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**Is ASEAN Relevant to the Political Need of Its Members?**

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## **About the Author**

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## **Abstract**

Obviously, ASEAN has its own reason to exist considering its centrality in various regional mechanisms namely ASEAN+3, East Asia Summit, and the ASEAN Regional Forum (ARF). However, has this relevance also been reflected in the political sphere, specifically the emerging need for democratization of its members? I argue that ASEAN seems to wither away and apparently becomes irrelevant since it has failed to meet the needs for democratization of ASEAN democratic states namely Indonesia, Thailand, and the Philippines.

## **Is ASEAN Relevant to the Political Need of Its Members?**

### **1. Why ASEAN Has to Democratize?**

One may come up with a question why democratization is necessary for the survival of ASEAN. There are two main reasons for the democratization of ASEAN: geopolitics and regionalism. Based on the geopolitical factor, if ASEAN is not democratized, it could be economically absorbed by the wider East Asian regional grouping in which Japan and China are dominant. ASEAN could also face the calamity of being economically absorbed by an East Asian regional grouping which would be more relevant to members' economic needs. This grouping will be likely to use its economic strength to influence individual ASEAN countries, and the final outcome could be that ASEAN would become weaker and weaker and lose its relevance to its members. Therefore, in order to make ASEAN survive over long-term, ASEAN should not only push for democracy promotion in the ASEAN democratic countries but should also encourage its non-democratic members to embrace democracy.

Another reason why democratization is essential for the survival of ASEAN is related to the regional factor. Specifically, the need for democratization is linked to socio-economic development in the ASEAN countries, especially in democratic countries such as Indonesia, Thailand, and the Philippines. The development of the socio-economic conditions in these countries has led to the rise of the middle class which strongly presses for democratization. Therefore, they do not want to see democracy backsliding in their respective countries; otherwise, their socio-economic governance will become problematic. Indonesia provides a striking example of how important the adoption of democracy has been for the country's political stability in the post-1997 financial crisis. Authoritarianism has been seen by Indonesian middle class as the major obstacle to the national development since the 1997-financial crisis broke out. This was the reason why its authoritarian ruler, Suharto, had to give up his power, and Indonesia had to embrace democracy ever since. Had Indonesia failed to accept democracy after Suharto's resignation, the country would have faced political instability resulting from the middle class's resistance. Due to such a fear, Indonesia and other ASEAN democratic states want the association to respond to the aspiration of the people of ASEAN by pushing for

democratization in their own countries and in the ASEAN non-democratic countries. The need for democratization in ASEAN democratic states is understandable, but why do they also want the other ASEAN member states to accept democracy? For the democratic states, the undemocratic attitudes adopted by the non-democratic states, especially Myanmar, could set a precedent for the other ASEAN members, including the democratic states to follow; consequently, ASEAN's newly democratic countries could possibly plunge back into authoritarianism. If this happens, they could end up with economic and social chaos of the kind they had already faced in the past. Due to the significance of democratization in the acceleration of ASEAN regionalism, ASEAN can be considered as relevant if it is able to meet the regional needs for democratization in the long term. The needs for democratization in this chapter will be divided into two separate parts: the need to have a democratic Charter and the need to resolve Myanmar problem.

## **2. Democratization and the ASEAN Charter**

### **2.1. Why an ASEAN Charter?**

The ASEAN Charter has been selected as one of the main themes to test the relevance of the association in meeting members' need for democratization because it is the first institution created by ASEAN to meet the said need. Here, I argue that the ASEAN Charter does not meet the need for democratization yet. Though it just came into effect on November 15<sup>th</sup>, 2008, it was short of what ASEAN democratic countries have actually demanded, that is, democratization. This argument is based on three criteria: the involvement of civil society organizations (CSOs) in the process of drafting the Charter, the content of the Charter, and reactions from democratic states in ASEAN to the final version of the Charter. Regarding the first criterion, I think that ASEAN Charter creation will not reflect democratic values if there is no involvement of the CSOs. The CSO, as confirmed by the current ASEAN Secretary-General Surin Pitsuwan, is the best representative of the people of ASEAN since it works closely with the people, and is thus more responsive to the immediate needs of the people.<sup>1</sup> Moreover, the CSOs are

