief-minister disavowed by UMNO and its allies.

Malaya was "saddled with opposing interests" (YAM Rajah Azlan Shah, 1982): Chinese and Indians deplored Malays' "special rights"; the rulers feared losing the political prerogatives that had just been returned to them, considering the fate of Indian princely states (Tunku Abdul Rahman, 1977: 27);

and Malay nationalists wanted both supremacy and democracy. The Federation of Malaya agreement on February 1, 1948 restored the pre-war status of the rulers and created a Conference of Rulers, including both the sultans and the chief ministers of each state. Open competition between the rulers and UMNO started in 1949, for the championship of the special rights of the Malays and the balance between Federal and State jurisdictions. First elections to the Federal Legislative Council[14] were held in July 1955. The task to write a federal constitution was entrusted to the Reid Commission,[15] which started working in Malaya from June 1956 up to February 1957. The draft constitution produced by the Reid Commission was then reviewed by a working party including representatives from the *Barisan*[16] and the rulers. The latter demanded the restoration of some of their former rights, such as the appointment of their proper *Menteri Besar* (Chief Minister) and State executive council. The *Barisan*'s leader, Tunku Abdul Rahman, himself from princely background but at odds with his royal half-brother Sultan Badlishah, systematically opposed the attribution of any political functions to the rulers beyond "Muslim religion and Malay custom". Due to disagreement over the repartition of financial resources between Federal and State budgets, the rulers' representatives (who championed the States' interests) even boycotted the 17th working meeting (Fernando, 2014). As a result, "the *Merdeka* |Independence] Constitution became a masterpiece of compromise" (Azlan Shah, 1982: 256).

King and Royal Rulers

The 1957 Constitution instituted a rotating royal head of State: the King (*Yang di-Pertuan Agong*[17]) who may resign at any time or be removed from office by the Conference of Rulers. The King and his deputy (*Timbalan Yang di-Pertuan Agong*) are appointed by the *Majlis Raja Raja* (Conference of Rulers, here the sole nine sultans, excluding the governors of the four other

[14] The Council had 52 elected members and 32 appointed members.

[15] The Commission included Lord Reid, a Lord of Appeal in Ordinary; Sir Ivor Jennings, Master of Trinity Hall, Cambridge, nominated by the United Kingdom; Sir William McKell, former Governor-General of Australia, by Australia; B. Malik, former Chief Justice of the Allahabad High Court, by India; and Justice Abdul Hamid, West Pakistan High Court, by Pakistan.

[16] Alliance of the three ethnic political parties: the United Malays National Organisation (UMNO), the Malayan Chinese Association (MCA), and the Malayan Indian Congress (MIC).

[17] *Yang di-Pertuan* means "he who is made the First" and *Agong*, "great" i.e., Supreme Ruler, *primus inter pares* among the rulers. His consort, the *Raja Permaisuri Agong*, takes precedence next after the King over all other persons in the Federation, including the Prime Minister.

states[18]) for a 5-year term, demonstrating the statutory precedence of sultans over governors.

The process is directly inspired by the former rotation of the rulers of Negeri Sembilan. This was a federation of nine territories or *luak*—following a quinary symbolism made of two times four territories plus that of Sri Menanti which constituted the centre—to which were added three territories of third rank. The total 12 territories were placed under the guardianship of the *Yang di-Pertuan Besar* (abbreviated in *Yamtuan Besar*) (Josselin de Jong, 1980: 151–163), who was chosen among the nine dynasties, and until 1830, also by the ruler of Pagar Ruyong (i.e. Minangkabau country in Sumatra). The *Yamtuan Besar* married the daughter of their predecessor upon their arrival in Sri Menanti. After twenty years of internal conflicts between the main *luak* (1869–1887), the system was reactivated by the British, who reconstituted the confederation of Negeri Sembilan (1889) and then reintroduced (1898) the function of *Yang di-Pertuan Besar*, this time conferring on it—in order to avoid further conflicts—a lineage dimension. The *Yang di-Pertuan Besar* had to be chosen from the descendants of the penultimate sovereign of the previous confederation (*Encyclopedia of Malaysia*, 2011).

According to the 1957 Constitution, the *Agong* fulfils three main functions:

1. Religious. As Islam is the religion of the Federation, in States that do not have a royal ruler (i.e., Malacca, Penang, Sarawak and Sabah), and in the three territories managed by the Federal authorities (Kuala Lumpur, Putrajaya and Labuan), the function as the head of Islam is exercised by the *Yang di-Pertuan Agong* (*Federal Constitution*, 3 § 2, 3 and 5). The royal rulers of States may ask the Yang di-Pertuan Agong to represent them in the exercise of their function as religious leader at the federal level.
2. Symbolic. The King is the Supreme Commander of the Federation Armed Forces, and as the ruler of the Federation, he has the power of mercy: pardoning and reducing sentences for persons convicted by court-martial and the courts of the federal territories (Constitution, art. 42 § 1)—assisted by a single Pardons Board for the three territories (ibid., § 11).
3. Political. The King both summons Parliament[19] at regular intervals (less than 6 months between the last sitting in one session and the first sitting in the next) and may on request of the Prime Minister prorogue or dissolve the Parliament (art. 40 § 2). He has 30 days to give assent or return a bill, explaining his decision in the latter case. He chooses the Prime Minister from the majority of the House of Representatives, while ministers are designated on advice of the Prime Minister. As the Chief executive of the kingdom, the King acts on advice of the Cabinet

[18] Malaka, Penang, Sarawak, and Sabah.

[19] *Dewan Negara* (Senate) and *Dewan Rakyat* (House of Representatives).

only (art. 40 § 1); he is thus entitled, at his request, to any information concerning the government. After consultation with the Conference of Rulers (including the four governors), he nominates the Election Commission (7 members). At his discretion, he can withhold his consent to Parliament dissolution,[20] or convene a meeting of the Conference of Rulers (restricted to the 9 sultans) to discuss their positions and honours. He may proclaim a state of emergency (art. 150) too, and govern by ordinances, notwithstanding that proclamation and ordinances may be revoked by Parliament. The King appoints two-thirds of the Senators (44 out of 68): 40 persons who have rendered distinguished public service or achieved distinction, or represent the interests of Aborigines (*orang asli*), plus two members for the federal territory of Kula Lumpur and one each for Labuan and Putrajaya (art. 45). After consultation with the Chief Minister of the State concerned, the King appoints the four *Yang di-Pertua Negeri* (governors of Malacca, Penang, Sarawak, and Sabah for a term of four years.

The power and functions of the princely rulers are similar to those of the Federal King, but at the regional scale of the states. Regardless of constitutional specificities (Harding, 2012), all Malaysian sovereigns are in their respective states the head of Islam—meaning that they appoint the State religious officials, mufti, judges and officers of the Syariah courts, and issue accreditations with the assistance of their Islamic Religious Council, as well as the warrant of the special rights of Malays. They choose their chief minister (*menteri besar*) among the majority of the States' Parliaments, and on his advice appoint between four and ten ministers. If rulers have the right to pardon offences committed in their respective states, it is only after consultation with the State's Bureau of pardon, of which they are chairpersons. On request of their chief minister, they can give or withhold their consent to the dissolution of State Parliament. As chief executives, rulers can only act in accordance with the decisions of the local Executive Council (Government), with the exception of the provisions affecting the succession to the throne which follow *adat* (Malay custom), such as the roles of Malay customary dignitaries and Negeri Sembilan ruling chiefs which may not be amended by Federal or State Legislatures.

[20] Quoting HRH Sultan Azlan Shah (2004, 266): "under normal circumstances, it is taken for granted that the Yang di-Pertuan Agong would not withhold his consent of a request for dissolution […] His role under such a situation is purely formal." This did not prevent HRH Sultan Azlan Shah from refusing to dissolve the Perak Assembly in 2009 as requested by the *Menteri Besar*, following the defection of two MPs from the *Pakatan Rakyat* which deprived the latter of his majority at Perak's Assembly. The Sultan estimated that the *Menteri Besar* should have presented his resignation, even if the Assembly did not proceed to a no-confidence vote (Chan, December 2009). This episode resurfaced in September 2014 when Azmi Sharom, a senior lecturer at the University of Malaya, used the 2009 Perak crisis in a constitutional law course and was charged under the Sedition Act.

Following their respective constitutions, in all Malaysian States with a royal ruler, the chief minister must be an ethnic Malay professing Islam. This enshrines the *ketuanan* (lordship) of the autochthonous (strict equivalent of *bumiputera*) Malays into the logics of both Kingship and Constitutions—although the ruler may dispense with this requirement if he estimates necessary to do so, which has never happened so far (Tay, 2018). In the nine sultanates, the land rights of the Malays are protected through Malay reservations,[21] which today represent a total of 3,237,485 ha (24.5% of Peninsular Malaysia); in the event of any doubt related to the dealing of such lands, the *Menteri Besar* refers the matter to the Sultan, whose decision will be final.[22] This makes the Ruler the embodiment of Malay land ownership.

Unfortunately for the royal rulers, their powers were reduced in 1993 by amendments depriving all of them, including the *Yang di-Pertuan Agong,* of immunity.[23] The measure was endorsed by the Conference of Rulers, then chaired by Sultan Azlan Shah of Perak—himself a highly respected authority on Malaysian law as he had been Lord President of the Federal Court, the highest judicial post in Malaysia, up to his ascent on the Perak throne in 1984. Since then, at the request of the attorney-general (art. 183), Their Royal Highnesses might be investigated (which implies resignation) and tried in their personal capacity. Established in 1993, the Special Court (art 182 § 2–3)[24] has the exclusive right to try all offences committed in the Federation by the Yang di-Pertuan Agong or the Ruler of a State (*Federal Constitution*, 2010, art. 182 § 1–4), and all civil cases by or against the *Yang di-Pertuan Agong* or the Ruler of a State.

This loss of immunity brought about the modification of provisions relating to pardon (art. 42 § 12–13). If pardon is to be exercised for a *Yang di-Pertua*, his wife or children, such powers shall be implemented by the *Yang di-Pertuan Agong* on the advice of the Pardon Board of the respective State. For the *Yang di-Pertuan Agong*, a Ruler, or their Consorts, pardon shall be heard by the Conference of Rulers,[25] who shall consider any written opinion delivered by the Attorney General. For the children of the *Agong* or a Ruler, pardon

[21] Malay reservation meaning: "land reserved for alienation to Malays or to natives of the State in which it lies; and 'Malay' includes any person who, under the law of the State in which he is resident, is treated as a Malay for the purposes of the reservation of land" (*Federal Constitution*, art. 89 § 1).

[22] Based on a legal corpus made of six separate states legislation (one for the former Federated Malay States, and one for each of the Unfederated Malay States) (Zaki et al., 2010).

[23] This was due to assaults against a sport attendant by Sultan Iskandar Shah of Johor following a similar killing by his youngest son (Che Norlia Mustafa, 2000; Suwannathat-Pian, 2010, 362–370).

[24] Including the President of the Federal Court, the presidents of the High Courts of Justice and two other persons exercising or having exercised these functions.

[25] Excluding the presence of the Prime Minister for the *Agong* and the *Menteri-Menteri Besar* (chief-ministers) for the other rulers.

shall be heard by the specific Ruler delegated by the Conference of Rulers, in accordance with the advice of the relevant Pardons Board. The Ruler, *Yang di-Pertua* or *Agong*, if concerned, will thus be excluded from the Conference of Rulers. Prime Minister Mahathir's cabinet added a final touch to these amendments, by suppressing all extra-constitutional privileges enjoyed by rulers, such as the Agong's weekly audience with the Prime Minister, the financing of extra-budgetary expenses, special hospital quarters, and royal vehicles plates.

The 1993 amendments left the royal rulers weaker than ever, to a point where Western-trained political observers predicted that Malaysian kingship might disappear (Ahmad Fauzi Abdul Hamid, 2013) during the following two decades. Yet, Malay royal institution survived the 1997–1999 Asian financial crisis, as well as the September 11 stupor, the 2008 general elections and even the UMNO's collapse in 2018. As HRH Sultan Azlan Shah (2004, 257) wrote presciently in 1982, "one cannot deny the role played by the Rulers behind the scene".

Explaining Resilience: Kingship *vs* Malaysia

Since the first making of the Federation, Malay Kingship appears increasingly challenged by political and economic development (Syed Husin Ali, 2013).[26] Even if the Malay population of Peninsular Malaysia increased from a mere 50% of its total population in 1957 up to 72.5% in the last census (2020), thus inflating the political weight of Malays, following Raja Nazrin Shah (2004) "the question is bound to be asked whether the Rulers … [remain] the exclusive preserve of just the one community, the Malays". Moreover, urbanisation (77.7% of Malaysians lived in cities in 2021, to be compared with 42.8% in 1981) and inter-city mobility have substantially severed the territorial link between the ruler and his subjects during the last four decades, all the more so as in most states (Perak, Pahang, Perlis, Kelantan, Negeri Sembilan, Selangor and Johor) economic capital is distinct from the royal seat. By consequence, the royal rulers must build their legitimacy not only among other ethnic groups than Malays (which might also imply distancing themselves from UMNO) but also among Malays. As Nazrin Shah already wrote in 2004, "todays' generation […] are more likely to be sceptical of the relevance and value of the monarchy".

Facing these new challenges, the royal aristocracy[27] had no other choice but follow the mainstream developments of Malaysia, i.e., developing skills and taking on careers previously unknown to them.

[26] Himself a social activist and former president of Parti Rakyat Malaysia.

[27] "Royal aristocracy" here includes all male or female descendent of rulers in agnatic line.

Careers Before Crowns

Royals have gone into professional careers—for three reasons. At a difference from European kingship, such as that in France up to 1870, in most States the throne is not automatically inherited by the ruler's eldest son. In Kedah, the successor is the eldest male in the agnatic line of descent of Sultan Badlishah (1894-r.1943/1958). In Perak, according to the 1948 Constitution,[28] the successor is the prince holding the title of *Raja Muda*, notwithstanding the fact that the ruler cannot remove the titles and ranks conferred by his predecessor. Once the *Raja Muda* ascends the throne, the *Raja di-Hilir* becomes the new *Raja Muda*, and so on, according to the order of precedence.[29] In Negeri Sembilan, the *Yamtuan Besar* is elected among the princes of Sri Menanti by the main chiefs. In five other States, succession is theoretically determined by male primogeniture among the descendants of a specific ruler,[30] though since the 1920s most of the rulers—but not all—have been succeeded by their eldest son or surviving brother or uncle. Only in modern Johor, the succession of the recent Temenggong Bugis dynasty (Trocki, 2007) follows male primogeniture of the ruling sultan, as upon his accession to the Johor throne, the sovereign chooses his heir apparent, and can replace him (1895 Constitution, art. 7).

The second factor of change has been the increasing life-expectancy, which prompted a late accession to the throne for seven out of today's nine rulers: Tungku Sallehudin (Kedah) was 75 years old; Tuanku Muhriz (Negeri Sembilan) 70; Tengku Abdullah (Pahang) 60; Nazrin Shah (Perak) 58; Syed Sirajuddin (Perlis) 57; Tengku Idris Shah (Selangor) 56; and Tengku Ibrahim Iskandar (Johor) 52 years old when ascending the throne.

The third factor is economic. The royals of the previous generations had numerous children, as polygyny was widely practised in princely circles (and still is), which reduced the value of heirlooms according to the various *adat* laws. If the royal families of Johor and Selangor are more than wealthy, not all royal families are, particularly not their lesser branches. To accommodate the present Malaysian standards of living, most of the royals thus need to work,

[28] Since 1826 and up to 1941, the successors to the Perak throne were alternatively chosen by the ruling sultan among the male offspring of three of the sons of Sultan Ahmaddin Shah (r. 1786–1806), i.e., Sultan Abdul Malek Mansur Shah, Raja Inu Muhammad Saleh and Raja Abdul Rahman (Kay Kim Khoo, 1983), on the advice of the Council of Chiefs.

[29] The order of succession being *Raja Muda*, *Raja di-Hilir*, *Raja Kechil Besar*, *Raja Kechil Sulong*, *Raja Kechil Tengah*, *Raja Kechil Bongsu* (Pejabat D.Y.M.M. Paduka…, 2023).

[30] Pahang: Male primogeniture among the descendants of H.H. Paduka Sri Baginda Sultan Sir Ahmad al-Mu'azzam Shah (1836-r. 1881-1909-d. 1914). Selangor: Male primogeniture among the descendants of Sultan Saleh ud-din (1926/1960–2001). Perlis: Male primogeniture among the descendants of Tuan Syed Abu Bakar Harun Jamal' ul-Lail (1737–1825). Terengganu: Male primogeniture in the family of Sultan Zainal Abidin I (1678/1725–1733). See Christopher Buyers's database, Royal Ark, Malaysia https://www.royalark.net/Malaysia/malaysia.htm.

all the more so given that the ruler's sons might not inherit any share of the royal assets.

All these factors pushed even the high-ranking princes to develop both new competences (higher education) and engage in proper careers. Looking to today's rulers, three of them followed a military path (Sultan Abdullah of Pahang, who retired as brigadier-general; Sultan Sallehudin of Kedah, as colonel; Raja Syed Sirajuddin of Perlis, as major). Tuanku Muhriz (Negeri Sembilan) worked for the private sector (banking, advertising, and manufacturing) and remains director of the Bangkok Bank; Raja Nazrin Shah, for Petronas and the Malaysia International Islamic Financial Centre; Tuanku Mizan Zainal Abidin (Terengganu) worked as a government officer. The previous generation of rulers included, beside militaries, several lawyers, first of all Sultan Azlan, Nazrin Shah's father. If three of the present rulers graduated from Sandhurst, the British military academy, and one from its Indian equivalent, others studied at University: Tuanku Muhriz in law (LLB); Tengku Abdullah (Pahang) and Tuanku Mizan Zainal Abidin (Terengganu, also graduated from Sandhurst), in international relations (BA); Muhammad Faris Petra (Kelantan) in Islamic Studies (Oxford, but without proper degree). Two rulers only (from the two wealthiest royal families, which might in itself constitute an explanation) did not get any proper academic degree: Sultan Sharafuddin Idris Shah (Selangor), an accomplished sportsman; and Sultan Ibrahim Iskandar[31] (Johor), who followed various military trainings and a program on Southeast strategic studies and international law of the sea at the Fletcher School of Law and Diplomacy (Boston). The academically most accomplished ruler is Sultan Nazrin Shah, with a BA in Philosophy, politics, and economics from Oxford; a master in public administration from the prestigious Kennedy School of Government (Harvard) and a PhD in political economy (Harvard).

To sum up, as far as higher education and careers are concerned, rulers and their close relatives do not differ much from Malay middle or upper-class commoners—notwithstanding that the Malay (and not Malaysian) sociological landscape remains both hierarchical and formal, as shown by the use of royal speech (with a specific vocabulary and terms of address reserved for royals), and the fact that hierarchy is based on status more than on wealth. Peninsular Malaysia royal rulers may engage with political and civil-society leaders on an equal intellectual (or professional) footing, if they wish or need to do so, thus adding a new "practical" legitimacy based on specific skills to their intrinsic cultural legitimacy.

[31] In Malaysia, Australia and in the United States.

The New Usefulness of Rulers

Rulers became particularly solicited by politicians following the crisis triggered by the weakening of both UMNO and *Barisan* after the 1MDB scandal[32] driven by then-PM Najib Razak. For the first time since independence, an opposition coalition, the *Pakatan Harapan* (Alliance of Hope),[33] won general elections in 2018, and Mahathir (then 92 years old) once again became Prime Minister. As tensions inside the coalition increased in January 2020 due to the imminent resignation of Mahathir and the lack of support for his presumed successor, Anwar Ibrahim, the King, Sultan Abdullah of Pahang, summoned 90 MPs to individual audiences. After numerous discussions within political parties and negotiation between them, and Mahathir challenging Muhyiddin Yassin, head of the party *Bersatu*, the *Pakatan Harapan* government collapsed on 29 February 2020 following the withdrawal from the coalition of 26 *Bersatu* MPs and the resignation of 11 MPs from Anwar Ibrahim's[34] *Parti Keadilan Rakyat* (PKR). As the COVID-19 pandemic increased pressure on the new Prime Minister Muhyiddin, the King, who had previously declined the PM's request, declared a state of emergency on January 12, 2021, suspending Parliament up to July, and allowing the government to continue to run the country. Tensions developed between the PM and the King; the King, who wanted to limit the duration of the Parliament closure (Delfolie, 2022) for

[32] Malaysia had developed a sovereign wealth fund, *1 Malaysia Development Berhad* (1MDB), from the Terengganu Development Fund. In 2015, the fund ended up with more than US$11.6 billion in debt. As early as July 2015, PM Najib Razak was accused of corruption, as $681 million had apparently been wired to his bank accounts in Switzerland. The investigation later revealed that some $4.1 billion had been pilfered by Malaysian officials and their associates. The US Department of Justice returned $1.08 billion of stolen assets to Malaysia in 2021. See Sebastian Strangio, "US Government Returns More Recovered 1MDB Funds to Malaysia", *The Diplomat*, May 14, 2021. In June 2020, Najib was sentenced to 12-years prison and $ 50.2 million fine, for one of his criminal procedures; he appealed the Court decision (Suganya Lingan, "Malaysian Court rejects Ex-PM Najib's Request to Delay 1MDB-Linked Law Suit", *Benar News*, 2022-22.02).

[33] The *Pakatan Harapan* included the *Bersatu* (*Parti Pribumi Bersatu Malaysia*, i.e., Malaysian United Indigenous Party), founded in July 2016 by former UMNO Deputy President Muhyiddin Yassin and chaired by former Prime Minister (1982–2003) Mahathir Mohamad; the *Parti Keadilan Rakyat* (PKR) of Wan Azizah and Anwar Ibrahim; the Democratic Action Party (DAP) and *Parti Amanah Negara* (Amanah).

[34] Born in 1947 in Penang, former chairman of the National Union of Malaysian Muslim Students, Anwar Ibrahim entered politics as a religious activist, being one of the founders of ABIM (*Angkatan Belia Islam Malaysia*, Malaysian Muslim Youth) in 1971. Arrested during a student protest, he spent two years in prison (1974–1976) under the Internal Security Act. He then joined the UMNO (1982), became Minister of Education (1983), Minister of Finance (1991), and finally Vice-President of the UMNO (and thus Mahathir's dauphin) in 1993. He was dismissed following the 1997 financial crisis, sentenced to 15 years in prison on the double charge of corruption and sodomy, and released in September 2004. He was anew sentenced to five years imprisonment in 2015, during which his party, *Parti Keadilan Rakyat* (PKR) joined the new coalition (*Pakatan Harapan*) set up by Mahathir. He was pardoned by the then Yang di-Pertuan Agong Mohammed V Faris Petra (Kelantan) in 2018.

institutional reasons (first and foremost, the respect of democracy), repeatedly called for reconvening the Parliament. Prime Minister Muhyiddin finally lost majority support and resigned on August 16, 2021. Once again, the *Agong* had to meet with MPs to clarify the situation inside the Assembly, while the pandemic made parliamentary elections impossible. The Deputy-Prime Minister, Ismail Sabri Yaakob, was finally designated as Prime Minister, putting UMNO (supported by PAS, the Islamic party, and Bersatu) back in the lead. The parliamentary truce did not last long, as Ismail's coalition government (*Barisan* [BN], *Perikatan Nasional* [PN], PAS, and *Gerakan*) became increasingly criticised for his weak response to floodings in December 2021. The decline in purchasing power then pushed the Prime Minister to request a dissolution of the Assembly, granted by the King on 10 October 2022. As the following election in November 2022 did not produce a simple majority, and negotiations between the major political grouping were not conclusive, the King once again had to step in to push for a unity government, which was bartered between BN, and *Pakatan Harapan* (PH), supported by two counterparts from Sarawak and Sabah and other small parties—as the PN refused to join (Delfolie, 2023; Yeoh, 2022). The result was the appointment of Anwar Ibrahim as Prime Minister by King Abdullah on 24 November 2022. The King made clear that he hoped to not have to designate a fifth Prime Minister before the end of his tenure (January 2024). The collapse of UMNO, since 2018 thus increased the influence of the *Agong*, making His Majesty a power broker—by default, but effective.

At the State level, a similar crisis had already occurred in Selangor in 2014, due to the replacement of outgoing *Menteri Besar* Khalid Ibrahim, member of the *Keadilan* party who as such belonged to the *Pakatan Rakyat* coalition that had won the local elections both in 2008 and 2013. The resignation of the assembly member from Kajang district paved the way for Anwar Ibrahim; as he had been disqualified by the reversal of his acquittal on sodomy charges a few weeks before the by-election, he was replaced by his wife (and founder of *Keadilan*), Wan Azizah, who pushed her candidacy as chief minister. The PAS (though also a member of the *Pakatan Rakyat* coalition) rejected her nomination, mostly because of her gender. After eight months of negotiations, Sultan Sharafuddin finally appointed Azmin Ali, deputy-president of *Keadilan*, as a fait accompli (Mohamed Nawab, 2014).

Given that six states (Kedah, Penang, Selangor, Negeri Sembilan, Kelantan, and Terengganu) have elected their assembly between July and August 2023, their royal rulers might have to follow the same path as the former *Agong* sultan Abdullah of Pahang (the present *Agong* being since January 2024 sultan Ibrahim of Johor) in a short future. Such political intertwining might explain the acquisition by HRH the Sultan of Selangor[35] in 2022 of a painting

[35] "Selangor Sultan buy artwork depicting M'sian MPs as apes and frogs," *New Straits Times*, April 12, 2022 (price £ 9.9 million). The artist in unknown, but the painting is inspired by that of a British artist in 2009.

depicting Malaysian politicians in Parliament as apes and frogs—a work of art which arguably none of his European counterparts would have dared to buy. The purchase was welcomed by some "*Daulat Tuanku*" ("Power to the King") postings by amused netizens.

In all cases, the royal intervention contributed to overcome political deadlocks that had shown the limits of representative democracy, and conversely positioned royal rulers as arbiters, thus increasing their political leverage. One testimony among many others of this kingly leverage might be the political survival of the princely *Tengku* Zafrul Abul Aziz, a scion of the Sultans of Deli (East Sumatra) on his father's (*Tengku* Abul Aziz, a prosperous businessman) side; his mother, *Raja Datuk* Zaharaton (connected to Perak's royal family) was the former director-general of the Economic Planning Unit; and his wife belongs to the Selangor and Negeri Sembilan ruling families. Former treasurer of Selangor's UMNO, *Tengku* Zafrul, an investment banker who developed both Maybank and CIMB corporate sectors, became successively minister of Finance in Muhyiddin's and Ismail Sabri's cabinets (March 2020–November 2022), then Anwar's minister of International Trade and Industry (MITI) (December 2022–). Since 2004, Tengku Zafrul has been depicted as a close friend of sultan Abdullah of Pahang.

Networking and Entrepreneurship

The case of the brilliant—but rather unpopular (Mat, 2023)—*Tengku* Zafrul (master of finance, University of Exeter; MBA from Tsinghua University, Beijing) is a good illustration of the workings of Malay kingship, which goes far beyond its official institutional frame. Malay royal families (including in Brunei and Sumatra) are all related and linked through various female lines to their forebears of the Malaka sultanate. Owing to the practice over generations of polygyny, they participate in the greatest kinship network of Malaysia, of which memory is preserved through genealogies, thus irrigating the *Bumiputera* component of Malaysian society. As a consequence of both traditional kinship networks, and modern education and careers, royals and their relatives are today found in all sectors, from politics and justice (such as *Tun Tengku* Maimun Tuan Mat, Malaysia attorney-general, see Delfolie, 2023) to medics.

To give but a few examples, *Tunku* Abdul Rahman, the founding father of Malaya's independence who worked to strictly limit the role of sultans to that of constitutional rulers, was the 7th son and one of the 45 children of Sultan Abdul Hamid Halim Shah, the 26th ruler of Kedah. *Tuanku* Zara Salim, the present Queen Consort of Perak, is the granddaughter of the *Tunku*'s full sister. Following mainstream political trends, *Tengku* Azlan Abu Bakar, uncle of Sultan Abdullah of Pahang, has been an MP for 14 years (1999–2013) under the banner of UMNO, then joined Mahathir's Bersatu in 2018, before reintegrating alongside many into UMNO in 2021.

In the 1960s, royals inscribed kingship in the core of Bumiputera capitalism, of which *Tengku* Razaleigh Hamzah,[36] himself son of a former chief minister of Kelantan and great-grandson of Sultan Muhammad III of Kelantan, was a major promoter. As such, *Tengku Arif Bendahara* (TAB) Tengku Ibrahim Sultan Abu Bakar (1938–1987), brother of Sultan Ahmad Shah of Pahang, launched TAB Group as a holding company in 1969 (Ling, 1992). Founded in 1960 by *Tunku* Tan Sri Abdullah from the Negeri Sembilan ruling family, the Melawar Equities Group today operates several publically listed companies, in Malaysia and overseas, in the financial and manufacturing sectors.

The development of princely capitalism was facilitated by the promotion of Bumiputera entrepreneurship by the New Economic Policy (NEP) in 1971. *Tuanku* Ja'afar ibni Almarhum Tuanku Abdul Rahman, who ascended the throne of Negeri Sembilan in 1967, founded Syarikat Pesaka Antah, a holding society, in 1974; the Antah group turned public in 1983. TAB, Antah Group[37] and several other enterprises founded by royals remained profitable up to the COVID-19 pandemic. Kingship also participates in Bumiputera business at a modest scale through princes working as executives in Malaysian companies,[38] big and small, state and private.

Up to present, the wealthiest of Malayan rulers is Sultan Ibrahim of Johor, with an investment portfolio which includes a 20% stake in RedTone (mobile phone), 15% in U Mobile, 15% in MOL Access (electronic payment), 10% of 7-Eleven Malaysia, and 20% of Berjaya Time Square in Kuala Lumpur [*The Edge*, December 27, 2013): a total worth estimated close to $ 1 billion in 2017 (Ellis, 2017). The Sultan's daughter, Tun Aminah, is presently non-executive chairman of Berjaya's board, of which all directors are female.

Conclusion: A Rejuvenation at Risk

Over the last decades, Malaysian kingship underwent a major rejuvenation at the crossroad of institutional implementation and socio-economic development, which conferred to the royal institution a new leverage extending far beyond its cultural dimension and the symbolic role and limited functions and resources allocated by the Federal and States constitutions.

Such an evolution is not exempt of risks, as the more royal leverage is at work, the more it can be contested, thus placing kingship at the core of the political arena. The growing influence of royal rulers seems to be increasingly

[36] Born in 1937 in Kota Bharu, and holder of a BA in economics (University of Belfast), he was one of the founders of Bank Bumiputera, Petroliam Nasional Berhad (PETRONAS), etc., as well as a turbulent politician who broke with UMNO in 1989, then joined UMNO anew in 1996.

[37] "Pesaka Antah launches RM300m mixed development project in Juasseh", *Malay-Mail*, November 30, 2019.

[38] In 1985, among Bumiputera directors of companies, 55% wore titles (Gomez & Jomo, 1997: 50).

challenged by PAS and radical clerics, though the sultans are constitutionally the head of religion in their respective states. Sultan Sharafuddin was in open conflict with PAS in June 2022, after Minister in the Prime Minister's Department for religious affairs, Datuk Idris Ahmad (PAS's vice-president), asked Muslims not to attend the Japanese Bon Odori Festival, a yearly event in Selangor, arguing that it presented unislamic religious symbolism. Even if fellow rulers did not intervene directly on the issue, they multiplied appeals to politicians to stop banking on hate and religion, both directly and through the Council of Rulers (as in November 2022). Hosting the 6th World Conference on Islamic Thought and Civilization (WCIT) in Perak in October 2022, Sultan Nazrin Shah praised multiculturalism, and two months later, called for immediate action to stop ethnic and religious extremism. In January 2023, Sultan Ibrahim forbade talk of politics in Johor's mosques and oratories—a ban already implemented in Selangor in 2010. He was followed by the sultans of Terengganu and Perak in March, then supported by PM Anwar Ibrahim.

Besides protecting non-Muslim citizens—a task which is in conformity with their traditional role since the founding of the Malaka sultanate—the royal rulers appear more and more interested in global issues, such as environment and climate change. The most original initiative in this respect was the establishment in 2012 of the Sultan Mizan Antarctic Research Foundation (YPASM) which supports Malaysian research missions, under the patronage of the Sultan of Terengganu. In Malaysia, the preservation of environment is a politically "neutral" topic benefiting from a large consensus.

However, even if the presence of numerous minor royals across society at large does not pose a problem, the excessive proximity of sovereigns to the business world can prove to be detrimental in the long term. The various constitutions, which place the rulers above politics, do not specifically mention their relationship to economy or business. But the more royal rulers and first-ranking princes engage in business, the higher the risk of conflict between them and the Menteri Besar and State assembly, which represent local people and their interests.

As such, Sultan Ibrahim's financial participation in the development of new urban complexes in Iskandar Malaysia, the country's oldest economic corridor launched by the Federal Government in 2006 and promoted as Malaysia's next Shenzhen, turned out to be highly controversial. Sultan Ibrahim sold 116 acres of prime seafront land in Johor Bahru (previously converted from State land to Sultanate land) in December 2013, for MYR 4.5 billion (1.08 USD billion) to Guangzhou R&F Properties, to be developed as "Princess Cove". Johor Bahru now hosts six Chinese development projects, including the Forest City (in which Sultan Ibrahim indirectly holds 25.7% of equity), designed on four reclaimed islets, which was subject to the PRC's imposition of capital control in March 2017, and limitation of foreign citizens home-buying in Malaysia since UMNO's collapse in 2018 and the covid-19 pandemic. These projects drew criticism due to their strong impact both on the environment and on the traditional way of living of the Malay population, and have been regularly

used by Malay politicians to gain support from the electorate, mingling identity resentment against fellow Malaysian Chinese citizens with due concern about PRC's ambitions in the Malaka-Singapore strait (Delfolie et al., 2016). As Iskandar Malaysia's "Flagship Zone A" is supervised both by the Johor government and the Sultan himself (when it comes to his own properties), and "Flagship Zone B" is supervised by the Federal government (Lim & Ng, 2022), the two zones might compete for foreign investors (mostly Chinese), while the stakeholders involved are regularly instrumentalised by politicians.

Sultan Ibrahim (brother-in-law of his predecessor, Sultan Abdullah of Pahang) is presently Agong. According to the Federal Constitution, the King must not "actively engage in any commercial enterprise" (Constitution, art. 34 § 3). In Johor, he is replaced by the regent, Crown Prince *Tunku* Ismail Idris, who himself owns significant stakes in companies participating in the reclamation projects of Tanjong Piai, including oil storage facilities.

Maintaining the balance between multiple stakes will thus not be easy for the King. The possible request for royal pardon by ex-PM Najib Razak, who currently serves a 12-year prison term for the 1MDB corruption scandal, might play against royal neutrality. Even if Malaka sultans—as their Insulindian counterparts—participated in the financing of cargoes during the "age of commerce", an excessive taste for lucre from royal rulers could presently threaten the royal institution itself: even in 2024, "subjects are roots and the ruler is like a tree, without roots, he cannot stand."[39]

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[39] "Yakni rakyat itu umpama akar, dan raja itu umpama pohon; jikalau tiada akar nescaya pohon tiada akan dapat berdiri" (Sulalatus Salatin, 130: 36).

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CHAPTER 25

"Royalism in Cambodia Today": An Interview with Prince Sisowath Thomico

Astrid Norén-Nilsson

Prince Sisowath Thomico is a cousin of Cambodian King Norodom Sihamoni. He was a personal aide of King-Father Sihanouk and a spokesman of the Royal Palace, and has been politically active in a range of political movements and parties, including royalist party FUNCINPEC and, most recently, opposition Cambodia National Rescue Party (CNRP). He currently serves as senator.

In 1993, royalist party FUNCINPEC won Cambodia's first national elections after more than two decades of civil war—in a wave of popular enthusiasm for the monarchy (reintroduced the same year) that could not be detached from the popularity of king Sihanouk himself. How do you consider popular expectations on the monarchy and royalists to have changed over the past three decades?

In 1993, older people of my generation [Prince Thomico was born in 1952, ed.'s note], and the generation before, could remember what society was like before Lon Nol, before 1970. I think that there were two things. First, there

The interview was conducted in Siem Reap, Cambodia, on 29 October 2022.

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_25

was a kind of nostalgia of the past. People wanted to get past the war, the civil war, the divisions and so on, and go back to where we were before 1970.

Second, it was not only nostalgia. It was a willingness to start again from where we had been in 1970. Because at that time, we had a very liberal society. Even though then-prince Sihanouk was accused of autocracy, it was a free society, you know, a liberated society. I think that people wanted to go back to that. So, they supported the monarchy which was represented by Sihanouk. It was a real willingness to get back to the past and start from where we were in 1970, and forget those 23 years of civil war and divisions.

So what do you think happened during the 30 years that have passed since then?

Afterwards, I think that the FUNCINPEC did not deliver on its promises. I think there was a lot of disillusion among the people, who found out that the promises made during the electoral campaign were not fulfilled by the FUNCINPEC. So, I think that for the elections which came after, especially in 1998, the people were not very happy. The FUNCINPEC broke, you know, into the FUNCINPEC and the Sam Rainsy Party (SRP) [in 1994, Sam Rainsy was expelled from FUNCINPEC, and in 1995 he founded the Khmer Nation Party which would become the SRP, ed.'s note]. This presented that gap, which widened little by little, between the people who really were monarchist, and the people, younger people, represented by Sam Rainsy—because there was a generational gap as well. The FUNCINPEC was represented by the King—even though the power was held by Prince Ranariddh, then actually, the monarchy was represented by King Sihanouk. And, on the other side, you had younger people, represented by Sam Rainsy, who split from the main front of the FUNCINPEC. Those younger people didn't really know society before 1970—most of them were born either during the Khmer Republic, or afterwards—some SRP leaders were even born during the Khmer Rouge. So, you know, they did not know society from before. They had no link, nothing bound them, to the monarchy.

I guess Sam Rainsy was born in 1949. Do you mean that there were not many from that generation, that the majority of that contingent were younger?

What is very interesting, in that respect, is that the Cambodian People's Party (CPP) people who are older—even now, the leadership of the CPP is older than the leadership of the opposition party—appear to be more monarchist than the opposition party. I know some of them who are profoundly monarchist, even though they belong to the CPP. So, there is that paradox, that former Communists are more linked to the monarchy and more royalist than the younger generation, who originally came from the royalist party.

In terms of a rift between the royalists and what I would call the democrats—including what used to be SRP—you describe it as a sort of generational gap. Do you think there is a deeper ideological divide in terms of the democrats' intermittent engagement with liberalism, which distances them from monarchical ideas?

Let's take a look at Cambodian society and Cambodian politics. Well, it's completely true that Cambodian politics is governed by an autocracy. You know, all the powers are concentrated in Samdech Hun Sen. But otherwise, there is a free economy, there is a free society. Well, we have some limitations. But, you know, compared to some former Communist countries, we are still more liberal than them. And it takes time, you know, to build up democracy. In my opinion, democracy was betrayed by the democratic parties of Cambodia—to begin with, the FUNCINPEC and the SRP, and afterwards the Cambodia National Rescue Party (CNRP). They were supposed to represent democracy, but I think that there is a denial, a betrayal, of democracy within those parties. The opposition says that Hun Sen has been in power for more than 30 years, right? The leader of the opposition party, Sam Rainsy, has been leading for over 30 years as well. No change, no change in the hierarchy of the opposition party and no change in the hierarchy of the CPP.

During the CNRP, it was quite a bit different. Because Kem Sokha brought in new blood, you see. More conservative, more linked to the right, traditional Cambodian right, such as Son Sann. Son Sann was a royalist as well—even though he didn't advocate the same policies as Prince Sihanouk or afterwards Prince Ranariddh, he was still profoundly royalist. So, I think that there is a split, there is a rift in Cambodian society. But, the rift is not between the CPP and the opposition: the rift is between the conservatives—whether leftist, represented by the CPP, or rightist, represented by the FUNCINPEC and part of the opposition represented by Kem Sokha—and, on the other side, the SRP, which represents the real Republicans and anti-royalist, anti-monarchy people.

With Sihanouk as a constitutional monarch, political royalism—as detached from Sihanouk—was free to be claimed by any political actor. This also reflects how historical Cambodian ideas of kingship can be understood more broadly as models of legitimate leadership, reflecting relative merit. There are also competing models of kingship, to be selectively invoked. This has resulted at times in a veritable competition over which political party has been the most "royalist", with the CPP able to supplant royals in defining royalism. Do you think it is still meaningful to speak about royalist political ideas, and if so, how?

Cambodian history went through several phases between 1947 and 1993. Let me explain. When King Sihanouk was enthroned in 1941, he was an absolute monarch, such as Louis XIV in France, or even the tsar in Russia. In 1947 we had our first Constitution, which made Cambodia a constitutional monarchy. We had a period of transition, between 1947 and 1955. At that time, Sihanouk was king, and there were political parties, especially the Democratic Party, represented first by Prince Youtevong, and then by Ieu Koeus, Sim Var, In Tam and Son Sann, and so on. And you had other parties: the Liberal Party, etc.

But King Sihanouk thought that everything was chaos, Cambodian politics was chaos, so he ended the constitutional monarchy experiment in 1955.

When he abdicated the throne to his parents, he continued to be King, and to govern. It meant putting King Suramarit and Queen Kossamak on the throne, and letting (King) Sihanouk become the real leader. Sihanouk was altogether King, you know—people used to call him *Preah Karuna* (Your Majesty), even though he had abdicated. So, he was at the same time the King and the political leader. The parentheses began in 1955: we went back to before 1947. Legally, Cambodia was still a constitutional monarchy, with a monarch who reigns but does not govern. But, just because of the personality of King Sihanouk, of Prince Sihanouk, then it was still a kind of absolute monarchy—he was monarch, and he was governing under the umbrella of the *Sangkum Reastr Niyum*.

So, the constitutional history of Cambodia was put between parentheses from 1955 up until 1993. We have the Khmer Republic [1970–1975], Democratic Kampuchea [1975–1979], and then the People's Republic of Cambodia [1979–1989]. But [in 1993], we came back to 1947. If you look at the Constitutions of 1947 and of 1993, there is not much difference. Differences were brought by French constitutional lawyers, professors, who wrote the French 5th Republic constitution into the Constitution of Cambodia. But the principles were the principles that were lifted in 1947. So, from 1993 onwards, we learnt what a constitutional monarchy could be, what it could look like.

At that time, FUNCINPEC people were expecting King Sihanouk to have a more active role. But, Prince Ranariddh, because of his personality, wanted to lead and to govern. So, that was the problem. I think that if in 1993, Prince Ranariddh and Sam Rainsy (because Sam Rainsy was part of the team at that time) had the King be more active in politics, there wouldn't have been two prime ministers. Hun Sen would have willingly worked with King Sihanouk. They worked together—they conducted negotiations during 4 years from 1987 up until 1991, just to get things done. So, I think that Hun Sen respected King Sihanouk, and was willing to work with him. But, since he saw that Prince Ranariddh was not willing to cooperate, and instead wanted to govern and impose his views and so on, there were these problems between the CPP and the FUNCINPEC at that time.

It is always said that it was Sihanouk who proposed the power-sharing formula?

Yes, that's right. And since King Sihanouk was sidelined by Ranariddh, it was only natural for Hun Sen to defend his stance, and the stance of the CPP.

Does that mean that the expectation from some quarters within the FUNCINPEC was that Sihanouk would be the leader of the FUNCINPEC at the same time as he was King?

His role was inscribed in the constitution: he was the arbiter, the referee. But, because of the stance of Ranariddh, it did not occur.

Do you think Sihanouk would have liked to take a more active role at the time?

Yes. He always reproached his son for sidelining him, for putting him aside. It was always a reproach by King Sihanouk towards his son.

So what could royalism mean today with FUNCINPEC all but gone—I mean, the party has been revived but does not really carry any weight?

Everybody is learning. Sihamoni is learning. He is a transitional king. Because succeeding his father is very difficult. He doesn't have the personality and the historical legitimacy of his father. So, for him, his role is that of a transitional king. Before him, there was Sihanouk; after him, we don't know. We don't know whether we will have another king in Cambodia, or if we will have a republic. So, King Sihamoni could be a transitional king, before the next king, or he could be a transitional king, before the proclamation of a republic in Cambodia. We don't know. Nobody knows, actually. You can ask the CPP, they wouldn't know. Even them, they don't know.

You don't think it has been decided yet?

It hasn't been decided yet.

So, so far, I think that Sihamoni is the representative of royalism in Cambodia.

The King himself, then. It is easy to make a conceptual separation between the king and political parties—that is the line of thinking that constitutional monarchy relies on. You have the monarch and then you have political royalism. But you think that even to find political royalism in today's Cambodia you would have to look to the king?

You know, I think that Cambodian society, Cambodian politicians, have to learn what a constitutional monarchy is. They don't have the experience of Sweden, for example. Sweden has learnt what constitutional monarchy is. And Swedish people don't expect the king to govern or to step in when there are political disputes. And here, we still have opposition members who want the king to step in. So, even though the role of the king is defined in the Constitution, people don't understand. They still expect the King to have a more active role, the same role as King Sihanouk.

Sure. I guess this goes back to what you said, that Cambodia never before had a King who wasn't also the leader, or aspired to be. And in that sense, it is King Sihamoni's model that is anomalous. Do you think that this transition maybe leads back to the merger of political leadership and kingship—meaning that the political leader is the King? If the King is not the political leader, can the political leader become the King?

Yes, that's right. Monarchy doesn't mean kingship, you see? So long as the monarch, the king, doesn't have any power, that is not kingship. The personality of Sihamoni is that he doesn't want to get involved at all in politics—he has never been involved in politics, even though he was very close to his Father. And he doesn't want to get involved in politics. He wants to start a real constitutional monarchy in Cambodia.

Do you think that is his project?

Yeah, that's his project, his mission. I would like to tell you what he told me in 2004, when he was enthroned. At that time, I was King Sihanouk's

private assistant, but because Sihamoni had no experience, he asked me to come and help him. And he told me: I don't want to get involved. As far as the press is concerned, I want you to deal with the press. And I tried to help him with the press, with the relations with the political parties, and so on. It was his belief and his profound stance that he didn't want to get involved in politics. He wants to represent Cambodia. He wants to represent the people of Cambodia, whoever they are: either of the opposition or the ruling party. He doesn't want to get involved at all, he just wants to represent Cambodia and the people of Cambodia, that's it.

So, with the constitutional monarch that we now have in place then, what would royalist political ideas mean in this context?

If the people who are still royalist can teach Cambodian people, can send a message, can communicate, that the King is a symbol of the Cambodian nation, of Cambodian unity, if Sihamoni can be the symbol of Cambodian unity, then I think that the monarchy can go on in Cambodia, just like in North European countries. The king there is just the representative of the nation, of the people.

It is apolitical.

Apolitical.

So in terms of political ideas, there is no possibility of having royalist political ideas then?

Yes. But, for this to happen, there is still a very long way to go. We cannot compare the Cambodian monarchy today with European monarchies, because the political structures in Europe and in Cambodia are very different. In Europe, you have political structures which guarantee the freedom of political parties, of free speech, and so on, and you have entities, such as the courts, that are independent. In Cambodia, that's not there. We have political parties, but as long as the courts will be under one political party, then royalism will be at risk, because the king will not be seen as a referee. The monarchy and the king have to be the ultimate recourse; now, they are not.

Royalist political ideas, then, would mean enabling the king to serve as the ultimate referee?

Yes, in Cambodia for now.

The CPP has supported itself on royal references in deepening authoritarianism since 2017. Prime Minister Hun Sen and the party have portrayed themselves as inheritors of the heritage of King-Father Sihanouk, such as his admonition for national unity. At the same time, Hun Sen has also performed rituals with royal overtones. Do you think that these royal references will continue to be important to the CPP for time to come? Or, will these royal references fade away with the demise of FUNCINPEC and a more circumscribed role for the royal family?

As I told you, the monarchy is represented by the CPP as well as by FUNCINPEC, because of the generational demography of those two parties. But not only because of that. The CPP has a past as a Communist party. It was founded in 1951 as a Communist party, the Kampuchean People's Revolutionary Party.

And as far as Hun Sen is concerned, his main goal is to find another legacy, another legitimacy. The CPP still celebrate their birth in 1951, just to tell Cambodian people that the party was born in 1951. There are no more references to the ideology: I mean to Marxism, Leninism, Maoism, whatever. There are no more references to Communism. So, the CPP has to find its legitimacy. And the monarchy, the rituals of the monarchy, gives them this opportunity. You know, the *oknhas* [tycoons] and the excellencies need that, just to cut their roots from Communism. I think that they need monarchy just for that, to give them legitimacy with the Cambodian people and with history as well.

It is a win–win situation for them. First of all, they need historical and sociological legacy and legitimacy. At the same time, they make use of the King and of the throne in order to tell the opposition and the Cambodian people that *they* are the defenders of the monarchy, and of the throne. And that's one of the reasons why, you know, the opposition party has to play very well. Ever since I joined the opposition, I told Kem Sokha and Sam Rainsy: go and meet the King. Constitutionally, the prime minister has to meet the King every month. You, as the main opposition party, go and meet the King; report to him every month so that the King can be seen to be above the political parties, and so that Hun Sen and the CPP cannot make use of the King. But, for whatever reason, Sam Rainsy never accepted. It could have been different! It could have been very different if the opposition party went to meet the King every month, to report the situation. The relations between the Cambodian opposition and followers of the opposition, and their feeling towards the King, would have been different. But because of Sam Rainsy, this wasn't done. Kem Sokha was willing, and whenever he couldn't go to the royal palace for ceremonies, he would send his daughter, Kem Monovithya, to attend those.

One example of notions of a royalist pedigree that the CPP rests on to support its rule is the "Thank you peace" (orkon santepheap) discourse, which the government is promoting as part of deepening authoritarianism. This arguably has royal overtones, recalling Sihanouk's role as father of peace. How do you consider that ideas of peace and national unity are evolving, if you compare with Sihanouk's vision?

I think that peace was always the main concern of King Sihanouk, and of Prince Sihanouk. The reason that he wanted Cambodia to become neutral after independence was to preserve the peace, because at that time there was the Cold War global bloc conflict, and on the regional level, you had the Vietnam war, which was just a proxy war. He wanted to avoid Cambodia stepping into the conflict, which was why he joined the non-aligned movement, in 1956. Peace was always the main concern of Sihanouk.

And, for Hun Sen, the motto "Thank you peace" is just meant to say that every achievement which has been made is due to peace. It is correct that the CPP under Hun Sen and King Sihanouk during the *Sangkum Reastr Niyum* have had about the same concerns, you see: peace and unity. But the context is quite different. We don't have this bloc conflict now, and so it was easy

to have peace. We haven't had armed rebellion. During the *Sangkum Reastr Niyum*, we had armed rebellion, from one side the Khmer Serei, and from the other, the Khmer Rouge. So, the political conflict is quite different today. But Hun Sen is making use of the peace, just to show that every achievement has been attained through peace. The only thing that he hasn't achieved is unity; there is still much extremism in Cambodian society.

You are the royal family member who has remained politically active for the longest. Reflecting Cambodia's changing historical fortunes, you have supported a range of political projects—from Republicanism in the 1970s, to seeking to revive royalism by going back to the King-Father's Sangkum Reastr Niyum-era thought, when I first met you in the 2000s. The latest party you joined, however, was the CNRP. In your view, what remaining value do political ideas of a royal lineage hold for Cambodia at this moment in time? Or have those notions already been supplanted by a new and different struggle?

To answer your question is very easy. I would like to draw a parallel with King Sihanouk. King Sihanouk used to make movies. In each of his movies, he was depicting Cambodia, he was talking about Cambodia, and Cambodia was the star of all his movies. For me it was the same. I joined a number of political parties, but I had only two concerns: peace and unity. Whatever the regime—because monarchies can be dictatorships, such as Nepal used to be, and republics can be dictatorships as well, and on the other side, monarchies can be democracies, such as the European monarchies, which are the most advanced democracies in the world, even more advanced than America, whatever American people might think. My only concern, whatever the party, was to give the message that whatever you think, whatever you do, you have to have one goal, and that goal is to give peace to the Cambodian people, so that Cambodian people can develop. And get united towards that goal. You can have different ideas, you can have different ideologies, as long as we have a common goal and that goal is the welfare of the Cambodian people, the well-being of the Cambodian people. This was my discourse, this was my message, whether it was under Lon Nol or with the FUNCINPEC, and lately with the CNRP. I never joined the SRP.

This was always my concern. And this was the political stance of King Sihanouk himself: peace, unity, development. He tried to achieve the three during the *Sangkum Reastr Niyum*. Peace: being neutral, not getting involved in the bloc conflict. Cambodian people's unity: that's the reason why he made a gathering of parties. The *Sangkum Reastr Niyum* was not a political party, it was a gathering of political parties. And development: during the *Sangkum Reastr Niyum*, King Sihanouk made every effort to develop the country. What we see now is about the same. Peace, unity, and development.

These are the keywords?

These are still the keywords. But we didn't have the same political discourse during the *Sangkum* as now. During the *Sangkum*, I think the political stances were more mature than they are now. I don't think there was that extremism

during the *Sangkum*, so it was much easier for the King to gather the people, and only the people who were members of armed rebellion did not join—those were minorities. But now, I think that Cambodian politics is more extremist. On one side there is the extremism of Sam Rainsy's people, on the other side, the supporters of Hun Sen. So, I think that peace has been achieved on the regional level, but not as a society. There cannot be peace when there is no justice. And my stance will still be to try to have my voice heard. I would like to push for justice: social justice, economic justice, and political justice in Cambodian society.

One parallel that is often made is that the Sangkum Reastr Niyum was an autocracy, and that today's Cambodia is also an autocracy. The same keywords seem to be important now as then…

They are different kinds of autocracies. Autocracy during King Sihanouk was almost legitimate—he was the King, and supported by the people of Cambodia. Under the *Sangkum Reastr Niyum*, whatever can be said about it, there was a kind of freedom. People could vote, for voting they were not under threat. As for now, political parties are not… there is no freedom I think, that is the first difference. The second difference is that Sihanouk did not feel insecure. So, he didn't have to make use of the courts against political opponents. As for now, the real problem facing the courts in Cambodia is the CPP. The CPP feels insecure and makes use of the courts to remain in power. That's the big difference. And as long as the CPP will make use of the courts, then they will never achieve unity in Cambodian society and, as I said, the role of the King will be shaken as well. The court and the King are referees. The courts are social referees, economic referees and political referees. If the courts don't play their role, then it's up to the King, but he is not in a position to play the role as a referee. So as long as the courts will be under the CPP, the royalists and the monarchy in Cambodia will be under threat and will be jeopardised.

You just said that you think that King-Father Sihanouk enjoyed greater legitimacy than the current government does. How do you think that royalist ideas have marked ideas of legitimate leadership that we see in Cambodia today?

I think that there is no more royalist message. You see, the old messages, the earlier messages, just refer to the king, and that's not enough. It's not enough to secure the… how to say… the ideology of royalism and monarchy. It's not enough to secure the relevance of the king and of the monarchy. It's not sufficient to secure the long-lastingness of the king. Because there is no message, no royalist message, and no political party whatsoever has a royalist message, whether the CPP or the FUNCINPEC: both parties just make use of the King. "We need the king, we need Cambodia to be a kingdom, a monarchy". But they don't explain why. This is the political message that is lacking now among Cambodian political parties.

It seems to me that the CPP has gained in legitimacy over the past few years and are much more popular now than they were at the start of the

current electoral term, when the CNRP had recently been dissolved. Do you see royalist ideas having a part? Might this hail back to those royalist ideas of peace and national unity that the CPP claim to have embraced?

The CPP cannot be legitimate when there is no opposition. For as long as the opposition is banned, as long as Kem Sokha is not free, the CPP will not be legitimate. Just because an opposition party is allowed… The Candlelight Party, for example, is just a shadow of itself, as long as the leader is not there…. So, no, I don't think the CPP is legitimate. I think that the elections which were held in 2017 showed that people did not support the CPP. Their votes were split, and this was only commune elections, not even national elections. So, I think that since 2018 the CPP is not legitimate and even though they need the royal legacy, even though they need the royal legitimacy, they do not spread the royalist, monarchist message. They just communicate through the king, but there is nothing in their political messages that is a reference to monarchy and royalism.

So, how would you characterise—of course it would necessarily be a gross generalisation—but how would you outline popular ideas about legitimate leadership in Cambodia today? Do you see that anything remains from the royalist times?

I think that until 1970, no one in Cambodia thought of a society without a king. Since 1993, no political party, nobody, ever even tried to come back to that period before 1970 and explain what monarchy, what royalism could be. It was always references to King Sihanouk, that's it, but no message. If you look at the communication of the FUNCINPEC, from then until now, nothing is of relevance to the Cambodian society under monarchy, you see. I think that the idea of monarchy has to be rebuilt from now on, from the roots up.

Do you think there is a void in terms of models of legitimate leadership? Is there no clear idea anymore of what is legitimate?

The King will be legitimate when there is no more contestation of his role. But for as long as there is a discussion about his role, then he will be shaky, he will be jeopardised. So, we have to make sure that his role is not discussed, that he is accepted as the king, and Cambodian society can move on and build a lasting monarchy.

In the same spirit: no political party in European monarchies make any reference to the king or the queen. They don't need to, because they know that those societies accept the king or the queen as they are, the king and the queen as institutions. So, there is no discussion about the role of the king or the queen. And now in Cambodia, the only royalist message is just a reference to the King—not as an institution, but as a person.

There is a void, represented by the lack of political message explaining what monarchy is, what the role of the king is, what the roles of political parties are, and so on. Everything has to be synchronised somehow, you know. It's part of a mechanism. Everything has to move together: the king, political parties, the institutions. But now, the parts are not moving together. You have the

government, you have the courts, you have the king, you have the political parties. Those elements do not move together. Once all those elements move together in harmony, then we can say that Cambodia is a lasting monarchy.

It is very nebulous what people actually think, what actually holds legitimacy in a society, right? Even the politicians don't know—there is an information gap.

We are living in transition. Sihamoni is transitional. The CPP is in transition. They have to transition from a communist party to a legitimate party. The opposition, you know, there is no legal opposition, there is society as a whole. So, the CPP is looking for its legitimacy, the opposition is looking for its way, and the king is trying to find his way as well.

What do you think are traits associated with leadership that hold large-scale legitimacy in Cambodia today? I am thinking for example of peace promotion, would that be something that incontestably gives legitimacy? Are there other traits?

We don't know, because there are so many ways. As far as the CPP is concerned, it can take the example of China or Vietnam, or it can take Singapore as a model. They are transitioning, they are trying to find their way. And the opposition has to find its way, and the king has to find his way as well. Because all those are moving parts, and the only non-moving part is the king. So, the king has to find his balance. It's difficult for him, it's difficult for everybody.

How do you anticipate the future of political royalism and of the royal family? Of political ideals associated with the monarchy?

I don't have any idea—just like I told you, Sihamoni is a transitional king. We don't know what will happen after him—whether there will be another king, or a republic. So, I don't know. I'm just trying to promote what monarchy could and should be in Cambodia, that's my only purpose. Based on peace, unity and justice. Those have to be the three feet, the three supports of the monarchy in Cambodia.

Do you have a sense of how the King feels that things have evolved under his reign, since that conversation you had back in 2004?

I don't really know how the king feels. I think he feels more comfortable, more secure. But don't ask him to defend his role.

He is always depicted as a reluctant monarch.

He still is. Just because of those moving parts, you see. Once all those parts are stabilised, then you can have a stable king, a stable monarchy.

Eighteen years is a long time to be in transition… Earlier this month, on the 15th of October, I attended the commemorative meditation ceremony organised by the Union of Youth Federations of Cambodia (UYFC) for the 10-year death anniversary of the King-Father, at Wat Botum. Most CPP youth leaders participated.

As I said, they [the CPP] have to have legitimacy in Cambodian society. The two institutions which can give them this legitimacy are the king and religion.

So, this ceremony, next to the Royal Palace, was to reach both religion and king.

Yes. When I attended the ceremony, it looked to me as if the association between monarchy and power has been reversed: monarchy leads to power—but here it was power that leads to monarchy. It wasn't even about appropriating royal symbols anymore: it was more about CPP youth leaders performing a regal function. To me it was very impressive. It looked as if they were performing kingship.

They are, yeah. As I said, the CPP has to find legitimacy, but at the same time they are making use of the king and the monarchy. They have to anchor themselves in the roots of Cambodian society, which used to be a very royalist society, a very religious society. So, they make use of this to build their own legitimacy… And at the same time, they make use of those key institutions to increase their power.

Right. So the question should really be, being a legitimate political leader, if not royal, does that sort of point in the direction of the monarchy?

Yes, but once again, you are asking about the role of the opposition. In that context, what is the message of the opposition? There is a void, you see. So, it is very important for the opposition to be clear—and so far, they haven't been.

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PART V

Against Orthodoxies

Check for updates

CHAPTER 26

Portfolio: Myanmar Streets of Protest

Laure Siegel

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Introduction

Early morning on February 1st, 2021, tanks rolled into Yangon and soldiers from the Tatmadaw—the Burmese army—arrested State Counselor Aung San Suu Kyi and President U Win Myint at their official residences in the capital Nay Pyi Daw. Other senior members and local politicians associated with the National League for Democracy (NLD) were also detained. Myanmar's new parliament was set to meet for its first session, two months after the ruling party had won the November 2020 elections in a landslide. But the session never started.

[1] Editors' note: Faces appearing on the photos of this portfolio have been blurred on advise of the publisher. We believe that the value of these photos, which show the bravery of protesters and commitment of reporters on the ground, is undiminished; and that the blurring itself may serve as a reminder of the plight of the Myanmar population. Readers can view the original photos on the website of Visual Rebellion: www.visualrebellion.org.

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_26

Internet connections and telecommunications were cut nationwide and at 8 am, an army spokesman announced on military-owned TV station MWD, that the junta led by general Min Aung Hlaing was taking control of the country under the pretext of investigating alleged electoral fraud by the NLD.

The vast majority of citizens, who had experienced a taste of freedom, democracy and liberalization for the past decade, could not accept the return of military rule. Teachers, doctors, bank managers, students and engineers joined the newly formed Civil Disobedience Movement (CDM) and refused to work under the new Special Administrative Council (SAC) regime. The first group of protesters emerged in Mandalay on February 4th, led by U Tay Zar San, a prominent civil society leader. On February 5th, the Committee Representing Pyidaungsu Hluttaw (CRPH), a group of National League for Democracy (NLD) lawmakers and members of parliament ousted in the coup d'état, formed a government in exile, the National Unity Government (NUG), in cooperation with several ethnic minority political groups.

In the following days, protests spread across the entire country and tens of thousands of people started demonstrating in the streets, on dirt paths, in fields and on rivers. They held anti-coup billboards, flashed the "three-finger salute"—an anti-authoritarianism sign popularized by the movie Hunger Games and by protests in Hong Kong and Thailand—and Generation Z youths organized creative street events and online campaigns to attract the world's attention to their plight.

As an echo of the so-called "Saffron Revolution" in 2007, some monks joined the civilians in the processions and refused to accept the alms of officials affiliated with the junta, a silent, powerful act in the Buddhist majority country. Muslim and Christian local communities expressed their fear and anger as the brutal end of Myanmar's fragile rule of law made them even more vulnerable to state abuse.

For the first time, people from the cities and plains of the Bamar Buddhist ethnic majority heartland held messages in solidarity with the Rohingya community, which has been targeted by a genocidal campaign in Rakhine state from August 2016 onwards. Before the coup, most of the public in Myanmar was unsympathetic to their plight, activists and journalists reporting on the issues faced vitriolic abuse and even using the word "Rohingya" in public speech or writing was taboo. With the junta's takeover on one dark February morning, came the brutal awareness that no one will ever be safe in Myanmar as long as generals remain the main powers-that-be and that the army is not fully controlled by a civilian government.

As the authoritarianism and conservatism of senior men in green are fully back in power in Myanmar, women are determined to continue to speak up for their rights, as they started building a feminist movement in the mid-2010s. When anti-coup mass demonstrations began, protesters hung traditional sarongs, underwear and even sanitary pads on strings across the streets to scare off and slow down the crackdown by security forces. Most of Myanmar's soldiers and policemen subscribe to the patriarchal Burmese superstition that passing under pieces covering women's parts will make them lose their male power ("Hpone"), and thus, lose protection in battle.

Every evening, families gathered on their balconies and in front of their houses to bang on pots and pans, to symbolically draw the evil of dictatorship out of Myanmar. The junta imposed a curfew and began to create instability to justify its power grab. Hundreds of ordinary criminals were released from prison, given weapons and dropped by military trucks at night to instigate violence in neighborhoods. Citizens built camps and organized night watches to protect their properties and communities from raids by thugs-for-hire and soldiers. The junta quickly reenacted the Guest Registration Requirement and Household Inspection Laws, in violation of the fundamental rights to privacy and freedom of movement and association.

As the revolutionary crowds grew in late February, the repression increased drastically. Twenty-year-old Mya Thwe Thwe Khine, who died from a gunshot to the head, is the first known victim of the anti-coup protest movement. After she was assassinated, policemen and soldiers attacked the public with tear gas, rubber bullets, sound grenades and live rounds. On February 22nd, 2021, dubbed the 22,222 Movement Day and marked by a nationwide general strike and massive uprising, nearly 200 protestors were arrested in Nay Pyi Daw and Pyinmana. Others were told to report to authorities. The following day, families were ordered to retrieve their bodies, which showed marks of torture.

Arrest warrants were issued against journalists, actors or "keyboard fighters"—activists on social media—who were mostly charged under Section 505 (a). This new provision was used to punish netizens for commenting on the illegitimacy of the coup or the military government and was designed to penalize those who encouraged members of the civil and security services to join the CDM by up to three years in prison. Hundreds of civilians were arrested following tips from "Dalans", local pro-military informers.

Despite daily arrests and killings, protesters occupied the streets for another month by building barricades of metal fences, bricks, straw mattresses and bamboo poles. Frontline guards equipped with makeshift protection gear took it on themselves to try to protect demonstrators against the rifles and tanks of the soldiers. On March 5th, 2021, the NUG announced the formation of the People's Defense Forces (PDF) and proclaimed the right of every civilian to self-defense. Thousands of youths went for training and joined urban guerilla groups or armed ethnic militias.

On the ground, the legacy of seven decades of civil war against the central government in the ethnic states as well as the limited control of territory and access to equipment by the NUG is the main obstacle to the coordination of decisive operations against the monolithic Burmese army. Fed with ethno-nationalist ideology and obsessed with the disintegration of the nation, the Burmese army succeeded though in finally uniting the country, but against itself, and is now referred to as "Bon Yan Thu" ("the common enemy").

According to the Assistance Association for Political Prisoners in Burma, by February 1st, 2024, three years after the coup, more than 4500 people had been killed by the junta forces and more than 20,000 people were still detained. More than three million people are internally displaced and hundreds of thousands have escaped to neighboring countries.

Inside Myanmar and abroad, networks and communities of teachers, doctors, gamers, filmmakers, lawyers, pastors, students or farmers continue to strike, document, fundraise, advocate and organize toward a common objective, which is the establishment of a federal democratic Myanmar.

Visual Rebellion Myanmar is a media collective founded in the aftermath of the coup by young Burmese journalists to continue offering free public service information about #WhatsHappeningInMyanmar. They documented the first three months of street protests across Myanmar by communities from diverse social, religious and economic backgrounds, who attempted to resist military rule peacefully before the country entered the stage of full-blown conflict that is yet to be resolved. Here is a selection of their work.

Photo-Series

1. **Spidermen**



09/02/2021—In downtown Yangon, young protesters wear cosplay outfits to attract the attention of international media as well as to remain anonymous.

2. **Firemen**



09/02/2021—In Pyay, Bago region, members of the Civilian Fire Reserve Brigade join the CDM from the start of the protests.

3. **Nurses**



09/02/2021—In Pyay, Bago Region, medical staff at a public hospital flash the three-finger salute to support the protest march.

4. **Monk**



10/02/2021—In Monywa, Sagaing region, a monk holds an alms bowl bottom-up, a powerful symbol in Myanmar, meaning that a strike won't be called off until its aim is reached.

5. **Chefs**



11/02/2021—In Thandwe, a tourist seaside town in Rakhine State, the Cooking Chef Association comes out to protest in working clothes.

6. **China**



14/02/2021—In Muse, a city bordering China in Shan State, protesters incriminate the Chinese Communist Party's perceived support for the coup-making junta.

CONTEXT: [The sign in Mandarin reads "Kai Feng Fu", a historical reference to the capital of the Song Dynasty. The man in the black suit with the crescent marked on his forehead cosplayed the Governor of Kai Feng, Bao Zheng, well-known for his integrity. He was posthumously promoted as a popular metonymy for Justice and elevated to the status of a folk God.]

7. **Karenni**



21/02/2021—In Phruso, Kayah state, women from the Kayaw ethnic group take part in the anti-coup protest.

8. **Muslim**



22/02/2021—In Shwedaung, Bago Region, the "Myanmar Muslim Association" joins the daily anti-coup protest march.

9. **Oil Workers**



22/02/2021—Union members working at the "Pyay Petroleum" oil fields takes part in the general strike in all sectors of the economy.

10. **Performance**



23/02/2021—In downtown Yangon, pro-democracy activists stage a performance to denounce the pressure by the military regime on CDM teachers to resume work at gunpoint.

11. **Teachers**



22/02/2021—Teachers wearing traditional hats and engaged in the CDM, protest in front of the Shwe Taung Township Education Office.

12. **Shan**



24/02/2021—In Lashio, Shan state, protesters from the Ta'ang, Kachin and Shan ethnic groups call for self-determination.

13. **Students**



25/02/2021—On Ngapali Beach in Rakhine state, students wearing a T-Shirt with the message "Spring Revolution" call for UN intervention.

14. **LGBT+**



04/03/2021—In Shwedaung, Bago region, the LGBT+ community take to the streets to express support for the ousted NLD government.

15. **PDF**



04/03/2021—In Salin, Magway region, "People Defense Forces" stand in front of the police station to request the release of protesters.

16. **Barricades**



15/03/2021—In Monywa, Sagaing Region, people have erected barricades with sandbags to prevent army and police vehicles from entering the town.

17. **Captain America**



17/03/2021—In Kyauk Myaung, Yangon, a protester cosplaying Captain America tries to protect himself against tear gas and live bullets.

18. **Bicycle**



01/04/2021—In Monywa, Sagaing region, women protest on bicycles as state repression has made it too risky to walk.

19. **Food Donation**



10/04/2021—A food donation in Thuwanna, Yangon by volunteers as prices for basic goods have sharply increased since the coup-induced economic collapse.

20. **Sexual Assault**



24/04/2021—A memorial in Pyay, Bago region, in honor of young female protesters who were sexually assaulted by soldiers in a Yangon interrogation center.

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CHAPTER 27

The Contested Domain of Political Space in Southeast Asia

Eva Hansson and Meredith L. Weiss

Democracy is in retreat across Southeast Asia. Scholars and activists alike see few reasons to be positive about developments to come, given those conjunctures in individual states in the region, as well as in international political society, currently sidestep or contest liberal ideals and democratisation. In this chapter, we offer, however, a more positive spin. Taking *political space* as our point of departure, we argue that a wave of protest and activism that has swept across large parts of the Southeast Asian region over the past two decades has not only altered the composition of individual actors, but has also profoundly reshaped norms regarding who can participate in politics, when, how, and why. To paraphrase Merle Goldman (2005), people have gone from being subjects to becoming citizens. Democratic institutions may continue to degrade, even as democratic *actors* seek or create new avenues for empowerment and even influence, across Southeast Asia.

This chapter adapts (and draws heavily on) Hansson and Weiss (2018).

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_27

The Thai Red Shirt movement offers a good example: as it emerged, this movement came to embody more than protest, to alter participants' perceptions of themselves, and others' understanding of them, as political animals (Buranajaroenkij et al., 2018; Hansson, 2012; Kitiarsa, 2012). Citizenship has extended online in the face of rising control and repressive measures on the ground, creating a floating discursive space between online and physical realities, cultivating new expressions of active citizenship. Southeast Asia in general has not seen a shrinking civil society concomitant with democratic backsliding or outright collapse, as many argue has been the case elsewhere. Civil society has rather expanded, becoming denser and more visible—although the balance of power within the virtual and physical space of civil society may tilt at times toward the advantage of autocrats and conservative forces, rather than democrats.

The space of informal politics—that is, civil society—in contemporary Southeast Asia is increasingly varied, changed most notably with the rise of online platforms that parallel and extend real-world platforms and struggles. Participation in the virtual world *is* meaningful, both for effecting political change and, perhaps more importantly, for shifting individuals' understanding of their own political capacity and position. Moreover, ordinary people and activists move seamlessly between these domains, rather than experiencing the virtual and physical as separate. In the process, political norms evolve at individual and collective levels. Approaching the potential of civil society from the perspective of political space helps to dissociate this sphere from, but also to situate it vis-à-vis, formal, institutional politics: the transforming and expanding space of civil society sustains the capacity for participation, empowerment, and normative shifts, even when structural or policy reform is unpropitious. Moreover, domestic political space, and particularly that in which, in the terms of this volume's editors, individuals and organisations "champion alternatives" to prevailing norms of state and market, is highly and perennially mutable, allowing ongoing adaptation and innovation.

Political Space as Point of Departure

Political space has ebbed and flowed globally throughout the twentieth and twenty-first centuries. Since the 2010s in Southeast Asia, however, we have witnessed both an expansion of political space and intensified attempts at limiting activism. We envision political *space* as a metaphor for the act of political participation, or as a physical or discursive space in which political participation is possible. This definition implies that political space is delimited by boundaries that define what actors, interests, and ideas may gain access and which are excluded. A range of actors with sometimes conflicting interests and with varying power resources contest these boundaries. Some aim to expand political space; others aim to limit it—including in line with efforts to undermine democratic institutions in Southeast Asia—or else have that unintended effect.

In this chapter, we consider how social and political actors struggle to carve out space for their activism, directed at the state or striving to affect social norms and institutions. As we explore below, political space extends beyond, but encompasses the domain of civil society; it is on that portion of political space in Southeast Asia that we focus here. An understanding of how political space is produced and how it changes must not only analyse those actors who aim to expand space but also, and just as importantly, explore how political space is colonised and limited or its boundaries, guarded and policed, and by whom. Explicitly anti-democratic movements in several Southeast Asian countries in recent years, for instance, have paradoxically made use of and thrived in the same institutional and discursive space as activists struggling to establish or sustain liberalisation, including rights to organise, speak publicly, demonstrate, advocate, publicise, and assemble. It is not only the state that polices boundaries; forces intent on preventing certain interests, including pro-democratic forces, from sharing political space emerge from within civil society, as well, and sometimes in conjunction with the state.

Bourdieu's conception of the political field is instructive. He sees the political field as "a relatively autonomous arena of struggle with its own specific type of capital that has developed historically" (Swartz, 2003: 147). Embedded within the concept are both structural attributes—institutions and actors—and power relations. However, it is a struggle for power, both over symbolic power to define a particular social reality and more instrumental power over public policies and ideas able to generate collective mobilisation that most clearly characterises the field (Swartz, 2003: 147). The character of political space as well as the relative position of actors therein and in the broader class structure moulds the supply of and demand for political ideas. The generation of political options, as well as relevant boundaries and available meanings, must be considered in context, then, including with regard to the state, given its claim to symbolic power (Swartz, 2003: 148, 152).

Other scholars complicate our reading of political space, recognising its multi-dimensionality and the extent to which state and non-state actors mutually constitute the arena in which they engage. Collier and Collier (1991), for instance, trace discontinuities or critical junctures along the path by which movement politics shaped Latin American political regimes. "Fundamental political differences" in how regimes incorporated labour (Collier & Collier, 1991: 7)—as by replacing independent unions with state-penetrated ones, versus parties' mobilising unions as a convenient electoral base—shaped not only labour contention but the expansion or narrowing of political space broadly. In effect, these approaches also shaped democratic or authoritarian political regimes' possible trajectories. Valenzuela's (1989) focus on contests over "organisational space," particularly for and by labour as a critical strategic group in the course of installing or replacing authoritarianism, homes in on this same dialectic. Within Asia, Hewison and Rodan (1994) similarly link the rise and decline of the ideological Left—socialism and communism—to the fate of "non-state political space," and specifically civil society, during

key phases in Southeast Asia through the 1970s.[1] Since then, the vector has reversed: with other non-state groups' working to expand civil society, the Left now has new space in which to strategise. In other words, an array of organised actors interact within political space, their engagement and struggles for or around forms of power (not necessarily over the state), simultaneously situating that space and colouring its timbre and priorities.

Regardless, common parlance and prevailing ways of thinking about power and politics imply a dichotomous relationship between state and civil society, entailing both a degree of autonomy within and clear-cut boundaries among the Weberian spheres of political, economic, and civil society. Such habits have distracted attention from the way these spheres overlap and produce variations in opportunities for social and political actors to define and deploy political space. These conceptual boundaries are not helpful for an understanding of how and why political space is structured in certain ways in different contexts.

The trope of state versus civil society, however politically useful for activists in their struggle against authoritarian rule, has, in particular, produced a misleading conception of the nature of repression and delimitation of political space as purely a state affair. In reality, regime institutions and attributes need not be so defining. Contemporary developments in Southeast as well as East Asia, for instance, clearly suggest the importance of social movements and other civil societal actors in both the policing and delimitation of political space and, consequently, in shaping or reproducing authoritarian politics. And, as mentioned earlier, not just overt repression, but also non-democratic groups' and movements' more or less subtle occupation of political space, may serve to amplify the interests of the state or a dominant political party.[2]

We therefore deem it an empirical question of how and by whom political space is produced, reproduced, or delimited. Episodes of mobilisation within

[1] The Cold War period was formative in this regard, when in most Southeast Asian countries the (broadly defined) "left" was located primarily in civil society, while political regimes were dominated by authoritarian, conservative governments staunchly opposing not only communism but also other transformative forces that could be suspected of harboring "socialist" ideas, or challenge authoritarian regimes. A link between the general ebb and flow of civil society and the fate of a more broadly defined left in Southeast Asia was thus established (Hansson et al., 2020; Weiss, 2020).

[2] An example are so-called "Red Flag associations" in Vietnam, which party-state-affiliated originations encourage to appear in public to protest against pro-rights protesters, or the appearance of angry, purportedly local mobs around homes of pro-democracy, environmental, or human rights activists elsewhere in the region. Such state alignments or encouragement can also be symbolic, such as when the Thai queen came out to show her support of the pro-monarchy "yellow shirts," at the height of their struggles against the pro-democracy "red shirts" in the streets of Bangkok. Thailand offers other examples, too. For instance, during the 2014 elections, yellow-shirt civil society groups blockaded roads, formed human barricades outside polling stations, and obstructed the delivery of ballot-boxes, preventing more than two million voters from casting ballots (Sinpeng, 2014), and in October 2020, a network of yellow shirts mobilised around the parliament compound in Bangkok to prevent pro-democracy supporters from gathering during a special parliamentary session to find a solution to the country's political crisis (*Bangkok Post*, 25 October 2020).

and across countries in Southeast Asia pose and embody both institutional and normative challenges to a topographical map of political space, engaging and transforming varying norms, authorities, ideas, and practices. Toward the end of theorising how and when norms and forms of political participation change, and with what implications, we start with concepts and terms.

Conceptualising Political Space and Participation

The term "political space" has come into vogue in recent years, among both policy-makers and scholars, for instance, in terms of ways to expand participatory frameworks in authoritarian regimes in the name of "good governance." Our reading extends beyond authority to make, apply, interpret, or enforce rules—a notion of collective governance—to a multi-dimensional arena for empowerment at the level of norms and ideas as well as policies or other instrumental objectives, and working with, against, or around fellow citizens as well as the state. As such, political space overlaps state, government, and civil society, and is integral to the political regimes writ large defining and defined by relations among these entities. We include in our frame engagement across modes and media, from street protests and rallies to elections and lobbying, to documentary film and graffiti, to petitions and press conferences.

Policy and academic discussions alike tend to conceptualise political space as an at least loosely demarcated realm in which societal actors influence policy decisions or affect the rules by which citizens can participate in politics. In democratic regimes, this space is often presumed "independent": an arena in which unconstrained articulation of ideas and contestation over interests can occur and where state authorities cannot arbitrarily control, inhibit, or repress such activity. Even in democratic regimes, however, this view simplifies and idealises how political participation works and exaggerates the extent to which rights to participate in formal politics can be substantially guaranteed and utilised.

As Rueschemeyer (2004) has argued, the distribution of social and economic power resources profoundly affects the way citizens and groups can make use of their rights and their capacity to assert influence. Moreover, political influence itself may be more or less direct, and actors' claims may target either society broadly or a narrower political society. Some distance between the ideal and the reality of political equality seems inevitable, though the extent of that gap varies over time and place. In non-democratic regimes, not just asymmetric power resources but also repression of independent voices and claims limit the possibilities for marginalised groups' and individuals' influence. In authoritarian regimes, states strive to control and manipulate political space to their own advantage. Partly in consequence, social movements and other civil societal actors are likely to find themselves at odds with the political regime sooner or later, even when their initial claims were not transgressive or directed at the government as such. Struggles among social actors with conflicting claims are then likely to verge into struggles over the boundaries of

political space and, thus, over the composition of the political regime itself—as we see recurrently across Southeast Asia.

Southeast Asian states, outright authoritarian or otherwise, have used different measures to limit political space, including co-optation, politicisation of the judiciary, legal restrictions (including internal security laws), control of media and censorship, and manipulation of ethic and communal politics (Hewison, 1999: 232–233). The increasing salience of social media for mobilisation lends primacy to attempts at controlling and manipulating social media forums and communications specifically, to curtail activism. Those efforts alone extend from the juridical—introducing specific internet security laws and policing, to prohibit online discussion of certain themes—to shrewder tactics, such as employing armies of "influencers" to offer pro-government comments or attack potentially threatening opinions and efforts at mobilisation through online forums. In Vietnam, for instance, the party-state's army has admitted to employing personnel to patrol the internet and search social media platforms for non-accepted views, such as support of multipartyism or democratisation, civil society, criticism of the Vietnamese Communist Party (VCP), exposure of corruption among high-level VCP officials and leaders, or criticism of the VCP's dependence upon China and the Chinese Communist Party. Official media reported that this "Force 47" ("*Lực lượng 47*"), established in early 2016, had expanded to more than 10,000 people within two years (*Tuổi* Trẻ, 2017). The Thai military junta also developed internet-policing institutions and efforts to monitor, influence, and control citizens since the 2006 military coup d'état—albeit focused not on protecting an incumbent political party, but on shielding the monarchy and military-dominated government from criticism (ICJ, 2021; McDermott, 2021). After the 2014 coup d'état, online and offline tactics combined to suppress anti-coup and pro-democracy groups and sentiments (Laungaramsri, 2016). Pro-democracy activists were arrested and the army regularly summoned academics and journalists for so-called "attitude adjustment" sessions regarding their online and offline writings and activities (personal communication with author).

Indeed, a majority of countries in the region have introduced new laws to restrict civil society and political space just in the past ten or so years. Some countries have pioneered or adapted legislation to facilitate courts' limiting expression in civil society and wider political space, such as the Cambodian government's Law on Associations and Non-Governmental Organisations (LANGO), passed in 2015. This enactment has helped Hun Sen's ruling Cambodian People's Party to bring about de facto single-party rule. The new law automatically criminalises civil society groups and organisations that fail to register with the state (Curley, 2018). Successive Thai military governments have adopted similar strategies, most recently with suggestions for a new, more controlling law governing non-governmental organisations. Singapore, too, has long since enacted and enforced laws covering civil society, while in Vietnam, the development of a law on associations has been debated since the mid-1990s; due to its sensitivity, it has been postponed numerous

times. Restrictions can therefore be enforced by decrees and other regulations (Hansson, 2023) leaving maximum space for interpretation by the ruling regime (see Sidel & Moore, 2019 for a regional overview).

Yet these laws notwithstanding, the rise of social media as a part of political space exemplifies how malleable that space is. When political space expands, it becomes part of the opportunity structure for different forms of activism, movements, and organisations—but it also constitutes part of the terrain on which struggles for influence and to exercise power happen, vis-à-vis both governments and fellow claimants. Changes in political space are incremental and cumulative, meaning the salience of social media as the latest effort at space-reclamation is relative to what came before.

The current transformation of political space is not possible to understand without taking note of the broader societal changes that have occurred in most Southeast Asian countries in recent decades. Massive socio-economic transformations have, for example, resulted in the emergence of new cleavages in society, producing new social and political conflicts and actors. Those actors engage in claiming, defining, utilising, and imagining political space. Importantly, whereas Weber sketches discrete realms of civil and political society, for us, these arenas inhabit a shared political plane and terrain. Their institutions may be separate, but agency, discourses, ideas, and norms flow across this arena. Contributing to the formation of political space are representatives of political society, economic society, and civil society, indicating that the state and formal institutions in political society, and the organisations that populate civil society, may have less reciprocal autonomy than analysts often presume.

While the state can be instrumental in shaping political space and allowing it to flourish, by protecting its sanctity via laws and regulations, political space extends beyond formal politics (or Weber's political society) and cannot be established by state intervention alone. Rather, its creation depends on "the organisational practices and political experiences of the different social groups, and it involves discourses and ideas concerning rights and responsibilities present at different societal and institutional levels" (Webster & Engberg-Pedersen, 2002: 10). We extend beyond what Webster and Engberg-Pedersen suggest, by emphasising that political space is not merely a "governance space," in which societal actors come into contact with state and government institutions and are thus able to influence policy, but also where ideas about inclusion or exclusion, and about participation and representation, are contested. As such, one might expect that the structuration of political space would be tightly connected with regime type—an issue to which we return below.

So what are we left with: in Southeast Asia or elsewhere, where do we find political space, and how might one participate within it? At the most basic level, we might identify the various structures through which individuals express claims on state institutions, government officials, and society, from elections to protest actions. All these activities transpire within political space, as we understand it, and all represent political participation. Our

focus on *space* rather than on specific structures lets us sidestep some of the pitfalls of the liberal state–civil society argument, including rigid categorisations based on the type of actor, target, or demand, not least since a given individual may participate simultaneously across multiple registers and modes. Rather, our approach allows for a wider conception of political participation, beyond procedural and formal definitions of participation centred around the transfer of political authority from citizens to officials through elections, and as exercised by both formal and informal actors.

Inspired by advances in civil society and social movement theories, we think there are good reasons to think of political space in relational terms, and not to offer an a priori argument of how it is constituted or changed. Political space emerges within, between, and outside formal political society; how civil society relates to the state colours some segments, but affects others less. A dichotomising approach to civil society and state is, therefore, not particularly useful for understanding how and why political space emerges, expands, or contracts. Neither is it helpful to view the state as necessarily superior, across dimensions, given how much more overlap we see among economic, political, and civil society in any given regime, and the different types of authority and empowerment possible (Cohen & Arato, 1994; Howard, 2004).

But power still matters, especially absent meaningful democracy or political liberalisation—as applies to much of Southeast Asia—which tends to render political space more independent. Political space may be exclusive and exclusionary. State actors may seek to push out or suppress dissidents, or the valences may be more subtle. For instance, the "NGOisation" of civil society, effectively an externality of neoliberal development in which states devolve service delivery to NGO partners, "marks a shift from rather loosely organised, horizontally dispersed, and broadly mobilising social movements to more professionalised, vertically structured NGOs. This shift not only has lasting effects for mission, goals, management, and discourse cultures of civic actors but it also influences advocacy strategies, and ultimately the properties of the public that NGOs seek out or try to generate" (Lang, 2013: 62). Such an emphasis on supposedly non-ideological managerialism, under which political decisions are matters of technocratic processes rather than expressions of specific interests, forms an ideology in itself, and implicitly disregards or suppresses other forms of knowledge, engagement, and, importantly, norms: only certain strands within civil society then enjoy full legitimacy (though they may still contest that diminution, their challenge oriented either toward fellow activists or toward the state).

Importantly, political space—and political participation—has a discursive aspect. The concept of a *public sphere* effectively captures these specifically discursive dimensions, even if not all political space need be so public, civil, or interactive as the Habermasian (1974) ideal implies. Not all activity in the public sphere is clearly instrumentalist or structurally pitched, nor does all engage explicitly with questions of power or authority, let alone with the state specifically. Even so, changes in meaning and interpretation, developed

through challenges to symbolic rather than policymaking power, shift the ground on which political regimes rest—a firmament no more inevitable or immune to change than the ranks of office-holders.

Toward a Synthesis

Approached differently, we bring together here two strands within the political and sociological literature that have developed more in parallel than in dialogue: studies of social movements and of civil society. While scholars of both purport to explore cognate phenomena, in practice, the foci of literatures on "activism" or "protest" versus "non-institutional politics" or "NGOs," and their respective understandings of where ideology derives from or intervenes, vary, resulting in a misleadingly fractured view of how the pieces fit together. Our target is the nexus of associational life,[3] whether "formal" or "informal," and norms, and thus resists dichotomies (*civil* versus *political*, or *institutional* versus *non-institutional*) as well as clear boundaries. Perhaps most importantly, this space is neither static nor placid; especially in politically tense Southeast Asia, it is a realm of struggle and competition.