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<sup>1</sup> "Welcome Remarks by H.E. Dr. Surin Pitsuwan, Secretary General of ASEAN, at the ASEAN Foundation 10<sup>th</sup> Anniversary Forum," *The ASEAN Secretariat*, <http://www.aseansec.org/21355.htm> (accessed 15 February 2009)

frequently issue-oriented, and this qualification enables them to play an outstanding role in giving better advice to regional organizations, especially ASEAN in comparison with governmental bodies which are generally constrained by political ideologies of states. Nevertheless, the involvement of the CSOs in the Charter making is not an adequate criterion to prove the relevance of ASEAN in achieving the democratization goal. The relevance may also depend on the content of the Charter. The content should reflect the firm commitments of ASEAN members to democratization; otherwise, ASEAN could not make a real step in transforming itself to meet the needs for democratization. The last criterion to examine whether the Charter really reflects democratic values is the reactions of the group of democratic states of ASEAN, which includes Indonesia, the Philippines, and Thailand, towards the final version of the Charter. If the reactions of these states (without being compromised) towards the content of the Charter are positive, it could be assumed that the Charter truly contains democratic values.

## **2.2. The Architects of the ASEAN Charter**

The involvement of the CSOs in the making of the Charter is significant for democratization in ASEAN since their participation could demonstrate that ASEAN was ready to turn itself into a people-oriented organization. Having acknowledged this significance, the Eminent Persons Group (EPG), which was tasked by ASEAN leaders to give recommendations on the codification of the ASEAN Charter, invited the representatives of the CSOs to attend various meetings starting from December 2005 till June 2006 in order to get the latter's inputs into the Charter.<sup>2</sup> The CSOs involved in the meetings with the EPG consisted of the ASEAN Institute for Strategic and International Studies (ASEAN-ISIS), Solidarity for Asian People's Advocacy (SAPA), the ASEAN Inter-Parliamentary Organization (AIPO), the Working Group for an ASEAN Human Rights Mechanism, and so forth. Those CSOs provided various inputs to the EPG during the meetings, helping to eliminate the image that ASEAN is the club only for ASEAN officials or diplomats. Nevertheless, it is worth noting that some of the above-mentioned entities are not strictly the CSOs because they mainly reflect the government's line,

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<sup>2</sup> At the 11<sup>th</sup> ASEAN Summit in 2005, ASEAN leaders agreed to form the EPG, which was composed of well-known figures in respective ASEAN countries, to be responsible for drafting the ASEAN Charter. The EPG will be disbanded after submitting its report to ASEAN leaders at the 12<sup>th</sup> ASEAN Summit.

especially those in partial democratic states like Singapore and Malaysia. For example, the ASEAN-ISIS, composed of several organizations from different ASEAN countries, does not represent true CSOs as only three organizations within ASEAN-ISIS namely the Indonesia Centre for Strategic and International Studies (CSIS), the Philippines' Institute for Strategic and Development Studies (ISDS), and Thailand's Institute for Security and International Studies are truly independent from their respective governments.<sup>3</sup>

### 2.3. The Content of the Charter

The participation of the CSOs was just an initial step of ASEAN in answering the needs for democratization through the process of the Charter creation. Perhaps, the most important evidence which could prove whether or not ASEAN really answered to the democratization needs of its democratic members is the content of the Charter. The Charter would not bring ASEAN real democracy if its content could not express the genuine commitment of ASEAN members towards democratization. Here, it is worth noting that there were three salient proposals which the CSOs and the EPGs recommended to be included in the Charter. They were the application of *majority voting* in ASEAN decision-making, the enforcement of individual members' compliance with ASEAN decisions, and the respect for human rights. Both the CSOs and EPGs regarded these proposals as a major step to democratize ASEAN. Therefore, whether or not ASEAN could meet the needs for democratization depends on the willingness of ASEAN member states to adopt the proposals in the final version of the Charter.

Regarding the process of ASEAN decision-making, the CSOs, particularly ASEAN-ISIS proposed that the *consensus* method be maintained. But in case issues could not be resolved by using this method, *majority voting* would be applied.<sup>4</sup> This proposal was understandable as ASEAN has frequently faced paralysis when coming to

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<sup>3</sup> ASEAN-ISIS is an umbrella institution which has been engaging with ASEAN since 1984, now composed of Brunei Minister of Foreign Affairs, the Cambodian Institute for Cooperation and Peace (CICP), the Indonesia Centre for Strategic and International Studies (CSIS), the Laos Institute for Foreign Affairs, the Malaysian Institute for Strategic and International Studies, the Philippines' Institute for Strategic and Development Studies (ISDS), the Singapore Institute of International Affairs (SIIA), Thailand Institute for Security and International Studies, and Vietnam's Institute for International Relations. ASEAN-ISIS was invited by ASEAN Senior Officials to give recommendation on the Charter

<sup>4</sup> Hernandez, Carolina, G. "Institution Building Through an ASEAN Charter," [[http://www.kas.de/upload/auslandshomepages/singapore/Hernandez\\_AseanCharta.pdf](http://www.kas.de/upload/auslandshomepages/singapore/Hernandez_AseanCharta.pdf)] (accessed 16 February 2009)

deal with regional matters that conflicted with interests of individual members. This suggestion was then incorporated into the EPG's report which reads as follows:

Decision-making by consultation and consensus should be retained for all sensitive important decisions. However, if consensus can not be achieved, decisions may be taken through voting, subject to rules of procedure determined by the ASEAN Council.<sup>5</sup>

Despite the incorporation of the CSOs's suggestion on the decision-making process into the EPG's report, it turns out that the content of the final version of the Charter was watered-down. Specifically, Article 20 of Chapter VII of the Charter stipulates that:

...Decision-making in ASEAN shall be based on consultation and consensus. Where consensus can not be achieved, the ASEAN Summit may decide how a specific decision can be made... In the case of serious breach of the Charter on non-compliance, the matter shall be referred to the ASEAN Summit for decision<sup>6</sup>

As seen in this article, the Charter does not mention anything besides "*consensus*" modes of decision-making. Instead of openly rejecting "*majority voting*" style, the euphemism was used. More specifically, the Charter stipulates that matters which can not be resolved by *consensus* will be subjected to the final decision made at *the ASEAN Summit*. However, the Charter failed to explain how *the ASEAN Summit* can reach the final decision, implying that the 'consensus mode' would still be applied in the final decision at the ASEAN Summit. This analysis reveals that the governing elites are still not enthusiastic in accepting *majority voting* which could reduce their influence and allow the external interference into their internal affairs.

Another important proposal of the CSOs in democratizing ASEAN was the inclusion of a sanctions provision for non-compliant behavior into the Charter. The CSOs viewed that this provision should be included in the Charter because one of the most important factors behind ASEAN's inability to tackle current issues was the lack of a commitment of member states in realizing regional goals. The absence of a sanctions

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<sup>5</sup> "Report of The Eminent Persons Group on the ASEAN Charter," *The ASEAN Secretariat*, <http://www.aseansec.org/19247.pdf> (accessed 16 February 2009), ASEAN Council in the EPG report would be the supreme decision-making organ of ASEAN, and was led by the heads of ASEAN governments.

<sup>6</sup> "The ASEAN Charter," *The ASEAN Secretariat*, <http://www.aseansec.org/ASEAN-Charter.pdf> (accessed 18 February 2009)

provision freed individual members from taking seriously their obligations to implement regional agreements, it made ASEAN a handicapped organization. Because of this reason, the CSOs suggested including the sanctions provisions which included limiting the rights and privileges of violators of agreements, and excluding or suspending violators from ASEAN meetings.<sup>7</sup> This proposal was then introduced into the EPG report which read as following:

Dispute Settlement Mechanisms should be created in all fields of ASEAN cooperation which should include compliance, monitoring...as well as enforcement mechanisms. The ASEAN Secretariat be entrusted with monitoring compliance with ASEAN agreements and action plans...Failure to comply with decisions of the dispute settlement mechanisms should be referred to the ASEAN Council. Such measures may include suspension of any of the rights and privileges of membership...<sup>8</sup>