Indeed, neither state nor non-state space is stable: both are consistently sites of contestation and change. However, changes in one realm need not be tied to changes in the other; a temporal lag might intercede, or shifts in, for instance, state institutions may not translate at all, or at all rapidly, to changes in behaviour within civil society. Moreover, when changes do occur, these may not be experienced in the same way across political space.

In particular, political space includes both *formal* and *informal* avenues for participation. Scholarly work on mobilisation and political engagement tends to speak in terms of formal politics or institutions—political parties, bureaucratic agencies, etc.—rather than informal avenues or non-institutional politics (Offe, 1985). This semantic distinction is useful, but should not be overstated. Associational life, media, alliances, and more may mix formal organisation with non-institutional channels (or vice-versa), for instance, or may vacillate between forms and targets. Moreover, institutions may have influence, yet not convey empowerment; organisations *for*, but not *of*, the poor, for instance, might effectively pursue policy goals, yet leave their constituents as politically marginalised as ever. Political space includes a plethora of arenas and avenues for participation, including outside what we understand as "state" and organised "civil society."

Formal space may face specific curbs or controls, but also offers certain protections; the balance between these features varies across and within regimes. Informal space may offer more flexibility for innovation and inclusion but may be marginalised and/or especially vulnerable to suppression.

[3] Especially where association is legally difficult, participation may well be more atomised—but we are more concerned with collective than individual action, not least given the necessarily shared quality of norms.

Meanwhile, not all political activity, including much that is more expressive than instrumental in orientation, transpires in *public* space; some political participation or activism is essentially private.

We offer four key caveats in presenting this synthesis of a political space to be grasped *in toto*. First, it is not just the state that demarcates non-state space—to put it in more conventional terms, we argue that activists may claim, and not just receive, space for civil society. In the same vein, power relations within political space are not limited to those between citizens and state. Second, these political spaces are multi-levelled: that aspect is most clear in terms of institutions (village-level compared with national politics, for instance), but applies also to less clearly structured spaces. Third, a given actor's choice of venue or channel is not entirely free: participation outside state space may indicate mistrust and disenchantment; it might reflect strategic decisions or forcible exclusion; or it might reflect a lack of resources, confidence, or information to move from social activism to electoral politics or vice-versa.

Lastly, we must consider also the level of the actor: not only who participates and how, but how actors' sense of agency and disposition changes, or how they create themselves or are created, through political participation. We might think of constituting collective actors—"identisation," in Melucci's (1995) terms—but also acknowledge shifts in attitudes, empowerment, and expectations at the individual level, regardless of whether participation seeks to change, or succeeds in changing, policies.

All told, taking political space as our point of departure allows us to develop an analytical framework and define concepts able to capture changing norms for, and complex realities of, political participation in Southeast Asia. Within this frame, we see the effects of regime type, how we might best characterise civil society, how political space has changed or is changing, and the implications of these shifts for political praxis and both policy and ideological outcomes across the region. Most importantly, we see that within the space of civil society, individuals may develop not just participatory habits, but also new norms of who is entitled or encouraged to exercise voice, changing how we should evaluate the reach and normative authority of Southeast Asia's illiberal(ising) regimes.

Political Participation in a Post-democratic Context

Political science tends to characterise and categorise regimes in terms of the extent to which they meet the criteria for liberal democracy, situating them on a continuum from what Dahl terms polyarchy (1971) to totalitarianism. Even so, common parlance favours a simple democratic/authoritarian binary, even while acknowledging a raft of hybrid "semi" types or "democracies with adjectives" (Collier & Levitsky, 1997; Diamond, 2002). Such framings assume power and authority reside largely with the state, or are at least the state's to distribute. Moreover, being defined at the national level, these typologies

assume a degree of homogeneity: a state is or is not "democratic" or "authoritarian," presumably with a degree of stickiness or stasis to that categorisation. We challenge these assumptions in two key ways.

First, we start from the premise that authority is distributed unevenly through the state in terms of geography, peoples, and issues. That unevenness sculpts the landscape for resistance or challenge—for instance, whether citizens experience the state only as coercive military, as developmentalist benefactors, or as largely absent. Indonesians or Filipinos today experience, for instance, what observers classify as democratic regression in their polities in very different ways: only some may feel increasingly disempowered, constrained, or at risk of repressive action. At the same time, the specific character of that state also shapes the challenges it faces, whether we think in terms of stores of despotic versus infrastructural power (Mann, 2008) or more broadly in terms of the state's capacity, ideological premises, allies, and policy priorities.

Second, voices from "economic society"—and specifically, large-scale, usually multinational corporations and/or domestic oligarchs—carry special resonance in a hegemonically neoliberal world. Business interests, not just those of states, shape policy and discourse around domestic political issues. Hewison (2018), for example, argues that the state in Southeast Asia has been "businessified," such that it now represents an increasingly opaque and hostile ground for ordinary people's activism and political participation. This development has touched not only democratic states. Rather, all regime types edge toward a political order characterised by the dimension of corporate influence in a "post-democratic" order.

Colin Crouch first proposed this notion of post-democracy, referring then specifically to democracies. He explained that under post-democracy:

> while elections certainly exist and can change governments, public electoral debate is a tightly controlled spectacle, managed by rival teams of professionals expert in the techniques of persuasion, and considering a small range of issues selected by those teams. The mass of citizens plays a passive, quiescent, even apathetic part, responding only to the signals given them. Behind this spectacle of the electoral game, politics is really shaped in private by interaction between elected governments and elites that overwhelmingly represent business interests. (Crouch, 2004: 4)

Few states in Southeast Asia are democracies, however loosely defined. But even clearly illiberal contemporary states tend to hold elections—and more important for our purposes, the sort of behind-the-scenes negotiations Crouch describes matter across systems. With Hewison, we stress, too, that civil society is not immune, but has been similarly affected by neoliberal norms of managerialism and technocratic ideas rather than popular participation and inclusion. That said, citizens under post-democracy, whatever the prevailing institutional regime, need not be "passive, quiescent, even apathetic," in Crouch's terms

(2004: 4)—but their interventions may take novel forms or may be directed at targets other than the state proper. Moreover, those forms reflect not only varied but changing norms: adaptations within civil society as corporate interests have enhanced their sway throughout Southeast Asia, for instance, have pressed activists to create and claim new niches and justifications with which to press new claims—from pressing legal cases for land claims to Facebook groups centred on labour rights.

Clearly, the state still matters. However unstable, we must understand the state as comprising institutions, actors, and ideas. Those institutions constitute the terrain of "formal" politics, whether electoral or otherwise; their boundaries demarcate state versus non-state space. At the levels of actors and ideas, the limits of the state are far less clear.

Further, an analysis of political space necessitates clear analytical distinctions between abstractions such as "states," "governments," and "political regimes." Distinguishing among these entities helps us to differentiate among forms and targets of activism. Challenges posed by actors who aim to expand political space may, for instance, be "anti-government"—challenging incumbent leaders—without necessarily being "anti-regime" or "anti-state." Likewise, groups and individuals who seek regime change or reproduction may be less interested in the state, in terms of specific institutions. Of course, in some instances, for example, in single-party or dominant-party regimes, the state and a particular government or party may intertwine so closely, in ideational as well as institutional terms, that a distinction becomes less meaningful. In other words, such distinctions clarify the differences among challenges to people, to structures, and to underlying norms and ideologies, thus helping to make sense of the forces that contribute to struggles over the borders of political space.

Moreover, the state or a specific government may have, essentially, avatars in civil society: actors or organisations that embody the same ideas about governance as the state but are not themselves part of that institutional infrastructure. The overlapping of political, economic, and sociocultural elites in Southeast Asia makes this intertwining especially salient. State agents or allies may work across zones; ideas and norms, too, may permeate state and non-state space, whether state-supporting or -opposing. The state contends not only with citizens as social activists and enforcers of accountability, but also with corporate, fellow-state, and other interests. The contemporary terrain of pluralism includes widely disparate structures and voices, in mutable combinations, only sometimes targeting state institutions. We might then think of stores of capital such engagement generates—political, social, and cultural—each also fostering attendant axes of inequality. What forms of participation appear promising or possible, then, varies not only with regime type but also with the claimant's position vis-à-vis that regime and its power-holders, the nature and target of the claim, and the resources available (material, intellectual, temporal, human) and opposition or allies likely.

Expanding and Contesting Political Space

Enabling this variability is an increasingly broad field for politics, with not only the expansion of consultative mechanisms, however shallow, in the name of "good governance" as well as more genuine opening of policy channels but also the development of new media platforms and online space. A state such as Singapore may carefully design and calibrate deliberative fora, for instance, recognising the value of collecting popular input into policies and priorities, only to see far more free-wheeling, sometimes satirical or cynical, discussion generate online (Tan, 2018: 45–46). Governments, states, and civil societies struggle to define and dominate different portions of the political terrain, while commercial forces, including the omnipresent nudge of consumerism, likewise angle their way into the fray. Any notion of a clear division between state and civil society becomes blurred when we take political space rather than the state as our starting point; doing so shifts the emphasis away from regime institutions and attributes as necessarily defining and indicates both cooperation and conflict in these relations and the production of political space.

Not all political space is "new," of course, let alone oblivious to the boundaries of the state. The usual organisational suspects still populate civil society, engaging the state in the name of the usual pro-democratic goals. As Southeast Asian states themselves navigate transitions not only to democracy but among democratically elected governments, though, the ground shifts for civil society. We see that how much and how civil society organisations engage vary even across and within democracies. Overarching these contests are still economic interests, which limit both sides' range of movement, yet the foundational structures and modes involved are those of classical democratic theory, in which state and social forces present themselves as distinct, sometimes antagonistic, and iteratively mutually responsive.

Still, contemporary scholars focus heavily on the less tidily conceptualised terrain of the internet and social media as virtual political space. The least apocryphal among them tend to conceptualise an online public sphere as comparatively resistant to control and open to a range of players (Abbott, 2011; Esarey & Xiao, 2008), although the past decade has seen rising concern also for "digital authoritarianism" in Southeast Asia, or the ways undemocratic states have come to control and/or themselves exploit online political space (Sinpeng, 2019). Clearly, that sphere is itself fraught, marked by complex alignments and equally available to state as non-state actors, but should be considered in tandem with complementary and contesting social forces. Online participation raises awareness and provides access to information, may extend opportunities for would-be activists to learn from others, and may offer new modes of developing and presenting public responses to or claims upon authorities (government or otherwise). Such voice, though, need not take on

organisational form—and may simultaneously serve those authorities themselves, whether for information-gathering or for self-promoting propaganda (George, 2006; Rodan, 2003).

Part of what makes online media messy to study as grounds for political contest is the "digital divide," or the extent to which only some parts of the population—disproportionately urban, wealthier, better-educated citizens—presumably enjoy regular access to the internet. Critics have long levelled the same critiques at non-governmental organisations, citing the readier access of the urban middle classes to such vehicles. In fact, it may be that the range of media platforms prominent in the region, including not just social media, but also local traditional media, the deeper penetration of foreign media, and tools such as documentary film, effectively level the playing field and expand the range of audiences and modalities for voice. These modalities and arenas offer opportunities to destabilise the status quo and worry political leaders, across the digital divide.

Moreover, media present only one hazily institutionalised platform for political expression. Consumerist behaviour, for instance—all the more salient as Southeast Asian societies grow both more prosperous and more socioeconomically unequal (Huang & Wan, 2019)—too, may encode or advance political priorities (Hew, 2018). Such a reading calls into question not just the spaces in which politics happens, but what actually constitutes political activity: if a core objective is to reshape behaviour and pursuit of a political vision, when is that via policy change and when via more direct intervention? The inherent politicisation of even basic consumer activities complicates the relationship between politics and markets and allows progress toward political goals, not just in terms of policy influence. Situating media and consumer activity as politicised draws attention to discourse as political. Such attention illuminates how much a part of politics *interpretation* is, extending beyond, for instance, divergent readings of the same events in foreign versus domestic media.

However much empowerment such innovation confers or reflects, just as disparities of power and access pervade the public sphere, discourses, and norms, too, embody inequalities. We can see this reality, for instance, in changing norms of (un)equal citizenship and entitlement to voice across religious communities in Malaysia, as activism ramps up both online and offline around questions of Islam and Muslim privilege (Moustafa, 2018). Most importantly, not all ideas achieve or even seek power beyond their originators. Some ideas gain transformative, pervasive force, while others are more purely expressive or identity-group-specific, and some mix norms freely while others seek hegemony: to push out or police discordant voices. Indeed, however much we might adjust our lens to take in the panoply of political space, to focus on *space* acknowledges boundaries; these boundaries may shift but are still guarded and policed.

Bounding and Policing Political Space

While the state does set and enforce rules and regulations for participation, it is not just the state that monitors, regulates, and suppresses interests or voices within the political space. Rather, economic pressures, as well as individuals and groups from within civil society, likewise challenge fellow citizens' or interests' legitimacy, access, or priority. We thus need to look beyond formal, structural curbs and openings as Southeast Asian regimes take on features and forms; even new authoritarian controls filter through and among informal political actors and organisations—which is not to say that constraints emerge watered-down. Indeed, to some extent, we have seen a privatisation of policing; it is not merely that political space is not "neutral," but also that the power relations at play extend beyond those between citizens and state. In states across the region, we see civil society actors who engage directly in repressing others' agency in political space, including with the intent to delimit pro-democratic expressions. Even when the terrain of political space is largely discursive, moreover, both state and civil society policing of it may take on nonviolent as well as more violent forms. Online public space perhaps best exemplifies this wide dissemination of surveillance and control functions, if only since intercession is comparatively public. Thailand's aforementioned "yellow shirts" perhaps best embody this emerging, important possibility (Sinpeng, 2021). Yet censorship not just in this extreme case but generally—of speech or of political acts, online or offline—rests on more than norms and subtle pressure that may otherwise encourage self-restraint or conformity. Rather, states and social actors use their authority or more contingent opportunities to patrol and sanction those who push the boundaries these dominant forces themselves set.

Such devolution of authority, however organic or inadvertent, calls into question the resources non-state actors access to police or press the state or fellow citizens. Complex framing contests emerge (Benford & Snow, 2000: 626), both to limit the space of "acceptable" discourse and to expand those boundaries. In such ways, citizens and groups of citizens engage in contests over definitions of representation and democracy, challenging liberal presumptions by mobilising both for and against dictatorship, and developing novel forms of subversion, surveillance, and suppression independent of that contested state. The most obvious example is perhaps Thailand, where diverging views on the meaning of democracy rest on a battery of divergent norms and ideas about who is to be included in the demos, and whether legitimacy is based on popular participation in democratic elections or on an idea of a predefined morality embodied in the rulers (Chua, 2018). In single-party regimes such as Vietnam's, the larger discourse the ruling party propagates revolves around the party's historical right and mission to rule, and its leadership in the shadow of a distant future realisation of socialism. Online media have played a decisive role in shaping public contestation on social and political issues, especially among the vast array of social media users, ranging

from party-state agents or allies, to independent analysts and commentators, to concerned citizens (Thiem, 2018). In both cases, competing norms on political participation take shape and gain traction in the interplay among actors involved in these framing contests, in which the simple act of participating may in itself challenge norms. In such contexts, too narrow an understanding of what is "political" or who has what power would miss struggles not just between civil society and the state, but also within civil society itself, and would consequently miss important clues to an understanding of political regime change or reproduction.

For that matter, not only is the state itself beholden to or curbed by its ready reliance on business, but, as we touch on above, economic power also wields complex control. The liminal spaces of the modern economy are illustrative: both the precarity of migrant or floating, informal labour (Schierup et al., 2015) and the increasingly common status of refugees: beneficiaries of humanitarian assistance, yet profoundly disabled by that status. The fraught political economy of "aid" is notable, and especially germane to Southeast Asia. However life-saving, aid may also serve to dehumanise or deny the political agency of its beneficiaries; as Olivius (2018) proposes, in examining refugees from Myanmar, donors effectively seek to delimit "citizenship," in the sense of a claim to political participation.

That the state holds no monopoly on authoritative action or norm-setting suggests the limitations of too stark a distinction between state and civil society, as well as the potential for movement among political spaces: formal, informal, public, and private. Even so, the state is hardly disempowered; it, too, asserts its interests, as a corporate actor or set of self-interested component parts. Moments of (attempted or actual) regime transition—fitfully and perhaps only temporarily, but at least peacefully, as in Malaysia in 2018, or cataclysmically and more decisively, as in Myanmar in 2021—offer insight not just into when and how it matters, in terms of political space, whether a regime is "democratic" or "authoritarian" but also when and how political space changes.

Conclusion

Colin Crouch asserts, "Democracy thrives when there are major opportunities for the mass of ordinary people actively to participate, through discussion and autonomous organisations, in shaping the agenda of public life, and when they are actively using these opportunities" (Crouch, 2004: 2). That claim has merit, but is too narrow: we argue that non-democracies, too, benefit from meaningful participation—but that the domain of empowerment extends beyond the ability to shape policy agendas. A focus on political space as a varied, mercurial, organic terrain calls into question how much a label like "democracy" or "authoritarianism" tells us about the distribution in practice of empowerment, voice, and influence, particularly given neoliberalism's regime-blind spread. Especially when it comes to the norms legitimating and

motivating participation in Southeast Asia, we find regime type far from decisive; what happens within the political space of civil society, too, significantly complicates any too-pat conclusions that the norms that the formal/state portion of political space disseminates should or do trump those emerging from other corners.

Focusing on Southeast Asia in exploring these dimensions offers the opportunity to see not only a wide array of regime and state forms and capacities but also the development of and activity within a full range of political spaces, by a panoply of actors. Moreover, the dynamism within political space in this region allows insight not possible from observing more stable regime types or where consolidated, established institutions, actors, or ideas more consistently dominate. We might seek out patterns across cases—in the character and use of political space across regime types, in the constitution of civil society, and in the topography of political space—as we seek to refine our understanding of norms and how they evolve in the region. Yet, by unsettling concepts and conventions, and by homing in on the norms that undergird participation rather than the structures that aim to channel it, our perspective lays bare how ever-mutable and complex the relationships among state, regime, civil society, and citizens truly are.

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CHAPTER 28

Urbanised Villagers and Political Change in Southeast Asia

Duncan McCargo

Waiting for the Neak Leung ferry to cross the mighty Mekong River from Kandal over to Prey Veng province took us quite a while—almost eight hours, in fact. This was Saturday 27 July 2013, the day before the most competitive election in Cambodia's recent history, and tens of thousands of people were trying to get back from Phnom Penh to their home villages. Most of them were intent on casting their votes for the opposition Cambodia National Rescue Party (CNRP), led by Sam Rainsy and Kem Sokha. Sam Rainsy had staged a triumphal return to Cambodia from France a few days earlier, electrifying his supporters in the capital, and galvanising them to exercise their franchise. The long wait for the ferry gave me an opportunity to conduct some impromptu fieldwork at the roadside, chatting to groups of garment workers who had clubbed together to rent vans for journey home.

Drinking three-in-one instant coffee and snacking on papaya at improvised stalls near the ferry, I found myself in the company of people familiar to me from my research in Thailand: urbanised villagers (Naruemon & McCargo, 2011). They were all of working age—mainly in their twenties and thirties—and were employed in and around Phnom Penh, in the industrial and service sectors. Most had lived in the city for a decade or more, in cheap dormitories or with relatives, but their legal residence remained in their home villages in Prey Veng. In the capital, they were viewed as provincials, people from the countryside. In the countryside, they appeared as sophisticates, better off

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_28

financially than their families and neighbours but also with better access to education and information. Several informants told me that they were going home to tell their families and friends how popular the CNRP was in Phnom Penh, and especially to share clips they had made on their phones, showing Sam Rainsy's rapturous reception at the airport and since.

These Cambodian workers were neither truly urban nor truly rural. Rather, they occupied a hybrid identity, moving between the city and the countryside, and were not completely at home in either space. Their employment was often precarious and insecure: few were unionised, and their factories could close down or relocate at short notice. They were a driving force behind Cambodia's rapid socio-economic transformation, which had dramatically raised living standards in recent decades, but had also fuelled severe inequalities and provided disproportionate benefit to foreign investors—notably Chinese, Korean, and Taiwanese companies—and local elites with good connections to the long-ruling Cambodian People's Party (CPP). Highly mobile and precarious workers had benefitted greatly from Cambodia's rapid economic growth but they were also extremely aware of the structural inequality that now blighted that growth. In other words, they were ripe for mobilisation by opposition politicians to challenge the CPP's dominance.

Curiously, however, neither the CPP nor the CNRP appeared fully to understand the political salience of Cambodia's migrant labour force (McCargo, 2014).[1] Seventy per cent of the Cambodian population was under 30, but CPP election posters urged voters to feel gratitude towards the party for having saved the country from the clutches of the Khmer Rouge in 1979, and for having 'developed the nation' over subsequent decades. Despite a longstanding opposition association with garment workers (Norén-Nilsson, 2016a: 141), the CNRP did not focus its campaign energies on key swing provinces such as Prey Veng, although ironically it performed well in many of these areas. Both main parties had an essentially patronising view of rural voters, failing to recognise that millions of them were de facto urban dwellers. In the end, the CNRP won 55 seats compared with the 68 seats secured by the CPP: the difference in the popular vote between the two parties was less than 300,000. This was a remarkable turnaround from the previous, 2008 election, which the CPP had won hands-down. The 2013 election was followed by a growing opposition presence in rural areas (Loughlin & Norén-Nilsson, 2021: 228). But 2013 proved to be the last time the CNRP was permitted to contest a Cambodian general election. The CPP learned important lessons from the 2013 election and later made 'unusual policy concessions' to increase the party's appeal to garment workers (Ou, 2020: 590). Following a strong opposition showing in the 2017 commune council elections, the CNRP was dissolved by the courts later that year on trumped-up charges.

[1] This point draws on key informant interviews conducted during the 2013 election campaign.

What I experienced during the 2013 Cambodian election reflected a broader set of shifts across Southeast Asia and beyond: the rise of the urbanised villager, and the collapse of existing categories for understanding populations.[2] Influenced by the assumptions of mainstream political development literature from the 1960s onwards, the politics of many Southeast Asian states is often viewed through the lens of 'two countries': rural versus urban, capital city versus the provinces. Several nations—notably Thailand, Indonesia, and the Philippines—feature dominant primate capitals that are considerably larger than any rival urban centre, and which attract the lion's share of investment and economic activity. The 'two countries' perspective maps onto socio-economic divides, questions of social class, and issues of identity, sometimes including ethnicity. These dualities are at the core of the political transitions and changes that have affected these countries during recent decades. Simply put, the people of the provinces are more numerous than their urban counterparts, and in a more open political order, are well-placed to outvote them. And once provincial voters understand themselves as a potent electoral force, they can play an active part in overturning existing power-holders and upending the nature of national politics. Very often, that new self-awareness is discovered first by urbanised villagers, who have one foot in the countryside and another in the city. From this hybridity stems new insights, inspirations, and possibilities. But first, urbanised villagers need to understand themselves as active players in an emerging political order.

This chapter explores the politics of centre-periphery conflict in Thailand and elsewhere in Southeast Asia, with a particular emphasis on the blurring of the distinctions between the urban and the rural. The chapter argues that as capital cities have seen growing influxes of migrants from rural areas, simplistic distinctions between the urban and rural have broken down—a process further exacerbated by the rapid urbanisation of many provincial towns and cities. New groups of voters with a hybridised urban-rural identity are playing an important role in politics across the region, seizing new opportunities while also creating new electoral threats to existing elites. Once mobilised, these voters have demonstrated an impressive capacity to shift political agendas and resources in new directions.

Thailand and the 'Two Country' Thesis

The idea of a profound difference between the urban and the rural in the developing world was a fundamental tenet of social science, especially during the 1960s. For mainstream Western development theorists during the Cold War, education and culture, knowledge and power, and modernity and progress, were all located primarily in the urban centres. The rural periphery

[2] It is worth noting that the salience of urban-rural linkages has been more widely acknowledged in Cambodia than in Thailand (Eng & Hughes, 2017: 399–400; Lawreniuk & Parsons, 2020).

was a site of traditional thinking and backwardness, resistant to much-needed change, but also dangerously susceptible to the twin allures of communism and ethnic mobilisation. One solution to the problem, recommended by the World Bank in the Thai case, was to promote agri-business and industrialisation, to build satellite cities in the regions, and to create infrastructure that gave urban elites ready access to the rural hinterland (International Bank for Reconstruction & Development, 1959).

But as socio-economic development proceeded apace in Southeast Asia, accompanied by a growing emphasis on elections and a more enfranchised population, a new problem emerged: rural and urban voters understood representative politics rather differently. In an English chapter that summarises an argument he made in more detail in an influential Thai book, Anek Laothamatas described this as a problem of 'reconciling two aspirations' concerning democracy:

> For the rural electorate, democracy is not valued as an ideal, but as a mechanism to draw greater benefits from the political elite to themselves and their communities… To the educated middle class, elections are a means of recruiting honest and capable persons to serve as lawmakers and political executives, rather than a process through which voters get parochial and personal benefits. (Anek, 1996: 221)

In other words, Anek portrays rural Thai voters as having an essentially transactional understanding of democracy, while urban voters have a more transformational view of the electoral process: in effect, people in the countryside are bad democrats, while people in the city are good democrats. Similarly, interpretations of Cambodian politics in the 1990s and during the first decade of the new millennium placed considerable emphasis on the existence of an urban-rural divide: parties approached these two populations very differently when electioneering (Ou, 2020: 585–586). Following Anek's logic—widely shared among the Thai elite—it follows that urban voters needed to prevent rural voters from gaining the upper hand through the electoral process.

As Samuel Huntington had argued much earlier, such conditions could easily presage a 'green uprising' that could come about through 'the inauguration of the rural masses into national politics' (Huntington, 1968: 74). As he summarises:

> In a competitive party system, the Green Uprising often takes the form of one segment of the urban elite developing an appeal to or making an alliance with the crucial rural voters and mobilising them into politics so as to overwhelm at the polls the more narrowly urban-based parties'. (Huntington, 1968: 75)

Huntington's formulation—which includes the emergence of a larger, more conservative urban middle class that struggles to regain and then retain dominance of the political system—predicted much of the electoral change experienced by Thailand in the opening decades of the twenty-first century.

Following the promulgation of the 1997 Constitution, which was intended to strengthen elected institutions and politicians, billionaire police-officer-turned-telecoms-tycoon Thaksin Shinawatra established his Thai Rak Thai (Thais Love Thais) Party to contest the 2001 general election. Thai Rak Thai presenting itself as a challenger party is dedicated to modernising Thailand and overcoming bureaucratic inertia and mediocrity (McCargo & Pathmanand, 2005). As a result, Thaksin and his family subsequently dominated Thailand's politics for a decade and a half, despite his being ousted from the premiership in a 2006 military coup and eventually going into self-imposed exile in Dubai. Parties aligned with Thaksin secured the largest number of parliamentary seats in every subsequent Thai election until 2023, though they were not always able to form a government.[3]

Many accounts of Thai politics have characterised the Thaksin electoral phenomenon as essentially provincial in nature, but the reality is more nuanced. Thai Rak Thai won big in Bangkok in both the 2001 and 2005 elections, reflecting the fact that Thaksin was initially popular with many sections of the elite and urban middle class—though many of those who supported him at the time no longer wish to acknowledge this. In other words, the idea that the rise of Thaksin polarised Thailand's politics along urban-rural lines is a retrospective interpretation. A second problem with the urban-rural argument is that pro-Thaksin parties made only limited headway in a number of regions and provinces where the agricultural sector looms large, notably in the Central Plains and the Upper South. Some rural areas proved much more fertile ground for Thaksin's famous 'populist policies—notably the 30 baht healthcare scheme, village development funds, and a moratorium on farmers' debt—than others.

In the 2001 and (especially) the 2005 elections, supporting Thaksin had been a mainstream political stance that crossed regional and class divides. Following the rise of the anti-Thaksin 'yellowshirt' People's Alliance for Democracy (PAD) movement and the military coup of 2006, pro-Thaksin parties continued to win elections but now relied heavily on a core vote (*than siang*) that was disproportionately concentrated in the North and Northeast. The main opposition Democrat Party, by contrast, was dominant in the Upper South and in Bangkok. In order to push back against the 'yellow' anti-Thaksin movement, Thaksin supporters created the 'redshirt' mass movement which staged huge protests during the period of Democrat leader Abhisit Vejjajiva's premiership (Montesano et al., 2012). Between March and May 2010, more than 90 people were killed in anti-government protests on the streets of Bangkok. Most of them were unarmed civilian members of the redshirt movement, shot dead by uniformed soldiers.

[3] To complicate matters, the name of Thaksin's party has changed twice following bannings issued by the Constitutional Court: Thai Rak Thai became Palang Prachachon in 2007, and then Pheu Thai in 2008.

Who exactly were the redshirts who thronged the centre of Bangkok in 2010? Naruemon Thabchumpon and Duncan McCargo set out to answer this question in a 2011 article (Naruemon & McCargo, 2011). Interviews with 57 redshirt leaders and protestors, along with 400 survey questionnaires, were revealing about redshirt backgrounds, origins, and socio-economic circumstances. Leading social critic Prawase Wasi argued that there were five types of redshirts (Prawase, 2010), the largest category of which he identified as 'the poor', and their sympathisers. While Prawase himself was careful to note that lower-income redshirt supporters came from both urban and rural areas, much domestic and international commentary subsumed them all under the lumpen category of 'poor farmers' from the provinces. These redshirts were often depicted in the media as motivated by economic and class grievances. Many middle-class Bangkokians viewed the redshirt movement as the latest incarnation of the frequent street protests organised throughout the 1990s by the 'Assembly of the Poor', an alliance of people's organisations campaigning on livelihood and environmental issues. On one level, the redshirts did emulate the Assembly of the Poor by valorising their own underdog status—proudly referring to themselves as '*prai*', or serfs, in contrast with the '*amat*', or aristocrats. But our interviews revealed that, despite this rhetorical positioning, most redshirts did not see themselves primarily as victims, and nor were they opposed to mainstream capitalist development.

Typical redshirt protests we interviewed were local-level activists and organisers, who often engaged in some seasonal agricultural activities such as commercial lotus production. On average, they owned around 6 acres of land (15 rai)—they were not landless peasants by any means—but despite commonly referring to themselves as 'farmers', this self-description failed accurately to capture their real occupations or their main sources of income. Most of them also ran businesses, served as elected local politicians, or hosted shows on community radio stations. Their businesses had generally received start-up loans from Thaksin-era initiatives, including the Small and Medium-Sized Enterprise (SME) or Village Development Funds. Some also had pensions after long periods of employment as low-ranking government officials in the clerical or ancillary sectors of the bureaucracy. Other sources of income included stints employed overseas as migrant labourers, or remittances from relatives who were working abroad or in Bangkok. Overall, most of our informants had middle-class lifestyles—symbolised by having swapped their motorbikes for pickup trucks—but their income was somewhat precarious and contingent, and they were generally in debt. The majority of the participants we surveyed—and around a quarter of those we interviewed—were registered to vote in the provinces, but spent most of their year working in and around Bangkok. Most of our interviewees lived in peri-urban provincial areas, outside the official boundaries of municipalities, but in districts that were no longer truly rural.

In short, many of the 2010 redshirt activists were poor farmers who were not poor and not farmers. Many had seen their social standing and economic

status increase throughout the 2001 to 2006 Thaksin premierships, and then decline since the September 2006 military coup. 'These were not poor people, largely excluded from the system: they were an emerging class of stakeholders whose aspirations had been thwarted by changes since the end of the Thaksin period' (Naruemon & McCargo, 2011: 1004). While they typically engaged in some agricultural work, their primary incomes came from the industrial and service sectors. Indeed, many redshirts employed other people—often illegal migrants from Cambodia or Myanmar—to take care of their own small farms and rice-fields while they themselves worked away. There were many similarities with pro-CNRP demonstrators in Cambodia: Astrid Norén-Nilsson found that a typical protestor she interviewed in 2013 was a land-owning middle-aged self-described farmer, who considered themselves not to be poor but of average economic standing. About a third of them supplemented their income with other activities (Norén-Nilsson, 2015), and saw themselves not as supplicants but as rights-holding citizens who formed an emerging class of stakeholders (Norén-Nilsson, 2016b).

Ideologically, the protestors had little affinity with previous generations of livelihood-oriented NGO activists who valorised and romanticised rural life and were opposed to mainstream development and consumerism. They had no interest in a 'sufficiency economy' of the kind famously advocated by the late King Bhumibol Adulyadej in the wake of the 1997 Asian financial crisis. They lived predominantly in lowland areas and had access to roads, water, and electricity: they did not view themselves as marginal or peripheral. Rather, they saw Thaksin Shinawatra as having invited them to share the benefits of Thailand's rapid economic development, including full participation in an emerging consumer society. They formed part of Thailand's new, politically active lower middle class.

Despite recognising many of these developments, some studies failed fully to grasp the significance of these changes. For example, Anek Laothamatas conducted a large-scale survey of 5318 informants in 2010 on the politics of Thailand's population change, a study that generated a much more nuanced picture than that offered by his earlier town-versus-country dichotomy (Anek, 2010). Nevertheless, he relied on a couple of troublesome distinctions. The first of these was classifying people as 'urban' or 'rural' dwellers, depending on whether or not they resided in a municipality. The problem here was that most urban areas spill far beyond the boundaries of formal municipalities: rather than expand existing towns, the Thai authorities had simply turned adjoining areas into additional 'municipal sub-districts'. Between 2008 and 2012, 627 of Thailand's 5300 sub-districts were upgraded in this way, while the Ministry of Interior has proposed new legislation to transform all existing sub-districts into municipal sub-districts: in other words, to convert the whole of Thailand into little towns. All villagers are in the process of being urbanised, whether they like it or not. The Thai countryside is literally being cancelled.

Another issue was that up to 20 million Thais (out of a total population of 70 million) do not actually live where they are registered to vote. According

to their ID cards, these millions of Thais live in the provinces—mainly the Northeast or the North—but in practice are mainly to be found working in greater Bangkok, which includes the adjoining provinces of Samut Prakan, Nakhon Pathom, Nonthaburi, Pathum Thani, and Samut Sakhon. In Thailand, it is perfectly possible to live for decades in Bangkok, send your kids to school there, and get treated in hospital there, all without transferring your household registration (*tabian ban*) and hence your legal residence to the capital.[4] Whereas in other Asian countries—such as China, Myanmar, or Vietnam—people are forced to register as migrants when they migrate to a big city, Thais can move around freely from one province to another. As a result, numerous Thai statistics are completely unreliable, since there is no proper data about who lives where.

Officially, there were 5.6 million people registered as residents in Bangkok in 2011—in contrast with 2010 census figures giving Bangkok's population as 8.3 million. Add together the five surrounding provinces and the 2010 census put the population of Greater Bangkok at 14.6 million. The census, which supposedly counts people where they actually live, counted an extra 50% (2.7 million) on top of the capital's official population—but even these figures omit many shorter and long-term migrants, as well as non-Thai citizens. It is very probable that the real population of Greater Bangkok prior to the 2020 Covid lockdowns was at least 18 million.

A further difficulty concerns occupational classification: Anek distinguished between informants who were 'farmers and labourers' (21.9%), and others he calls 'self-employed and private sector employees' (31.6%), despite the fact that many Thais derive income from both categories of occupation. These problems with Anek's survey illustrated the challenge of capturing hybrid, fluid, and ambiguous identities through conventional classifications. Just over 50% of Anek's informants described themselves as 'poor'—but poor in what sense?

As I have previously argued:

> the much-vaunted distinction between the city and countryside in Thailand does not exist.[5] Or to be more precise, it does not exist in the ways in which it is typically described and imagined. What actually exist are multiple blurrings of the distinction between urban and rural, and the emergence of a hybridised population that operates in a hinterland between the two realms. The instability that now characterises Thai politics does not reflect a clash between urban and rural, but the precarious identity of a substantial—and decisive—portion of Thailand's electorate. The resolution to this problem therefore lies neither in the demonisation nor the valorisation of the rural, but in measures that would

[4] An online survey of 1184 randomly selected Thai adults conducted in 2022 found that 23% of respondents were actually living in a different province from the one in which they had legal residence. Author survey conducted with Palacky University, details available on request.

[5] For a related argument, see Apichat et al. (2010).

> acknowledge and stabilise the actually-existing identities of those who live a hybridised urban-rural life. (2017: 367)

What Is the Hybridity Problem?

The problem of identifying and addressing urban-rural hybridity in the Thai case has two major components. One component concerns the unreliability of house registration documents as an indication of where people actually live. A second component concerns the unreliability of self-identification as a robust basis for classifying the occupational categories of informants.

In 2015, an improbably high 32% of Thais identified themselves as 'farmers', compared with just 12% in nearby Malaysia. A Thailand Development Research Institute (TDRI) study conducted during the 2020 first wave Covid-19 pandemic revealed some remarkably interesting data, focused mainly on communities in the North and Northeast. Even self-described 'agricultural households' only received between 26 and 35% of their income from agriculture, compared with 65% from non-agricultural employment and 12% from remittances (Nipon & Urairat, 2020). When employment in urban areas declined sharply following the pandemic-related downturns in the industrial and service sectors, between 3 and 5 million workers returned 'home', and were left struggling to live on residual household incomes from farming. Overall, 75% of these 'farming' households included family members who were unemployed or had reduced working hours, with an average of 1.5 unemployed members per household.

The Covid-19 pandemic that began in 2020 had numerous parallels with the 1997 Asian financial crisis, which had seen major retrenchment in the Thai economy and huge numbers of people returning to their home villages from urban areas. But back in 1997, agricultural households did receive an average of around 50% of their income from farming: there was a much stronger agricultural base to fall back on. During the subsequent 23 years, the dependency of rural areas in the North and Northeast on remittances provided by family members working in other sectors and in urban areas increased sharply, illustrating a further hybridisation: for many of those who self-identified as farmers, farming was not even a safety net, let alone a primary source of household income.

Urbanised villagers are a problem. They distort budgets and resources, helping government agencies and politicians to underfund the areas where people actually live, and to channel pork-barrel projects to underpopulated regions. Because they don't really belong anywhere, urbanised villagers have fickle loyalties, are swayed by short-term valence issues, and are susceptible to populist electoral promises. It might be expected that governments in Thailand, Cambodia, and elsewhere would be trying to reduce the incentives for hybridity, and encouraging people to register to vote in the places where they actually live. In practice, however, there is little evidence that this is happening.

In Thailand's polarised political order, conservative voters are concentrated in two regions: Greater Bangkok and the Upper South. Oppositional voters aligned with parties associated with former Prime Minister Thaksin Shinawatra are concentrated in the North and Northeast. Huge numbers of Thaksin voters are urbanised villagers who live and work in Bangkok but officially reside in the provinces. Conservative political parties (currently including Palang Pracharat and the Democrats) have little incentive to encourage the millions of Thaksin sympathisers in the capital to register as voters there, since this would directly their own core electoral base, and might result in them losing seats in and around Bangkok. Despite overseeing the bureaucratic apparatus between 2019 and 2023, ministers from these parties did not take any steps to regularise the voter registration system. At the same time, opposition parties hardly want to see their millions of supporters in the provinces shift their household registrations to the capital, which could ultimately lead to a major reapportionment of parliamentary seats (and indeed government budgets) away from the North and Northeast). Ironically, it is possible to argue that the de facto fabrication of population figures that conceal the rise of urbanised villagers is on balance a good thing: it underpins a redistribution of resources from Bangkok to the provinces and thereby forms part of an implicit social contract that helps reduce the capital's identity as an overweening primate city (London, 1977).

Just as politicians have no desire to rock the boat by reassigning household registrations en masse, so factory owners in the metropolis typically do not allow their workers to use company dormitories as their legal homes, as part of a practice of contractual disempowerment and enforced precarity. The same applies to Bangok's extensive slum districts, as well as to areas of informal housing, for example on construction sites. Finally, urbanised villagers themselves continue to prefer the ambiguity of the status quo. An informant originally from the Northeast told me that he formerly worked for the Bangkok Metropolitan Authority for 15 years, in the office responsible for household registrations—yet throughout this period, he never changed his own household registration to the capital city, because of his continuing sense of identification with his birth province.[6]

The net result: everybody benefits from the existing situation, and nobody has any incentive to regularise the population's whereabouts and reduce the hybrid voting problem. On one level, it is in Thailand's collective interests to preserve the convenient fiction that urban areas are full of middle-class people, while rural areas are populated by poor farmers. On the other hand, internal migrants experience discrimination in the big cities, where they are often referred to in derogatory terms as a 'prachakorn faeng' or 'hidden population'. This discrimination forms part of a larger sub-ethnic discrimination against minorities such as the Isan population from the Northeast, the majority of whom are of Lao descent. Many Isan people try to 'pass' as Thai, not using their first language in public urban settings even when they encounter other

[6] Interview 10 July 2000.

Northeasterners (McCargo & Krisadawan, 2004; Saowanee & McCargo, 2014). Although migrants from the Northeast are usually able to increase their incomes by working in Bangkok, they typically worked longer hours and lived in inferior housing (Piyawat, 2015).

An Asian Development Bank study from 2012 suggested that migrant labour in Bangkok rarely offered Northeasterners opportunities for social mobility: only 2% of those surveyed were earning more than 20 dollars a day: 70% earned less than 8 dollars a day, and 20% were earning below minimum wage (Mulubrhan & et al., 2012: 2). The resulting socio-economic grievances allowed pro-Thaksin forces to make coded appeals to localist ethnic sentiment, including the creation of a 'redshirt village' movement that was ultimately embraced by the majority of communities in the North and Northeast, fuelling secessionist fears among Thailand's conservative elite, and helping create the fraught political conditions that led to the May 2014 military coup (Khajornsak, 2017).

Hybridity and socio-economic dislocation undoubtedly contribute to ongoing political polarisation and instability (McCargo, 2017). Drawing on studies of both China (Wallace, 2016) and Africa, Jeremy Wallace has argued that rapid urbanisation, especially 'induced concentration' around a single capital city, can pose problems for the survival of a regime: certain kinds of excessive urbanisation may result in long-term destabilisation of the political system. Large numbers of farmers moving into a primate city may 'represent more kindling for potential urban explosions in the future' (Wallace, 2014: 67). If Greater Bangkok contains 18 million people, that amounts to roughly a quarter of Thailand's total 2023 population of just under 72 million: an exceptional degree of urban concentration, and one which is largely occluded in official population figures. Perhaps these numbers help explain why since the end of absolute monarchy in 1932, Thailand has experienced more military coups and passed more new constitutions than any other country in the world.

Despite these structural problems, Thailand—and indeed Cambodia—persist with a curiously liberal household registration system that allows people to get away with living away from their supposed home villages for decades. By contrast, the Chinese *hukou* and the Vietnamese *ho khau* systems (World Bank and VASS, 2010) are precisely designed to prevent rural residents from working in major cities: while neither system works perfectly, they reflect the priorities of more authoritarian regimes with a core focus on preventing political instability.

Conclusion

The 'two countries' thesis—in which rural people and urban dwellers inhabit different and competing realms—is well past its sell-by date in Thailand and beyond. Any close scrutiny of realities on the ground soon reveals that the discrepancy between the town and the country is honoured mainly in the

breach. Southeast Asia contains millions of people who hold a hybrid identity, often legally resident in 'home' villages where they have not lived for years, or even decades. And just as Southeast Asia's cities are full of people from the countryside, so provincial areas across the region have experienced rapid urban transformation, rendering them post-agricultural, peri-urban zones, rather than spaces essentially dedicated to farming. With these twin transformations have come the inexorable rise of the urbanised villager. Millions of urbanised villagers straddle the city and the country, making a nonsense of official—and social science—categories, boundaries, and borders. Wave after wave of urbanised villagers force us to rethink our most basic assumptions about how societies and politics function in Southeast Asia.

While the prevalence of large numbers of urbanised villagers in countries such as Thailand may bring certain benefits—opening up social and political space for entrepreneurial and creative individuals, and bringing much-needed remittance income to the provinces, for example—the structural problems created by this long-term hybridity contribute to political polarisation and instability, inhibiting the emergence of secure, settled and sustainable societies in either urban or rural areas.

Urbanised villagers are both a source of energy and a source of simmering tensions and conflicts. But in order to resolve these issues, academics, policy-makers, and governments first need to name the problem for what it is: the collapse of the distinction between urban and rural, a category error of enormous magnitude.