In spite of the incorporation of this proposal into the EPG report, the sanctions provision was eventually toned down in the final version of the Charter, leaving an ambiguity in how to enforce the commitments or agreements of member states. More specifically, Paragraph 2 of Article 27 of Chapter VIII of the Charter read that:

Any member states affected by non-compliance with the findings, recommendations, or decisions resulting from an ASEAN dispute settlement mechanism, may refer the matter to the ASEAN Summit for a decision.<sup>9</sup>

As seen in the aforementioned article, in case of non-compliance, there will be no immediate sanction as originally proposed by the CSOs and the EPG. On the contrary, the matter will be referred to *the ASEAN Summit*. In this regard, it is difficult to visualize how *the Summit* would decisively act on the issue of non-compliance. Actually, the ability of *the ASEAN Summit* to handle this matter was already tested during the 13<sup>th</sup> ASEAN Summit in Singapore in November 2007. It was very obvious that the military junta in Myanmar seriously violated human rights through its severe repression of the Buddhist monk-led demonstration in September 2007. Nevertheless, ASEAN leaders

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<sup>7</sup> Hernandez, Carolina G. "Institution Building Through an ASEAN Charter," [\[http://www.kas.de/upload/auslandshomepages/singapore/Hernandez\\_AseanCharta.pdf\]](http://www.kas.de/upload/auslandshomepages/singapore/Hernandez_AseanCharta.pdf) (accessed 16 February 2009)

<sup>8</sup> "Report of The Eminent Persons Group on the ASEAN Charter," *The ASEAN Secretariat*, <http://www.aseansec.org/19247.pdf> (accessed 16 February 2009)

<sup>9</sup> "The ASEAN Charter," *The ASEAN Secretariat*, <http://www.aseansec.org/ASEAN-Charter.pdf> (accessed 18 February 2009)

could not stop Yangon from attending the Summit even though the latter appeared to ignore ASEAN's call for the cessation of the violence against the demonstrators. In short, relying on *the Summit* may not be an effective solution to deal with non-compliance because the Summit also faces difficulty and uncertainty in its decision-making process. To put it simply, it is unclear how ASEAN leaders can reach a common stance to punish a member state which breaches a particular rule of the association if the leaders in *the Summit* decide according to *consensus*. Again, this analysis reflects the unwillingness of the ruling regimes, especially those in the authoritarian states to allow the sanctions provision to be institutionalized since doing so would allow outsiders to interfere into their internal affairs, and this act could possibly jeopardize their position.

The last indispensable element of CSOs's input for the Charter is the request for the establishment of an ASEAN human rights commission. This idea was actually proposed by the CSOs in a series of consultative meetings with the EPG in December 2005.<sup>10</sup> The CSOs thought that the creation of such a commission would help protect and promote human rights which have been restricted and even seriously violated in many ASEAN countries. This would contribute to the boosting of bottom-up regionalism in Southeast Asia. At this point, there is an interesting thing worth observing. The EPG did recognize the significance of promoting human rights in the region, but it was apparently unenthusiastic about adopting the recommendations of the CSOs entirely, especially the establishment of a human rights commission. This is perhaps owing to the fact that the EPG members were not sure of how such a commission would function if it was to be created. This judgment is apparently justified if following provision of human rights in the EPG's report is taken into account:

The EPG believes that ASEAN should continue to develop democracy, promote good governance, and uphold human rights and the rule of law. The EPG discussed the possibility of setting up of an ASEAN human rights mechanism, and noted that this worthy idea should be pursued further, especially in clarifying how such a regional mechanism can contribute to ensuring the respect for and protection of human rights of every individual in every Member State.<sup>11</sup>

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<sup>10</sup> Caballero-Anthony, Mely, "the ASEAN Charter: an Opportunity Missed or One That *Cannot* be Missed?" *Southeast Asian Affairs*, 2008, p. 72.