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CHAPTER 29

Rhizomatic Protest, Generational Affinity and Digital Refuge: Southeast Asia's New Youth Movements

Yatun Sastramidjaja

Introduction

Across Southeast Asia, already weak democracies are being eroded by the reconsolidation of authoritarian regimes and concomitant shrinking of civic space for dissent. At the same time, the region witnesses the rise of a new generation of activist youth, pioneering new movements that mount a significant challenge to authoritarianism and the political norms sustaining it. In doing so, they experiment with digitally mediated modes of action, which facilitate inclusive participation and allow them to forge new linkages across national and sectoral borders, hence generating new assemblages of protest that extend across or beyond the region, bound together by shared imaginations of generational struggle.

These characteristics reflect the "rhizomatic" (Deleuze & Guattari, 1987) nature of contemporary youth movements. Rather than sprouting from the single "root" of national histories of student mobilisation, they form a

This chapter is based on the author's previous publication, *Rhizome vs. Regime: Southeast Asia's Digitally Mediated Youth Movements*, Trends in Southeast Asia, No. 2023/6, ISEAS-Yusof Ishak Institute.

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_29

heterogeneous assemblage with multiple origins, expanding in multiple directions and connecting nodes of youth activism in novel ways. One effect of rhizomatic connections is cross-fertilisation of protest issues and repertoires, as activist youth in different locations and social positions learn from each other's experiences, and adopt and adapt each other's tactics, imagery and protest discourse. This spurs new solidarity networks based on a strong sense of generational affinity—of belonging to the same generational resistance to authoritarianism and sharing the same political values—which heightens their resilience to the repression, criminalisation and delegitimation of their protest in each of their countries. It allows them to take refuge in shared virtual "spaces of hope"—i.e., spaces that enable "utopian imaginings" and sustain the hope that change *is* possible (Harvey, 2000)—and through these spaces carry on their struggle.

However, the rise of *digital* authoritarianism across the region—i.e., the use of digital technologies and cyber-controls to facilitate authoritarian governance (Dragu & Lupu, 2021; McDermott, 2022; Sinpeng, 2019)—is also threatening those spaces. Repressive cyber-laws, cyber-surveillance and attacks by regime-affiliated cyber troops are making it difficult to sustain protest even online. How activist youth navigate these threats, while striving to give substance to the values they fight for, demonstrates their potential not only to counter the shrinking of civic space, but also to reconfigure norms and practices of democratic citizenship.

To assess this potential, this chapter discusses the cases of Indonesia (2019–20), Thailand (2020–21) and Myanmar (2021–22), and the affinity networks evolving among them. In these countries, tens of thousands of youth have taken to the streets, and countless more to social media, spurring a broad resistance to authoritarian governance. Violent repression made them rely all the more on digital spaces, especially as the protests coincided with the COVID-19 pandemic. Reliance on digital spaces confronted them with a cybersphere already colonised by digital authoritarianism. Yet, activist youth continually find ways to dodge cyber-repression, while leveraging digital connectivity to collectively reimagine the democratic futures they wish to see within their generation.

Digitally Mediated Youth Resistance

Recent anti-regime protests have spotlighted a new youth culture of protest in Asia (Farrelly, 2021), which evolved since the early 2010s, in conjunction with the popularity of social media, and partly inspired by the "Arab Spring" uprisings and the Occupy movements that spread from Wall Street to other parts of the world. Within Asia, Hong Kong's 2011–12 Occupy Central with Love and Peace and 2014 Umbrella Movement were especially influential in shaping new protest cultures, establishing digital mediation as a vital part of civil resistance to authoritarianism. Beyond instrumental uses of social media, this digital mediation spurred novel participatory modes of protest (Lee &

Chan, 2016), engendering an "insurgent public sphere" that spread beyond the movement's boundaries and life-span (Lee et al., 2015), and further expanded to, and blended with, emerging protest cultures elsewhere in Asia.

In Southeast Asia, this new protest culture marked a break with the historical tradition of student movements that had pioneered key political events—from anti-colonial struggles, to regime overthrows in Indonesia in 1966 and 1998, and in Thailand in 1973, and the People Power uprisings in the Philippines in 1986 and in Myanmar in 1988. Despite this legacy, in recent decades the role of student movements declined due to their suppression, pacification and normative delegitimation in the context of state consolidation (Weiss, 2011; Weiss & Aspinall, 2012). Pockets of anti-authoritarian student activism persisted, but in countries such as Cambodia it was practically eliminated in tandem with the co-optation of youth by regime-affiliated mass organisations (Norén-Nilsson, 2021a). In other countries, such as Indonesia, student movements lost their appeal due to the weight of their "rootedness" in national history; this positioned them in a mythologised role in accordance with the official narrative of the nation-state, which limited them to fixed repertoires of action tied to a circumscribed elitist student identity (Sastramidjaja, 2019). Those fixed roles and repertoires no longer appealed to succeeding young generations, whose political identifications greatly diversified.

The youth driving Southeast Asia's recent protests share two formative experiences: they grew up with the contradictory demands of a post-developmental neoliberal climate blending awkwardly with illiberal governance, and they were born into the age of digital communications. In the past decade, Southeast Asian governments have invested heavily in the digital economy as a key engine of future growth, ideologically grooming youth for a role as "high-quality human resources" that will accomplish their nation's "Industry 4.0" ambitions. However, the promise of a high-quality economy contrasts sharply with precarious labour conditions in the growing start-up and "gig" economy and other private sectors marked by flexibilisation, as well as with the poor public facilities and illiberal climate that frustrate young people's notions of quality lives. Rampant corruption and an anachronic political culture that has failed to evolve beyond its old regime origins further deepen young people's political disaffection and estrangement from governing elites. At the same time, state investments in digital infrastructures entail that ever more youth, not only in the metropoles, grow up with access to digital communications. "Being digital" thereby becomes an intrinsic part of their identity and everyday life, especially as the boundaries between being "online" and "offline" dissolve with the rise of affordable smartphones.

Digital connectivity is known to stimulate heightened civic engagement among youth (Banaji & Buckingham, 2013), if only by facilitating familiarity with the social and political issues filling their social media feeds, especially when shared and discussed by peers. It thus facilitates alternative, organic forms of political education that make the political feel more personal. Particularly, online exposure to youth-driven protests in different settings and

locations attunes them to an array of contemporary *generational* concerns with justice and rights, and associated narrative frames—e.g., "youth for climate justice", or "youth against dictatorship"—which also help them to make sense of grievances in their own surroundings. This enables "new political imaginaries", which predispose youth to novel forms of political engagement and action (Bessant, 2014).

Accordingly, contemporary youth protests share a set of innovative characteristics. This includes fluid modes of organisation based on peer-to-peer mobilisation, participatory modes of action that alternate and blend virtual and physical protest repertoires, the linking of local and global actors and audiences, and eclectic imaginaries of cultural as well as political change (Bennett & Segerberg, 2013; Lim, 2018; Soep, 2014). The "rhizomatic" rather than "rooted" nature of the protests—which lack a single leadership, or single tradition to follow—creates the sense of an organic community, congregating around a unified purpose of "change" that transcends particular goals and targets (Lim, 2017). This allows them to circumvent the social and political fault lines that have hitherto hampered democracy efforts, particularly so in Southeast Asia's deeply divided societies. Ultimately, they do not merely target specific policies or political elites but question the very foundations of authoritarian regimes, including their oligarchic power base in the nation's economy and hegemony of political norms and culture. This makes them all the more threatening to these regimes.

Hence, these protest movements often meet with strong repression. This includes cyber-repression, as Southeast Asia's cyber-laws are used increasingly to prosecute regime critics and stifle dissent (Sombatpoonsiri and Luong, 2022). In addition, ruling elites attempt to buttress their power by means of cyber-propaganda, both through regime-affiliated digital news media (Norén-Nilsson, 2021b) and the deployment of cyber troops to manipulate public opinion, delegitimate protest and attack opponents on social media. Either in the form of obscure army divisions, as in Thailand and Vietnam, or shady networks organised by political brokers that employ masses of fake account operators, as in Indonesia and the Philippines, cyber troops that target civilian opposition are found in seven ASEAN countries, including the aforementioned countries, Cambodia, Malaysia and Myanmar (Bradshaw et al., 2021). Southeast Asia's cybersphere is increasingly unsafe for dissent, which poses a challenge to digitally mediated movements. The ramifications were especially felt in Indonesia, where mass protests in 2019 and 2020 were subdued by police repression as well as cyber-laws and cyber troops, which also contributed to the suppression of protests in Thailand in 2020–21 and in Myanmar in 2021.

Yet, in all three countries, the clampdown failed to silence protesters, who continue to find refuge in digital spaces. Moreover, activist youth demonstrate an evolving capacity to enact digital connectivity not only to articulate protest, but also to reconfigure political norms and practices in ways that are not easily suppressed. As discussed in the following sections, the protests in Indonesia

represented a "coming out" of the new protest culture in the region, highlighting not only digital mediation (which previously also shaped Malaysia's Bersih 2.0 and 3.0 protests in 2011–12) but also youthful autonomy and critique of systemic injustice. The subsequent protests in Thailand further developed the possibilities of digital mediation, building on lessons learned from Hong Kong to heighten resilience to repression. Finally, the protests in Myanmar—and its instant embeddedness in the #MilkTeaAlliance—portended the revolutionary potential of Southeast Asia's rhizomatic youth movements by starting to break down barriers to inclusive democratic futures.

Indonesia's Hashtag-Driven Resistance

In August 2019, four months after President Joko Widodo's ("Jokowi") re-election in April, Indonesian social media began buzzing with calls for action, using the hashtag #ReformasiDikorupsi, "reform corrupted". The hashtag referred to the bill for revision of the Law on the Corruption Eradication Commission (KPK), which would transform Indonesia's hitherto autonomous anti-graft body into a closely monitored government agency. But it also referred to other contested policies. This included the bill for revision of the Criminal Code, which critics viewed as a veiled curtailment of civil liberties, due to articles that marked blasphemy, defamation and insulting the state or the president's honour as criminal offences, carrying heavy sentences, and further penalised "immoral" acts in the private sphere, including extra-marital consensual sex and co-habitation. As the hashtag gained momentum in September—building towards the outgoing parliament's final session on 30 September, in which the contested bills would be ratified—it became clear that the netizens sharing it were not only concerned about those pieces of legislation. Many cited broader injustices and power abuses, indicating their discontent with Indonesia's democracy. On social media, their grievances converged in the notion that Indonesia was about to "return to authoritarianism".

Many of these netizens once held high hopes for Jokowi's agenda of "total reform". A majority of young voters supported him in the 2014 presidential election, and previously the 2012 Jakarta gubernatorial election, believing in his capacity to break once and for all with the relics of the New Order (1966–1998) and bring about real change. However, many lost faith once Jokowi's promise of social justice and human rights agenda was sacrificed for his neoliberal economics and pragmatic alliances with the old elites. By 2017—following the imprisonment of then Jakarta governor Basuki Tjahaja Purnama, Jokowi's former ally, on charges of blasphemy—young people's hopes that progressive change could come from the government evaporated. Thus, in the April 2019 elections, Jokowi received less enthusiastic support from young voters, although many still elected him on the ballot, seeing him as the "lesser of two evils" compared with his rival Prabowo Subianto, a former New Order general and known human rights offender, whose alliance with fundamentalist Islamic

groups made progressive Indonesians anxious. After the election, in October 2019, Prabowo still received a key position in Jokowi's Cabinet as the Defence Minister. It left young voters all the more appalled with the political establishment. By then, however, they had made their opposition loud and clear in Indonesia's first social media-driven protest movement.

The online warming up for action proved to have tremendous effect. In the last week of September, tens of thousands of youth staged nationwide protests against the two contested bills and other policies; it was the largest protest since the 1998 student protest (Sastramidjaja, 2020). While the majority of protesters in September 2019 were students, the protest was not initiated by student organisations but by a loose coalition of non-governmental organisations, which in recent years had experienced a marked rejuvenation in their membership and a variety of activist youth collectives that had emerged since the mid-2000s around specific issues and identities *as* youth. Since none of these groups claimed leadership, it lowered the threshold for first-time protesters to join the action, online and on the streets. To encourage their participation, activists used popular cartoon figures and funny memes in their online calls for action. Such gentle stimulation combined effectively with ordinary youth's desire to express their discontent; many were genuinely worried about the prospect of a return to authoritarianism, even if they had never experienced authoritarian New Order rule.

The press dubbed the protest *Angkatan* (Generation) of 2019—using the term commonly reserved for Indonesia's major student movements of the past, and framing it as the heir to the Angkatan 1998. However, students on the ground rejected the notion of such lineage; some protest signs even mocked the Angkatan 1998, criticising its members' absence in the protest and their "betrayal" of the struggle for reform, as many former student activists of that generation had joined the ruling establishment. Rather than identifying as a traditional student movement, the students on the streets felt they represented a novel type of movement. One viral meme captured the sentiment well: it pictured two gloved hands striking fists—one fist represented the "serious students", the other "meme-loving-students"—to create a cartoonish bang with the statement "Reject the Criminal Code bill!" While the "serious" group, or activists, contributed political expertise and in-depth understanding of the disputed legislations, the "meme-loving" group contributed tech-savviness, fresh ideas and creative skills, providing the mass energy for the multi-mediated protest. This merging of peer-to-peer strengths, as the meme suggests, creates extraordinary power.

The mass turnout was indeed spurred by online peer mobilisation, which also affected the character of the protest. Rather than a disciplined mass of students, a heterogenous multitude was out on the streets, bringing their own protest signs that were filled with popular culture references and the internet humour of a digital generation; many of the signs featured added hashtags that implied viral intent. Those eye-catching signs amplified the spectacle of the protest, while making it identifiable to ordinary youth. One group

that stood out in this multitude were "K-poppers", known for their fanatic engagement with Korean pop fandom on social media. Online, they helped to raise #ReformasiDikorupsi and related hashtags onto Twitter's trending topics. On the streets, they contributed unique protest images and slogans, such as "I ♥ BTS [K-pop band] but I ♥ justice even more. #K-Poppers won't remain silent!" Across Asia and globally, the K-pop fandom is known to frequently engage in advocacy and activism, using their mass presence on social media to boost online protests or to raise funds for offline movements through fan-based crowdfunding (Andini & Akhni, 2021). However it is less common for K-poppers to join protests physically. Their visible presence on the streets in Jakarta and other Indonesian cities—and soon also in Thailand and Myanmar—thus signalled a coming out of the "new youth culture of protest" in Southeast Asia.

Other young netizens that took to the streets also added new flavours to the protest. This included the adoption of one-liners seen in youth protests elsewhere in the world—often written in English, or combined with Indonesian—indicating affinity to global dispositions of contemporary youth activism. Examples include: "Error 404: democracy not found", "I've seen better Cabinets at IKEA", or "RUU KUHP & RUU KPK [Criminal Code & KPK bills] is so fucked up, even introverts like me join the protest [in English]. #RejectRUUKPK&RUUKUHP [in Indonesian]. #WeStandWithKPK" [in English]". Many protest signs also contained explicit sexual references, expressing anger at the impingement on sexual freedoms proposed in the Criminal Code bill, or at the government's stalling of the anti-sexual violence bill, which was another main protest issue. The prevalence of these signs seemed to correlate with the substantial presence of young women in the protest, as well as LGTBQ activists. Indeed, as a prequel to this protest, the same issues had been raised in the Women's March Jakarta rally in April 2019, which had emphasised intersectional solidarity among women's, LGTBQ, human rights, labour, environmental and indigenous struggles. The explicit character of that rally now echoed in this protest. For example, one sign stated, in English, "I don't need sex, the government is fucking me right now", adding an Indonesian-language hashtag, #JanganMauDiperkosaNegara, "refuse to be raped by the state". Such bold statements—considered highly improper in Indonesia's public sphere—served to scoff at government policy and to signal generational ideological distancing from the conservative ruling elites. By transgressing the norms of propriety, they manifested their embodiment of opposing political norms and refusal to have their bodies disciplined by repressive legislation.

Due to the eclectic nature of the protest, cheeky protest signs blended organically with serious political messages, which helped inexperienced participants grasp the extent of the protest. For example, one sign listed multiple grievances, implying these were all connected: "Women are raped; KPK is weakened; Forests are razed; Papua is colonised; Land is sold out to investors; Farmers are evicted; Workers are exploited; Privacy is at risk; Democracy is

undermined; Will the people be silenced? NO. RESIST!!!" As this illustrates, a notable characteristic of the protest was that it conjoined various issues into a single cause of resistance, thus exposing the underlying systemic injustice. This was also apparent in the nine demands issued by the Yogyakarta-based Alliance of People's Mobilisation, listed under the hashtag #GejayanMemanggil, "Gejayan calling" (referring to a junction linking various universities in Yogyakarta, which in 1998 was the scene of deadly clash between students and security forces):

1. Stop all repression and criminalisation of people's movements;
2. Withdraw all military units, thoroughly investigate human rights violations, and fully open up democratic space in Papua;
3. Tackle disasters and protect its victims; arrest and put on trial tycoons and corporations responsible for forest fires; revoke their Land Cultivation Permits and stop issuing new permits to large plantation corporations;
4. Revoke the Law on the Corruption Eradication Commission;
5. Revoke the Law on Sustainable Agricultural Cultivation Systems;
6. Immediately ratify the Bill on the Eradication of Sexual Violence;
7. Revise problematic articles in the Criminal Code bill, and review them with the involvement of various civil society groups;
8. Reject the Defence Bill, Employment Bill, Cyber Security Bill & Minerals and Coal Bill;
9. End and investigate all human rights violations and put perpetrators to trial.

The juxtaposition of these issues under a single hashtag indicated that, given the systemic links between them, protest on any of these issues implied resistance on all others. This message resonated with the uncompromising disposition of contemporary youth cultures of protest, hence young participants readily embraced it. However, it was difficult to digest for the traditional student movement, represented by the national union of Student Executive Bodies (BEM) that was dominated by Islamic organisations with ties to political parties. For the BEM union, at least two of the demands crossed the line: the issue of the anti-sexual violence bill (which conservative government and opposition parties framed as "sexual liberty" bill), and the issue of Papua, where the army waged bloody operations against separatists and activists branded as "terrorist". After the first days of the protest, the BEM union withdrew its support.

Activist students continued the protest, but their participation was soon discredited by disinformation being spread about them, including rumours of secret funding from political actors seeking to topple Jokowi's government (Savirani & Ersada, forthcoming). In fact, the protesters purposely refrained from targeting Jokowi, arguing it was irrelevant who was in power as long as the system of power—including the corrupt political culture that

served to protect oligarchic interests—remained intact. Still, rumours about the protesters' questionable motives persisted, as did rumours that questioned the KPK's integrity. Cyber troops were at work to amplify these rumours and discredit the protest.

Cyber Protest vs Cyber Troops: Acceleration and Repression

One week before the KPK Law revision was ratified, social media saw a sudden surge in the hashtag #KPKTaliban; cyber troops were spreading the rumour that the KPK was a "hotbed of Taliban-like extremists", which justified government control (Sastramidjaja & Wijayanto, 2022). Concurrently, KPK members and activists protesting the revision became targets of cyber-terror; many received anonymous phone threats, were trolled on social media, or had their phones and social media accounts hacked (Wijayanto & Sardini, 2022). Some activists were arrested for violating the Information and Electronic Transactions (ITE) Law.

The cyber-repression occurred in tandem with the violent dispersion of the street protests; at least five university and high-school students died in clashes with the police. The violence effectively deterred participation; by October the protests dwindled. However, in Jakarta, one group persisted: high-school pupils from non-prestigious technical schools, who were not afraid to face the police. The police labelled them "rioters, not demonstrators", who were allegedly incited by fake WhatsApp messages to create "anarchy", which justified police action. Yet, rather than rejecting the teenage "rioters" as alien to the movement, activists hailed them as heroic symbols of a militant new generation. This was attested by a news photograph (taken by photojournalist Garry Lotulung and published in *Kompas* newspaper, on 25 September 2019) of a high-school protester, later identified as Lutfi Alfiandi, shielding himself from tear gas with the Indonesian flag. It became the movement's iconic image, which went viral on social media until long after the protest ended, especially as Lutfi was arrested for allegedly desacralising the national flag and sentenced to four months prison. On social media, the image served to remind peers that the struggle had only begun. Indeed, Lutfi himself shared the photo on his Instagram account, with a message of hope that this collective action by school youth will keep them united in solidarity to create a better future.

Following minimal concessions from the government, which deferred a decision on the Criminal Code, the focus shifted to the Omnibus Bill for Job Creation, which was announced in Jokowi's inaugural speech for his second term on 20 October 2019. Aimed to streamline legislation on labour and investment, the bill was strongly criticised by labour unions, civil society organisations, and activists overall, fearing its detrimental impact on labour rights (in particular for working women) and the environment due to provisions on the flexibilisation of layoff rules and minimum wages and loosened requirements on industries for environmental impact assessment (Lane, 2020). Activists

began planning for fresh protests, rallying under the hashtags #TolakOmnibusLaw, "reject the Omnibus Law", and #MosiTidakPercaya, "vote of no confidence".

When the action plans were interrupted by the COVID-19 pandemic, activists quickly adapted by accelerating protests online. Twitter actions were especially popular, as Twitter's trending topics offered a useful platform for mass expressions of dissent. For example, on 23 March 2020, a concerted Twitter action successfully raised the hashtags #TolakOmnibuslaw, #MosiTidakPercaya and related hashtags onto Twitter's global top trending list, with around one million tweets for each of these hashtags. Netizens joining the action also used the linked hashtags #LockdownDPR, "lockdown the Parliament", and #dirumahaja, "just stay home", denoting "protest from home", thus cleverly playing on the pandemic to indicate that it did not stop the resistance. Other Twitter actions similarly integrated the pandemic into protest discourse, with such slogans as "Omnibus Law and COVID-19 = Common Enemy: #CancelOmnibusLaw and #FocusOnHandlingThePandemic". By September 2020, messages rejecting the Omnibus Law overwhelmingly dominated the cybersphere.

The significance of nurturing online resistance was attested in October 2020, when nationwide street protests again erupted following the parliament's hastened passing of the Omnibus Bill on 5 October. On social media the protest surged to around half a million anti-Omnibus Law messages per day, largely owing to K-poppers' efforts. However, this time, the authorities had prepared a strategic response. As revealed in a leaked telegraph from the National Police Chief, dated 2 October, the police were instructed not only to heighten vigilance at urban risk areas to nip "anarchic action" in the bud, but also to increase cyber-surveillance and to "operate counter-narratives against issues that discredit the government", and use "media management" to make the public "disagree with protest actions". The effectiveness of this response was demonstrated within three days of the protest.

On 8 October, an incident occurred in Jakarta that discredited the entire movement; bus stops were vandalised and some were set on fire. News reports instantly blamed the incident on "anarchist" protesters. On social media it prompted widespread disapproval from netizens, who previously supported the protest. A later investigation by the independent media channel NarasiTV found that the vandalism was incited by unidentified men who were unlikely to be protesters; activists suspected that they were incognito intelligence agents seeking to justify repression. This suspicion was never proven, but the Jakarta "riot" did justify a clampdown. Simultaneously, a concerted cyber troop operation was launched. From 10 October, social media saw a sudden surge of pro-Omnibus Law hashtags such as #OmnibusLawBawaBerkah (Omnibus Law brings blessing) and #OmnibusLawUntungBuruh (Omnibus Law benefits workers). By 16 October, the pro-Omnibus Law narrative had drowned out the anti-Omnibus Law protest on social media. This was also the effect of the cyber troops' online attacks on activists; besides

doxing, trolling and intimidating activists on social media, cyber troops framed them as "hoax-spreaders", making them liable to prosecution under the ITE Law (Sastramidjaja & Rasidi, 2021; Sastramidjaja & Wijayanto, 2022).

Thus, activists learned the hard way that social media was not the activist playground they took it to be, but an unsafe space for dissent. This had a chilling effect on political expression generally. In one survey conducted on 24–30 September 2020, about 70 per cent of the respondents indicated that citizens had become more fearful in the past year to publicly express their opinions; 73 per cent felt it was difficult to demonstrate at that time (DetikNews, 2020). The swift clampdown on the protests in September 2019 and October 2020 validated such fears. Given that the stifling of civic dissent is one indicator of authoritarianism, the Omnibus Law conflict proved to be a turning point in Indonesia's post-New Order oligarchic regime consolidation. The scale at which the state deployed its power and resources to neutralise opponents in the cybersphere and control the narrative of government policy was unprecedented. It indicated increasing sophistication in the state's capacity to mobilise digital instruments as effective "authoritarian innovations" (Curato & Fossati, 2020).

However, regimes cannot fully control the narrative; and activist youth, while lacking the power and resources, are no less sophisticated in utilising digital affordances to sustain oppositional narratives while dodging cyber-repression. Moreover, they benefit from the rhizomatic nature of their resistance. As Deleuze and Guattari (1987) theorised, a rhizomatic assemblage has four characteristics: connectivity, heterogeneity, multiplicity and "asignifying rupture", or the quality of being unbreakable—even as parts of the rhizome break off or are interrupted in their growth, it continues to spread in any possible direction, finding new gaps, routes and spaces to sprout. Similarly, while suppressed for the moment, Indonesia's youth resistance is not subdued. Its resilience stems not only from being leaderless—which makes it less vulnerable to co-optation as happened to student movements in the past (and some labour unions after the Omnibus Law protest)—but particularly from its embeddedness in expansive assemblages of contemporary youth activism that include both the millions-strong K-popper cyber-army and local grassroots movements, whose young activists become nodes in networks that extend beyond national borders, and hence beyond state control.

"Be Water": Rhizomatic Flow from Hong Kong to Thailand

Indonesia's #ReformasiDikorupsi protest in September 2019 did not go by unnoticed to peers engaged in similar struggles elsewhere. Solidarity statements abounded—notably from Hong Kong, where the 2014 Umbrella Movement had morphed into a radicalised resistance against the Extradition Bill and China's encroaching control. Strikingly, Hong Kong activists expressed their solidarity not simply in written formal statements but in the

form of graffiti spray-painted across the city; slogans such as "Stand with Indonesia" and "Solidarity with Indonesian labourers, farmers, students" thus became part of Hong Kong's protest landscape alongside their own slogan of resistance: "Give me democracy/freedom or give me death". This juxtaposition manifested a sense of affinity that went beyond solidarity, indicating they were essentially fighting the same struggle. The feeling of affinity was mutual, as illustrated by a viral image created by a young Indonesian artist, picturing two activist youth from Hong Kong and Indonesia (significantly, the Indonesian was not a student but a schoolboy), striking hands under the text: "Fulfil our demands, not one less!!", with the hashtags #StandWithHK and #ReformasiDikorupsi (Fig. 29.1). Despite different political conditions, activist youth in both countries felt they were similarly resisting encroaching authoritarianism that would detrimentally affect the freedoms and futures of their generation. The Asian connection further reinforced the sense of generational affinity, a sense of political and cultural kinship and common destiny.

It was not the first time that Hong Kong's youth resistance spurred transnational peer connections across the region. In 2016 the Network of Young Democratic Asians (NOYDA) was founded as an alliance between activist youth from the Umbrella Movement, the 2014 Sunflower Student Movement in Taiwan, the anti-junta New Democracy Movement created in 2014 in Thailand, and groups from South Korea, Japan, the Philippines and Vietnam, with observers from Myanmar and other countries. Their aim was to "reclaim the social, cultural and political narrative" from authoritarianism (Phoborisut, 2019; Solomon, 2016), by fostering strategic collaborations among activist youth across the region. However, apart from initial meetings and incidental



Fig. 29.1 Peer-produced image of generational activist affinity (*Source* Efi Sri Handayani, Twitter, @efi_sh, 18 October 2019)

posts on social media, this network remained dormant. By 2019 the attempt was overtaken by the reality of new waves of mass protest.

This new wave started in Hong Kong, where protests erupted since March 2019 that were more militant and more decentralised, diversified and digitally mediated than seen in 2014. Various new repertoires were used, including non-violent direct action tactics, flash mobs and pop-up protests, mainly in response to growing repression and surveillance (Holbig, 2020). The strategy was encapsulated in the movement's saying: "be water", adopted from Bruce Lee's martial art philosophy (or the Taoist philosophy of flow). It meant taking a fluid, amorphous approach that allowed for quick adaptation to volatile situations, making the protest unpredictable. Digital communications in the protest was similarly decentralised and fluid, as protesters moved away from established social media platforms, using new platforms like the encrypted messaging app Telegram and LIHKG, a Hong Kong-based Reddit-like forum where users can endorse posts they support; participants could post suggestions for action, and be voted up or down by peers. To prevent police tracking of the conversations, mass Telegram channels and LIHKG forums were broken up into smaller and ever-changing groups. As activist Baggio Leung characterised the protest culture, "It's just like a machine or a self-learning AI that can run by themselves" (Su, 2019).

This strategy was adopted by the 2020–21 protest in Thailand, where a new generation of activist youth had emerged in the wake of the 2014 military coup, as a new progressive force that rejected both the colour-coded polarised politics of Thai parties and the elitism of the student movements of the past (Haberkorn, 2015). Between 2014 and 2019, they regularly staged protests, calling for democracy and reform of the *lèse majesté* law that was frequently used to mute dissent. To circumvent the ban on political activities these early protests took the form of symbolic action, such as silent readings of George Orwell's *1984* in public, raising the three-finger salute adopted from the movie *The Hunger Games* (about an uprising against a dictatorial regime), occasional flash-mobs, candle vigils for detained activists, or singing actions (Lertchoosakul, 2022; Phoborisut, 2019). Furthermore, countless Thai youth joined cyber-actions, triggered by the junta's proposal in late 2015 for a Single Internet Gateway, modelled after China's Great Firewall; netizens responded with online petitions, Twitter hashtag actions and DDoS (distributed denial of service) attacks on regime websites until the proposal was cancelled. Instead, the Computer-Related Crime Act was passed in December 2016, providing a new tool for surveillance, censorship, and prosecution of activists. But this did not deter netizens; in the following years hashtag activism took flight, often with the use of euphemistic hashtags to dodge the computer crime act and *lèse majesté* law (Sinpeng, 2021).

A turning point for youth resistance was the electoral success of the new progressive Future Forward Party (FFP) in the March 2019 general election—largely owing to young voters—and its subsequent dissolution in February 2020 for alleged violation of the election law. This triggered the largest

youth protest in Thailand since the 1970s, which instantly transcended the specific issue of the FFP's plight; the protest became a mass performance of the younger generation's disposition for political change, as reflected in the name of one of the new protest collectives: Free Youth. Initially the protest was limited to university rallies, until the COVID-19 lockdown since mid-March 2020 pushed it fully online. On social media, it snowballed beyond activist circles, and K-poppers again helped to catapult protest hashtags. Once the lockdown ended in mid-July, tens of thousands of youth, including school students, swarmed the streets of Bangkok and other cities in strikingly youthful mass demonstrations. Here, too, the protest was spurred by online peer mobilisation, integrating virtual and material protest repertoires with frequent references to popular culture. Even more conspicuously than seen in Indonesia, the participation of young women (including school girls) and LGBTQ activists strongly affected the political and visual discourse of the protest (Matthews, 2022). Visually, cosplay and drag outfits added vibrant colour to the protest. Politically, from the premise of intersectional resistance, protesters called for radical egalitarianism, both in terms of gender equality and social justice, thereby rejecting the patriarchal, dynastic and militaristic power hierarchy in Thai society.

Taken by surprise, it took the regime until mid-October to respond; the street protests were harshly dispersed and student leaders were arrested and prosecuted under the computer crimes act or the *lèse majesté* law. But this did not quell the youth resistance, which had learned from the "be water" strategy of their Hong Kong peers. Pop-up actions organised through decentralised online decision-making became common, using polls on social media to collectively decide on the course of action; for example, the "care" emoticon could be used to vote for a resting day, or the "wow" emoticon to urge: "keep going!" Telegram was used to announce action locations last minute. While this allowed them to continue public protests under increasingly repressive conditions, other tactics learned from Hong Kong helped them defend against police repression; when facing tear gas, they too used umbrellas, helmets and gas masks for protection. After months of such ad-hoc action fatigue kicked in. Activists then flocked to the new social media app Clubhouse; this audio-based, invite-only platform for real-time conversations that could not be recorded became a haven for free political speech as it was difficult for authorities to control (Sirivunnabood, 2021). It marked a partial retreat from the streets, but by August 2021 a series of new protests were staged in Bangkok, lasting until October. These protests were radicalised and more confrontational than before, partly due to the mass participation of less privileged students and school youth who, similar to their peers in Indonesia, did not shun clashing with the police (Lertchoosakul, 2022). As in Indonesia, the hardening of the action led to waning public support, which was compounded by concerted cyber-campaigns to influence public opinion and delegitimate the protest.

The Milk Tea Alliance and Myanmar

But the youth resistance continues, and it has rekindled transnational affinity among peers across the region. Besides solidarity statements—with the hashtag #StandWithThailand being spread online or as urban graffiti by peers in Hong Kong, Indonesia, and elsewhere—it gave rise to the #MilkTeaAlliance, a social media-based movement for democracy and human rights. Created in April 2020 by netizens from Hong Kong, Thailand and Taiwan (originally as an anti-China meme), the #MilkTeaAlliance quickly became a popular platform for online youth resistance, expanding to Indonesia, Myanmar, the Philippines, Malaysia, India and other countries where youth are fighting authoritarianism. Different from the earlier NOYDA initiative, the #MilkTeaAlliance is a manifestation of a rhizomatic assemblage expanding organically on youthful energies of affective connectivity. As a virtual collective performance of generational solidarity and affinity, it connects multiple nodes of resistance; as such, it could have real value to those fighting the struggles on the ground. For one thing, it provides "a way of knowing that one's struggle is seen and supported elsewhere in Asia—of affectively catalyzing collective sentiment and action" (Dedman & Lai, 2021: 100).

The significance of the #MilkTeaAlliance became especially clear during the uprising against the military coup in Myanmar on 1 February 2021. Immediately, Milk Tea Alliance Myanmar accounts were created on Twitter and other platforms—flooding social media with news updates, live videos and background information, tagged with the hashtag #WhatsHappeningInMyanmar that mirrored the existing #WhatsHappeningInHongKong and #WhatshappeningInThailand hashtags—and youth across Asia staged solidarity rallies under the banner #MilkTeaAlliance. Myanmar's anti-coup movement was joined by citizens from all walks of life. But online and on the streets, a new generation of digital natives was at the frontlines of the resistance; they were the first generation that had experienced political and economic liberalisation since childhood, and they were determined to defend their freedom (Thant, 2021). The youthful character was especially manifest in the first weeks of the protest, which featured a motley merging of protesters—including cosplayers, LGBTQ protesters, and working-class and ethnic minority youth. Exuding a playfulness reminiscent of the earlier protests in Indonesia and Thailand, they used theatrical performances and witty protest signs (often written in English) to display their rejection of the coup and their innate ideological difference to the old military rulers (Jordt et al., 2021). The hashtag #MilkTeaAlliance helped to spread the protest images and messages in the global cybersphere, while the hashtag #WhatsHappeningInMyanmar was used to amplify performances of traditional resistance in rural areas (Ibid.). Marginalised and underexposed voices thus came to be embedded within the rhizome of youth resistance.

The attitude of this youth resistance changed once confronted with ruthless military violence. Refusing to be intimidated, protesting youth turned into

fearless freedom fighters, yet without losing their playfulness. The icon for this brave new generation was the 19-year-old Kyal Sin, nicknamed Angel. A born-in-the-struggle-activist, she was shot dead at a protest on 3 March 2021, while wearing a T-shirt with the text "Everything will be OK"—a text signalling this generation's sense of irony and their persistent hope for better futures. Photos and artwork of Angel wearing this T-shirt went viral, and printed images of her became one of the attributes carried in demonstrations.

As the junta showed to be impervious to international pressure, the crackdown turned increasingly violent; according to local human rights groups, by mid-August 2021 more than 1000 citizens were killed. Yet, activist youth refused to surrender, and digital mediation helped them to keep going. While finding strength in continued expressions of solidarity—as peers across Asia, Latin America and elsewhere shared the hashtags #StandWithMyanmar, #WhatsHappeningInMyanmar and #SaveMyanmar on their social media, along with advice on how to help from abroad—Myanmar activists became adept at using digital media and technologies to dodge the repression. For example, VPN (Virtual Private Network)-secured channels were used to organise and live-broadcast flash mobs and pop-up rallies at secret locations, while digital data hacks (and volunteers on the ground) were used to map military locations and movements to evade them during these rallies; secured online payment systems were used to organise fundraising and money transactions, as the junta blocked revenue streams to the resistance; social media were used to signpost regime-affiliated businesses to boycott; and encrypted messaging apps such as Telegram and Signal were used to coordinate among the many pockets of resistance in the cities and the countryside.

Although an unknown number of urban activist youth have fled to the jungle to join armed resistance groups, the vast majority upheld the principle of non-violence. Besides attempting to sustain the protest, they began to reimagine the meaning of democracy and democratic citizenship in a post-junta world, which they are convinced can materialise in the foreseeable future. In doing so, they made the unprecedented move of rejecting "the Bamar Buddhist nationalist narrative that has gripped state-society relations and facilitated the military's ideological control over the political landscape" (Jordt et al., 2021: 2), substituting it for an inclusive ideology that espouses full citizen rights and social justice for all, including the nation's oppressed ethnic, religious and sexual minorities. The #MilkTeaAlliance, which includes many Burmese overseas students and exiles, helps in this effort by facilitating online polls and discussions on more inclusive futures (Chia & Singer, 2021). Similar discussions are ongoing in Hong Kong, Thailand, Indonesia and other places with nodes in the rhizomatic network, in which they also learn from reading and participating in each other's conversations.

"Let's End It in Our Generation"

Despite increasing cyber-repression, digital connectivity still enables the evolution of novel modes of resistance, while allowing embattled youth movements to take refuge in virtual spaces of hope. Voices that are repressed in one country are channelled through transnational assemblages of resistance, where they intersect with other suppressed and subaltern voices, turning into a collective battle cry that transcends national restrictions. Like a rhizome, these assemblages are "unbreakable". They expand in multiple directions as activist youth forge new linkages with nodes in activist networks elsewhere, not only because digital technologies allow them to do so, but because of an innate drive to connect and multiply as a means of survival. This drive is founded on a powerful sense of generational affinity—of fighting the same struggle as youth whose futures are at stake, and as young citizens with the capacity to reimagine and remake this future.

Digital mediation allows them to explicate this generational struggle as a fundamental critique of the hegemonic political norms that sustain authoritarianism. As illustrated by the intersectoral and intersectional issues raised during the protests discussed in this chapter, youth have an astute understanding of the systemic links between patriarchal, capitalist and militarist norms that simultaneously facilitate human rights violations, curbs on civil liberties, institutional corruption, environmental depletion and pollution, labour exploitation, gender-based violence and sexual oppression, and securitisation of the cybersphere. Moreover, they understand that regime change alone will not end these injustices, and that a cultural as well as political revolution is needed to substitute authoritarian norms for their generational values and aspirations for an inclusive democracy and equality.

One common saying that travels through these networks is: "Let's end it in our generation". It is a saying filled with hope, and where there is hope there is the effort to create something new. Hence, besides dedicating themselves to fighting authoritarianism, activist youth engage in various local initiatives to prefigure the futures they wish to see, taking inspiration and learning from similar initiatives by peers elsewhere. In doing so, they give shape to significant micro-level transformations in political norms and practices. Therein lies the most significant counterhegemonic potential of rhizomatic resistance.

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CHAPTER 30

The Development of an LBT Movement in Indonesia: Post-reformasi Identity Politics

Saskia E. Wieringa

Introduction

After the era of Reformasi (Reformation) was ushered in, civil society began to expand in Indonesia. During the preceding repressive New Order government of President Suharto (1966–1998) human rights were severely curtailed. The focus of this chapter is on the distinctive path the LBT movement took, both in relation to the male-dominated gay rights movement and to a Western trajectory of sexual rights.[1] The LBT movement, whose members belong to one of the most invisible communities in Indonesia, grew to include activists with a broader range of identities than the previous largely binary butch-femme groups.

Between 1998 and 2015 the movement underwent its greatest transformation; after that year a vicious backlash set in. In this chapter the movement is discussed as rooted in regional and local histories and cultures, in which activists developed a growing consciousness as members of a broad community, negotiating selfhood, and meanings of sexuality and gender as contingent and fluid. Attention will be paid to the apparent paradox that while gender diversity is well documented in the region and in Indonesia itself, and

[1] On the globalisation of the Western model of gay and lesbian movements (Adam et al., 1999).

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_30

still accepted in some parts, homosexuality is stigmatized and increasingly criminalized.

Not only did human rights organizations flourish, but hard-line Muslim vigilante organizations also thrived in this new climate of openness. The notorious Islamic Defenders' Front (Front Pembela Islam, FPI), loudly proclaimed lesbian and gay activists as immoral, out to convert the nation's youth to homosexuality. Around 2010 their actions became openly hostile and the conference of ILGA (International Lesbian and Gay Association) Asia, which was held in Surabaya, was violently disrupted by FPI members (Wijaya & Davies, 2019; Yulian, 2012).

In this chapter, I focus on three organizations of LBT persons, Swara Srikandi, Sektor 15 of the KPI and the Ardhanary Institute. The expansion of the LBT movement was accompanied by a proliferation of identities that women-loving-women assumed. Beside the b/f couple, the dominant model during the New Order, no-label lesbians, transmen, *translaki-laki*, *priawan* and people adopting other labels appeared.[2] Before the democratic opening of society some of them rejected this association for they were men and not lesbians. How did the availability of the discursive category of trans make it possible for masculine-identified persons to associate themselves with the LBT movement?

Southeast Asian Gender Diversity

The great ethnic, religious, and cultural diversity of Southeast Asia also translates into a variety of gender regimes, both in the precolonial, colonial, and postcolonial societies.[3] An interesting cross regional feature dating from precolonial times is the existence of crossdressing and transgendered ritual specialists. These mostly male-bodied healers or shamans have been widely documented both in Hindu, Buddhist and pre-Islamic societies. There is less known about crossdressing female-bodied persons, but they also existed (Blackwood, 2005; Clarence-Smith, 2012; Peletz, 2009; Van der Kroef, 1954; Wieringa, 2012). It was often said they were born in one body but had the soul of the other gender.[4] Their partners were generally considered to be heterosexual cisgendered persons. In many communities in the region women held positions of more power and respect than they are accorded now (Andaya, 2006). The legitimacy and respect enjoyed by the transgendered healers and women's political and economic power declined during the

[2] *Laki* means man. *Priawan* is short for *pria-wanita*, man-woman, a man in a woman's body.

[3] See for a recent overview of gender relations in Southeast Asia (Roces, 2022).

[4] This is a formulation that is still widely used in transgendered communities.

colonial period[5] and with the growing dominance of monotheistic religions.[6] Postcolonial leaders tried to revive some of the assumed glory of precolonial times, but they conveniently ignored the relative prestige women in general and transgender individuals had enjoyed. This process of postcolonial amnesia maintained the colonial bourgeois morality, with its at times homophobic and women-oppressive ethics (Pallotta-Chiarolli, 2020; Wieringa, 2009).

Yet in many countries in the region, transgendered individuals have survived. In Malaysia transgender MTF (Male to Female) persons are called *pondan* or *mak nyah,* while crossdressing FTM (Female to Male) people are known as tomboys or transmen (Peletz, 2009; Teh, 2002). In Buddhist Thailand MTF *kathoey* are widely known while women's same-sex couples are often divided into *toms* and *dees* (Aldous and Sereemongkongkonpol, 2008; Jackson, 2003; Jackson & Sullivan, 1999; Käng, 2012; Sinnott, 2004). The Catholic Philippines knows a category of MTF transgendered persons called *bakla* or *babaylan* (Garcia, 1996). Ritual specialists in Burma are called *nat kadaw*; most of them are transgendered FTM persons (Peletz, 2009). Indonesia also has a rich tradition of both male- and female-bodied transgender healers or spiritual specialists, like the *bissu* in South Sulawesi and the *manang* among the Iban and Ngayu Dayak.[7] Lay transgendered persons were also common, called *banci* and *wandu* and nowadays *waria, transpuan* or *priawan* in Indonesia.[8] Across the region binary patterns have been and still are quite common in women's same-sex relations as well, besides the *toms* and *dees* in Thailand, the Philippines and Malaysia also know *tomboys* and their feminine partners. The word *tomboi* is also known in Indonesia, besides local terms (Blackwood, 2010; Wieringa, 1999).

Colonial legislation had various effects. The British imposed their so-called 'sodomy law' on the regions they colonized, criminalizing male homosexuality. Dutch law only penalized sex with minors. Thai law never criminalized homosexuality. Christian influence led to efforts to 'civilize' the people they thought had succumbed to the 'depravity' of their sexual and erotic transgressive practices. Islam which when it arrived in the region accepted several transgendered practices, became increasingly repressive as modernist forces came into power who wanted to purify the religion (Davies, 2010; Peletz, 2009). By independence in many Southeast Asian countries transgender practices had been discredited and their practitioners had lost much of the spiritual

[5] This process also took place in a modernizing nation like Siam which has never been colonized.

[6] This is an uneven process. See Peletz (2009) for an account of how intolerant modernist movements in Islam replaced earlier more tolerant versions (Murray and Roscoe, 1997).

[7] There is a wide literature on these cases (Andaya, 2000; Davies, 2010; Van der Kroef, 1954; Pelras, 1996 and Sugianto, 2015).

[8] See (Boellstorff, 2005; Blackwood, 2010; Wieringa, 2012, 2015). Formerly the terms *banci* and *wandu* were used for both male- and female-bodied persons, now mostly for MTF persons.

and sacred significance they once had. Since the beginning of the twentieth century, transgenderism has been secularized and stigmatized, even pathologized, in line with the theories newly introduced by the Western sexologists and spread to the colonial world.

Though traditional transgender persons are still present in Southeast Asian countries, particularly MTF persons, homosexuality is viewed negatively and non-heteronormative people are faced with stigma. In spite of these striking similarities across the region, and the uneven influence of Western discourses on LGBT rights, it is evident that local gender regimes have to be studied in their specific historical and cultural contexts.

Combined data from the World Values Survey indicates that many Southeast Asians reject lesbians or gay men as neighbours, with the most homonegative attitudes to be found in Myanmar (91%), Vietnam (76%) Indonesia (74%) and Malaysia (60%), compared to relatively less rejecting nations like Thailand (36%), Singapore (26%) and the Philippines (18%).[9] Same-sex sexuality was least acceptable, based on a moral justifiability measure, among Indonesians, followed by Vietnamese and Malaysians. Singaporeans, Thais, and Filipinos were the least rejecting of lesbian and gay sexual orientations in the region (Manalastas & al., 2017).

Legal regimes on same-sex practices vary widely. Homosexuality is criminalized in Southeast Asia in four former British colonies, Malaysia, Brunei, Singapore, and Myanmar. In Brunei Sharia law came into effect in 2013 which stipulated the death penalty for homosexuality.[10] In Aceh homosexuality is illegal under a regional regulation. In all countries, discrimination against LGBTIQ people, as well as domestic and public violence remains high. LGBTIQ people especially transgender women, and gay and trans sex workers face high levels of stigma and harassment. LBT people are confronted with high levels of family violence and rejection (Agustine & Yolandasari, 2021; Yolandasari, 2015). No country in the region has a sexual orientation and gender identity protections as part of their constitution. Only Thailand and the Philippines have either local level or national level laws on anti-discrimination (Outright International, 2023).

Socio-Historical and Political Context; from 1965 till 2015

The beginning of the New Order period, the transition between the presidency of Indonesia's first President, Sukarno and General Suharto, was initiated by the so-called 'events of October 1 1965'. On that date, six generals and an officer were abducted and murdered by a group of lower ranking officers. Some top leaders of the PKI, the Indonesian communist party, were also

[9] Comprising data collected between 2017-2020 (Equaldex, 2023). See also the website of worldvaluessurvey.org).

[10] On Shari'a law in Indonesia (Buehler, 2016).

involved, but the rest of the leadership and the party as a whole were left in the dark. General Suharto quickly crushed the movement and started a genocide. The leftist 'pillar' in society was destroyed. Perhaps between 500 000 and a million people were slaughtered, and hundreds of thousands were imprisoned (Melvin, 2018; Roosa, 2006). A reign of terror followed. The Indonesian women's movement has been destroyed in the aftermath of these events. With the help of the infamous slander campaign against Gerwani, the third-largest women's organization in the world at the time, any form of rights-based feminism had become suspect.[11] Elsewhere I called this campaign the first sexual moral panic, which incited Muslim masses to violence, organized by the military.[12]

Feminists had set up some women's organizations in the 1980s and 1990s, but as it was impossible to establish progressive mass organizations,[13] their reach was limited. Prominent women's rights activists, many of whom had been at the forefront of the mass demonstrations that led to the demise of the military dictatorship in 1998 came together to organize the first mass congress of women after Reformasi. December 14–17, 1998, called the Indonesian Women's Congress (KPI).

The end of the New Order in 1998 was accompanied by much bloodshed and great unrest. The euphoria following the downfall of the military dictator Suharto in 1998 led to many new social and political initiatives. There came a certain openness in society, also about sexual issues. In the early years of this Reformasi period international human rights laws were ratified and a national human rights law was adopted. Freedom of expression and association were guaranteed as well as the freedom of the media. Though lesbian activists were not in the foreground of this democratization process, they established a close connection with the leading feminist organizations of the time, such as the KPI.

When foreign funding to support LGBT issues became available in the early 2000s, various new LGBT organizations were set up and a process of professionalization set in. Funding remained largely restricted to organizations catering to gay men or MTF transgender persons, but women's same-sex organizations also managed to get some finances. Activists attended international conferences, set up websites, organized trainings, appeared on talk shows, and altogether became more visible and vocal. Their growing presence in the public sphere, coupled with a conservative, illiberal turn in society and the government, ultimately led to a backlash that started in earnest in late 2015

[11] Gerwani members were accused of having danced an erotic dance, naked, and having castrated the generals before murdering them (Wieringa, 2002, 2003).

[12] The second sexual moral panic is the politico-religious homophobic campaign that started by the end of 2015 (Wieringa & Katjsungkana, 2018).

[13] Law No. 8 1985. Under this law all civil organizations had to be registered with the Ministry of Home Affairs. The ministry could dissolve mass organizations (ormas) without legal process or right of appeal if they were seen to be a threat to the nation, to promote communism or did not accept the state ideology of Pancasila as their abiding principle.

but was already initiated around the debates on the Anti-Pornography Bill which was adopted in 2008 (Wieringa, 2019a and 2019b; Wijaya & Davies, 2019).

After Reformasi there was a proliferation of identities while the earlier b/f culture remained strong.[14] The growing LBT movement charted its own course. Linked with, but different in many ways from the gay and *waria* cultures, particularly in its greater invisibility and greater exposure to family violence (Boellstorff, 2005; Hegarty, 2017; Oetomo, 1991, 1996; Rodriguez, 2020; Toomistu, 2019). It also had stronger links with the women's movement, and although the connection was not always easy, it gave them insight into how patriarchy worked and how gender relations were always about power. The Indonesian LBT movement is also different from its Western counterpart, with its focus on identity politics and rights, and its denunciation of b/f communities. In Indonesia the coming out process is more complex and layered than in the West, giving rise to contingent identities, for instance, out as a transperson in one's own community, but a tomboy in one's own family. After a period in which LBT organizations gained more visibility and fought for protection from discrimination, conservative forces prevailed. Instead of progressively gaining more rights, a process of criminalization set in. Homosexuality, which was never a criminal offence among adults, was criminalized in the Anti-Pornography Law. In spite of strong protests from women's and human rights organizations, as well as cultural associations from all over the archipelago, particularly from Bali, this controversial law was accepted in 2008.[15]

The first major homophobic attack occurred in November 2000. An HIV/AIDS edutainment event involving drag shows in Kaliurang, Yogyakarta, was raided by around 150 men who called themselves the Anti-Vice Movement (Gerakan Anti-Maksiat) and members of the Gerakan Pemuda Ka'bah (Ka'bah Youth Movement).[16] In subsequent years, similar attacks occurred in other places. Two major attacks occurred in 2010: a conference of the International Lesbian, Gay, Bisexual, Trans and Intersex Association Asia (ILGA) in Surabaya was assaulted by a coalition of Islamist groups; and a workshop on trans issues organized by the national human rights commission Komnas HAM in Depok was raided by the Islamic Defenders' Front (FPI) (Liang, 2010).

The LBT movement expanded its international contacts in the period after Reformasi. Some activists took up positions in international bodies.[17] Activists also drew on international human rights documents that Indonesia has signed

[14] On the earlier b/f culture (Wieringa, 1999, 2007).

[15] On the resistance against this Bill (Allen, 2007).

[16] It was a violent attack; 25 participants were injured (Boellstorff, 2005; Oetomo, 2001).

[17] Several LGBT activists were board members of ILGA. Indonesia lesbian activists also attended the 2006 Montreal LGBT Human Rights Conference which produced the comprehensive Montreal Declaration on LGBT rights.

and ratified, in an effort to hold their government to account to fulfil its obligations to respect and protect human rights.[18] The major document used for such lobbying is the Yogyakarta Principles which address the broad range of human rights standards and their application to issues of sexual orientation and gender identity. These include protection against extrajudicial executions, violence, and torture, access to justice, the right to privacy, non-discrimination, freedom of expression and assembly, employment, health, education, immigration and refugee issues, public participation, and a variety of other rights (O'Flaherty, 2015; Yogyakarta principles, 2023). The Ardhanary Institute, and other LGBT groups actively promoted the acceptance of the Yogyakarta Principles. In their lobbying LGBT activists avoided using terms such as lesbian or gay or LGBT (Chua, 2018). They worked under the umbrella of SRHR (Sexual and Reproductive Health and Rights) and combatting gender-based violence, using the language of SOGIE (Sexual Orientation Gender Identity, and Expression), collaborating with broader coalitions such as the mainstream One Vision Alliance (Aliansi Satu Visi). Below I discuss the three largest and most influential LBT organizations that were established in this period, Swara Srikandi, Sektor 15 of the KPI and the Ardhanary Institute.

Swara Srikandi

Swara Srikandi (Voice of Srikandi) can be seen as the successor organization of the lesbian-feminist groups of New Order Indonesia. In 2000 Maureen under the pseudonym of Wina set up the lesbian bulletin Swara Mitra (Voice of Friends). The idea was to publish a bulletin every two months. Only one edition was initially published because of lack of funding. Wina, Bungsu, MilaBlü, and Lily formally established Swara Srikandi on August 4, 2000; on August 30, 2000, the website went up.[19] Ree, Bonny, and Ade also joined. In 2002 two new members joined the board, Alex and Riper. Swara Srikandi's editorial team announced that they tried to steer lesbians away from a wild lifestyle, the way lesbians are always portrayed in the mass media and that they wanted to portray the positive sides of lesbian life.[20] They explained that the name Srikandi was chosen because this *wayang* heroine has a different sexual orientation but the same capacities as heterosexual persons. Just like some people love pop music and others classical music. Srikandi, they stressed, is both courageous (she is an excellent archer) and friendly (*lembut*).

[18] This is also obliged under national laws such as Article 28 of the 1945 Constitution and Law no. 39/1999 on Human Rights.

[19] Fieldnotes May 8 2003. The bracketed names are the pseudonyms used on the website. I followed them intensely in 2002 and 2003, holding several Focus group Discussions. Swara Srikandhi was the first lesbian website in Indonesia; www.swaraSrikandhi.cjb.net.

[20] Discussion on the way the New Order media portrayed lesbians, as low life characters, addicted to drinking, smoking and other vices (Gayatri, 1996).

Items on the site included discussions about sexual orientation, religion, and the tribulations of love, such as jealousy and how to overcome a broken heart. Another topic was drugs. They realized that many young lesbians took to drugs out of despair and they wanted to help them to give up that addiction. The debates were open, with long discussions. Most of their visitors were not coming out as lesbians as that word was sensitive. Many called themselves *belok* (the other side), or L. Or they identified as butch and femme, using those words rather than *sentul* and *kantil*, which they associated with an earlier generation. On the website, there were many chats on the differences between who is a butch and who is a transgender.[21] Maureen liked the metaphor of a butterfly—for, she said, 'a butterfly refers to the transformation from a caterpillar to a beautiful butterfly and that is what we want to achieve with our website.'[22]

Much discussed on the website was coming out as a lesbian—to whom, when, and how. Usually this was a long, painful process, also for many members of Swara Srikandi itself. Chair Wina was not yet out to colleagues and family, an issue that contributed to the later rift in the group. In conversations with me, Wina and Mila said they were careful not to confront the negative public opinion about lesbians frontally. They wanted to work internally first, to understand better their own lesbian subculture. The website was used as a guerrilla strategy, to strengthen their sense of community and reach out from there.

But others were more impatient. Ree, Bonny, and Ade felt that they should be true to their mission to familiarize Indonesian society with lesbian life. Two TV shows on lesbians were broadcast. They catapulted lesbian life into the public sphere but at great cost to the individuals portrayed. Eventually, conflicts arose and Swara Srikandi was dissolved.

The first show was a programme on Trans TV on September 19, 2002. Bonnie and Ade appeared prominently, surrounded by cigarette buds and tarot cards but also books and a laptop to illustrate that lesbians are studious persons, who have not turned to lesbianism because of a heart broken by men. Some members of the Swara Srikandi board did not support this show.

The second TV interview was broadcast on March 4, 2003. This TV7 programme documented the lives of members of both KPI and Swara Srikandi. Also, a couple of lesbians from Yogya were shown, kissing and cuddling each other, but their faces were blurred. Wina was angry, for lesbian intimacy was shown on TV while she felt that the public was not yet ready for that.

They received many positive reactions on their website (women crying to see there were lesbians like them) but also terrorizing messages from Islamist extremists. Threats arrived that it was allowed by religion (*halal*) to cut up

[21] FGD discussion May 24, 2003 with Swara Srikandi members.

[22] I made extensive interviews with the group between 2002 and 2004.

lesbians and drink lesbian blood[23] and the hate mongers threatened to rape them with their big penises. This led to a major panic in the group.[24] In May 2003, they told me they were being terrorized on their website by a person calling himself Iman Prasetyo.[25]

The slurs of Iman Prasetyo indicate that the homophobia from Muslim hardliners has been present long before the wave of political homophobia started in late 2015. On March 5, 2003, he screeched 'that they should throw away those penises. Why do they need a cucumber, banana, eggplant or a candle to become a man? Why do they use the attributes of men which are created by Allah for the community of men? 'He wrote he would come to their houses, as 'drinking their blood is *halal*', as it is clear they are 'devils' (March 6). And, he added the next day, 'no different from prostitutes working in Kalijodo[26] or in luxurious hotels, or as murderers, robbers, rapists, and thieves.' Other depletives Iman used that month included 'gamblers, corruptors, tax evaders, rapists, and abortionists.' On April 3 Iman announced that they would soon organize a raid and kill the women, with knives or guns. He stressed there were many ways to die, AIDS, SARS they could get into a car accident, or be electrocuted. He continued in this fashion, revealing he was associated with the well-known Wahabist *pesantren* Daarut Tauhid in Bandung. Ultimately, he accused them of wanting marriage equality and the right to adopt children.[27]

In the meantime, other tensions had arisen as well. The original founders of Swara Srikandi were women committed to fighting for their rights. But other members wanted fun, clubbing, parties, and above all dating. Many of them smoked, and some of the younger ones might wear weird makeup. They were less interested in meetings and discussions. In June 2003, after they had received a small grant, they published their second bulletin, Lembar Swara, with a coloured front page featuring two swans, necks intertwined. Butterflies were all over the pages symbolizing the transformation from the unattractive caterpillar to a glamorous free flying being. This issue contained an explanation of terms, such as the difference between transgender and butch.[28]

Leadership problems had surfaced. Both Bonnie and Wina complained the other wanted to play the boss of the organization.[29] Wina felt uncomfortable

[23] *Darah lesbian halal untuk diminum, dagingnya halal untuk dipotong* (literally It is allowed to drink lesbian blood and to cut up their meat).

[24] Email to me from Agustine-KPI March 18, 2003.

[25] Focus Group Discussion May 22, 2003 (with Ree, Kris, Susan and Heni).

[26] A well-known location in Jakarta where sex workers plied their trade.

[27] In the course of that one month, I counted 16 death threats from the side of Iman Prasetyo.

[28] Transgender FTM was described as a foreign term for a female-bodied person who feels he is a man. FTM transpersons are not lesbians, and the concept lesbian transgender that we often hear is not correct, the article warned. A butch is a lesbian who may be dressed in similar fashion as an FTM transperson, but still identifies as a woman.

[29] Discussion at office of Swara Srikandhi on April 26, 2003, Wina, Maureen and Arya.

that Bonnie pressured them to come out openly, while other members were not yet ready for that, as the society was so homophobic. The organization succumbed to all these tensions and members withdrew. By the end of 2003 Swara Srikandi had only four members left, of the original 50. In 2004 Swara Srikandi was no more (Agustine, 2008).

Swara Srikandi was the first LBT organization that made extensive use of social media. Supported by well-known lesbian feminists from an earlier generation, like Gayatri and Syarifah Sabaroedin, they opened a space for a wide discussion on evolving identities. They made lesbian lives visible to a broad public and paid a high price for that. Ultimately the tensions that evolved created insurmountable problems. Lesbian activists from the KPI, who developed their own organization alongside Swara Srkandi, learnt a lot both from the successes and from the ultimate demise of Swara Srikandi.

KPI: Sektor 15

By the end of the year in which Suharto was toppled, a large group of prominent feminists organized the first feminist conference, December 14–17, 1998.[30] The well-known women's and human rights lawyer Nursyahbani Katjasungkana was elected chairperson of the new mass organization, called KPI (Kongres Perempuan Indonesia, Indonesian Women's Congress). It was decided that 15 sectors would be formed of particular groups.[31] Sexual minorities would be the last group, Sektor 15. The well-known criminologist Syarifah Sabaroedin (known as Ifa) became the sector's coordinator. Ifa set herself the task of spreading the word outside of Jakarta. As the group had no funds its ambitions were curtailed.

In 2000 Agustine became the editor of the organization's bulletin, Semai (Seedling). In September 2001 she published an issue on the problems lesbian women faced.[32] The KPI chair set the tone with a column strongly arguing that the rights of LBT people are human rights which have to be protected under both national and international law. Syarifah contributed an article on compulsory heterosexuality, which in Indonesia is considered *kodrati* (natural), but which should be seen as a form of violence against women. Agustine herself chronicled the physical and psychic violence of two lesbians.

[30] Some 500 women attended from all over the archipelago. Members of the preparatory committee included Wardah Hafidz, Chusnul Mar'iyah, Agung Ayu, Agung Putri, Debra Yatim, Kamala Candrakirana, Myra Diarsi, Ratna Batara Munti, Umi Lasmina, Nursyahbani Katjasungkana and others.

[31] Older women; women living in care homes, and disabled women; professional women; women working in the informal sector; urban poor women; rural poor women; young women; secondary school and university students; sex workers; workers; widows/divorced women; women heads of households and single women; marginal girls; peasant women; fisherwomen; housewives; lesbian, bisexual and transsexual women.

[32] Chief editor was Nursyahbani Katjasungkana. She managed to get some funding from the Dutch agency NOVIB, so the bulletin looked professional, printed in four colours.

Agustine invited all her friends from earlier lesbian organizations and from informal networks to join the Sektor 15. On December 22, 2001, a discussion on sex and gender was held in Jakarta, co-organized by KPI and ILF Indonesian Lesbian Forum. The discussions focused on theories related to differences between sex, gender, and sexual orientation. In 2002 KPI organized a two weeks' workshop on sexuality in Ciloto,[33] attended by both feminist and LBT activists. During a discussion on February 9, 2003, sexual minorities in relation to Islam and patriarchy were the major topics; it was felt that patriarchy hit women harder than gay men, as lesbians face heavier stigma and more family violence. They are often forcibly married off.

Sektor 15 Jakarta tried to be the umbrella under which other groups of lesbian women could operate. In 2004 they had two groups, in Jakarta and in Padang, while in Ujung Pandang and Yogyakarta groups of lesbian women were coming together within the KPI but without the formal structure of a Sektor 15 status. However due to lack of funds, the Jakarta-based national secretariat was unable to travel to cities outside of Jakarta and to coordinate the groups. Trying to avoid the shortcomings she noted in earlier lesbian organizations, Agustine carefully built a community. This was not easy, as the various intersecting factors of class, education, identity and age always threatened to break up the group.

On October 1, 2003, a meeting was organized at the office of the KPI with members of the gay, lesbian, and transgender *waria* community. It was decided to ask for a discussion with the National Human Rights Commission, Komnas HAM, to explain the problems experienced by gay, lesbian, transgender, and *waria* persons.[34] A declaration was composed which referred to the UN Declaration on Human Rights and the Constitution. Instead of the state guaranteeing the rights contained therein the members of the lesbian, gay, transgender, and *waria* community complained that they were accused of being sick, abnormal, sinful, unnatural (*melawan kodrat*), and of spreading HIV/AIDS.

Komnas HAM, represented by Dr Taheri Noor (Vice Chair Commission of Monitoring) reacted by sending a letter to the Head of the National Police, exhorting the National Police Chief to follow up on the complaints that gay, lesbian, and transsexual people submitted on violence committed against them both in the household and in society at large.[35] This was the first public statement supporting LGBT rights.

In 2004 KPI held its second congress. The members of Sektor 15 prepared well. Among the 600 participants, this small band of lesbian warriors stood out. Some KPI members were supportive, but there were also negative statements, that these lesbians 'hurt Islam'. Three Sektor 15 members stood up

[33] Trainers were Gayatri, Ifa, Myra Diarsi and I.

[34] The acronym LGBT was not used at the time.

[35] Nr 6.732/SKPMT/XII/03, December 16, 2003.

in the plenary and demanded that sexual orientation be included in the paragraphs on human rights. Their proposal was accepted. They were all delighted with their victory. This was the first time lesbians fought for their rights in a public forum.

After 2005, activities in KPI on LGBT issues decreased. The new leadership did not provide as much support as the Presidium did under Nursyahbani Katjasungkana, who had become an MP. Yet around that time, until 2008, openness around LGBT issues was at its highest point. On August 27, 2005, for instance a discussion was held in LSA, (Lembaga Sosial Agama, Social Institute for Religion), on the beauty of same-sex marriage, arguing that the Quranic verse 21 (Ar-Rum) says that Allah has 'prepared for you a partner of your own kind'. This could be interpreted as allowing same-sex marriage, the participants concluded.[36] Of course, this view was strongly opposed by others. Conservative media vigorously rejected any attempt at legalization of this 'criminal behaviour', especially where it concerned 'professional lesbians' or 'promotors of lesbianism'.[37] In November 2005 the lesbian group in KPI decided to move out of KPI and set up the Ardhanary Institute. Agustine told me that although the 1998 congress of the KPI accepted the importance of lesbianism, she had experienced many problems. She was a member of the secretariat but her colleagues found it difficult to accept that lesbianism was important. And when regional leaders were known to be lesbians they were prevented from taking up important positions. Other lesbian activists told similar stories. Thus, though the KPI had initiated important discussions on sex, gender, and sexual orientation and had provided a space for organizing and training, in the end, the need was felt to go separate ways.

Ardhanary Institute

The Ardhanary Institute was established on November 14, 2005. Five divisions were set up, organization, research and publications, assistance, advocacy, and information and documentation. The institute established itself formally, with bylaws that stated its aims. These were to eliminate all forms of discrimination against Lesbians, Bisexuals, and Transgenders (LBTs) in Indonesia by empowering LBT persons, building of peer-groups and by advocacy for LBT rights. In line with the vision of their role model, Nursyahbani Katjasungkana, they based themselves on the 1945 Constitution, the Declaration of Human Rights, CEDAW, and the Yogyakarta Principles.[38] They also wanted to contribute to broader discussions on sexuality and sexual rights in Indonesian society. Issues they addressed included gender-based violence and the

[36] LSA was set up by students of IAIN Semarang.

[37] This was a term used by the conservative daily *Republika*.

[38] CEDAW means Convention on the Elimination of All Forms of Discrimination Against Women.

statements of the DSM IV on homosexuality and SRHR.[39] They were soon seen as a trustworthy organization and they managed to attract donors to fund their activities.

In November 2006 they held their first seminar on the unconstitutionality of the many discriminatory regional regulations (Perda), followed by four days of training on advocacy.[40] Training and education was an important part of the development of individual members of the Ardhanary Institute and contributed to the growth and maturity of the organization. As many members had been evicted from their homes at a young age or had left their homes themselves, their formal education was interrupted. This applied especially to the butches and the transmen, who then found it hard to find suitable employment. Agustine herself, who came from a well-established family had lived on the streets, selling bottled tea on trains to survive.

KPI had started providing training on issues related to gender and sexuality, and several Ardhanary Institute activists followed those courses. Slowly they developed an understanding of gender being fluid and contingent, not binary and stable, as the Indonesian *kodrat* prescribes. They shared this understanding with LBT activists all over Indonesia and especially after 2010 often were invited to become trainers or resource persons at universities or major NGOs.

Ardhanary Institute made conscious efforts to integrate FTM transgender persons into their organization. In the short-lived first lesbian organization (established in the early 1980s) Perlesin *sentul* incorporated a broad category of female-born persons who identified as more or less masculine.[41] Gradually those who felt that their bodies and their gender were not aligned and who did not identify as *sentul* but as men did not join the organization, nor any of the other LBT organizations during the New Order, nor did they join Sektor 15. As a result, they had no space to meet each other. Around 2010 the Ardhanary Institute started connecting with these persons, initially primarily through Facebook. This was not easy, as lesbian chat groups often rejected the members who came out as '*tg*' (transgender)—the popular abbreviation for the FTM persons at the time. The relatively new discursive category 'trans' fitted many of them and they formed a special group within the Ardhanary Institute.

Due to their emphasis on training and education, the team of the Ardhanary Institute successfully completed several research projects. Initially, these were set up in the framework of the Kartini Asia research on heteronormativity (2005–2009) and the research on female masculinities with the

[39] DSM is the Diagnostic and Statistical Manual; on Mental Disorders of the American Psychiatric Association.

[40] On the regional regulations see (Butt, 2010) and on its consequences for women's and sexual rights (Katjasungkana and Wieringa, 2016).

[41] Perlesian, Persatuan Lebian Indonesia, Union of Indonesian Lesbians, is the first lesbian organization in Indonesia, established in 1983 (Wieringa, 1999, 2007).

Kartini/Transsign team (2012–2014) (Wieringa, 2011). After building up their capacity for research methodology and data analysis they themselves implemented research projects on violence against LBT persons, conversion therapy, and the five-gender system of the Bugis (Agustine & Yolandasari, 2021).[42] They received assistance from researchers at the University of Indonesia. Several books were published by the team, which were used for training purposes and to make issues of gender and sexual diversity better known to university students.[43]

Ardhanary activists built extensive national and international contacts. Internationally they linked up with the APWLD (Asia–Pacific Women Law and Development) network, and in 2011 they became a full member. In that year also a representative of the Ardhanary Institute became a board member of ILGA-Asia, after several members had already attended congresses of the network such as in Chiang Mai in 2008. By 2016, when the wave of political homophobia spread, the organization had built a broad network with several major women's organizations and with LGBT organizations, health care providers, and safe houses. The Ardhanary Institute ultimately set up its own LBT crisis centre, at a secret location. They collaborate with lawyers from women's and other legal aid bureaus to assist the victims of domestic violence. They also operate a hotline and provide psychological help. This included violence within LBT households. They had also established strong links with various funding agencies and with international NGOs working in the SRHR sector. They used a wide variety of products, such as leaflets and a comic book on issues lesbians faced—health, discrimination in society and the workplace as well as bullying at school. They have always been very active on social media that became available in those years; besides their website, they have Facebook groups.

The SOGIEB *(*Sexual Orientation, Gender Identity, Expression and Bodies*)* model which originated in UN circles was found to be very useful in training with non-LBT persons. By 2010 the concept of LGBT had become common to denote people with a non-heteronormative gender or sexual identity. Societal, religious, and political homophobia centred around that notion. Speaking about SOGIEB allowed activists to avoid this inflammatory concept (Wijaya, 2020). Together with the Yogyakarta Principles they became the core of training modules for the media (in collaboration with the collective of *Jurnal Perempuan*) and law enforcers (Agustine et al., 2015a).

Due to the corona crisis and the homophobic backlash staff members and volunteers from the Ardhanary Institute presently mostly work from home.

[42] Lily Sugianto was the main researcher from the AI team. A film was produced on *calalai*.

[43] The first book was a compilation of translated chapters of the book *Female Desires* that Evelyn Blackwood and I had co-edited (1999). The Indonesian version came out in 2009. The second book was co-edited by Agustine and Evi Lina Sutrisno in 2013.

Through prudent financial management, they bought a small office in a backstreet of a popular neighbourhood (the street is not accessible by cars, so the pick-up trucks generally used in attacks by vigilante groups cannot enter). Their public activities have almost stopped due to the vicious backlash against LGBT communities that started in late 2015 (Pausacker, 2021; Wieringa, 2019a, 2019b).

Contingent and Fluid Identities

In the period discussed in this chapter, the first 15 years after Reformasi, LBT persons reflected on their own experiences in relation to a developing discourse on gender and sexuality; they realized that gender relations are fluid and their desires and identities contingent.[44] Fluidity means that neither gender nor sexual attraction is binary, neatly divided between the axes of female-male, and heterosexual-homosexual. With contingent identities, I refer to the different ways in which LBT persons presented themselves in various contexts—their families, their community of LBT friends, or in public places. In the 1980s the categories *kantil* (femme) and s*entul* (butch) were the most common identities available, and most female-bodied persons with non-heterosexual desires related to this terminology. From the mid-1990s however, discussions on identities widened. In a majoritarian Muslim country like Indonesia in which biological sex and gender identity are strictly divided into binary and hierarchical oppositions,[45] divinely sanctioned, this insistence on the instability of such categories is considered almost blasphemous in conservative circles.[46]

Though the gender binaries were questioned after Reformasi, this didn't mean they disappeared. Till now lesbian relationships modelled after butch-femme patterns exist. In the early years after Reformasi blurring of binary characteristics led to much confusion. In her study of a butch-femme community in Padang, Blackwood demonstrated that her narrators displayed varying levels of butchness depending on whether they were at home or among other members of their community (Blackwood, 2010). Our narrators too played with different layers of heteronormativity. If their passionate aesthetics in the 1980s publicly were aligned more or less along established heteronormative patterns, their relationships might blend in and they would not attract too much undue attention from their neighbours.[47] This resulted in the possibility that these individuals could be 'proud and out, but not as lesbians' (Wieringa,

[44] See for instance (Butler, 1993) and for Indonesian debates see (Agustine et al., 2015b). On contingency, see (Wijewardene, 2007; Blackwood, 2010).

[45] See (Blackburn, 2004; Brenner, 1998). See (Fealy, 2019) on the decline of tolerant Islam.

[46] See for instance (Kersten, 2015) on the struggle for Islamic values in Indonesia.

[47] See for a discussion on passionate aesthetics (Wieringa, 2016).

2007: 75). In the early 2000s this became increasingly difficult as the category of LGBT became more known publicly and as LBT persons themselves became more visible.

At the same time in an intense process of self-reflection, LBT identities proliferated. By the end of the first decade of Reformasi the researchers of the LBT group Dipayoni in Surabaya captured the diversity of identities young urban women in same-sex relationships assumed.[48] Of the 22 male-identified respondents 3 identified as *butchi*, 11 as male, 2 as lesbian male, 2 as transboy, and 1 each as in-between, trans/TG, confused/butch, tomboy/ FTM (Wieringa, 2011: 321, Table 11). Their partners identified as lesbian (3) heterosexual (9) or same-sex (10). In their relationships traditional gender patterns were dominant: 12 classified their relationship as *hubby-wifi*, 2 as papa-mama and 8 as *suami-isteri* (husband-wife) (Wieringa, 2011: 329, Table 12). Terms that were discussed but rejected by these respondents for public use were *belok* (twisted) and *wandu*, the traditional Javanese term used for both male-and female-bodied transgender people. *Belok* was used internally though, as a marker of not conforming to heteronormative expectations. The terms *sentul-kantil* were considered old-fashioned. They also rejected the Bugis terminology of *calalai-calabai*, as too ethnically specific. Transboy or LGBT on the other hand were seen as too Western by some. Another term that male-identified LBT narrators were often called is *banci*.

The broader inclusion of transpersons in the LBT movement during Reformasi was not easy and not even, but they became a large and identifiable contingent within the Ardhanary Institute. The change in terminology adopted by the organizations helped—Sektor 15 of the KPI and the Ardhanary Institute did not refer to themselves as exclusively lesbian, as earlier organizations did, but as fighting for the rights of sexual minorities and LBT persons respectively. So, the movement had become more inclusive and the choice for transpersons had become broader. They no longer had to identify either as *sentul* or as men—but could express their identities in a wider range of terms, *transboy*, *transpuan*, *tg*, *butchi*, etc.

In February 2010, the LBT community in Indonesia was confronted with a case of alleged forgery of identity. Alterina Hofan married Jane Deviyanti in Las Vegas on September 9, 2008. He was reported by his mother-in-law to the police, charged with sexual identity fraud, and imprisoned.[49] In the press Alter was sometimes referred to as a tomboy or as a lesbian. In the end, a chromosome test proved that Hofan was an intersex person with Klinefelter syndrome and could be classified as male. He was released. This case sparked

[48] In the framework of a research project of the Kartini/Transsign project which I coordinated a lesbian organization set up in Surabaya, Dipayoni, whose members carried out research on male-identified female-bodied persons in 2009. The results are incorporated in (Wieringa, 2011).

[49] The charge was based on the violation of Article 266 of the Criminal Code on forgery of identity, in conjunction with Article 263 of the Criminal Code and Article 378 of the Criminal Code on fraud (Wieringa, 2012).

great excitement in the LBT community, particularly among the FTM trans people. Many hoped they might be intersex, so they could be easily classified as male and marry their lovers. The Dipayoni researchers reported that ten out of a group of 27 FTM respondents believed to have male hormones. In an FGD with ten FTM trans people, three felt they had male hormones and one had it tested. As Rio happily explained: 'I checked it out in a hospital in Semarang. The results revealed that there are male hormones in my body. Therefore, I did a hormonal treatment. The medical evidence shows that I'm really a man. I'm not a transgender' (Wieringa, 2011: 326).

Among the FTM transpersons linked to the Ardhanary Institute a similar excitement erupted. A few had themselves tested, but nobody was classified as intersex. The FTM transgenders didn't want to be categorized as intersex, as the stigma of intersex and transgender people are similarly high, but to use the medical process to sustain their claims they were actually biologically (perhaps partially) men (Ediati, 2014).

Those identifying as trans tried to erase the most obvious female markers from their bodies, their protruding breasts. The ones lucky enough to have small breasts just bandaged them. Those with large breasts felt uncomfortable. As Danny confided: 'I do not like my breasts, men don't have breasts. I feel very embarrassed to my wife during lovemaking. I underwent acupunctural treatment. It was expensive, but it was quite successful. My breasts are smaller and flatter, I can bandage them' (Wieringa, 2011: 327). Their partners were not always helpful. As Joe complained: "The *pemmeh* (femmes) like *butchies* who have a flat chest. A *butchie* with big breasts will be ridiculed by them.' To have a manly voice was much appreciated among the male-identified narrators. Surya, the *suami* of Nuri, considers himself to be a man. But he didn't want an operation, as it wouldn't make any difference to their lovemaking, he stressed. Nuri said proudly that Surya often sings *dangdut* songs. But that though her man is so *cakap* (handsome) he really has such a womanly voice.[50]

Conclusion

In this chapter, I analysed how lesbian women shed off their invisibility in New Order Indonesia, and demanded a place in public life after the fall of the dictator General Suharto in 1998. The spread of the internet became an important tool, and spurned by the emerging women's rights movement, the language of rights was adopted. In this period LBT activism grew and managed to establish strong networks with women's and human rights organizations. From small inward-looking groups during the New Order, LBT groups established themselves as actors in the wider field of civil society activism. The more individual activists came out and LGBT organizations became public, advocating for their rights, the stronger homophobia grew, in the form of verbal abuse by conservative figures and raids by thugs linked

[50] Meeting at house of Surya and Nuri, January 21, 2004.

to hardliner Muslim groups; later spearheaded by political figures, as discussed elsewhere (Wieringa, 2019a and b; Wijaya, 2020). In this phase a space opened to reflect on one's identity. Feminists criticized the gender binary, arguing that gender is fluid, and that gender relations are about power (Butler, 1993). The evolving lesbian movement charted a careful course between the women's movement which saw them as 'stepsisters', and the gay movement which treated them like the second sex.[51]

Foreign funding became available, initially mainly directed at gay men and *waria* but under the banner of sexual health some LBT organizations could redirect their training activities to be included in these programmes. From the early 2010s, the UN language on SOGIE began to be adopted by LGBT organizations as more neutral than the stigmatized category LGBT and *gay* or *lesbi* (Gayatri, 2015; Wijaya, 2020).

Exposure to the growing body of international sexuality studies through training and international contacts led to increasing reflections on identity, culture, and embodiment. A plethora of self-definitions developed, particularly among male-identified persons, ranging from the accepted categories of male and *sentul* to tomboy, transboy, transgender, *priawan*, and *butchi*. While women identifying as lesbians (no label, andro) started developing non-binary perspectives on sexuality, FTM individuals followed a binary-gendered, yet non-heterosexual model. This led to internal debates in LBT circles, but not to a separation, as in the West. Female masculinity was understood as a pervasive but locally distinct phenomenon firmly located in local patriarchies, deeply challenging Indonesia's construction of women's nature (*kodrat*), since 1965 reinforced by state ideology and religious conservative groups.[52] The non-normative female-bodied persons with a man's soul do not just hold up a mirror that reflects normative masculinity, but diffracts that normalcy, highlighting certain aspects (dress, behaviour), and ignoring other ones. The entanglement of the biological (genetic), psychological and socio-cultural aspects in processes of identity formation were the topics of fierce discussions. As Barad formulates: 'Neither discursive practices nor material phenomena are ontologically or epistemologically prior… Neither has privileged status in determining the other' (Barad, 2006: 26). Identities are not fixed, but contingent, as becomes clear in an analysis of *tomboi*'s subject positions (Blackwood, 2010). For FTM individuals experience their maleness not only in their souls, to which they often refer, but also as deeply rooted in their bodies.

[51] She concluded 'we become like garlic among the onions'. To the article a bitter poem is added, entitled *Satir* which contains the following lines. 'How happy I would be to know you do not see a leper before you/Nervously groping with her rotten finger/Making a space between us/Or perhaps I am just a flower eater to you/With savage passion devouring every breast or thigh I see/So you can do disgusting things next to me (Jeumpa, 2001).

[52] The term female masculinities was coined by Halberstam (1998). On Asia see (Blackwood and Wieringa, 2007). For Indonesia see (Blackburn, 2004; Brenner, 1998. Suryakusuma, 1996; Wieringa, 2002, 2003).

The early and consistent alliance between the LBT and the women's movement is related to the realization that both groups are confronted with similar stigmas, namely that women are seen as the source of *maksiat* (immorality). Therefore, lesbians have always been confronted with more stigma than gay men. If a woman is yet to be married at a certain age, society labels her a spinster, bringing social shame to the family. Therefore, lesbian women have always been in danger of being married off forcibly. That pressure is less on gay men, as society is more tolerant of them and *waria*, because men have a place in public life. All through this period homosexuality was labelled as a sin, a crime, or an illness, or all three combined, by diverse conservative groups.

So, the LBT movement differs from gay groups—they are more invisible, and face greater family pressure. They are less able to access funding. But they are politically more astute as they have been more exposed to feminist debates on patriarchy. They also differ from Western lesbian movements in this period, as trans persons and b/f relations have been accepted under the LBT umbrella, although that has not always been easy. Also issues like coming out and marriage equality have had different connotations in Indonesia than in the West.

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CHAPTER 31

Making Claims Modestly: The Norms and Discourse Driving Land Conflicts in Rural Indonesia

Ward Berenschot, Ahmad Dhiaulhaq, and Nisrina Saraswati

Introduction

On 11 March 2019, after several days of demonstrating outside government offices in Riau's provincial capital Pekanbaru, representatives of the village Koto Aman were finally invited for a hearing with both the governor and the district head. This meeting took place no less than 12 years after villagers started to voice their complaints about PT Sekarbumi Alam Lestari (PT SBAL). This palm oil plantation had, the villagers claimed, taken 1500 hectares of their land. To recover this land, villagers had organized several large demonstrations and on three occasions they had blocked the entrance to the plantation. They had succeeded in attracting the attention of President Joko Widodo, who had promised to look into their case. This gave community leader Dapson an opportunity to present the villagers' claims to Riau's highest authorities. Newspapers later recorded his words in the following manner: "We ask the governor, with humility, as a representative of the community, to be

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_31

wise and sensible in resolving this issue in a fair and wise manner. We are tired of receiving promises, sir. For years we have struggled and have never received anything real or certain, apart from promises" (Monitor Riau, 2019).

In this chapter, we analyse how rural Indonesians involved in land conflicts formulate their claims vis-a-vis companies and the government. The statements that community leaders like Dapson make during demonstrations and hearings, provide an extraordinary, yet largely unstudied window onto prevailing political norms and, consequently, onto the character of citizenship in Indonesia. Given the 'legal and institutional pluralism' (Sikor & Lund, 2009) shaping land conflicts, these articulations of claims by citizens like Dapson reflect both an assessment of what kinds of discourse are effective in Indonesia's public sphere (i.e. 'what works') as well as an assessment of the kinds of norms and values that might legitimize a claim (i.e. 'what is fair, or right'). These articulations provide an avenue to move beyond often rather elite-centred studies on political ideology in Indonesia and focus, instead, on the ideas and norms of ordinary Indonesians. Indonesia's authoritarian New Order regime propagated a corporatist ideology which envisioned the state as a benevolent father and emphasized social harmony and obedience (Bourchier, 2015). By focusing on the discourse of ordinary rural Indonesians, we can assess whether, and to what extent they do, in fact, still subscribe to or are influenced by the New Order's interpretation of citizenship, as some analysts (Bourchier, 2019; Mietzner, 2012; Warburton, 2016) have suspected.

The conflicts sparked by the rapid expansion of palm oil plantations—doubling almost every decade—provide a fruitful opportunity for such an inquiry. Throughout Indonesia communities are engaging in demonstrations, hearings, court cases and, occasionally, violence to protest against land grabbing. Employing a large collection of articles describing protest events involving ten conflicts between rural communities and palm oil companies, we ask: how do rural Indonesians formulate their grievances, how do they legitimize their claims vis-à-vis companies and local authorities, and what moral registers are reflected in these legitimations?

To address these questions, we analyse 66 online as well as printed newspaper articles containing interviews with community representatives concerning ten such palm oil conflicts, often taking place on the sidelines of demonstrations or road blockades. Such newspaper statements are particularly apt to study political norms and discourse because of their public nature. In contrast with comments made during private interviews with researchers, these newspaper statements reflect strategic considerations of community spokespersons about which discourse is most effective for drawing support and to legitimize their claims. We filtered out third-party statements in order to focus solely on the discourse of community members. To identify and contextualize this material, we made use of our recent collaborative effort to document the trajectories and outcomes of 150 conflicts between palm oil companies in Riau, West Sumatra, West Kalimantan and Central Kalimantan using interviews, government and NGO reports as well as the newspaper archives from

2009 to 2018 of four regional newspapers (*Padang Express*, *Riau Pos*, *Kalteng Pos* and *Pontianak Pos*). For this article, we selected ten of these conflicts (Berenschot et al., 2022a for the full analysis of 150 cases) which all involved similar grievances about companies having taken community land without consent (we excluded conflicts involving grievances about pollution, profit-sharing or labour issues) and for which we had at least four newspaper articles. For these ten cases, we collected and analysed newspaper articles containing interviews with community representatives, often taking place on the sidelines of demonstrations or hearings with politicians.

We find that the political discourse adopted by protesting rural Indonesians is marked by a remarkable absence of both conceptions of citizen rights as well as notions of social justice. Protesting rural Indonesians tend to adopt a discourse that, like Dapson above, is not only very modest and polite, but also tends to articulate claims in terms of social obligations and customary land rights while rarely invoking laws, regulations or conceptions of fairness or justice. We suggest that this discourse not only contrasts sharply with land conflicts in other countries but also with the discourse that rural Indonesians employed in the 1950s before the advent of the New Order. This modest and relatively 'rightless' discourse is, we propose, a consequence not only of power imbalances and the weak legal protection of land rights of rural Indonesians, but also of the 1965 political genocide and the subsequent authoritarian New Order regime, which succeeded in eliminating notions of social justice, especially over land (re)distribution, from public debate and political discourse.

This essay proceeds as follows. We will first discuss our approach to studying the discourse that communities employ when engaged in land conflicts with companies. After a short introduction to the nature of land conflicts between companies and communities in Indonesia, we explore the discourse that communities employ to make three types of claims: their actual claim to land, their demands concerning government involvement, and their claims in response to the criminalization of protest leaders. We end by proposing our explanations for the particular discourse that we encountered.