<sup>11</sup> "Report of The Eminent Persons Group on the ASEAN Charter," *The ASEAN Secretariat*, <http://www.aseansec.org/19247.pdf> (accessed 16 February 2009)

The sentence “The EPG discussed the possibility of...especially in clarifying how such a regional mechanism can contribute to ensuring the respect for the protection of human rights...” indicates the EPG’s uncertainty about the function of the commission. The ambiguity in the EPG’s report on the creation of the human rights commission creates the uncertainty about this issue in the final version of the Charter. Article 14 of Chapter IV stated that “In order to protect and promote human rights, ASEAN shall form a regional human rights body.”<sup>12</sup> Nevertheless, this statement does not specify clearly *when* such an organ will be created and *how* it will function. It is worth noting that the imperfection of the Charter regarding human rights problem is not only the result of the ambiguity in the EPG’s report, but also the result of the unwillingness of the governing elites in accepting full democratization. This can be evidenced in paragraph two of the same article: “This ASEAN human rights organ shall operate basing on criteria to be developed by the ASEAN Foreign Minister Meeting.”<sup>13</sup> As seen, such a body can only function when it can get approval from *ASEAN Foreign Ministers*, demonstrating that the ruling elites are still the key actors in deciding whether or not human rights should be promoted or protected. Furthermore, the Charter also failed to include provisions which would allow sanctions for human rights violations, giving a free hand to the authoritarian rulers to oppress their people with impunity.

In short, the EPG report seems to indicate a bold and revolutionary vision of ASEAN members in making the association truly relevant to interests of the people of ASEAN. Nevertheless, it is perhaps too early for them to be content with this achievement since the final version of the Charter does not reflect what the CSOs proposed in the beginning. Here, one may question why the content of the Charter proposed by the CSO was suddenly watered-down just before the 13<sup>th</sup> Summit took place. The reason for this was contention between members; more specifically, between the democratic and the authoritarian states over the content of the Charter. The leaders and bureaucrats from the authoritarian states might have thought that having a strong Charter might undermine their power and could weaken their role in the ASEAN

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<sup>12</sup> “The ASEAN Charter,” *The ASEAN Secretariat*, <http://www.aseansec.org/ASEAN-Charter.pdf> (accessed 18 February 2009)

<sup>13</sup> *Ibid.*

decision-making process. They might have thought that paying-lip-service to the CSOs regarding the making of a bold and revolutionary Charter could reduce the pressure for actually taking steps towards democratizations. In practice, the ruling elites have not been willing to loosen their grip yet. This can be seen in the fact that in the preparation for the 13<sup>th</sup> ASEAN Summit, the High Level Task Force, which was composed of officials from the Ministries of Foreign Affairs of the ASEAN countries and which was in charge of drafting the Charter upon recommendations of the EPG, was advised by their senior leaders that the Charter must be a “realistic and implementable” document.<sup>14</sup> In other words, some of these leaders, especially those of the authoritarian states did not want to see a Charter which would place pressure on themselves to take steps towards democratization which they did not want to take. This instruction completely ran counter to their previous declaration at the 12<sup>th</sup> ASEAN Summit in January 2007 stating that the Charter could compel ASEAN members to realize the common goal of democratization.

#### **2.4. Reactions of the ASEAN’s Democratic States towards the Ratification of the Charter**

Because the content of the Charter departed from the original version recommended by the CSOs and the EPGs, ASEAN democratic states reacted negatively towards the amended Charter; more specifically, they were not willing to ratify the Charter.<sup>15</sup> These reactions could be seen at two levels: at the official and CSO level. But, it is worth noting that the CSOs’ reactions to the ratification of the Charter could be regarded as a more reliable criterion to test the Association’s relevance to the democratization need in comparison with official reactions. This is because the CSOs, as mentioned earlier, appear to be more responsive to the immediate needs of the people. This frequently makes it difficult for the CSOs to compromise over issues of concern to the people. By contrast, official reactions or reactions from governments and their

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<sup>14</sup> Caballero-Anthony, Mely, “the ASEAN Charter: an Opportunity Missed or One That *Cannot* be Missed?” *Southeast Asian Affairs*, 2008, p. 75.

<sup>15</sup> Even though those democratic states were discontented with the Charter, they had no choice but to sign on it since all ASEAN leaders would like to mark the commemoration of the 40<sup>th</sup> year anniversary of the association with a solemn event, i.e. the adoption of the Charter at the 13<sup>th</sup> Summit. Since the signing was somewhat obligatory, the reactions of ASEAN countries towards the Charter can only be known through their willingness towards the ratification of the Charter.

relevant bodies could be changed or compromised since all of them appear to be rather distant from the people at the grassroots.

Concerning official reactions, the Philippines and Indonesia were countries which clearly expressed their opposition to the Charter. Philippine President Gloria M. Arroyo was quoted as saying on the sidelines of the 13<sup>th</sup> ASEAN Summit that her country may not ratify the Charter if the human rights situation in Myanmar is not improved.<sup>16</sup> Indeed, the real intention behind this statement was that she wanted other democratic states such as Indonesia and Thailand to follow the Philippines's example by rejecting the Charter. This intention was understandable because Arroyo, who acted as the Chair of the 12<sup>th</sup> ASEAN Summit, once proposed that an ASEAN Human Rights Commission be included into the draft Charter in response to the CSOs's proposal on human rights promotion, particularly in relation to gross human rights violations in Myanmar. But when the final version of the Charter ended up with the sentence "...ASEAN *shall* create a human rights body" without clearly specifying *when* the commission would be created, *how* it would function, and *what* sorts of penalties would be imposed on human rights violators, Arroyo turned out to be unwilling to have the Charter ratified by raising the case of Myanmar as a reminder to other ASEAN leaders about the necessity of the creation of the regional human rights body. In her mind, the failure to mention the creation of the human rights commission in the Charter was probably equivalent to the failure to improve the human rights situation in Myanmar.

For Indonesia, even if there was no official reaction from the government towards ratification of the Charter, a lengthy debate followed among Indonesian lawmakers over whether or not the country should ratify the Charter. They doubted whether the Charter met the criteria of democratization. *The Jakarta Post* commented that it took a year for the lawmakers just to discuss the ambiguity of the regional human rights commission and the ASEAN decision-making mechanism, making this country the second last to ratify the Charter.<sup>17</sup> Actually, Jakarta's effort in pushing forward real democratization in

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<sup>16</sup> Violet Cho, "Arroyo Again Warns Manila May Veto ASEAN Charter," *The Irrawaddy*, 07 December 2007, [[http://www.irrawaddy.org/article.php?art\\_id=9534](http://www.irrawaddy.org/article.php?art_id=9534)] (accessed 23 February 2009)

<sup>17</sup> Budiarto, Lilian, "Why Indonesia was Last to Ratify the ASEAN Charter," *The Jakarta Post*, 22 December 2008, [<http://www.thejakartapost.com/news/2008/12/22/why-indonesia-was-last-ratify-asean-charter.html>] (accessed 23 February 2009)

ASEAN through the creation of the Charter was understandable since Indonesia has always wanted to prevent democracy from backsliding in the country. As mentioned earlier, the presence of authoritarianism in ASEAN could pave the way for China to exert its influence in the region, ultimately leading to the weakening of the association.

On the other hand, Thailand, experiencing the turmoil of democratization, seemed to maintain an ambivalent stance towards the Charter because of the political upheaval in the country. Specifically, the backsliding of democracy began with Thaksin, who emerged as a *de facto* authoritarian leader, prevented this country from actively promoting regional democratic change. But Thailand's passivity in promoting regional democracy was revealed more clearly under the military rule which overthrew Thaksin in the 2006-coup. General Surayud Chulanont, the Thai military-appointed Prime Minister, stated before meeting with UN envoy Ibrahim Gambari to discuss on Myanmar issue that "I am not an elected Prime Minister. How can I talk much about democracy if my government per se does not derive from the people's will?"<sup>18</sup> Because of this democracy backsliding, Thailand lost its interest in criticizing the democratic-deficit Charter. In short, the official reactions of democratic states towards the ratification of the Charter appeared to be negative since it did not truly reflect the real commitment of ASEAN members to democratization. This made it difficult for the leaders of those countries to ratify the Charter quickly. Nevertheless, they finally decided to ratify the Charter, while the leaders of the authoritarian states including the pariah Myanmar ratified it faster than any of the democratic countries.<sup>19</sup>

Even though the official reactions of the democratic states appeared to be compromised at the end, the CSOs' positions in these states towards the Charter remain unchanged. They strongly resisted their governments' move to ratify the Charter as they thought that it would bring ASEAN nowhere towards democratization. Particularly, the Philippine and Indonesian CSOs were very vocal against the ratification of the Charter.