Studying Claim-Making in the Context of Plural Normative Registers

Citizens involved in land conflicts can engage in 'discourse shopping' (Biezeveld, 2004) in the sense that they avail of a range of different normative registers to legitimize their claims vis-à-vis companies and local authorities. Studies of land conflicts in Indonesia have tended to emphasize a normative register involving customary (in Indonesian: *adat*) land rights (Berenschot & Afrizal, 2022) as communities often legitimize their claims by invoking the norms and rights associated with (local) customary rule systems (Davidson & Henley, 2007; Dhiaulhaq & McCarthy, 2020). Alongside this *adat*-based discourse rural-Indonesians might also adopt a legal discourse involving a strategic usage of state laws and citizen rights (Berenschot et al., 2022a,

2022b). In this vein, Lund (2020) has argued that the tenuous and contested nature of land ownership in Indonesia has stimulated both communities and companies to engage in a strategic invocation of laws and procedures in order to give land claims an 'air of legality'. The literature on contentious politics and resistance in Southeast Asia highlights yet another type of normative discourse: James Scott, for example, argued that a prevalent normative register concerns a 'subsistence ethics' centring on economic and social needs and shape moral standards and discourse. Peasants in Southeast Asia are, according to Scott (1977: 7), not so much concerned with 'how much is taken' but rather with 'what is left'. Discussing peasant protests, Scott argues that "[i]t was the smallness that was left rather than the amount that was taken (…) that moved peasants to rebel" (Scott, 1977: 11).

Given this availability of different normative registers to inform the discourse that rural Indonesians might employ to legitimize their (land) claims, some analytical distinctions are needed to identify and compare the usage of these different registers. To that end, and taking inspiration from studies of claim-making and citizenship elsewhere (Holston, 2008; O'Brien & Li, 2006; Rodan & Hughes, 2014), we propose that four different normative registers can be identified: rights-based, customary land-rights (adat-) based, needs-based and justice-based.

With 'rights-based' we refer to claims that are motivated and substantiated with references to legal provisions and formal state regulation. Describing such claim-making of communities in China, O'Brien and Li (2006, 3) coined the term 'rightful resistance' to capture the way in which communities strategically invoked laws and regulations to discipline local powerholders: "In their acts of contestation, which usually combine legal tactics with political pressure, rightful resisters typically behave in accord with prevailing statutes [and] use a regime's policies and legitimating myths to justify their challenges". Similarly, in Vietnam, Kerkvliet observed that "villagers typically claim local officials are violating laws and regulations" (Kerkvliet, 2014: 39) while a study on the 'rightful resistance' of land-related protest movements in India and Brazil also concluded that their discourse involved "highlighting gaps between constitutional principles, laws, and national policy directives and their nonimplementation or violation on the ground" (Schock, 2015: 500). These studies highlight that rural protesters regularly take their grievances to court, combining "legal tactics with political pressure" (O'Brien & Li, 2006: 3).

With '*adat*-based' we refer to the above-mentioned claims to land that involve an invocation of customary or indigenous land rights—i.e. claims to land that are substantiated by invoking local traditions in managing access to land. With 'needs-based' we refer to claims that are legitimated by invoking the importance of land for sustaining livelihoods (Holston, 2008: 240–245). This includes a discourse that reflects Scott's 'subsistence ethics' by referring, for example, to how the loss of access to land generates hardship and poverty. Lastly, with 'justice-based' claims we mean claims that are substantiated in terms of ideas about fairness and justice in ways that are not related

to legal provisions (or *adat*) but rather to alternative, non-legal notions of what is fair and morally just. Rodan and Hughes (2014: 12, 4) argued that such claim-making is particularly salient in Southeast Asia. They define such 'moral ideologies' in terms of "conformity to received codes of behavior [that] assumes pre-eminence in evaluating the conduct of power holders. This includes the recasting of cultural identity, ethical thought, and religious teaching". Such a discourse thus involves the invocation of social norms as well as ideas of social justice and solidarity.

This categorization of four types of framing of claims is admittedly rough and somewhat overly schematic. Yet, as we hope our analysis will show, this categorization can help to analyse not just the recurring elements in this discourse but also help to identify the elements that are conspicuously absent.

A Brief Introduction to Land Conflicts in Indonesia

Before embarking on our exploration of the discourse that rural communities employ, we briefly introduce the character of these land conflicts. An important root cause of these conflicts concerns Indonesia's weak land tenure system and particularly the way in which the Indonesian state curtails the land rights of Indonesian citizens (Afrizal, 2007). Building on Dutch colonial laws, after independence the Indonesian state has designated vast areas of its land—currently encompassing around 63% of Indonesia's territory—as forest areas (*kawasan hutan*), which consequently fall under Ministry of Environment and Forestry (MoEF) authority. In these areas, Indonesian citizens cannot obtain formal ownership of the land, while land-titling as well as registration of public ownership records in non-forest areas is limited. With this limited registration of (and access to) formal land ownership, most rural Indonesians are forced to rely on customary law and more informal methods of land registration to organize their land dealings. This restricted land ownership has served the Indonesian state and its ruling elites well: the Indonesian state can claim control over large swaths of territory and, consequently, it can provide this land to (palm oil or timber plantation) companies in the form of concessions. It is a public secret that those in control of awarding these concessions—local politicians as well as local and national bureaucrats—are extracting considerable rents from companies (KPK, 2016; Gecko Project, 2017)—which constitutes an important reason for why these elites are so reluctant to strengthen the land rights of ordinary Indonesians. This situation inevitably sparks conflict: the Indonesian state is providing companies with concessions for land on which rural Indonesians have been living and working for generations. Affected communities feel that their land is being stolen from them, while their legal position is actually weak. In contrast, palm oil companies have a firm legal basis for appropriating land while communities lack formal land titles and, hence, stand relatively little chance in court.

To address this problem, both the Indonesian government as well as the palm oil industry have prescribed two types of solutions. On the one hand,

companies are required to obtain informed consent from affected communities before commencing operations. This includes an obligation to provide monetary compensation. Secondly, companies incorporating community land into plantations are required to set up profit-sharing schemes, often referred to as *inti-plasma* schemes in Indonesia. Here the *inti* refers to the company share, while *plasma* refers to the part of the plantation (currently around 20% of the total land ceded by communities) provided to communities. Communities are in theory entitled to all the profits from *plasma* land minus the expenses the company incurred in planting and cultivating the oil palm trees. Both these 'solutions' turned out to be a major source of conflicts. As we discuss in greater detail elsewhere (Berenschot et al., 2022a), companies often obtain community consent in a very haphazard manner, focusing their efforts (and inducements) on getting a signature from the village head while often neglecting to involve the rest of the community. Not infrequently this means that affected individuals get no, or very little (between 80 and 250 dollars per hectare) financial compensation. Similarly messy is the implementation of these joint-venture schemes. Often, companies renege on their promise to provide the community a share of the profits from *plasma*, or this scheme is implemented in a highly non-transparent manner leaving communities with very little profit.

These grievances generate lengthy conflicts: during (on average) 11 years communities engage in demonstrations, road blockades, public hearings, press conferences and occasional court cases to pressurize companies to cede to their demands (Berenschot et al., 2022). As our own research as well as a range of case studies have documented (Afrizal, 2007; Colchester & Chao, 2013), communities tend to fail in these efforts as land is rarely returned to them, while companies rarely meet demands for (more) monetary compensation or the provision of promised plasma land.

This intractability of palm oil conflicts should be understood in the light of Indonesia's highly clientelistic political system, which incentivizes palm oil companies to engage in collusive exchange relations with state officials in order to navigate regulatory procedures (Aspinall & Berenschot, 2019). Indonesia's democratization process after the fall of Suharto (in 1998) and the availability of democratically elected members of local parliaments (DPRD) and, since 2004, district heads have provided protesters with new avenues to advance their grievances. Yet at the same time these new, competitive elections have intensified the relationships between politicians and business actors. In return for campaign donations, elected politicians help palm oil companies to circumvent existing regulations including protections of citizen rights.[1] Indonesia's highly clientelistic politics thus greatly complicates the resolution of conflicts. It is frequently argued that Indonesia's democracy is an 'oligarchy' since many politicians are either wealthy entrepreneurs themselves, or reliant on such rich

[1] This circumvention of regulation is well documented by various NGO reports (Greenpeace, 2021).

campaign donors (Ford & Pepinsky, 2014). An important effect of these close collusive relationships between business actors and political elites is the weak regulatory capacity of the Indonesian state. As a range of critical reports has documented, companies often operate without proper licences, fail to fulfil to obtain community consent, and do not respect environmental regulation, because they know that such violations have relatively little consequences (Gecko Project, 2017; Greenpeace, 2021).

This broader context—particularly the curtailed nature of land rights and the weak regulatory capacity of the Indonesian state—can help explain why, as we explore in the next section, laws and notions of citizen rights figure relatively rarely in the discourse that rural Indonesians employ to reclaim their land.

Claiming Land Ownership

We start by examining how communities articulate and legitimize their claim to land. In all ten cases, the communities claimed that palm oil companies had engaged in land grabbing and taken control over land that was theirs. For example, in West Sumatra, the *adat* community Tanjung Manggopoh complained that the company PT Mutiara Alam had taken 2500 ha of community land in 1988. They have struggled since then to recover this land. In West Kalimantan, communities tried to prevent the company Sinar Sawit Andalan from converting their land into a plantation without paying any compensation. In some cases (such as PT RASR, PT SBAL and PT BPK) communities demand that the company return their land to them, but in most cases they settle for more modest demands of financial compensation (*uang ganti rugi*) and profit-sharing to compensate for the loss of land. So how do communities formulate and legitimize such land claims?

In Table 31.1 we provide for each of the ten cases that we studied an overview of all the statements of community members that we found in the newspapers that involved an explicit claim to land, employing the distinction between different normative registers we developed above. As it turned out, even these 'most explicit' land claims are often highly implicit as an effort to legitimize a land claim is often absent.

This table yields a number of surprising conclusions. A first observation is that community representatives rarely offer elaborate legitimations for their claim to land. Of the 51 analysed statements directly involving a claim to land, 23 do not offer any legitimation beyond simply claiming ownership. Given the above-mentioned tenuous legal status of land ownership in Indonesia, this is remarkable: in such a situation one might expect more discursive activity to strengthen legally weak claims to land ownership. In that light, it is similarly remarkable that community representatives rarely talk about their claims in terms of citizen rights and, relatedly, government regulations. The word 'right' does figure in 11 of these claim statements, but when the term 'rights' is used, this is rarely accompanied by an effort to articulate specific rights and

Table 31.1 Community representatives formulating land claims

Company	*Claim Statement*	*Claim-frame*	*Occasion*	*Source*
PT Suryamas Cipta Perkasa	"We ask for clarity on the price and when the compensation will be paid by the company", said Anto, a representative from the community	No legitimation	Demonstration at Bupati Pulang Pisau Office	Kalteng Pos, 10/06/11
PT Rezeki Alam Semesta Raya	"The community asks that the land be returned to the community" (…). In Sei Ahas Village, the community that claims to be the owner of the land has harvested the palm oil fruit [planted by the company]. "We took what was rightfully ours. Because it's on our land", they said	No legitimation	Hearing at Bupati Kapuas Office. Protest harvesting at PT RASR's plantation	Kalteng Pos, 13/09/13 & 10/07/15
PT Mutiara Agam	"We are tired and fed-up. So far we have always been pressured by PT Mutiara Agam. What we are doing is to demand our rights as plantation owners" (…) Meanwhile the land is *ulayat* [customary] land of Tiku and there is part of Tanjung Manggopoh's *ulayat* land"	Rights-based and adat-based	Demonstration at Lubukbasung District Police Station	PadangEkspres, 23/12/11 & 12/10/12

Company	*Claim Statement*	*Claim-frame*	*Occasion*	*Source*
PT Globalindo Agung Lestari	"If we can't resolve this problem [of land taken without consent] within the allotted time, we ask PT GAL to stop activities on the disputed land area, and they must leave the location", he said	No legitimation	Demonstration at DPRD Kapuas Office	Kalteng Pos, 16/03/10
PT Antang Ganda Utama	"We will continue to block the road until the rights of the community are returned. We do this to avoid being lied to or getting just sweet promises", (…)	Rights-based	Blockade of the plantation of PT AGU	Kalteng Pos, 16/03/11
PT Sekarbumi Alamlestari	"Our demands remain the same. We ask for the 1500 hectares of land possessed by PT Sekar Bumi Alam Lestari (SBAL) to be returned as soon as possible"	No legitimation	Demonstration at DPRD Riau Office	Riau Online, 11/03/19

(continued)

Table 31.1 (continued)

Company	*Claim Statement*	*Claim-frame*	*Occasion*	*Source*
PT Kaliau Mas Perkasa	"We came here to demand our rights which had been usurped by PT Kaliau Mas Perkasa (KMP). Since 2008 until now 2018, so approximately 10 years, the land that we own has been confiscated or robbed by the PT KMP company". […] According to him, for 10 years the farmers have struggled a lot to get their rights back. From meeting to meeting, but to no avail	Rights-based	Demonstration at Bupati Sambas Office	Pontianak Tribun News, 16/04/18
PT Sinar Sawit Andalan	"Our demands are to stop land clearing because it violates the law, violates customary rights. [The company] never did the correct socialization"	Rights-based and adat-based	Demonstration at Human Rights West Sumatra Office	Pontianak Post, 17/03/13

Company	*Claim Statement*	*Claim-frame*	*Occasion*	*Source*
PT Sintang Raya	"We, as a community, ask for protection from the authorities. Our land has been confiscated by the company". […] Chairman of the Farmers Union, Muhammad Yunus, said that since PT Sintang Raya started its activities, the community has lost the right of the land. […] "Our houses, farms, rice fields and the area where we look for food have been seized by PT. Sintang Raya's Right to Cultivate (HGU)"	Rights-based and needs-based	Demonstration at West Sumatra District Police Station	Pontianak Post, 21/11/11
PT Bumi Pratama Khatulistiwa	Saderi, a resident of Parit Tenaga Baru, refused to hand over a land area of about 242 hectares. He considered from the beginning that the process was full of deceit. His father, Pak Selatan, never signed the land handover agreement. However, his name is listed on the list of residents who gave up the land. "So, until now I am still fighting for my father's land", said Saderi	No legitimation	–	Mongabay, 26/11/2012

their legal basis. A number of the quoted community representatives do talk about 'getting their rights back' (*kembalikan hak*) or 'claiming our rights' (*menuntut hak*) but these phrases do not seem to refer to any particular notion of formal citizen rights, let alone regulation. Instead, in most instances such formulations simply seem to be alternative formulations for stating a claim to land. In other cases (as in the cases of PT Mutiara Agam and PT Sinar Sawit Andalan), the spokespersons actually seem to be referring to customary land rights rather than citizen rights. This highly limited 'rights-based' discourse resonates with the fact that community representatives rarely invoke government regulations or laws: in all 51 statements that we examined for this study, community representatives mentioned a letter written by a district head only twice, while they never mentioned laws or government regulation.

In short, compared to the literature on 'rightful resistance' that emphasizes the regular invocation of rights and laws in other countries, the discourse of communities involved in land conflicts in Indonesia reported in newspapers rarely revolve around regulations or explicitly articulated notions of rights. Such an observation also stands in remarkable contrast with Lund's analysis in his book *Nine-tenth of the Law*, where he argues that the tenuousness of land tenure in Indonesia has sparked elaborate attempts to bestow property claims with an 'air of legality' through a strategic reference of law. The aim of such 'legalisation', Lund (2020: 6) argues, is "the successful persuasion that a claim to land and other resources is legal (…) with reference to the law". Our tentative explanation for why we did not find this postulated importance of 'legalisation' in our material is that Lund focuses mostly on more better-off actors in peri-urban Indonesia who—in most cases—actually maintain or have obtained control over land. —For rural Indonesian 'have-nots'—who have just lost their land to palm oil companies and who harbour a considerable distrust towards legal institutions because of their corruptibility and tendency to side with corporate interests—the law tends to be perceived as a foe rather than an ally. Such perceptions of (and experiences with) legal institutions makes a legal discourse much less attractive.

A second observation concerns the relative absence of both justice-based and needs-based justifications of claims to land. The interviewed community representatives do not invoke wider conceptions of justice, and we encountered only one reference to how and why they need this land for their livelihoods. A particularly remarkable feature of the newspaper statements that we examined—including those discussed further below—is the absence of a broader discourse emphasizing notions of fairness and justice in how access to land is organized. These newspaper statements suggest that rural Indonesians do not articulate land conflict issues in terms of a violation of ideas about social justice. This is remarkable not only in comparison with land struggles elsewhere, but also in comparison with earlier periods of Indonesia's history. Indonesia had a strong communist movement particularly in the 1950s and 1960s, that successfully promoted a redistribution of land, using a discourse that was full of references to the notion of social justice and equality.

The discourse that we encountered in our newspapers is a far cry from the much more radical visions of land distribution promoted by Indonesia's communist movement. The absence of ideas of social justice in our newspaper articles provides further evidence that the political genocide of 1965—in which an estimated 500 thousand people suspected of being communists were killed, and the communist movement was crushed—and the subsequent New Order propaganda has been very effective in cleansing political discourse in Indonesia from visions about social justice, equality or fairness (Hadiz, 2006). As Lucas and Warren (2013: 14) describe, during the peak of the New Order era, rural landholders faced the risk of being considered "antidevelopment", "subversive" or "ex-communist" if they attempted to exercise their right to refuse any land acquisition for 'development' purposes. As a result, most people surrendered their land rather than risk being subjected to intimidation or attack. This labelling of people propagating land rights as 'communist' continued in post-Soeharto era. As the Indonesian Legal Aid Foundation (YLBHI) wrote in a press release in 2016, sometimes activists who are advocating land rights and redistribution were accused by state apparatus (notably from military background) of being communists or attempting to resurrect communism in Indonesia (YLBHI, 2016). Our material suggests that rural Indonesians involved in land conflicts seem to lack (access to) a discursive repertoire about social justice, and that the fall of the New Order in 1998 has not (yet) led to a revival of a discourse that was much more common in the 1950s and the early 1960s.

In that light, it is similarly remarkable that communities formulate their claims to land in relatively modest and polite terms. The community spokespersons 'request' (*meminta*) the return of their land (PT RASR) or 'request when clarity about monetary compensation can be given' (PT SCP) and they 'ask PT GAL to suspend their activities'. These spokespersons do use harsh words for the behaviour of companies (*'dirampas', 'dicaplok', 'diserobot'*: all words referring to expropriation). Their complaints concern the significant loss of land and sources of livelihoods. Yet such grievances do not translate into strongly worded claims. The claims that community leaders voice are generally quite modest, as the studied communities do not refuse the arrival of the plantation and they tend to focus on asking for relatively little monetary compensation—from our study, it appears that communities receive between Rp. 500,000 (about USD 35) per hectare in 2004 to Rp. 2 million (about USD 140) in 2014, with twenty to forty dollars added for land planted with cash crops such as rubber (Berenschot et al., 2022). Furthermore, these modest claims are also formulated in very modest terms. The community representatives rarely 'expect' or 'demand' something from governments or companies. Instead, they tend to 'ask' (*meminta*) for it, and they do not come across as particularly angry about the fact that such requests have gone unfulfilled for so long.

This peculiar discourse—polite, relatively devoid of both notions of social justice and references to laws—can be partially attributed to the strong power

imbalances that characterize these land conflicts. In most cases, communities simply lack the contacts, resources, skills and legal opportunities to force these powerful and wealthy companies to accede to their demands, and their discourse reflects this reality. But this discourse also needs to be interpreted in light of the reliance of communities on informal mediation to settle these conflicts. As litigation and formal complaint procedures are ineffective avenues, communities tend to use their demonstrations and the accompanying discourse mainly to get companies to engage in negotiations. This partly explains the modest and polite tone that community spokespersons adopt and, as we document elsewhere (Berenschot, 2022a), the relative lack of violence from protesting community members towards companies (while company security and police are more commonly violent against protesters). Because of this reliance on mediation and, relatedly, support from local authorities, communities face incentives to maintain good relations and open lines of communication with both company representatives and government officials.

Claiming Government Support

An important feature of the strategies that communities employ is that communities attempt to get the local government to investigate their claims and, subsequently, pressurize the company on their behalf. As direct negotiations with companies tend to fail, and as litigation is often not an option, communities tend to pin their hopes on getting local governments to take up their grievances. The hope is that local authorities either cancel plantation licences (which rarely happens) or they agree to organize and chair mediation sessions with the company. We found this kind of government-led mediation sessions is, in fact, the most commonly pursued conflict-resolution strategy, taking place in five of the ten cases we studied. This government-centred strategy is observable in both the protests and the discourse that communities employ. Many community demonstrations take place in front of government offices, and the main message of these protests does not concern grievances about company behaviour, but rather claims about how the government should respond to such grievances.

A number of examples can serve to illustrate how communities express such claims for government involvement. In the case of the conflict between villagers of Tiku V Jorong, Tanjung Manggopoh and PT Mutiara Agam, villagers demonstrated in front of the office of the district head of Agam district, allegedly coming close to burning down this office. Journalists quoted community leaders as follows: "We request [*minta*] mr. District Head to take sides with the community. [Please] cancel the decision letter made by the District Government team of Agam District in the past which said that our territory was included in the concession permit (HGU) of PT MA". In the case of PT AGU, community members expressed a common frustration about a lack of follow-up from the local government: "During the meeting in October 2012 it was agreed that a team [of local officials] would come to

the location [to collect facts] related to the land conflict and farmers, but in reality there has not been any follow-up" (Radarbarito, 2012). In the case of PT KMP, community members stated that "we hope [*mengharapkan*] a firm stance from the Sambas Regency Government regarding this long-standing issue. Due to the history in Sambas Regency to this day, the Sambas Regency Government has never dared to take a firm action against violations committed by the company [engaged in] the expropriation of community land. We claim our land back" (Tribun Pontianak, 2018).

A somewhat special example concerns the conflict with PT SBAL—the case with which we started this article. To pressurize PT SBAL the community had made use of an election campaign visit of President Jokowi in late 2018 to extract a promise that he would look into the matter. Four months later, the community invoked this symbolic support from the president by staging a demonstration in front of the Provincial Parliament (DPRD) and National Land Agency (BPN) of Riau Province, where they stated that "we came here to collect the promise of President Jokowi. He promised that he would finish the case of land grabbing perpetrated by PT SBAL. This promise still rings in our ears (…) but until now, the promise has remained a promise. There is no proof [of action]" (Gunawan, 2019; JawaPos, 2019).

While such claims for government support are somewhat different from claims to land, they reflect a similar pattern. This similarity goes beyond the once more very polite language of communities 'requesting' and 'urging' their government. Here too we can observe an absence of a broader discourse about government duties or (its task to further) social justice. And again a legal discourse is absent. Instead, remarkably, community representatives tend to legitimize their claims by invoking *social norms*—such as the need to fulfil a promise (in the case of PT SBAL) or to implement a previous agreement (in the case of PT AGU). When communities demand the local government to end corporate violations (as in the case of PT KMP), they do not elaborate on what government regulations prescribe but rather use language like *berani* (dare) and *tindakan tegas* (firm action) which again appeals to social norms about desired behaviour rather than legal or procedural norms. With such statements, communities pressurize local authorities not on the basis of what formal procedures or laws might prescribe, but rather on the basis of prevailing social norms.

Claiming Fair Treatment

As we discuss in detail elsewhere (Berenschot et al., 2022a), a noticeable and worrying feature of palm oil conflicts is that they often lead to the arrest and imprisonment of community leaders. In the 150 conflicts that we studied, we documented 789 arrests involving 63 (or 42 per cent) conflicts. The prompt police action in response to minor or sometimes even fabricated violations of villagers stands in stark contrast with the tolerance of local authorities towards the (licence-) violations of companies. These frequent arrests often seem to

take place at the behest of palm oil companies, as they serve to discourage protests and sap the mobilizational capacity of communities.

These arrests often lead to demonstrations of communities against the criminalization ('*kriminalisasi*') of their leaders. The statements made during such protests provide another interesting window onto the discourse driving land conflicts. Let us, for example, return to in the case of SBAL with which we started this article, involving 1500 ha of disputed community land. After organizing several successful demonstrations to demand the return of this land, community leader Dapson was summoned for interrogation by the local police. When Dapson refused to report to the police station, he was arrested and charged with sedition and inciting disturbances. In response, the community started to a minor occupation by setting up tents inside the plantation with signboards saying "Give us back 1500 hectares of land, drive PT SBAL away from Koto Aman" and (in reference to the above-mentioned promise of Jokowi and the foreign ownership of PT SBAL, "Mr. President, you were duped by Riau officials, Riau officials became foreign stooges". During these protests, community leader Anton was quoted as follows: "The people of Koto Aman Village will continue to stay in this place until there is clarity on the land, and demand the Riau Police to release the (…) field coordinator, Dapson, who has been arrested and secured at the Riau Police, which has not yet been granted".

In the case of PT Sintang Raya in West Kalimantan, villagers faced a similar challenge. In this case, a key community leader (the village head) had also been arrested after organizing several protests. This arrest prompted residents of the six villages surrounding the plantation to organize a big demonstration in front of the office of the district head. They demanded the return of the land, but also complained about the unfairness of the arrest of their village head. One villager was quoted as saying, "How can PT Sintang Raya, which does not have a permit, employ the law against our village head. Meanwhile, residents who want to file a legal process always end up losing. Obviously this is a form of oppression". And another villager said, "We can't fight back, because we're always being bullied. We can only cry in our hearts. That is why we ask for the protection [*perlindungan*] of the West Kalimantan Police Chief" (Pontianak Post, 2011).

A third conflict involving arrests of community leaders, concerns PT Sinar Sawit Andalan (PT SSA). In a hearing with officials of regional office of the Ministry of Law and Human Rights (Kemenkumham), Sofian, a community activist as well as a lecturer at Kapuas University, stated that since PT SSA started its operation, 60 villagers have been jailed after being accused of harvesting palm oil bunches from the disputed land. "Companies evict community rubber lands as if there is no law to take action against them, but if residents destroy oil palm plantations, the authorities are quick to arrest them, regardless of the juridical and social aspects", said Sopian. "There are many things that have happened, there is *kongkalikong* [collusion] between the government and companies [which results in] the buying and selling

permits, and the falsification of environmental impact assessments" (Post Kota Pontianak, 2015).

These remarks from villagers protesting against criminalization provide another illustration of the limited role of laws and notions of rights in the discourse driving land conflicts in Indonesia. These complaints concern very clear violations of citizen rights, as such arrests serve to prevent citizens from exercising their right to protests. Furthermore, these arrests seem to have questionable legal grounds likely made up at the behest of (and with bribes from) palm oil companies. Yet community spokespersons do not discuss these arrests in terms of violations of rights or laws. Instead, villagers either emphasize their powerlessness ('we are always bullied and we can only cry in our hearts' and 'we ask for protection') or they choose to highlight the double standards of local authorities who tolerate the frequent violations of palm oil companies while being quick to arrest protesting villagers.

With such emphasis on double standards, villagers do articulate a certain notion of procedural justice. Yet even such an argument they convey in a remarkably restrained manner: villagers are acutely aware that this differential treatment is often due to bribes from palm oil companies but rarely say so in newspapers. During our interviews such villagers regularly shared observations about how companies obtain the support of local authorities by paying regular 'incentives' as well as campaign donations (Berenschot et al., 2022a). Yet these observations are rarely aired publicly: we did not encounter such accusations of bribing in our set of newspapers, while collusive exchanges are only sometimes subtly hinted at. Sopian's statement above—about the '*kongkalikong* [collusion] between government and company—is the most explicit reference to such practices that we encountered (and it is formulated by a relative outsider, a university lecturer). There are no direct accusations of corruption, nor do villagers demand that such practices are investigated. This reluctance to express such accusations is likely due to fear that such accusations might backfire and lead to harassment, lawsuits for defamation and even arrests.

In short, in response to the arrests and intimidations of community leaders we also do not encounter many indications of a rights-based discourse, and villagers remain relatively modest and restrained in the formulation of their grievances.

Conclusion

In this chapter, we used newspaper articles to analyse the discourse rural Indonesians employ to express their grievances against palm oil companies and local governments. Focusing on ten conflicts between palm oil companies and communities involving complaints about land grabbing, we focused on their formulations of three types of claims: the actual land claims, the claims for government involvement and the claims concerning the criminalization of protest leaders. These different claims all reflected a similar discourse. In contrast to the literature on 'rightful resistance' elsewhere (Kerkvliet, 2014;

O'Brien & Li, 2006) and studies highlighting the strategic invocation of laws in Indonesia (Lund, 2020), we found that references to laws and regulations as well as citizen rights are relatively absent in the statements of spokespersons of communities involved in land conflicts. When the word 'right' was used, the term mostly referred to customary land rights. Furthermore, we found that such leaders rarely invoked notions of justice and fairness to substantiate their claims. Instead, interviewed community representatives more commonly invoked social norms concerning, for example, the need to fulfil promises or to address the helplessness of the community.

Similarly remarkable is the modest and polite tone with which community leaders formulate their claims. These villagers have many reasons to be angry: their land has been taken away, it takes years before their grievances are taken seriously, and local authorities tend to side with companies while companies regularly renege on their promises. And yet community representatives opt for rather polite requests to governments and companies to take up their grievances. The general picture that emerges from this study of newspaper statements is not one of assertive rights-claiming, but rather of a subtle playing on notions of social obligations.

We propose two explanations for this particular discourse driving palm oil conflicts. Firstly, both the modest tone and the relative absence of rights-based discourse should be attributed to the considerable power imbalance characterizing palm oil conflicts. Rural communities not only lack the financial prowess, the legal skills and the influential connections that palm oil companies have, they are also hampered by the weak legal standing of their land claims and, consequently, the unavailability of effective formal conflict resolution mechanisms such as courts, to address their grievances. Faced with such considerable challenges, the strategy that most rural communities adopt, revolves around getting both companies and local authorities to participate in informal mediation which, they hope, might lead to a negotiated settlement and improved monetary compensation for the loss of land (Berenschot et al., 2022a). The discourse that we described in this paper, is attuned to this strategy. Rural Indonesians are, by and large, not engaging in 'rightful resistance' because citizen rights, state laws and, hence, a rights-based discourse are, in this context, rarely effective tools to secure a favourable outcome. Instead, communities opt to adopt a modest, polite tone and avoid harsh accusations (of, for example, corruption) because the cultivation of the goodwill of both company representatives and local authorities is, in this context of relative powerlessness, perceived as more effective.

A second explanation for this particular discourse lies in Indonesia's history. Both the 1965 genocide as well as the subsequent authoritarian New Order regime have cleansed political debate in Indonesia from sustained attention for issues related to social justice, equality and, relatedly, land rights. After 1965 there has not been a strong progressive movement to draw attention to such issues, while the propaganda disseminated by the New Order—with its emphasis on harmony and citizen duties rather than rights

(Bourchier, 2015)—served to discourage the propagation of a discourse about, for example, what a 'just' system of land tenure and land rights might be.

The consequences of this history are observable in the discourse that we examined in this paper. Particularly since the fall of the New Order an impressive movement has been campaigning for agrarian reform (Bachriadi et al., 2013; Peluso et al., 2008). Yet our findings suggest that this movement has not been very successful in disseminating its ideas and discourse to rural communities. While palm oil conflicts offer plenty of reasons to frame grievances in terms of social (in)justice, we found that rural communities rarely formulate their grievances in this manner. Nor did we encounter broader notions of how and why Indonesia's current legal framework related to land is unfair or undesirable. It seems that rural Indonesians do not have access to, and rarely hear about, a discursive repertoire that would allow them to present their grievances in terms of ideas about social justice. In that sense, the New Order lives on.

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CHAPTER 32

The Bersih Movement and Political Rights in Malaysia

Ying Hooi Khoo

Introduction

Discourses of human rights in Malaysia are complex for many reasons.[1] Among them are debates on cultural compatibility (Ahmad, 2005; Manan, 1999; Rodan, 2009). Human rights discourse is nonetheless pervasive in society, particularly since the late 1970s with the emergence of human rights focused non-governmental organisations (NGOs). These are often seen by the government as playing an antagonistic role against state interest, or even as a threat to the state (Khoo, 2013). The distribution of civil, political, and economic rights remains contested in the country after the 2018 change of government, which ended more than six decades of Barisan Nasional (BN) rule.[2] The change of government was short-lived as it was disrupted by political fighting among the political parties both from the ruling and opposition coalitions. The protection of fundamental civil liberties of the Malaysians is spelt out at length under the second part of the Federal Constitution. Nevertheless, some of these freedoms are qualified by an overriding right of the

[1] A portion of the data for this chapter derives from Khoo Ying Hooi (2020).

[2] The BN was founded in 1973 as a coalition of right-wing and centrist parties.

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_32

government to decide otherwise, if it wishes, in the interests of national security or public order. The executive power has, in practice, left few guarantees of individual liberties (Khoo, 2014).

Integrating literature on human rights and social movements, this chapter addresses the impact of a social movement on the social construction of rights—an area of research that has received limited empirical attention. While there is a rigorous literature on the formation and development of social movements, how a social movement can challenge power structures in society by evoking a discourse on rights has not been addressed to the same extent. The present chapter extends my previous research on notions of rights in Malaysia (Khoo et al., 2021), which examined how the Bersih movement fostered internal political efficacy that also constructed a rights consciousness. Building upon that article, this chapter examines Bersih's impact on political rights under a competitive authoritarian regime. In this chapter, political rights refers to one's ability to participate in civil and political life without fear of discrimination or repression. Such rights include voting in an election and participating freely in political rallies, protests, or political processes (Busse, 2004).

To do so, the chapter first explores how Bersih, established informally in 2005 in the form of a loose network, became a mass movement for free and fair elections and its wider role for political change in Malaysia. It then discusses how the Bersih movement has influenced Malaysians' political activity from two vantage points: Bersih's demands and mass mobilisation. The chapter argues that the example of Bersih shows that a social movement can promote awareness of political rights.

Political Change in Malaysia

Malaysia is often described as a competitive authoritarian regime (Giersdorf & Croissant, 2011; Levitsky & Way, 2010). Competitive authoritarian regimes combine democratic institutions and regular elections (Brooker, 2009). While meaningful contestation of power and multiparty elections are the main route to power (Levitsky & Way, 2010), the political playing field is tilted, favouring the ruling coalition (Case, 2011; Hwang, 2003; Slater, 2003).

Like other competitive authoritarian regimes, Malaysia grants civil society limited space to organise and articulate dissent. The government regulates associational activities heavily and tries to either co-opt or curb the mushrooming of secondary associations (Croissant & Lorenz, 2018). During the six decades of BN rule (including its predecessor the Alliance Party), Malaysia experienced the expansion of the executive power at the expense of the independence of the judiciary and legislature, and a gradually shrinking civic space. Elections have been tainted by partisan constituency delineations and polling irregularities, and election campaigns corrupted by bribery, abuse of government machinery and biased behaviour by supposedly independent public institutions (Case, 1993; Ufen, 2009). Political competition has been

extensively manipulated at the pre-election stage, by, for instance, the rampant gerrymandering of electoral district boundaries (Saravanamuttu & Mohamad, 2019), the weak implementation of electoral laws (Ong, 2018), violations of civil liberties, and the lack of media freedom. It is said that Malaysia's centralised political system enhances these advantages, which contributed to the longevity of the BN coalition (Ufen, 2012).

In the years leading up to the 14th General Elections (GE14) in 2018, the Najib Razak government used existing laws such as the Sedition Act to harass and prosecute critics, journalists, activists, opposition leaders and even social media users who protested against his policies and the 1Malaysia Development Berhad (1MDB) corruption scandal. Civil liberties deteriorated, as seen in numerous attacks on government critiques (Teh & Ngu, 2019). These worrying trends were identified in reports published by local and international human rights organisations including Suara Rakyat Malaysia (SUARAM), Human Rights Commission of Malaysia (SUHAKAM) and Human Rights Watch (HRW). Human rights activists were challenged by a discourse characterising human right as culturally relative rather than universal (Liu, 2018). The limited separation of powers resulted in the ruling coalition's control of enormous financial means, as well as over the bureaucracy, judiciary and media channels. This allowed it to suppress civil liberties (Ufen, 2012) including the freedom of speech, association and assembly, preventing the opposition from effectively channelling social grievances.

GE14 marked a historical shift, as it effectively ended one-party rule by the United Malays National Organisation (UMNO) and ushered in a new government led by the Pakatan Harapan (PH) coalition, which promised a reform agenda (Hutchinson & Lee, 2019). Welcoming this change, many human rights activists anticipated a genuine attempt by the new government to reform socioeconomic policies and replace the old political personnel with new faces who had pledged to build a 'New Malaysia' (Loh & Netto, 2018). However, such hopefulness for institutional reforms and expanded civic space has faded away. In March 2020, the country witnessed the fall of the PH government, which was replaced by the Perikatan Nasional (PN) coalition until August 2021, when the United Malays National Organisation (UMNO) withdrew its support. At the time of writing (September 2022), political stability is maintained through a Memorandum of Understanding (MOU) signed between the current government under Prime Minister Ismail Sabri and PH, who returned as the opposition coalition.

Although the PH government did not last long, democratic space nonetheless moved in a positive direction. The Economist Intelligence Unit (EIU) Democracy Index shows that Malaysia is the only country with a progressing trend in Southeast Asia for 2016–2021, from 69 in 2016 to 39 in 2021.

The literature that attempts to explain political dynamics in Malaysia since 2018 primarily focuses on political parties, whereas the investigation of the influence of civil society and social movements on the political process is limited. This calls for further academic attention to the Coalition for Clean

and Fair Elections, best known by its Malay acronym, Bersih ('clean'), which for years had pushed for changes to, and raised political awareness about, Malaysia's electoral system (Khoo, 2021). Prior research (Claeys, 2012; Hull, 2001) has shown how social movements frame issues using human rights discourse to mobilise support for their causes, and that social movements can influence rights consciousness within a society (Stammers, 1999). This suggests that Bersih's impact on human rights over this period should be examined.

The Bersih Movement

Electoral authoritarian regimes hold regular multiparty elections in which an opposition competes, yet the minimum standards required for democracy to function effectively are violated through different manipulative tactics (Schedler, 2002, 2015). Because electoral authoritarian regimes are the most common regime type in the world (Levitsky & Way, 2020; Linz, 2000; Schedler, 2013, 2015), the question of how a social movement can influence broader social norms of political rights in such a context has relevance beyond Malaysia, in the Southeast Asian region and beyond.

Although the Federal Constitution guarantees the fundamental rights of Malaysians in taking part in government, the competitive authoritarian environment has eroded the implementation of political rights. The human rights concept is also contested in Malaysia, centred on debates surrounding the relationship between civil and political rights on the one hand versus economic, social and cultural rights on the other. Promoting a discourse of Asian values, Malaysian elites have emphasised the importance of cultural values and economic development for a framework of human rights in the region (Ciorciari, 2012; Thompson, this volume).

Bersih's Demands

It is in this context that Bersih has influenced notions and practices of political rights through its demands and impact on mass mobilisation. Bersih started in July 2005 as the Joint Action Committee for Electoral Reform (JACER). In its Joint Communiqué of 23 November 2006, Bersih stated its aim to correct structural flaws, institutional biases and administrative malpractices in the electoral system that systematically and disproportionately favoured the ruling coalition over the opposition parties. (Khoo, 2021). The Joint Communiqué outlined a long-term reform agenda containing eight issue-areas (electoral system reform; election administration; party and candidate nomination; electoral campaigns; access to the media; a caretaker government; the electoral roll; and voting). It pushed three immediate demands: a clean electoral roll; the use of indelible ink; and the abolition of postal votes except for diplomats and other overseas voters. In July 2007, Bersih added a fourth immediate demand: fair access to state-owned media. On 10 November 2007, the first

Bersih rally witnessed Malaysians group collectively, forming a powerful and cohesive group with, well-articulated demands, and a surprising major turnout. The movement subsequently organised four major rallies in 2011, 2012, 2015 and 2016.

For its second rally in 2011, Bersih added four additional demands, increasing the number to eight. Two of these brought changes by the 13th General Election (GE13) in 2013. The first demand, a clean-up of the electoral roll, was crucial because it aimed to ensure an accurate reflection of the voting population. Some of the typical irregularities on the electoral roll that had been reported included the records of deceased persons, of multiple persons registered under a single address or of non-existent addresses, commonly known as 'phantom voters'. The second demand, to reform the postal ballot, emphasised the need for transparency in the postal ballot. This demand brought changes to the Election Regulations on 15 January 2013 that extended postal voting rights to overseas Malaysians, whereas they had previously only been available to public servants, students, uniformed personnel and their spouses. However, there were shortcomings in the GE13. The third demand, for indelible ink, was first implemented in the GE13, and indelible ink has since been used in subsequent elections.

The fourth demand was to extend the campaign period to a minimum of 21 days. This would allow voters more time to gather information and deliberate on their choices and also allow candidates more time to disseminate information to digitally disconnected rural areas. The fifth demand was free and fair access to media. Bersih demanded that the EC place pressure on all media agencies to allocate proportionate and objective coverage for all political parties to ensure fair competition in elections. The sixth demand was to strengthen public institutions such as the judiciary, Attorney General's Chambers, Malaysian Anti-Corruption Commission (MACC), the police and the EC to ensure their independence and impartiality in election-related matters. The seventh demand called for an end to all forms of corruption, including the act of vote buying. The final demand was to stop dirty politics and foster a healthy political competitive environment.

For its third rally in 2012, Bersih demanded the resignation of the existing Electoral Commission (EC), and observation of the GE13 by international observers, on top of the implementation of the eight earlier demands. The EC did not resign, and Malaysia did not invite international election monitoring organisations for the GE13, but the EC adopted an 'election visit programme' (EVP) to compensate for the latter. When the 1 Malaysia Development Berhad (1MDB) corruption crisis erupted in 2015, Bersih demanded that then prime minister, Najib Razak, resign immediately to allow for independent investigations, broadening its more technical electoral reform agenda to include elements such as institutional and political reform. This reflected Bersih's conviction that electoral reform could not be realised without substantive institutional and political reform. The same year, Bersih conducted its fourth rally. Its demands were: free and fair elections; a clean government;

the right to dissent; the strengthening parliamentary democracy; saving the economy; and Najib Razak's resignation. Najib would only step down when UMNO lost the 2018 elections. During the fifth rally in 2016, Bersih pressed the same demands; but shifted from a focus on the economy to the empowerment of Sabah and Sarawak. Some of Bersih's demands have had an impact on electoral reform in the wake of GE14, held in 2018. For instance, former Bersih steering committee member and electoral expert Wong Chin Huat was included in the Electoral Reform Committee (ERC) created following the GE14 to explore reform needed to strengthen the electoral system. In July 2019, the Parliament approved the amendment of Section 3 (a) and (b) of the Constitution (Amendment) Bill 2019 lowering of the voting age limit from 21 to 18 years. The amendment also involves the implementation of automatic voter registration by the government.

Mass Mobilisation

Mass mobilisation has been significant since the 2005 formation of Bersih, not only through the five Bersih rallies (in 2007, 2011, 2012, 2015 and 2016) but also through various other initiatives related to electoral and institutional reform. The case study of Bersih correlates with Rasler's (1996) argument that while the short-term effect of repression is a reduction of protest, yet its long-term effect is an increase in protest rate. When Bersih was first conceived, its aim was to advocate for electoral reform by raising awareness through advocacy and education. The decision to organise a street protest only came about after the Bersih Steering Committee had exhausted all other avenues, engaging with the EC through meetings and dialogues. Mass mobilisation in Malaysia was accompanied by transnational activism by overseas Malaysians. During Bersih's third rally in 2012, for instance, overseas Malaysians in 85 cities across 35 countries also held rallies in the spirit of solidarity (GB website) (Table 32.1).

Despite the unfavourable political conditions and state repression of street protests, as indicated in Table 32.2, Bersih proceeded with five major street rallies from 2007 to 2016 that showcased growing citizens' mobilisation. The GE14 that witnessed the fall of BN's hegemony after six decades raised questions about the role and influence of the Bersih movement for regime change. Arguably, Bersih has shown that protests have the potential to cripple the political legitimacy of the state and impose pressure on it to consider their demands (Khoo, 2016).

State repression was countered by Bersih, which mounted legal challenges and mass media campaigns against violations of the right to assembly and expression, slanders by the mass media against Bersih, and the intimidation and arrests of activists and politicians, including Maria Chin Abdullah, former Bersih co-chair under the Security Offences (Special Measures) Act 2012 (SOSMA) before the fifth Bersih protest in 2016. In her own words (Maria Chin, 2018), *"On 18 November 2016, just a day before our fifth rally, I was detained and interrogated like a terrorist for 11 days under the Security Offences*

Table 32.1 Bersih's demands in 2007, 2011, 2012, 2015 and 2016

Year	*Demands*
2007	1. A thorough clean-up of the electoral roll 2. The use of indelible ink to prevent multiple voting 3. The abolition of postal voting for military and police personnel 4. Fair access to the mass media for all parties
2011	1. Clean the electoral roll 2. Reform postal ballot 3. Use indelible ink 4. Minimum 21 days campaign period 5. Free and fair access to media 6. Strengthen public institutions 7. Stop corruption 8. Stop dirty politics
2012	1. Resignation of the existing Electoral Commission 2. Implementation of the eight earlier demands before the 13th general election 3. Observation of the 13th general election by international observers
2015	1. Clean elections 2. Clean government 3. The right to dissent 4. Protect parliamentary democracy 5. Save the economy
2016	1. Clean elections 2. Clean government 3. Strengthen parliamentary democracy 4. Right to dissent 5. Empowering Sabah and Sarawak

Source Author's compilation

Table 32.2 Total number of protestors in Bersih rallies from 2007 to 2016

Bersih Rally	*Total Number of Protestors (Estimation)*
10 November 2007: 'Save Malaysia, Restore Our Rights'	30 000 to 40, 000
9 July 2011: 'Walk for Democracy'	50, 000
28 April 2012: 'Sit-In Protest'	250 000 to 300, 000
29–30 August 2015	500, 000
19 November 2016: 'Stand United—New Malaysia'	120, 000

Source Author's compilation

(Special Measures) Act. Fourteen activists and politicians, including our office manager Mandeep Singh, were arrested for allegedly attempting to provoke a riot. The then Deputy Prime Minister, Home Minister Zahid Hamidi, accused Bersih, the Malaysian Bar, online portals Malaysiakini and Sarawak Report, and human rights organisation SUARAM of conspiring to start a 'colour revolution' to topple the government." The detention of Maria Chin prior to it sparked tremendous anger among Malaysians. Growing state repression greatly raised the cost of participation in the fifth Bersih rally. This, to some extent, made the mass turn out for the fifth Bersih rally even more significant.

Initiatives by ordinary Malaysians indicate growing political participation. In my book on the Bersih movement (2020), I argue that the political participation by Malaysians, including through Bersih, depends primarily on a combination of accumulated grievances over the BN's hegemony, in response to which civil society groups have been able to mobilise around human rights issues and reform. This argument locates the drivers of Bersih within society from the bottom-up, but at the same time recognises that institutional structures and other opportunities significantly shape civic activism. There is a positive correlation between participating in the Bersih movement and broader political participation among Malaysians. Bersih participants have ideas on how things should be, criticise political situations, processes and actors and bring their issues to the debate. Political activism, therefore, becomes increasingly approachable for Malaysians. Bersih has created a space in which ordinary citizens play a crucial role (Khoo, 2020).

For instance, Malaysians created various grassroots efforts online to uphold their constitutional right to vote in the GE14. Crowd-funding initiatives raised money to offer free bus rides and help subsidise flight tickets. Twitter hashtags, including #CarpoolGE14, were used to help people carpool with others driving in the same direction. Web platforms such as 'UndiRabu.com' ('Wednesday's Vote', in English) and 'PulangMengundi.com' ('Return to Vote', in English) were created to coordinate the distribution of donations to Malaysians who lacked the financial resources to travel home. Many Malaysians living abroad had received their postal ballots late from the EC, making it almost impossible for them to mail back their vote in time to be counted. Using a Facebook group called 'GE14: Postal Voters Discussion,' a group of Malaysians took the initiative to coordinate and send their votes with the help of volunteers flying back to Malaysia for polling day. All these grassroots actions can be seen as acts of resistance by ordinary Malaysians against an election process that was considered not clean. While the Bersih movement did not lead these actions, Bersih empowered people to believe in the act of voting and to participate in the political process. These efforts helped ensure that the voice of Malaysians was heard loud and clear through the ballot.

Bersih's success produced a profound socio-political transformation: the formation of a national community across ethnic and non-ethnic divides. Mass participation bridged ethnic, urban-rural, generational, gender, territorial and other divides (Khoo, 2021). Moreover, Bersih reached all demographics, not

merely a group of people who define themselves as activists. In an interview, the former Bersih co-chair, Ambiga Sreenevasan, thus stated: *"Bersih's biggest success is in uniting Malaysians of all races and removing their fear of expressing themselves and holding public gatherings"*. (Sreenevasan, interviewed by Tribe, 2012).

The Impact of Bersih

The Bersih movement thus influences the expansion of political rights in Malaysia, critical to ongoing political change in the country, in two main ways. First, the evolution and expansion of Bersih's demands from the movement's formation in 2005 reflect that, despite Bersih being an electoral reform movement, these go beyond merely electoral reform. Bersih's demands broadly cover institutional and democratic reforms that are important for political rights. These include the demand to allow all electoral candidates free and fair access to the media, as well as demands related to the strengthening of public institutions, ending corruption and dirty politics. Such demands aim to expand participation in civil and political life without fear of discrimination or repression. Bersih's earlier eight demands for electoral reform were considered more technical and bureaucratic, which led to the modification of its demands in 2015 and 2016, to target broader institutional issues. While there were some changes to Bersih's demands with each rally, the issues surrounding elections, human rights, the rule of law and democracy remained.

The broadening of Bersih's demands further suggests that operating in a restricted civil society space under a competitive authoritarian regime, Bersih has adopted a pragmatic approach adapting its demands to the political context. While immediate outcomes might not be achieved, Bersih has built and expanded political awareness that facilitates the expansion of political rights. This also explains how Bersih had some forms of engagement, albeit limited, with the ruling government despite its limitations, thus contributing to the expansion of public participation in political processes (Meyer, 2004).

Second, the phenomenon of mass rallies and protests is a catalyst for promoting democratic values and processes within Malaysia's wider society and polity. Human rights discourse has become increasingly commonplace and acceptable. This political pressure on authorities (Bosco, 2006) could ensure a continued conversation on institutional reforms that could benefit the people. Political movements, such as Bersih, can mobilise citizens to alter power relations or provoke social change (McAdam et al., 1988). Despite state repression, which deters open mass mobilisation, Bersih's progression reflects a long-term struggle for institutional reforms, human rights and democracy.

While some argue that repression hinders mass mobilisation due to the added associated costs, others insist that repression increases grievances, which could lead to more united collective action. It has been argued that Bersih had achieved little in demanding the government make meaningful reforms.

However, although state repression limited protests, over time, it has also facilitated the continued growth of civil society, which led to the crippling of the government's political legitimacy (Khoo, 18 November 2016). Bersih is viewed by many as an 'enemy' under constant attack from the government and pro-BN groups, including the confrontational countermovement by the Red Shirts supported by UMNO. While BN strategically planned the repression of the Bersih protests, it miscalculated badly on the grievances of the people on the ground this provoked.

The GE14 that brought about the fall of BN's hegemony after six decades raised questions about the role of the Bersih movement for political change in Malaysia. Bersih has shown that protests can cripple the state's political legitimacy (Khoo, 2016). Citizens started to question the validity of their votes and demonstrate greater political awareness (Khoo, 2020). The Bersih movement became a mass movement that cut across all levels of society, triggering further repression from the state, but also changing the mindset of the general public. One key indicator is the authorities' arrests of individuals linked to Bersih. Such repression reflects Bersih's political potential to overturning the political landscape, by transcending the politics of ethnicity. We also see the increased participation and efforts from the ordinary people, not necessarily attached to civil society, in driving the agenda. There is now widespread acceptance that ordinary citizens play a crucial role in participating in national politics. The expansion of dissenting voices in the public sphere creates political opportunities for Bersih and other civil society groups to galvanise further support.

Conclusion

Since the formation of Bersih, Malaysian politics have been marked by contending discourses of political rights. The political landscape has been characterised by escalating social protests and movements, feeding into political transformation. This chapter sheds light on the expansion of political rights in Malaysia's competitive authoritarian context. Bersih has brought about momentous changes, including increasing popular awareness of political rights, and popular participation in protests. This has resulted in the expansion of political rights. Such developments have also had a transformative effect on Malaysian political culture.

Acknowledgements This work was supported by Universiti Malaya (UM) under GPF035A-2020. The author would like to express her gratitude and sincere appreciation for the contribution of her research assistant, Jessie Lee, in completing this work.

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CHAPTER 33

Awas Polisi! Anarchists and Punks Transgressing Normative 'Politeness' While Resisting State Repression in Indonesia

Anne R. Kiss

Introduction

Anarchism in contemporary Indonesia shares numerous connections with punk counter culture, and punk has been recognised as re-introducing anarchist ideas to the archipelago in the aftermath of the post-1965 'red scare' repression of leftist politics, ideas, and organising. Repression against anarchists and punks has been an everyday reality for the movement(s) in Indonesia, but the state's framing of that repression has changed in recent years. Punks in Indonesia, as elsewhere in the world, respond to police harassment and violence through their lyrical expression, slogans, and imagery. This also extends to a wider critique of repressive state power, overlapping with and informed by anarchist analyses. Indeed, the anarchist movement in Indonesia has been at the forefront of highlighting and resisting the contemporary role of the police as enforcers of authoritarian neoliberal capitalism.

This chapter will provide a brief overview of the historical trajectory of anarchism in Indonesia since the early twentieth century, including the re-emergence of anarchism as an activist current, via punk, in the very late 1980s and into the 1990s, and its growing prominence in the first decades of the twenty-first century. Some of the forms of repression faced by punks and anarchists will be detailed, as well as the cultural and activist responses that those movements have produced, before charting a recent shift in the authorities'

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_33

understanding of anarchism and how that has altered the form and scope of repression.

This repression is often justified by state and para-state actors as a response to transgression of particular sets of norms. Indeed, punk- and anarchist-informed activism and cultural production is often marked by its 'willingness to offend'. Disrupting social, political, legal and cultural norms of 'politeness' and 'deference' in Indonesia is not incidental, but essential to punk and anarchist politics—norms of politeness have helped to neuter expressions of dissent, deforming protest into submissive appeals to hierarchy, especially during the New Order regime (1966–1998) but continuing throughout its sucessor regimes. Transgressing that normative expectation of deference is part-and-parcel of meaningful resistance, while also prefiguring social relations that are not predicated on hierarchy and submission.

A Brief History of Anarchism in Indonesia (and Punk's Revitalising Role)

Marxism was the dominant ideology of the revolutionary left in Indonesia throughout much of the early-to-mid twentieth century and into the 1960s, as manifested in the Partai Komunis Indonesia (PKI, Communist Party of Indonesia). This was by 1965 the largest communist party in the world that hadn't yet seized power, with upwards of 3.5 million members (Bowen, 1990), and claiming 'a "family" of twenty million partisans' (Anderson, 1993: 5). However, anarchism has also been a significant political strand, not least within the wider movement opposing the Dutch colonial government—indeed anti-colonialism and anti-imperialism have been core tropes throughout the history of anarchism (Anderson, 2005).

Remarkably, anarchism even had some influence within the explicitly Marxist PKI, and this was such a strong influence that Darsono, a leading PKI figure, insisted that members should remember that 'the Communism of Marx and not the anarchism of Bakunin must govern the party' (Benda & McVey, 1960). Soekarno, too, engaged with anarchism—in 1932 he dedicated an article to the subject in his Partai Nasionalis Indonesia (PNI) journal *Fikiran Ra'jat* [*People's Thought*]. While he sympathised with the anti-colonial aspects of anarchism, and is reported to have quoted Bakunin in his speeches (Danu, 2015), he was essentially a nationalist and statist. The influence of anarchism across the ideologies of the PKI and PNI is noteworthy. According to Bima Satria Putra's (2018) writing on early twentieth-century anarcho-syndicalism, anarchist ideas have often coloured Marxist and social-democratic organisations in Indonesia—differences in political ideology within the Indonesian left were not as divisive as elsewhere in the world, because they had a common enemy in the 'invaders' of the Dutch East India Company and the myriad other colonialists.

The anarchist current within the PKI was suppressed by the Marxist orthodoxy, and, indeed, anarchist-minded activists organised independently within

their own specifically anarchist organisations (particularly anarcho-syndicalist unions—Putra, 2018). Despite the increased dominance of the Marxist PKI and the 'progressive nationalism' of Soekarno towards the mid-twentieth century, anarchism persisted to at least a minor extent within the political lexicon of Indonesia into the 1960s—the prominent student activist Soe Hok-Gie described himself as an anarchist in his correspondences with Benedict Anderson (1970), though this was likely a 'philosophical' anarchism rather than activist militancy.

After 1965, that all changed with the installation of the Suharto regime, and the ensuing 'red scare' and murder campaign—this 'political genocide' (Berenschot et al. in this volume), described by Anderson as 'the Indonesian holocaust' (1993: 9), physically destroyed any left wing political current in Indonesia (Van Klinken, 2017; Estrelita in this volume). Anarchists were directly affected by this bloody repression. But the infamous Temporary People's Consultative Assembly Decree of 1966 against the left specifically targeted the PKI and Marxism or Marxist–Leninism, *not anarchism*. This 'temporary' decree has never been rescinded—the ideology and symbols of the PKI remain illegal, shaping state repression of the left more widely.

The New Order's framing of the left has been inherited by subsequent regimes, resulting in a failure to understand anarchism as anything more than a synonym for chaos, violence, and especially rioting, as evident in the 2010 police procedure document on 'Anarchy Countermeasures', published by the then Chief of Police, Bambang Hendarso Danuri (Kepala Kepolisian Negara Republik Indonesia, 2010). But this has also had unintended effects on 'recruitment' to leftist movements—as Berger puts it, anarchism presents an 'exciting, anti-authoritarian, *and legal*' form of activism (2013 [emphasis added]). For a prospective militant, the legality of an activist movement is not likely to be a crucial concern, but, as discussed below, it does affect the wider ecosystem of repression and the visibility of particular forms of leftist resistance, and thus their ability to publicise their activities, to organise candidly, and to attract people to the cause. The state's fascination with Marxism lends it a taboo quality, but also confines it to a historical moment and emphasises its defeat. As AMW (2018) puts it, the bloody and total repression of 1965, 'along with the earlier failed communist revolution in 1926', demonstrated 'the limits of what Marxism-Leninism could do in Indonesia':

> As a result, this made it less likely for leftist struggle to approach fighting capitalism from a socialist or communist point of view than from an anarchist one, which may explain the prominent role of anarchists of varying stripes in Indonesia today. (AMW, 2018)

In common with numerous authoritarian contexts around the world, the re-emergence of anarchism in the late twentieth century was concurrent with, and tied to, the spread of punk throughout Indonesia. From the mid-1990s and into the twenty-first century, anarchist punk has 'become the public face

of anarchism in Indonesia' (Berger, 2013). Punk first arrived in the very late 1980s, primarily via punks travelling from other places in the world (Donaghey, 2016: 93). By 1996, amidst the growing movement against the oligarchy President Suharto and his New Order regime, the first 'political' punk zine in Indonesia was produced in Bandung, titled *Submissive Riot* (Pickles, 2001: 51)—indeed, the title of this zine is suggestive of the norm of polite deference and its transgression by punks and anarchists. Punks and anarchists who participated in the anti-Suharto movement framed their struggle as anti-fascist, fighting against the militarist, capitalist, and totalitarian aspects of Suharto's regime. Wallach suggests that this alertness to fascism, and analysis of the Suharto regime as such, stemmed from the punks' engagement with Western punk culture (Wallach, 2008: 111) wherein anti-fascist and anti-totalitarian themes are prominent. Indeed, the collective in Bandung responsible for producing *Submissive Riot* developed into a highly organised activist group called *Front Anti-Fasis* (FAF, Anti-Fascist Front) in 1997, producing another zine titled *Militansi* [*Militancy*] (Prasetyo, 2017) (Figs. 33.1 and 33.2).

Anti-fascism has persisted as a core trope in punk in Indonesia, as evident in lyrics and imagery. Examples include song titles like 'Diskriminasi Yang Fasis' ['Fascist Discrimination'] by Kontroversi (2013) and 'Fasis Keparat' ['Fucking Fascist' or 'Fascist Bastard'] by RKA (2014), or songs like 'Redskins' by Full



Fig. 33.1 Front Anti-Fasis banner at a street demonstration c. late 1990s



Fig. 33.2 *Submissive Riot*, and *Militani* zine covers (courtesy of Frans Ari Prasetyo)

Time Skins (2010) or 'Smash Fascism' by Krass Kepala (2014). Islamic fundamentalist mobs are also identified as 'fascist' by punks and anarchists, for example in the ZudasKrust song 'You Called It Moral' (2009):

> Blind Forces of Dogmatic Existence Called Fascism …
> It's 'In The Name Of God' Written On Your Forehead.

Another example is the Standing Terrace song 'Hestek Enam Tiga Tiga' ['Hashtag Six Three Three'] (2015)—the lyrics to which indicate a direct, street-level approach to anti-fascism (Fig. 33.3):

> we all hate nazi scum, our trainers on their face.

The song appears on a compilation album of punk and Oi! bands singing about Persib Bandung FC and its fan culture, and the album cover art includes an anti-fascist action (or antifa) flag (see Fig. 33.4).

The late 1990s and 2000s saw significant changes for anarchist punk in Indonesia. Sean Martin-Iverson (2014) describes the post-Suharto Reformasi period immediately after 1998 as 'the highpoint … emphasising a radical and disruptive form of individual autonomy against the disciplining powers of the state', with an (arguable) shift from political activism to cultural production in the ensuing years—evidenced in the commercialisation of the DIY



Fig. 33.3 'Perangi Rasis! Perangi Fasis!' [Fight Racism! Fight Fascism!]. Detail from CD booklet of *Riot Connection* Oi! compilation (Various Artists, 2010)

ethic, and proliferation of 'distro' punk shops (Prasetyo, 2017). But even amid this period of supposed depoliticization, Martin-Iverson (2014) notes that 'Indonesian punks [continued to] participate in class-oriented political action, from solidarity with striking workers to participating in May Day demonstrations'.

After the collapse of the New Order regime in 1998, FAF joined with other anti-fascist groups across Indonesia to form *Jaringan Anti-Fasis Nusantara* (JAFNUS, the Archipelago Anti-Fascist Network). By 2007, this group evolved into *Jaringan Anti-Otoritarian* (JAO, Anti-Authoritarian Network) suggesting a development in analyses of the state, from framing it as (pseudo-)fascist to recognising it as a new expression of authoritarianism—now termed authoritarian neoliberalism. However, the formation of JAO also marked a significant tactical shift among anarchists, evidenced in the May Day rally of 2007, which adopted the now-familiar 'black bloc' aesthetic and 'gathered more than 100 people … mark[ing] the emergence of anarchism in the public eye' (Syahrianto, 2020). In recent years these protest actions have taken on increased significance for the anarchist movement and have occasioned highly visible repression by the state (Prasetyo, 2020b).



Fig. 33.4 Antifa flag on cover art of *Extratimes 2* Oi! and street punk compilation (Various Artists, 2015)

State (and Para-State) Repression of Punk and Anarchism

Berger writes that 'in some conditions, democratisation perversely incentivises opportunistic repression against some dissidents' (2019), and this can be identified in the repression of punks and anarchists in Indonesia today. Today's government targets 'weak' dissent with high-profile repression, while 'strong' manifestations of dissidence, such as Islamic fundamentalist mobs, are 'tolerat[ed], co-opt[ed] or absorb[ed]' (Berger, 2019)—this was clearly the approach of the Jokowi presidency after its authoritarian turn. The state's perception of punk and anarchist movements as 'weak' is partly down to their less numerous membership as compared with hardline religious groups, the ease with which they can be vilified in the public eye (building on existing prejudices), and their inability to inflict significant damage against the state itself (either because of a principle of non-violence, or because actions are necessarily limited to occasional small-scale property damage or rioting). By contrast, Islamic hardliners are conferred with some level of immunity from

repression through their presentation of extreme piousness, relying on the Muslim cultural identity integral to the Indonesian state (and much of the population at large). Punks and anarchists are easily portrayed as transgressing this social norm, which serves to justify repression meted out against them.

Despite this pattern of targeting the apparently 'weak' anarchist movement, the Indonesian police have 'very little to no knowledge about anarchism as a political concept' (Berger in Donaghey, 2016: 261). The New Order's suppression of 'anything that even smelled of Marxism' (Anderson, 1993: 5–6) has continued uninterrupted post Reformasi—as recently as 2020, Jokowi retrenched this anti-leftist stance, stating that the 'Temporary People's Consultative Assembly Decree No. 25/1966 on the banning of communism, Marxism, and Leninism in Indonesia is still binding and has no need to be questioned' (Prihatin, 2020, cited in Facal & Estrelita, 2020: 233–234). But, as noted above, anarchism has not been officially proscribed in the same way (with the caveat of some important recent shifts), and, because of this history of targeted repression of the PKI, 'the anarchists were careful to disassociate themselves from communists, espousing anarchism instead as a non-violent ideology based on the principle of social-justice' (Plottel, 2016: 27). So, state repression of anarchism, and the closely associated punk scene, has had a distinct trajectory.

In 2010, the Indonesian National Police published a procedure document on 'Anarchy Countermeasures' equating anarchy with rioting, a violation that 'is contrary to legal norms that results in chaos' (Kepala Kepolisian Negara Republik Indonesia, 2010). The point about 'legal norms' has resonance with anarchism as a political philosophy. But the list of 'forms of actions that constitute … anarchy' in the document reveals the basic misapplication of the term, including mass fights, burning, destruction, threats, persecution, rape, loss of life, hostage taking, kidnapping, beatings, looting, confiscation, and theft—even proffering that 'anarchy' is characteristically 'sadistic' (Kepala Kepolisian Negara Republik Indonesia, 2010). This confusion may be explained by the lack of nuanced vocabulary in Bahasa Indonesia in this regard, with 'anarkis' carrying a double meaning of 'anarchic' *and* 'anarchist', muddying the distinction between anarchy-as-chaos and anarchism-as-political-philosophy (though even the distinct terms 'anarki' [anarchy] and 'anarkisme' [anarchism] are used interchangeably by the state and mainstream media). However, even while the document covers a scattergun sweep of riotous behaviour, some of the listed entries do in fact overlap with typical anarchist activisms and tactics. 'Forms of action' like sabotage and 'insulting officers', and characteristics including aggressiveness, spontaneity, having broad impact, and actions being carried out en masse (Kepala Kepolisian Negara Republik Indonesia, 2010) could be used to describe some anarchist activisms.

Despite this misapplication of 'anarchy' by the state (or perhaps *because* of those incidental overlaps with actual anarchist tactics) activists have been caught up in the subsequent repression. A notable case was the arrest of four

anarchists in Malang in April 2012, who were then subjected to 'interrogation lasting several days', during which the 'police extracted information', as Berger euphemistically describes the ordeal (2013). Prior to the 2019 May Day demonstrations, the state remained generally ignorant about the anarchist movement and its philosophy, activism, and networks (and even now, fails to grasp this with any nuance). Further to the 'Anarchy Countermeasures', the state's confusion was confirmed in 2011 with the creation of a new 'anti-anarchy' police division to quell rioting and 'religious-based mob attacks' (Arnaz & Dessy, 2011). The equating of 'anarchy' with mob violence was evident again in 2016, when rioting football fans in Jakarta were described as 'suporter anarkis' by the then newly appointed chief of police, Tito Karnavian (Prastiwi, 2016). This mislabelling of anarchism does not mean, however, that anarchists have been free from repression (as exemplified by the Malang Four, others who have been incarcerated since then, and those who are in prison now [Jaringan Penerbit Anarkis, 2022]). Notably, repression against anarchists has often been experienced through the anarchist movement's association with punk (Fig. 33.5).

Punk in Indonesia has been regularly repressed because of its perceived transgression of religious norms, and punks are considered as low-status members of society lacking 'informal citizenship capital', and thus vulnerable



Fig. 33.5 The Aceh 64. These photos of shari'ah police abusing the abducted punks were taken and shared by the shari'ah police themselves, to boost the political reputation of the Banda Aceh mayor

to repression. As Pribadi notes, 'details of dress' and 'one's bodily deportment' (2022: 92–93) are aspects of etiquette that are deployed by the elite 'to distance themselves from people of lower status' (2022: 93). Pribadi celebrates these 'everyday practices' of politeness as a means of 'defining citizenship' (2022: 91) and 'enhanc[ing] agency' (2022: 90)—but the inverse is at work here too, and those deemed to be 'impertinent' face 'consequences' (2022: 93) including the effective stripping of this 'informal citizenship' for transgressing norms of 'dress' and 'deportment'. Two examples are instructive: the abduction of the 'Aceh 64' in 2011, and the disruption of Lady Fast music festival in Yogyakarta in 2016.

In December 2011, 64 punks were abducted at gunpoint by shari'ah 'Civil' police in Banda Aceh and interned for ten days at a bootcamp for religious re-education, which involved being dunked in a stagnant pond as part of 'cleansing' ritual, after having their heads shaved and clothes burnt. The mayor defended her actions to the international news media, insisting that '[t]he raid was necessary and would be repeated as punk constituted a "new social disease"' and that 'punk was in conflict with the Islamic and cultural traditions of Aceh and Indonesia, and hence must be "eliminated"' (Wilson, 2013). The punks were targeted in Aceh as 'anak punk'—that is to say, communities of punks who congregate and sometimes live on the streets (Martin-Iverson, 2014), whom the shari'ah police could bully with impunity. This targeting of 'weak' social actors, and the intertwinement of state and religious repression is also apparent in comparatively liberal places such as Yogyakarta. In 2016, during the first Lady Fast feminist punk festival, a group of men disrupted the festival 'shouting "Allahu Akbar" ("God is great") and accused the organisers of "corrupting morals, dressing inappropriately [and] being communists"' (Chapple, 2016). In this case the targeted community were perceived as vulnerable because of their feminist, LGBTQ, and left-leaning politics, and because they were predominantly women. The police stopped the mob's attack, but also halted the festival, and proceeded to detain the festival organisers (not the attackers), interrogating them about the purpose of the event.

As Plottel notes, whether the violence is 'at the hands of police officers … [or from] nongovernmental vigilante groups … seem[s] not to matter', and in practical terms there is 'collusion between the police and vigilante groups' (2016: 49). Wilson terms this collusion as a 'strategic partial-patronage' (2006: 289), echoing Berger's analysis of the state's simultaneous co-option of 'strong' dissent and repression of 'weak' dissent. It is clear that political repression intertwines closely with the religiously motivated repression of punk, and by extension anarchism. While it must be noted that some punks have been religiously recuperated by the intrusion of Islamists into underground scenes and via the hijrah trend (Papineau, 2020; Saefullah, 2017), the religious aspect of normative politeness in Indonesia is worth emphasising. Muslim piety was 'endorsed' by the Suharto regime (even while it 'restrain[ed] political Islam') (Pribadi, 2022: 101), because of its usefulness in inculcating humility and

deference within the population. Berenschot et al. concur, noting that politeness has been a result of the New Order's 'cleansing [of] political discourse in Indonesia' (in this volume, p. ?).

But the key point is that until very recently the authorities misunderstood punk and the anarchist movement that is closely associated with it because they were preoccupied with the outwardly visible contraventions of Islamic doctrine (and thus, transgression of religious norms), in the form of tattoos, piercings, women not wearing hijab, and so on, and in these normative transgressions these groups were identified as legitimate targets for repression. Repression was *not* because of the anti-statist and anti-capitalist political significance of anarchism as a philosophy and as a movement, which these state and para-state actors simply failed to grasp. The scope of repression may have been affected by the state's ignorance, but punks and anarchists have still been routinely repressed, and this lived experience is reflected in the punk scene's opposition to the police in Indonesia.

Punk (and Anarchist) Opposition to the Police

Worley et al. provide a loose definition of punk as 'exud[ing] an irreverent disregard for symbols of authority and pre-established hierarchies' and 'purport[ing] to provide a voice or means of expression for the disenfranchised [and] marginalised' (2014: 2). Senjury and Tenchis argue that 'this underdog anti-authoritarianism merges into anarchist-informed critique of the police as agents of state oppression' and that 'hatred for the police is one of the most pervasive lyrical tropes in punk' (2024: 239). This is as true in Indonesia as anywhere. The lyrics and imagery address three main themes: police prejudice against punks; experiences of police brutality; and (imagined) retributive violence against the police—all of which contain degrees of recognition of the police as agents of wider systemic repression (Figs. 33.6 and 33.7).

Anti-police imagery and lyrics have featured from early-on in the Indonesian scene's development, including the cover artwork of the 1997 compilation *Injak Balik!* [*Step Back!*], which features an image of police attacking a crowd of protestors (Various Artists, 2017 [1997]). Also in the late 1990s, The Inasubs sing 'police for still oppressed us' [*sic*] (1999a) and 'police and the people to believe we like the scum' [*sic*] (1999b). Demonstrating the pervasiveness of the anti-police theme across punk sub-genres, the pop-punk/ska-punk band UFO includes a sound clip of police attacking a crowd in the song 'Pak Polisi' ['Policeman'] (2000)—the title itself mocks the expectation of deference to the police. The Clown detail the everyday experience of money extortion in 'Police Brutality' (1999): 'If we rich we're free to go, if you poor you die in jail'. Milisi Kecoa [Cockroach Militia] later covered The Clown's song, and also penned their own response on this theme, describing the police as 'Parasites' (2011):

> They hunt you down, set you up, bully you around.



Fig. 33.6 A T-shirt produced by the band Jahat [Evil] in the early 2010s, in homage to the classic *Police Bastard* record cover (1989) by UK band Doom

> Of course they want your money, they'll suck you dry.
> They stop you in the street. They stop your show.
> Assholes in uniform, stay away from me!
> Cops, social parasites. We don't need them!
> They caught you, force you, beat you down.. Have fun!
> But if you pay the right price, they'll smile at you, they'll let you go and tell you not to come back.

Police harassment of punks is commonplace (Donaghey, 2016: 235). As noted above, this is usually based upon the outward aesthetic of punks, including tattoos (perceived as a marker of criminality), as reflected in the Brontak Bangsat [Rebellious Bastard] song 'Tatto Bukan Kriminals' ['Tattoos are not Criminal'] (c. 2017). Sri Aduh, writing for the Punk Is Not A Crime initiative in the wake of the abduction of the Aceh 64, connects the quotidian corruption of Indonesian police with wider systemic oppression (Fig. 33.8):



Fig. 33.7 Cover art from the *Injak Balik!* compilation (Various Artists, 2017)

> Ask anyone & they will tell you they want their children to grow up in a world free of tyranny & oppression. For many this includes a world free of corrupt & thieving police who persecute, beat, torture & murder people because of their race, religion, looks or lifestyle. A.C.A.B. (2012: 12)

The English-language acronym ACAB [All Cops Are Bastards] resonates with international punk influences—see Turtles.Jr, 'A.C.A.B.' (2012a)—but also has a practical evasive benefit as a veiled expression of anger against the police (a punk wearing a patch reading 'Polisi Anjing' [the police are dogs] was apprehended and beaten (Donaghey, 2016: 236)). The Kontrasosial [Counter Social] song 'Filthy Scum' echoes this evasive tactic, with the punks 'everyday hiding from the pigs' (2018). Police brutality and violence frequently appears

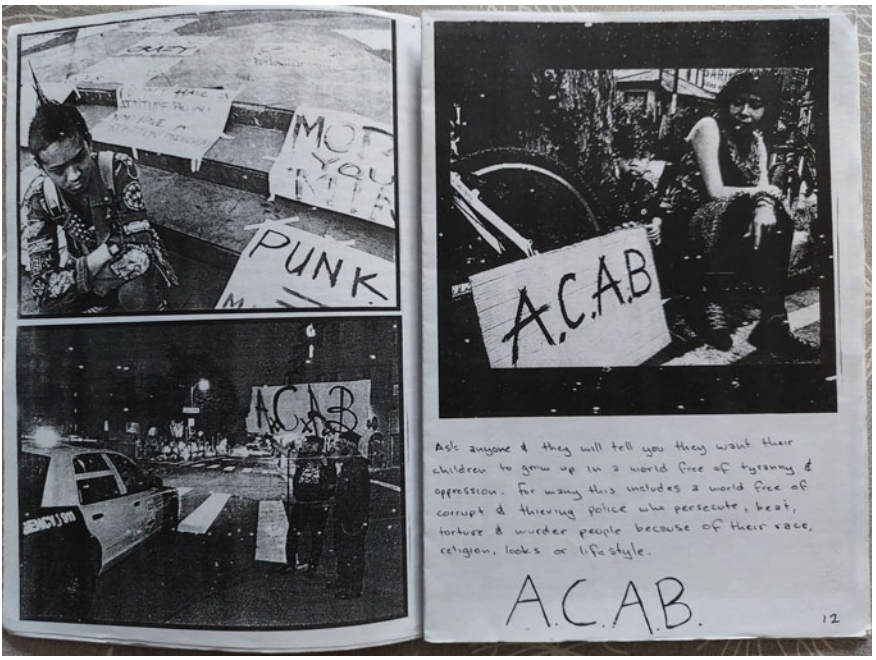

Fig. 33.8 'All Cops Are Bastards'. Pages from *Free Aceh Punx* zine (*Punk Is Not A Crime*, 2012)

in lyrics and imagery, including Krass Kepala's 2006 track 'Awas Polisi' ['Police Watch'] (2015a), which warns:

> Jangan sampai tertangkap ... Jika kau kena dipukul ditendang, Bahkan ditembak
> [Don't get caught ... If you get beaten you will be kicked, Even shot]

The cover artwork of Begundal Lowokwaru's [Lowokwaru Bastard] album *Nada Sumbang Pinggiran* [*Marginal Discordant Tone*] (2015) features a cartoon depiction of police disrupting a gig and chasing punks off stage with billy clubs, and the cover artwork of the Turtles.Jr album *Murder* (2012) features a punk resisting arrest by a police officer who is literally a 'pig' (Figs. 33.9 and 33.10).

While these reflections of police violence are far from celebratory, it is remarkable that Plottel's ethnography with punk squatters in Yogyakarta highlights '[t]he experience of being arrested and beaten … as a *foundation for their community*', reclaiming 'what would otherwise be a painful experience' (2016: 46–47 [emphasis added]). As Plottel puts it: 'punks, as some of the most radical and marginal members of society, are oftentimes the first to be targeted. Yet, punks subvert this aim by using violence as a rite of passage, a point of pride and a means of community building' (2016: 47). This echoes

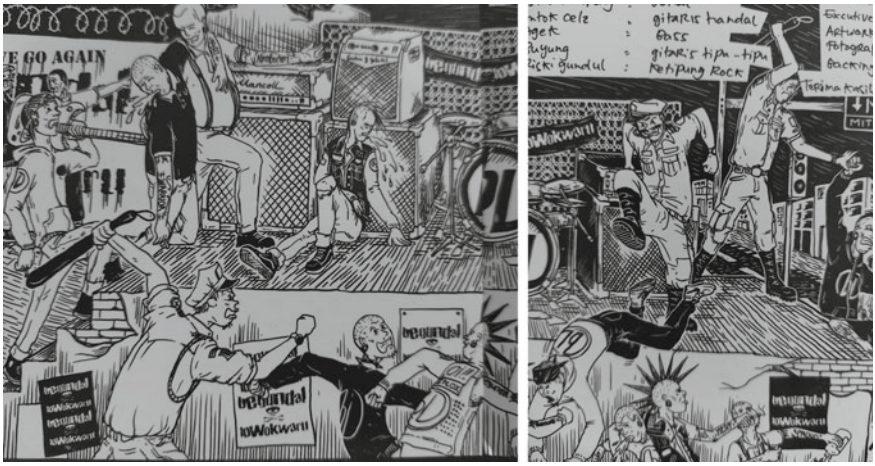

Fig. 33.9 Cover art from the Begundal Lowokwaru CD *Nada Sumbang Pinggiran* (2015)



Fig. 33.10 Cover art from the Turtles.Jr CD *Murder* (2012)

Berger's analysis of spectacular repression of 'weak' manifestations of dissent. But this 'collective experience of violence' is also a direct politicisation for punks and anarchists, and is often 'the means by which many of them come to develop anti-authoritarian ideas in the first place' (Plottel, 2016: 48). This recognition of the police as part of wider systemic repression is summed-up in typically blunt punk style in the inlay to Discount's *Terlahir Mati* [*Born Dead*] cassette (2008) which reads: 'Fuck government, fuck all system, fuck this country, fuck the police'.

Corcoran highlights 'descriptions of imagined scenes of retaliatory violence' against police in punk lyrics as another means of resistance (2020: 153). This is perhaps the lyrical trope that most blatantly transgresses the norm of deference to hierarchical authority, and there are numerous examples of this approach in Indonesia, including Turtles.Jr, who sing simply:

> i hate the system, fight the government, kick the police. (2012c)

And:

> police fuck off, fight police brutality, and burn it like dust. (2012b)

Krass Kepala recount the familiar scenario of police extortion, but in 'Police Violence' (2015b) they imagine resisting the police harassment: 'push and refuse … Boots on your pig face. That way maxe [*sic* – 'makes'] me go to jail'. Kontrasosial cover the song '124' by Swedish d-beat band Meanwhile, which is an account of 124 police being wounded when they tried to violently stop a protest march:

> There's no point in celebrating violence.
> But sometimes it's fucking justified. (2009a)

Brontak Bangsat take the 'police versus crowd' scenario from the cover artwork of *Injak Balik!*, but invert it so that the crowd are now the assailants, as depicted in cartoon form on the cover artwork of their album *Masih Tetap Tak Beraturan* [*Always Out of Order*] (c. 2017). Inhuman Infection sing:

> polisi you fuck you all, government you fuck you all …
> let's burn all, burn burn their fuckin' home, burn burn their uniform. (2011)

The 'burning' invocation here echoes the Turtles.Jr song 'police f.o.' (2012b), above, and anarchist activists actually did succeed in burning down a police kiosk during a protest in Yogyakarta in 2018 (AMV, 2018), in a rare connection between the imagined retribution of punk lyrics and actual street-level resistance (Fig. 33.11).

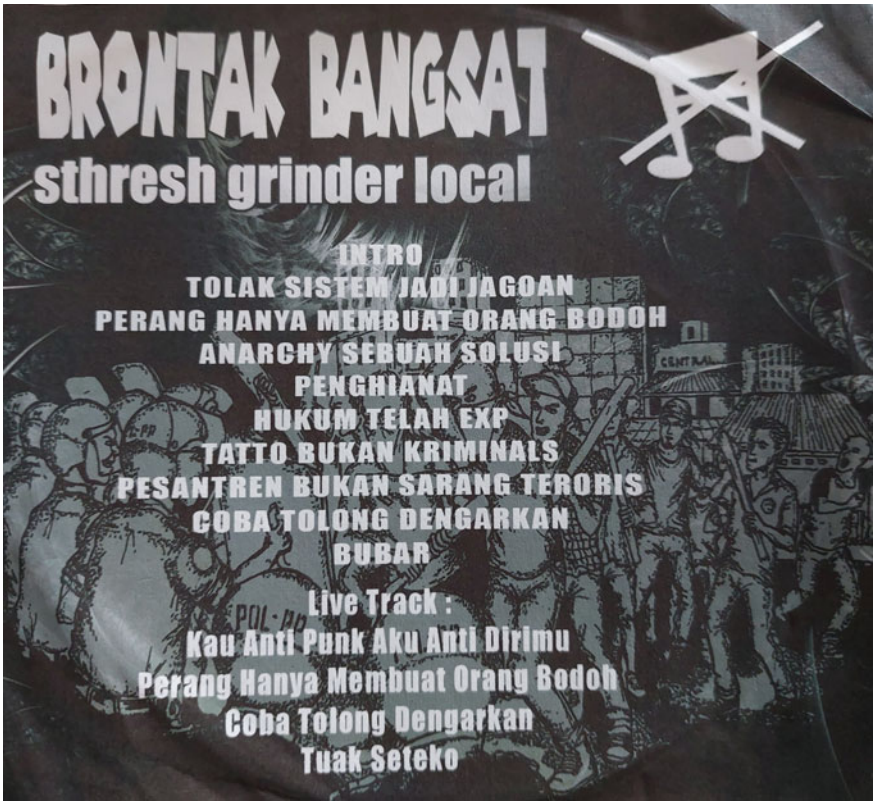

Fig. 33.11 Cover art from the Brontak Bangsat CD *Masih Tetap Tak Beraturan* (c. 2017)

As an amorphous and non-doctrinaire philosophy, there are of course complexities around anarchist attitudes to politeness. Classical anarchist theorist Mikhail Bakunin laments 'the academy', writing that while 'an academician' 'gains in *politeness*, in utilitarian and practical wisdom' they lose 'spontaneity … revolutionary hardihood, and that troublesome and savage energy': 'In a word, [they] become[] corrupted' (Bakunin, 1871 [emphasis added]). The accusation is clear—the elitism of the academy inculcates politeness, but this is at the expense of the capacity to 'destroy old tottering worlds and lay the foundations of new' (Bakunin, 1871). However, the anarchist-adjacent Enlightenment philosopher William Godwin, writing in the 1790s, 'appropriated politeness in the service of his antiauthoritarian political agenda … as an ideological bulwark to liberty rather than simply a means of [elitist] social exclusion or a form of dissimulation as radicals of the period had more commonly characterized it' (Kazmi, 2012: 104). So while both Bakunin and Godwin recognise the elitist underpinnings of politeness and firmly reject that

aspect of it, Godwin considers that this idiomatic form of interpersonal relations can be harnessed towards social harmony, while Bakunin and most other radicals see it as irredeemably anti-revolutionary.

Punk's resuscitating role punk for anarchism in Indonesia should be recalled here. While non-punk anarchisms certainly exist and proliferate in contemporary Indonesia, their geneses all arguably owe something to punk, and its 'spiky' attitude. Guerra and Silva discussing the Portuguese context write that '[t]here is a rudeness in punk' (2015: 219), Xiao and Stanyer point to the 'conspicuous rudeness' of participants on a punk chat forum in China (2017: 12), and Wiedlack identifies a 'willingness to offend' as a key component of queer punk (2015), and this rude, offensive spikiness is evident in the lyrical exhortations of punk bands in Indonesia.

The impoliteness of 'decidedly offensive and confrontational language' (Wiedlack, 2013b: 34), and 'angry lyrics, angry voices, or angry music' carries more than just aesthetic value, and these 'expressions of anger … *exceed these rules* and norms insofar as they violate them … such violations are breaking taboos' (Wiedlack, 2013a: 8 [emphasis added]). The title of *Submissive Riot* zine thus counterposes the norm of 'submissiveness' with the transgressive political behaviour of rioting. Even Pribadi's otherwise conservative analysis recognises that 'violating public norms … can serve as a thrilling moment of political possibility' (2022: 108), and this is exactly the point: punk and anarchist transgression of normative politeness disrupts the hierarchical imposition of deference and humility as a socio-cultural virtue, and in doing so points towards social relations that not only violate polite norms, but *exceed them*.

Resistance to Neoliberalism (and Neoliberal Policing)

The influence of neoliberal capitalism in Indonesia has been impactful, both on the foci of anarchist resistance and on the scope and function of repressive policing. Despite the aspirations for a post-dictatorship social restructuring, neoliberalism (with a neo-colonial flavour) has been accelerated in post-Reformasi Indonesia. The environmental and social damage caused by Indonesia's extractivist economy has been a motivation for activist resistance by groups linked to the anarchist movement, and by the anarchist-associated punk scene. For example, the Kontrasosial song 'Imperial Abad 21' ['21st Century Imperial'] (2009b) combines these anti-imperialist, anti-capitalist, and environmental concerns (Fig. 33.12).

Berger notes that 'Indonesia's new anarchists' take neoliberal capitalism as a focused target, including symbolic actions against branches of McDonalds and ATM/cash machines, declaring their motivations via an accompanying note which read '[w]e are aware of what you multinationals have done to the people of Kulon Progo, Takalar, Bima, and other places' (Berger, 2013). These 'insurrectionary'-style actions remain marginal within the scope of anarchist activisms in Indonesia, despite the disproportionate attention they receive



Fig. 33.12 Anti-neoliberal stickers, posters, zines, and patches. The slogans read 'Lawan! Kejahatan Korporasi' ['Fight! Corporate Crime'] and 'Hantam Neo-Liberalism' ['Beat Neo-Liberalism']. (Courtesy of Jim Donaghey)

from the media (and academia), but the framing of their actions highlights rural land struggles as a core concern of the wider movement. Kulon Progo, near Yogyakarta, has been a particular focus. The *Farm or Die* zine (2012) was produced by anarchist activists involved in the long-running campaign against the ruinous effects of corporate iron mining there. In it, The Unrest Collective write:

> Corporations have been stripping the 'third world' … of their natural resources for 100's of years. Indonesia is just one of the most recent on the list of countries being sold out from under the people by their own government to these corporations in order to make a profit … It's time we all know exactly what is going on in the struggle of peasants and indigenous people in Indonesia against these corporate powers who would seek to crush them under weight of their greed and industry. (2012: n.p.)

Land grabbing, as a process of neoliberal capitalist accumulation, has also affected urban communities. In 2018 the Forum Solidaritas Melawan Penggusuran [Solidarity Forum Resisting Eviction] in Tamansari, Bandung, highlighted their recognition of neoliberalism as the ideology behind the dispossession of kampongs by the city government, as well as identifying this practice as an extension of Suharto-era corruption: 'development … has now become a regime that works no differently from the New Order regime … [of] cronies, oligarchs and predators … eager to carry out the mandate of global capitalism which requires primitive accumulation' (Forum Solidaritas Melawan Penggusuran, 2018: 5) (Figs. 33.13 and 33.14).



Fig. 33.13 'Lawan! Kapitalis Nusantara' [Fight! Capitalist Nusantara] placard in Kulon Progo. Image from The Unrest Collective's *Farm or Die!* zine (2012)

The campaign against the expansion of Yogyakarta airport is another key struggle combining environmental and anti-neoliberal analyses. In all these cases, neoliberal 'development' projects are being resisted, and the police and other state forces act as the enforcers of this economic/ideological agenda. Indeed, as part of the 'authoritarian turn', 'Jokowi and his government have come to treat law enforcement and security services as tools for the repression of opposition' (Power, 2018: 335). The increased role of the 'security agencies' in political processes (Jayasuriya, 2020: 43), especially in the repression of West Papua, but also against protest movements in Indonesia itself, is a throwback to the dwifungsi [dual function] dictum of the New Order era (Prasetyo, 2020a) wherein the police and army had prominent roles in governing society. Senjury and Tenchis write that the 'grounding of anarchist opposition to the police is clear – police are the antithesis of anarchist values of mutual aid, freedom, and equality, and are an embodiment of the state's repressive power' (2024: 239). This aspect of anarchist political philosophy has placed the movement at the forefront of resistance to the police's reformed role as enforcers of authoritarian neoliberalism.



Fig. 33.14 Images from Tamansari anti-eviction campaign, Bandung, 2019. The slogan reads 'Negara Andalah Budak Kapitalisme' ['Your Country is a Slave to Capitalism'] (courtesy of Frans Ari Prasetyo)

Recent Changes in Police Repression

The anarchist movement's direct confrontation of the police as enforcers of neoliberal authoritarianism has accelerated the Indonesian state's reframing of anarchism as a 'new "ideological spectre"', as termed by Police Chief Tito Karnavian (quoted in Needle 'n' Bitch Collective, 2019). Berger's fascination with insurrectionary anarchism led him to assert that '[i]f insurrectionary anarchist cells keep multiplying, and violence leads to deaths or injuries, the police and media will start to pay much closer attention to anarchist ideology and Indonesia's harmless community of anarcho-punks could lose the relative freedom that they currently enjoy' (2013). This has instead come to pass because of the increasing size and effectiveness of anarchist May Day demonstrations, especially those of 2018 and 2019, across most major Indonesian cities.

The Yogyakarta May Day demonstration of 2018, which protested 'the Sultanate and the construction of the Yogyakarta airport project', resulted in the burning down of police kiosk at a road junction. 69 demonstrators were arrested, of whom eleven were detained *for up to seven months* and suffered beatings and torture 'during interrogation without access to legal council' (AMV, 2018). This is a clear escalation from the days-long detention of the anarchists in Malang in 2012. The following May Day demonstrations, in 2019, were even larger, with particularly vibrant attendance in cities including

Surabaya, Makassar, Yogyakarta, Malang, Jakarta, and Bandung. In a further escalation of the state's repressive response, in Bandung alone the police 'arrested 619 of the estimated 1000 protesters for vandalism and destruction of public property' (Needle 'n' Bitch Collective, 2019). They had their heads shaved, were sprayed with paint, and were subjected to 're-education', echoing the shari'ah police abduction of the Aceh 64 in 2011. Across Indonesia during these demonstrations, the National Human Rights Commission reported that 'ten people were killed by the authorities with firearms … 32 people were reported missing, and dozens of others were injured by the excessive use of tear gas' (Persada, 2019, cited in Facal & Estrelita, 2020: 229). As Facal and Estrelita put it, 'this authoritarian style manifests itself in alternating phases of low-key brutality and crises of ostentatious repression' (2020: 226). This spectacle of 'ostentatious repression' was repeated some months later, during the anti-Omnibus Law protests of September 2019, during which police killed five people involved in demonstrations in Kedari and Jakarta (Prasetyo, 2020a: 9). In Bandung alone, 429 people were injured. As Prasetyo puts it: 'Bandung's city police is instituting terror against its citizens in the public space of their own city' (2020a: 10), and this applies to Indonesia as a whole. According to the Palang Hitam Anarkis (Anarchist Black Cross prisoner support network in Indonesia), seven anarchists are currently known to be incarcerated in Indonesia, either awaiting trial or serving prison sentences of nine months to *fifteen years* (Jaringan Penerbit Anarkis, 2022).[1]

In addition to the deployment of murderous violence, the state has also sought to attack the anarchist movement via the media, using the high-profile afforded by their spectacular repressions as a platform to do so. Plottel correctly notes that 'the co-existence of a diverse range of tactics reflects the diversity of the Indonesian anarchist movement strengthened through its breadth' (2016: 22), but this diversity has been ignored in the state's exclusive (and bizarrely specific) denouncement of 'anarcho-syndicalism'. In the media, police chief Karnavian identified 'anarcho-syndicalism' as a new threat 'alongside [Marxist-Leninist] communism and Islamic extremism' (quoted in Needle 'n' Bitch Collective, 2019). Anarcho-syndicalism—an anarchist strategy of organising workers to resist oppression as producers, and to reshape production itself in a democratic and self-managed manner, usually via trades unions—had particular resonance in Indonesia in the early-to-mid twentieth century. But it is unlikely that the subtleties of anarcho-syndicalist strategy were foremost in Karnavian's mind, and it seems that this specific terminology was intended to suggest a gloss of nuanced understanding of the movement by the police, or perhaps to distinguish these 'anarchists' from the 'anarchy' of fundamentalist Islamic mobs and football hooligans. In any case, Karnavian slandered the anarchist movement in Indonesia as a 'foreign doctrine' (Sani,

[1] They are: Bima Satria Putra, Carolous Krisna Putra Pratama, Fahmi Fikri Salman, Rian Ardian, Jon Sondang Pakpahan, Job Gocklas Silitonga, Fadli Hari Ando (Information from Palang Hitam Anarkis [Anarchist Black Cross—Indonesia]).

2019),[2] 'presented as a nebula of conspiracy' (Facal & Estrelita, 2020: 231) (Fig. 33.15).

Their transgression of the political and social norms of politeness and deference justifies Karnavian's (and by extension the state's) view that anarchists have forfeited the protections and obligations due to them as citizens, especially with regard to the loosely defined agency of 'informal citizenship'. Moreover, because polite discourse is hierarchically determined—that is to say, deference to the powerful is predicated on fundamental power imbalances (in this case favouring the state and the police)—then it is a *double* offence when the powerless 'lower classes' refuse their submissive role. For anarchists, then, this impoliteness and the attendant rejection of hierarchical politeness is unapologetically intentional. From an anarchist (and punk-anarchist) perspective it is politically virtuous to cause offence to those elites who expect deference (Wiedlack, 2015: 184).

On the basis of the newly recognised threat of 'anarcho-syndicalism', Karnavian ordered 'police personnel to map out the group's members' (Sani, 2019). This has included sending at least four police officers to the criminology departments of Western universities, where they have been using those institutional resources to carry out research into the anarchist movement in



Fig. 33.15 Images from May Day 2019 in Bandung (courtesy of Frans Ari Prasetyo)

[2] Actually, anarchists in Indonesia have been keen to 'indigenise' their movement, citing historical examples such as the Baduy of Banten, the Samin of Central Java (Plottel, 2016: 41), the Dayak of Kalimantan (Putra, 2021), and practices of nagari-nagari in Minangkabau (Cahyana, 2019).

Indonesia, including a police chief from Magelang who was sent to study a Master's degree at the University of Leeds, in the UK, in 2021 (Atmasari, 2021). So, while the state's newly professed understanding of anarchism rings hollow at the moment, this may soon change, but in any case the tactic of spectacular repression will likely continue in Indonesia because of its usefulness in 'frighten[ing] and demoraliz[ing] opposition social movements' (Facal & Estrelita, 2020: 226)—akin to fascism, state terrorism is part-and-parcel of contemporary authoritarian neoliberalism.

Conclusion—the 'neo-New Order'?

As early as 2002, Robison identified on the part of investors in Indonesia a 'sense of nostalgia for "the good old days" of Soeharto when things were certain' (Robison, 2002: 109, cited in Springer, 2009: 274). Two decades on, Jayasuriya noted the Jokowi presidency's 'conscious return to the older language – if not the political allies – of the previous … New Order regime[]' (2020: 52). This sense of turning back the clock on democratisation is well recognised by people in Indonesia, encapsulated in the #ReformasiDikorupsi slogan that accompanied the widespread protests following Jokowi's re-election in 2019 (Prasetyo, 2020a). But, as Jayasuriya argues, while 'echoes of the New Order' are evident in Jokowi's populist authoritarianism, it is also 'now linked to neoliberalism' (2020: 50)—this is more accurately termed, then, the '*neo*-New Order' (Prasetyo, 2020a: 3 [emphasis added]).

Like authoritarian or 'disciplinary' neoliberal regimes elsewhere in the world, a 'variety of regulatory, surveillance and policing mechanisms' are deployed to ensure that 'neoliberal reforms are instituted and "locked in", in spite of what the population base might desire' (Springer, 2009: 271–272, citing Gill, 1995). Springer warns that the attendant threats of this authoritarian shift should be taken seriously, and this is exactly what anarchists and punks in Indonesia are doing. Anarchism, and its overlap with punk counter culture, has been especially alert to the contemporary contours of authoritarian neoliberalism. Their role in resisting neoliberal 'development', and in opposing the authoritarian enforcement of that agenda, has put them in the firing line—and, as a 'weak' manifestation of dissent, the state has targeted them with high-profile, spectacular bouts of exemplary repression. This vulnerability comes chiefly from the identification of punk and anarchism as transgressing social, political, legal, and cultural norms. Some other forms of protest seek to insert themselves into this normative landscape by heeding expectations of politeness, but punk and anarchism are 'willing to offend' with rude language, 'shocking' aesthetics and behaviour, confrontational protest, and disrespect for hierarchical authority. Wiedlack celebrates the punk/anarchist understanding of 'anger as a legitimate form of political articulation' (2013a: 8), and this 'impoliteness', in its rejection of elitist deference, is in fact an essential component of anarchist and punk resistance.

Other protest movements might take a lesson from this—as Berenschot et al. note, contemporary campaigns for agrarian reform in Indonesia, while 'making claims modestly' via polite discourse, have 'not been very successful in disseminating [their] ideas' (in this volume, p. ?), and land grabbing continues apace. The norm of politeness serves the state and its extractivist corporate bedfellows by inculcating deference as a socio-cultural virtue. 'Impoliteness' has arguably left punks and anarchists vulnerable to state repression (in forfeiting their informally conferred agency and citizenship by transgressing norms). But adhering to norms of politeness in dealing with the state, while it may avoid the most brutal expressions of violent repression, has actually curtailed the effectiveness of other forms of protest in the post-New Order era. It is clear, then, that the norm of politeness bolsters the Indonesian state's repertoire of repression, and contemporary resistance movements would benefit from shaking off this Suharto-era hangover, as punks and anarchists have endeavoured to do.

Acknowledgements Thanks to Frans Ari Prasetyo, Gloria Truly Estrelita, and Sarah Andrieu for supplementary information that has rounded out many of the arguments here, to Gabriel Facal for some thought-provoking comments on an earlier draft, and to Astrid Norén-Nilsson for helpful editorial suggestions.

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CHAPTER 34

"Human Rights Activism in Indonesia": An Interview with Usman Hamid

Gloria Truly Estrelita and Gabriel Facal

Usman Hamid is the Executive Director of Amnesty International Indonesia and Executive Board of Transparency International Indonesia. He also serves as a lecturer at the Indonesia Jentera School of Law, Jakarta.

What Is the Role of Amnesty International in Southeast Asia—and More Particularly in Indonesia—to Defend Human Rights? What Have the Main Achievements of Amnesty Been During the Time that You Have Been Heading the Indonesian Branch?

Amnesty International was established in Indonesia in 2018 with the objective of leveraging Indonesian national human rights movement to the world politics of human rights. In recent years, there has been a global decline of

The interview was carried out online on 11 and 12 July 2022.

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1_34

human rights, indicated by the retreat of some champions of human rights such as the European Union, or the United States. One of the causes of this decline is what we call the rising politics of demonisation, in the form of divisive rhetoric across the globe: in Europe with Viktor Orbán, in America under Donald Trump, in the Asia Pacific with Narendra Modi, or in Southeast Asia with the populist politics of Rodrigo Duterte.

At the same time, Amnesty has seen the emergence of new players in world politics, represented by Indonesia, Brazil, or even India before Jair Bolsonaro and Narendra Modi came to power. In those countries, Amnesty used to play a role in what civil society called "boomerang theory": you send a team of researchers to the ground in countries like Indonesia where human rights violations or abuses are taking place, and they then come back to headquarters in London, Brussels, Geneva, New York, or Washington D.C., for example, for advocacy meetings with global players at the UN or the WTO, or making use of the bilateral relationship between key governments such as US or UK and Indonesia, or the European Union and Indonesia, in order to put pressure on the Indonesian government to improve the human rights situation.

Now, you can no longer use this theory or no longer hope in the European Union, which is very busy with its own politics on economics and human rights issues, for instance, linked to immigration; not to mention the economic crisis faced by the UK, Greece, Italy, and so on. The United States had to face its internal dynamics with white supremacism or Islamophobia, racism, and discriminatory policies towards foreign citizens or people seeking refuge after 9/11. This has somehow provided less opportunities in D.C., New York, London, or even in Brussels for international organisations like Amnesty International. Therefore, we changed our strategy, we decided to move closer to the ground, and together with the grassroot movement, put pressure on the streets or have a conversation with the government, in the hope that such an approach would be more impactful both in terms of policy change and from a movement building perspective. Indeed, this was done with full awareness of potential risks to its staff and operation. But I do agree that we must take a risk as we are not left with many options in this changing global landscape.

This strategy has contributed to some small wins on the human rights front. Although in general there has been backlash against votes on civil liberties and political rights, Amnesty has managed to get at least 170 000 supporters on its activism and community organising database who are ready to take action online. Because of the pandemic, there has been some limitation. But we have been able to connect with the local human rights movement, the student movement, the labour movement, the indigenous rights movement, the indigenous Papuan movement, in order to articulate or to amplify their political rights interests, or their social rights issues in terms of land, economic freedom, right to justice, and so on. There was a time when as part of the broader social movement in general, we managed to block unjust laws to be adopted, such as the draft law for the penal code in 2019—the law contained many dangerous articles on criminal defamation, insult, blasphemy, treason,

and too many others that threaten freedom of expression. We also managed to have a female school teacher released, who was sexually harassed by her school principal and then imprisoned and fined. She was then granted amnesty and is a free woman with dignity now.

In 2018, just in the first year that Amnesty settled in Indonesia, we launched a report on 69 cases of unlawful killings in Papua. We managed to present the report to President Widodo, during an official hearing at the House of Representatives, and before high-level officials such as the Coordinating Minister for Political, Legal and Security Affairs, the Minister of State Secretary, the Minister of Foreign Affairs, the Cabinet Secretary, and others. The same goes for the last report of Amnesty on Papua, titled "*Gold Rush*": *Indonesian Mining Plans Risk Fueling Abuses in Papua*, which regards the gold mining plans in an area called Wabu Block, one of the Papua regencies in Intan Jaya, the province of Papua. It again highlighted unlawful killings, discriminatory treatments, and other rights violations mentioned in the first report. One of the small wins from the follow-up meetings with the government, we agreed to at least start with the unlawful killing of teenagers taking place in Paniai in central Papua, a few months after Jokowi came to presidential office. At the moment, this is the only major human rights abuse that is currently being prepared for human rights trial. It is unfortunately located in Makassar, South Sulawesi, far from the hometown of the families of the victims of the bloody tragedy.

What Are the Main Challenges to Human Rights in Southeast Asia and How Are They Addressed by the Amnesty Regional Offices?

In Southeast Asia, we can see some progress in some areas of human rights. Malaysia is moving towards the abolition of the death penalty and Indonesia is moving towards a moratorium of the death penalty. In other countries it is difficult to see any progress. One of the main challenges is the authoritarian nature of Southeast Asian governments. In Myanmar, for example, there has been another coup. Cambodia has seen no progress in terms of the release of political opposition activists, fair elections, or accountability for abuses. In Vietnam or even Singapore, it's hard to say there has been progress. Thailand was one of the promising countries in ASEAN. But now it's hard to say that this country is going towards a more democratic state, with another military coup, repeated coups, political manoeuvres by the military, not to mention a new NGO law being introduced in the country that places civil liberty under threat. Nevertheless, we still have a well-functioning [Amnesty International] office in Thailand, although it has been very tricky to deal with the local authorities, especially when it comes to our regional office. In the Philippines, despite the fact that Rodrigo Duterte's administration has been so brutally repressive, we managed to survive, although we have to mitigate it in the way that we communicated publicly so we could continue have our staff operate safely on the ground.

Despite this challenging atmosphere, we do have an office with strong presence in Malaysia, in Thailand, and in East Asia, such as in Japan and South

Korea. We used to have a quite powerful and strong presence in Hong Kong. But in recent years, there has been significant decline of democratic life after China brought in their policies. So, we regretfully had to close the regional office and the national office. In India, we used to have a very large team and effective presence on the ground. But the declining state of democracy has resulted in that Amnesty can no longer operate. So, these are offices already being shut down by the governments in the Asia Pacific.

What Cases Are the Main Concerns of Amnesty International in Indonesia?

Amnesty's office in Indonesia is a new baby born of the global Amnesty movement, with only five years of existence. Whereas in Thailand, the Philippines or Japan, we have been there for more than 50 years. Despite the fact that our national office in Indonesia is new, Amnesty has been keeping an eye on Indonesia for many decades at least since the mid-1960s when Indonesia entered a very dark period in history where millions of communists and leftists were extrajudicially, unlawfully, and arbitrarily killed in a massive pogrom. Not to mention how many of them were imprisoned without fair trial and discriminated by laws and various regulations. Amnesty has had much experience of addressing human rights concerns in East Timor, Aceh, and Papua. Given all the past experience, we decided to have at least eight to nine priorities for the human rights agenda in Indonesia. Number one is Papua, where the situation has worsened in the last three to four years due to the over presence of the military, the escalating level of conflict, violence, and human rights violations by state actors, and abuses by non-state actors. Other main concerns are the rights of women, the right to freedom of expression, association, and assembly, the right to freedom of thought and conscience, the right to justice and accountability for human rights violations, and the abolition of the death penalty. We also did research on and campaign against all forms of harassment, intimidation, and discrimination against LGBTQI+ people. Indonesia is too important a country to have such a human rights record over the last twenty years of democratic reforms.

Regarding the human rights of women, there are a number of laws that are discriminatory. For example, the marriage law. In recent weeks, I have been attending a constitutional court session as an expert from Amnesty emphasising the fundamental rights of women to marry anyone they love regardless of religion, gender, sexual orientation, or race. The court is hearing a constitutional complaint by a Catholic man who was banned from marrying a Muslim woman. I have given quite a long statement as an expert highlighting the fundamental rights of every human being to marry or to form a family. And those rights cannot be restricted or violated based on religious or racial background. There are also discriminatory grounds for men who can marry another woman as a second wife, just because the woman is disabled, for example. This is clearly discriminatory and degrades the human dignity of women. This law also has many other problematic articles.

The Islamic law in Aceh, or *Qanun Jinayat*, which was passed by parliament in 2014, expands the use of corporal punishment and introduces criminal offences related to consensual sexual activity between unmarried couples. The draft law on the penal code that is currently being deliberated at parliament also contains similar and problematic articles criminalising consensual sexual activity between unmarried couples. Consensual sexual activity between individuals of the same sex is also considered to be *zinah*. Most of the victims of these laws have been women.

We have to work with the local human rights organisations, including women's rights organisations, in order to be able to share our different expertise. We also work with the local civil society to put pressure on Indonesian authorities to adopt the law on anti-sexual violence or to push the full implementation of the elimination of domestic violence, of which women and children are major victims. And this [law] has just recently been adopted by the parliament. I think it is a historical win for the whole human rights and women rights movement. We called on the Indonesian government and parliament to review the marriage laws for example, bearing in mind that Indonesia is signatory of the Convention on the Elimination of Discrimination Against Women (CEDAW). And a state-party to the Convention. Amnesty and several women rights groups have been submitting submissions to the CEDAW Committee. Our country has also signed and ratified the UN Convention on the Rights of the Child to take measures to prevent early marriage, by amending the law related to the minimum marriageable age standard or to revise the Indonesian laws on rape and other forms of sexual violence.

Rapes and abortion have not really been properly addressed by the recent anti-sexual violence laws. And worse, the bill on Penal Code still criminalised abortion without differentiating between the complex elements of it. Amnesty supports women's right to safe abortion. There are many other discriminatory policies to be addressed at the level of the ministries. On labour, for example, we produced research on the great scandal of palm oil in North Sumatra and Central Kalimantan, where we highlighted the rights of women and children who have been neglected by the companies. Also, if we look at past human rights abuses, such as the mass killings in 1965 against leftists and communist, there are many issues related to women: sexual exploitation, sexual harassment, rapes, and forced prostitution.

Did You Decide on Your Main Priorities Because of the Local Populations' Particular Claims or Because of Amnesty's Objectives? When these Objectives do Not Match Local Expectations Perfectly, for Instance, for Religious or Cultural Reasons, How do You Proceed?

We decided on the nine priorities for the human rights agenda [in Indonesia] based on whether we have made research on the issues, whether we have expertise and resources. On the LGBTQI+, while we have not produced a long report of our research on the situation of LGBTQI+ in Indonesia, we have produced many forms of public outputs as well as specific research on the Acehnese transwomen, which is not published yet due to security reasons

for the transwomen and LGBTQI+ communities. In Aceh, while we were on our way to finalise the final report of transgender women, the research has not been publicly launched due to some security concerns of the regional transgender community, which was involved in the process of research and reporting.

Regarding your second question, I don't believe that there is any kind of black or white binary opposition between universal and particular norms. Those who are opposing the universality of human rights usually have particular or vested interests in blaming them as products of Western countries or non-Islamic values. For example, in the early 1990s Suharto opposed human rights values by arguing that we as a nation had our own Eastern and Asian values, that were not compatible with human rights norms they claim come from the West, and are associated with Christianism or secularism. And the same argument was advocated by Mahathir Mohamad (in Malaysia), or by Lee Kuan Yew (in Singapore).

This debate is not a recent phenomenon of modern Indonesia. Before Indonesian independence in August 1945, there was a committee to prepare for Independence, set up by the Japanese authority and consisting of Indonesian political leaders and political thinkers. There was a debate about Eastern values and Western values. For example, Professor Supomo argued against human rights by claiming that Indonesia had its own values, norms, and social structures which were not compatible with Western ones. He introduced a theory called "organic states" or "integralistic states", arguing that society and the state could not be separated, should live in harmony, and didn't need any conflict. Just like life in local villages in the country, he said. Other political leaders have argued against him. For example, Mohammad Hatta, a social democrat, argued for human rights. Maria Ulfah, one of the most important female political leaders, also argued against his argument by saying that human rights were universal and should be granted inherently to Indonesian fellow citizens too.

Supomo's argument was very weak because the theory of integralistic states come from the West, from thinkers like Adam Müller or Spinoza. As a professor of customary law, Supomo learned from a Leiden professor in Holland, who was inspired by German professors who introduced the theory of the organic state or integralistic state, and which in Europe had inspired the rising politics of fascism and totalitarianism. It just really didn't back up his claim that we should not hold Western values. Secondly, Supomo was a *pangreh praja*, a politically appointed officer by the Japanese rulers at the time, who had some vested interest in serving the Japanese authorities rather than the people of Indonesia. It is important to note that Japanese colonial rule imposed feudalistic values in our social and political life.

The same goes for modern Indonesia under Suharto and under the reform era (since 1998), with those who are arguing against human rights by saying that we have Eastern norms, Asian values, or Indonesian values or religious values. Suharto had successfully expanded the notion of organic state into the

country's social and political life, so that is still powerful and deeply rooted in Indonesian society. These assumptions or binary oppositions of particular versus universal values are completely false, especially if we look at the Universal Declaration of Human Rights or the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social, and Cultural Rights, as well as so many conventions, including the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination Against Women. They are all the result of extensive discussions and debates among different countries and different level of civilizations, including Middle Eastern or Muslim countries who had been involved as well as played an active role in the formulation of those universally accepted norms.

By opposing Islam to universal human rights, the enemies of human rights fail to differentiate between the fundamental principles stipulated in the Koran, the words or the deeds of the prophet, the laws claimed to be Islamic laws by Islamic rulers, and customary practices. Just to mention a few, they mistakenly claim practices of female genital mutilation that came from ancient Arabic-African nations as Islamic values. This is absolutely incorrect.

I don't mean to say that there are no conservative norms in Islam, but people forget the historical context. If we look at history in Aceh, most references have shown that the death sentence and other cruel punishments come from the history of kingdoms at the time, rather than from the history of, or the referential texts from, for example, the Koran or Hadith. I give you a more contemporary example in Indonesian social and political life. The translation of the Koran by the Indonesian Ministry of Religious Affairs in 1971, that was in dominant use during the political conflict among political parties and elites in the late nineties and the first few years after the fall of Suharto, was based on a particular and misleading interpretation of the religious texts. There is this verse called *Ar-Rijalu qawwamuna 'ala an-nisa* that was interpreted as "Men are leaders of women" or "men are in charge of women", based on the 1971 translation by the Indonesian Ministry of Religious Affairs. This interpretation was mostly used by the political elites who were against Megawati Sukarnoputri [President 2001–2004], a female leader whose party [PDIP] won the largest number of seats [in 1999].

It resulted in the inability of Megawati to be president because all Muslim political parties and Muslim leaders argued against her, based on this specific Koranic version. Since this shocked the country, especially the Muslim population, several Islamic scholars sat down and discussed in detail the meaning of that verse and what historical context it came from. The final translation of the Koran in 2003 deleted the original version published by Indonesian Ministry of Religion in 1971 and gave a new interpretation. And therefore, you can now have a woman for president.

There are many unfinished agendas in Indonesia when it comes to dealing with the compatibility between universal and particular norms, between religion and human rights, which I believe to be intertwined with what I call

the vested interests of those who seek power by attacking human rights and with the deeply rooted misunderstanding of Islamic norms and human rights norms.

To Address These Misunderstandings Between Different Conceptions of Human Rights, Do You Have Any Opportunities to Talk with Religious Representatives or Bodies?

Yes, we do have that opportunity. Even in terms of LGBTQI+ rights, we managed to discuss with progressive clerics. They are the ones who clarified about the concepts in Koran that have been misunderstood to justify violence or discrimination against LGBTQI+ people. Although this is not the mainstream group of clerics, their clarification has been quite effective in reducing potential repression against the LGBTQI+ community.

Do You Have Any Communication with Political Parties?

We do. As an example, for the last couple of months, we accompanied indigenous leaders and representatives from Papua to meet the chairmen of several political parties. The chairman of Golkar for example, Airlangga Hartarto, and the chairman of the Conservative Party Justice and Prosperity Party (PKS), Ahmad Syaikhu. We met with the president of the National Mandate Party (PAN), Zulkifli Hasan, who is now the Minister of Trade. We met with Muhaimin Iskandar, chair of the National Awakening Party. We met with the Minister for National Development Planning, Suharso Monoarfa, chair of the Islamic-based United Development Party. We did not meet with Surya Paloh, who at the time was overseas. We did not meet with Yudhoyono's son [Agus Harimurti Yudhoyono] because his party at the time (Democratic Party) was considered to be relatively open to the rights of indigenous peoples of Papua. We met them in their official residence or in their ministerial office. So, despite of all this shrinking civic space, we managed to keep the window open for conversation, for discussing human rights issues globally.

More Broadly, What Are the Segments of Society with Whom You Have Possibilities to Share Your Ideas About Human Rights? Do You Have any communication with Other NGOs?

Yes, we work closely with students and grassroot groups, depending on the issue. For example, in terms of Internet freedom, we work with the Coalition for Internet Freedom and youth-based networks. In terms of press freedom, we work with the Committee to Protect Journalists as well as local journalists who are at risk. In terms of Papua, we work with churches, the customary council, as well as the NGO coalitions working on Papua. Not to mention so many coalition-building types of work, including the Civil Society Coalition for Security Reform. If you look at the WhatsApp groups of several coalitions among Indonesian civil society you will always find Amnesty being included into it. It could be me, a campaigner, the media officer, or an activist from Amnesty. Because Indonesian society is very vibrant, every day you can find three to five, or even more human rights issues to be responded to. Because of limited resources, we have to decide which issue we are taking the lead on and which one we will just support. On Papua, we decided to take a lead,

especially in terms of doing well-developed research on the ground, building awareness among the diplomatic community or among international agencies, making sure that NGO and Amnesty reports are submitted or presented to the diplomatic community and high-level officials. As I mentioned, we managed to present a report on Papua to President Widodo, the Deputy Speaker of the House, and several ministers, not to mention Mahfud MD, the current Coordinating Minister for Political, Legal, and Security Affairs of Indonesia.

In Papua we work closely with local NGOs and also with local state institutions such as the Papuan People's Congress. Two months ago, we met with the Governor of Papua in Jakarta, presenting our new report on the gold rush in Papua regarding the mining plans in Wabu Block (Amnesty International, 2022). He agreed with Amnesty's recommendation to halt the mining plans in Wabu Block due to the potential impact on human rights. He wrote a letter to the Minister of Energy and Mineral Resources asking Jakarta to halt the mining plan. Chief Minister Mahfud had confirmed to us that the government will not continue its mining plan any time soon. We are calling on them to have consultation, informing indigenous Papuans, consulting them, and obtaining their free and prior informed consent.

In Aceh we used to work very closely with the LGBTQI+ community when we produced the report that I mentioned before, but in the last couple of years, they decided to just lower down their profile, reducing public visibility. But before that, it was a very vibrant interaction, having meetings there and workshops in Jakarta, as well as putting pressure on the authorities to take action protecting their rights and dignity.

Apart from the transgender issue, we work closely with the human rights and peace community on the peace negotiation process, especially in Papua, in order to make sure justice and accountability are delivered or at least to reduce the escalation of violence and human rights violations. We support the establishment of the Truth Commission as long as it doesn't jeopardise the justice and accountability process and the victims' rights to justice, truth, and redress. We work with the victims, families, and witnesses, we produce briefings, and bring them into the attention of those in power. In terms of consultation for the Universal Periodical Review (UPR), we coordinate among NGOs, we communicate with them, we came together to the public hearing held with the Ministry of Foreign Affairs and National Human Rights Bodies. This week, some NGOs will be consulted with the Ministry of Law and Human Rights on the UPR. Amnesty will be sending two representatives to speak in one of the sessions of the UPR in Geneva, Switzerland, this year.

There are many NGOs that do not stay in an ivory tower, but are really on the ground, risk their lives, work directly to accompany victims, survivors, to watch police brutality, or to document issues related to drug abuses and the importance of a human rights-based approach. For example, in recent months, some regular citizens accompanied by NGOs started to campaign publicly demanding for the legalisation of marijuana for health purposes, just like what we had seen in other countries—among others are Thailand. In

terms of drug use and drug control, Amnesty policy is clear: the approach for drug issues should not be criminalisation, it should be health and public interest. So rather than just putting people in jail, we need to improve our scientific research on marijuana as well as improve our national health system. In recent years there's a shift in public perception about marijuana, and some families whose son or daughter have health issues and need marijuana as a therapy and topical treatment have somehow contributed to the awareness of the need to legalise marijuana, at least for health purposes. But it's a long way to go, I think, for Indonesia to legalise such prohibited stuff. We need some induced work on prison reform, some work to help the victims of drugs for rehabilitation, some work on the draft law to reform the penal code.

So, there are many angles, many lenses through which you can work on human rights in Indonesia. Not to mention the younger generation of NGOs. Perhaps, I'm from the old generation of NGOs, from traditional activism in the late nineties. Activism of the twentieth century tended to be Marxist, socialist, or at least social democrat. But now the younger generation is inspired by newer trends of political thinking, from Steve Jobs or Malcolm Gladwell, all the people who are involved in the digital activism debates. They are very active in a new type of activism, public education and policy research activities. Even during COVID-19, the younger generation of civil society has been very active in monitoring the government policies. Some of them got into trouble, like Ravio Patra, a widely known young public policy analyst who was arbitrarily arrested. I helped him. Doing this is not necessarily to do with Amnesty's policy and priorities, but it is a solidarity action.

Are There Any Conflicts of Interest Between Amnesty International Indonesia and Other Local Advocacy Entities, for Instance, When These Entities Use Violent or Entail Discriminatory Practices?

In terms of conflict of interest between Amnesty and other local advocacy entities, I can give you an example of how close we are when we work with some Muslim intellectuals from Nahdlatul Ulama and Muhammadiyah. But also, how can we have opposing stances on politically sensitive issues of human rights. These are the two largest Muslim organisations that have been perceived as moderate, open-minded and progressive. They have deep-rooted democratic cultures and humanity-oriented values. However, when you talk about LGBTQI+ rights, the death penalty, the right to safe abortion, or religious minority rights, we could be in a different and opposing direction. The vast majority of people in the two organisations might still have some prejudices towards gay people, or towards anyone associated with communism or the Indonesian Communist Party, Partai Komunis Indonesia (PKI) which was banned after the coup in 1960s. Nevertheless, within these organisations, there is a younger and progressive generation of Muslims who work closely with us and try to influence their peers from within when they produce a fatwa, including the new generation of progressive Muslims who are now working at the Indonesian Ulema Council, the Majelis Ulama Indonesia (MUI). In the long run, we can be in a strategic partnership with them when we talk about

LGBTQI+ rights and freedoms, or when we talk about politically sensitive issues like abortion, or when we talk about the need to come to terms with our past related to the mass killings of communists, discriminatory practices against Islamists, and so on.

Internally, within the organisations, there can also be conflicts of interest at the individual level. For example, the chair of Amnesty International Indonesia, Mulya Lubis, is a lawyer who was appointed by the Indonesian government to be the Indonesian ambassador to Norway. And from Amnesty's point of view, this is in conflict of interest or conflict of duty, so we discussed this internally, he fully understood and decided to resign from the organisation. He remains a strong ally of the Amnesty movement in supporting human rights in Indonesia.

To mention other cases, during elections, for example, some of us have had personal connections with members of parliament from different political parties. It could make us be seen as closer to particular political parties but, so far, we managed to make sure that we are not partisans and independent of any political party or ideology. We even invited all of the parties to show their platforms on or commitment to human rights. For example, when we designed the nine agenda priorities prior to the election, we sent the document to all political parties, and engaged them in thematic-based conversations. During the elections, when we talked about Prabowo Subianto and his involvement in past human rights violations, we had to be very careful to make sure that we have strong bases of allegation, like a court ruling or at least the report of investigation and so on. We don't want to be perceived as an organisation affiliated with his rivals such as Jokowi [the president, Joko Widodo]. Some NGOs have taken sides by publicly supporting Jokowi, especially prior to the 2014 election, and this has been deemed to have contributed to the polarisation of civil society up until now. Finally, on the conflict of interest, we can't accept money from the government, from embassies, from any development agencies. So being impartial, independent, not in conflict of interest or conflict of duty are part of our fundamental code of conduct, our ethical principles. It's not easy.

Despite All These Efforts, Have You Suffered Any Pressure or Intimidation?

Yes, my family and I have been intimidated by those whose interests were affected by our human rights activities. Mysterious phone calls to my mother's house, countless text messages containing death threats, breaking my motorbike tyre, throwing paint on my car, beating me, or violently and brutally raid our office, and filing criminal defamation charges. In 2002, the late Munir gave me a bullet proof jacket as he heard information that I was going to be killed by certain army generals implicated by my investigative work at the National Human Rights Commission, Komnas HAM. At the time, I served as a secretary to the commission of inquiry established by Komnas HAM. I also had been named as a suspect by the police under criminal defamation charges

filed by Hendropriyono in 2005. Hendro was the head of the State Intelligence Agency (BIN), Indonesia's national secret agency. Another one was Muchdi PR or Purwopranjono, a former commander general of Indonesia's special forces, who filed criminal defamation charges and again I was named a suspect without a trial to follow. I believe it was part of their intimidation tactics, politically motivated by my role in the search for truth and justice regarding the murder of my fellow human rights lawyer Munir Said Thalib, who was poisoned to death on board a Garuda Indonesia airways flight on his way to the Netherlands to study for a Master's degree in Utrecht.

Recently, I was disrupted by many spam calls, and by intrusion when I was in a Zoom webinar on politically sensitive issues such as racism in Papua. A couple of months ago, hundreds of people claiming to be the Red and White flag militia (Laskar Merah Putih) demonstrated in front of our office, stepping on my face on a poster. Hundreds of them surrounded our office building. The building management had told us that other tenants at the building made complaints as they couldn't do their normal activities. Another mass demonstration by this paramilitary group had been staged in front of the Foreign Affairs Ministry office, asking the government to expel Amnesty International from Indonesia. These actions come from the ultra-nationalist camp, and from people who have vested interests and are affected by our human rights advocacy campaign. These demonstrations have been reported by the prominent NGO Civicus and appeared in *The Jakarta Post*, Indonesia's daily newspaper. I know that we all put our lives at risk, but it's a calling for me to defend human rights and fundamental freedoms.

Over the Last Years, There Have Been a Lot of Threats Against and Pressure on the Anti-Corruption Commission (KPK). As a Head of Transparency International, Could You Provide an Update on the Situation?

KPK is getting weakened and lacking in independence. The current head of KPK is from the police, it tends to be partisan and lacks impartiality. This is another example of how the government under Jokowi has weaponised law enforcement agencies for its own political interests. The police and prosecutorial office have been previously misused by the Jokowi's government to tame or silence the political opposition. If you look at my small research on Public Virtue [an organisation for web-based civic activism and digital democracy] (2021), I put some data there about the series of attacks against KPK investigators and leaders, highlighting dangerous laws and how corrupted the law enforcement agencies are, threatening the security of social justice leaders, of those working for human rights.

What Is Your Personal Opinion About the Current Government's Political Agenda, with the Presidential Elections [2024] Coming?

This is the least interesting government in my history of activism. Like it or not, Indonesia is slowly moving towards an authoritarian type of government. The civic space has been derailed and shrunk. Political opposition has been put aside and the integrity of the electoral system has been weakened by the strengthened influence of the country's oligarchs. If we want to elaborate

further, we can talk about the increasing use of repressive laws and tactics against civil liberties and political rights as well as hostile treatments of civil society organisations and human rights defenders. Secondly, law enforcement agencies and accountability institutions have been weakened while executive branches have more power. Thirdly, the recentralisation of the regional and provincial government in terms of regional autonomy, financial distribution, political authority, special autonomy, and so on. Fourth is the declining quality of democratisation within the political parties as none of them is willing to play an opposition role, something necessary in a democratic society. Fifth, the oligopoly of media. The ownership of media remains in the hands of oligarchs, which has contributed to inflect the results of the public decision-making process, including during elections. And lastly, polarisation within society, through a rising populist sentiment, hyper-nationalism, and politics of morality. In the past, we were fragmented as well, for example, in the nineties. But we were moving towards a consolidated opposition against the ruling regime. We toppled Suharto after a very long process of consolidation among different segments of society, from prototype oppositions like NGOs, to the mobilisational oppositions like student movements, to political parties' progressive people whose parties opted to silent those prominent individuals with grassroot basis and a very high moral integrity. But now the right-wing populist politics in Indonesia have somehow divided society and prevented us from having a consolidated force to defend our hard-won democracy.

Some NGOs and other civil society actors have failed to defend pluralism in Indonesia, to really criticise the regime when it imposed hyper nationalist policies towards Islam or Islamism by banning the organisations of Hizbut Tahrir Indonesia or the Islamic Defenders Front, including by justifying arbitrary arrests, unlawful killings and other human rights violations under the pretext of national unity. This is what scholars such as Greg Fealy call "repressive pluralism", the government imposing repressive tactics in the name of pluralism. What happens on the ground is not really a pluralist policy. If they really want to ban FPI or HTI to protect minorities, they have to remove all discriminatory laws and regulations, including the joint ministerial decrees that discriminate against Ahmadiyya, Shia, or LGBTQI+ communities. Most of the time they are against the Islamists and Islamism not because of their belief in democracy or human rights, but rather because they are driven by hyper nationalist thinking and the political imagination of a static integralistic state.

The pluralist camp justified the arbitrary actions taken by the government because they failed to hold the essence of democratic values, feared the rising Islamism, and also, perhaps, they had been biased as they were involved in supporting the rise of Jokowi during the election. One of the worrying trends to me was that they somehow have been driven by fear of Indonesia "Talibanisation", "Pakistanisation", and "Islamisation" without necessarily being

critical of what exactly the government was doing and how we, as a democratic state, can remain committed to the rule of law, equal citizenship, and human dignity.

They are not defending freedom by banning Islamic organisations like HTI and FPI. They are not defending cosmopolitan ideas about democracy and human rights. They believe in their own values of nationalism or, of what they call national unity. I feel like we are going back to the era of hyper-nationalism and chauvinism under Suharto. There seems to be a failure to learn from history, for example, from how nationalism in Germany created a disaster across Europe, and across the globe. Hitler's hyper-nationalism produced a Holocaust, a crime without a name, a problem from hell.

Is There Any Place for Hope?

I would say that the recent nationwide mobilisation led by the student movement is a new hope. The largest mobilisations against Ahok in 2016–2017 were a manifestation that some segments of Indonesian Muslim society are moving towards conservatism, intolerance, and more Islamism. Against the background of this rise of identity politics-based social movement, in the last three years, we have seen a large mobilisation led by students across all kinds of campuses and schools, gathering labour, the peasant movement, indigenous communities, LGBTQI+ community. Their demands range from defending liberal values such as freedom of expression through public protest and criticism, to checks and balances for government so that President Jokowi cannot delay the elections or amend the constitution without our meaningful participation. This liberalism is the legacy of my generation in the nineties, which aimed to liberate ourselves from the authoritarian military-backed regime, in order to get freedom of speech, of expression, of opposition, and so on. The current movement gives me a new hope because, apart from defending liberal values, it has other sets of social rights and demands, for agrarian reform, welfare, social justice, increasing wages for labour, land and agrarian reform for peasants, and protection of indigenous lands.

This is a new social democracy movement in a very embryonic stage. It has been a long time that the Indonesian pro-democracy movement has been perceived to be liberal, whereas we have a strong history of socialism. The Indonesian Communist Party was the third largest in the world [by the time of its eradication in 1965] and we used to have a socialist party, the Socialist Party of Indonesia [1948–60] led by Sutan Sjahrir. We had mostly Marxist political leaders during the founding years of Indonesia. From Tan Malaka to young Sukarno, from true democrat Mohammad Natsir to social democrat Mohammad Hatta. This has gone after the elimination of communist politics in Indonesia, affected by the Cold War across the globe. I have been waiting for this kind of new social democracy movement. It's not yet there, but I think we're moving towards there. The student movement has, again, come back to become the street opposition with regular people mobilised not for identity politics sentiments, not for attacking non-Muslim politicians, not for

attacking churches and religious minority groups, and not for attacking transgender community. But instead, they defend equal citizenship, rule of law, and human dignity for all human beings, including the LGBTQI+ community, and all types of human rights from individual freedom to social rights. It is a combination between the old liberalism and the new liberalism, liberating from authoritarianism and pursuing social justice within the state, within the system of a welfare state.

If we look comparatively at the history of Indonesia, I also feel grateful as this is the longest period of democracy that we have ever had. The parliamentary democracy period from 1955 to 1959 were only four years. Sukarno then banned the parliament, banned all opposition such as the Socialist Party of Indonesia and the Islamic Party, called Masyumi, and took power under authoritarian rule, although he claimed this to be a guided democracy or *demokrasi terpimpin*. And then, for more than thirty years of Suharto's regime, we lived under an authoritarian state. And now, we have more than twenty years of democracy. Despite the decline of democracy across the globe, Indonesia is not without hope.

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G. Facal et al. (eds.), *The Palgrave Handbook of Political Norms in Southeast Asia*, https://doi.org/10.1007/978-981-99-9655-1

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