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<sup>18</sup> Chin Kin Wah, "Introduction-ASEAN: Facing the Fifth Decade," *Contemporary Southeast Asia*, Vol. 29, No. 3, 2007, p. 401.

<sup>19</sup> The ratification dates of each ASEAN country are of following: Singapore (18 December 2007), Brunei (31 January 2008), Malaysia (14 February 2008), Laos PDR (14 February 2008), Vietnam (14 March 2008), Cambodia (02 April 2008), Myanmar (11 July 2008), the Philippines (07 October 2008), Indonesia (11 November 2008), Thailand (15 November 2008).

For instance, Dr. Carolina G. Hernandez, the Chair of Board of Directors of the Philippine Institute for Strategic and Development Studies, criticized the current ASEAN Charter saying that it would make the democratization goal more a pipe dream than a reachable goal.<sup>20</sup> Rizal Sukma, the Deputy Executive Director of the Indonesian Centre for Strategic and International Studies, was also hostile to the Charter, saying that “the Charter neither mainly derived from the people’s will, nor met the democratization need.”<sup>21</sup> Jusuf Wanandi, the senior fellow at the Indonesian Centre for Strategic and International Studies, was even more critical about the Charter than Rizal Sukma stating that “the Charter is expected to meet the ASEAN democratization need. Nevertheless, it did not mention how people could get involved with the association, how it responds to the people, and what types of institutions should be applied in order to ensure the members’ commitment to democratization.”<sup>22</sup>

### **3. The Myanmar problem**

#### **3.1. Why examine the Myanmar problem?**

The short answer to the above question is because Myanmar is a “pariah”. But this pariah is not one who comes from outside the ASEAN family; as a result, what this country has done or is going to do will have certain implications for ASEAN as a group. So, what has Myanmar done? The military junta in this country has been most notorious for committing gross human rights violations against its ethnic minority groups such as Arakanese and Karen. The military regime also refused to recognize Nobel-Laureate Aung San Suu Kyi, the leader of Myanmar’s National Democratic League, as the victor of the May 1990 elections. ASEAN indeed embraced Myanmar into its family without taking the above-mentioned facts into account; consequently, it has to bear the negative impact caused by this pariah country. The first possible consequence brought about by the Myanmar issue is that the gross human rights violations committed by the military junta could set a precedent for other countries in the region to follow, especially those

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<sup>20</sup> Hernandez, Carolina G. “A People’s ASEAN: Pipe Dream or Potentially Realizable,” *India Quarterly*, Vol. 64, No.1, Jan-March 2008, p. 128.

<sup>21</sup> Sukma, Rizal, “Building the ASEAN Community: How Useful Is the ASEAN Charter?” *The Indonesian Quarterly*, Vol. 36, No. 3-4, 2008, p. 271.

<sup>22</sup> *Ibid.*

governed by authoritarian rulers such as Vietnam, Cambodia, and Laos. This would eventually contribute to a slowing down of the process of democratization in each ASEAN country and in the region. The second consequence of the Myanmar problem is the impact upon the domestic political systems of some ASEAN countries due to the continuous influx of refugees from Myanmar. Because of this problem, it is difficult for Thailand and affected ASEAN countries to push democratization forward. The recent case of Thailand's handling of the Rohingyas who fled from Myanmar is a striking example proving how a democratic state like Thailand can find itself violating human rights. The persecution committed by the military junta of its Rohingyas in February 2009 sparked the outflow of hundreds of them into Thailand and Indonesia. Thailand, which has long been enduring the refugee problem from Myanmar, found itself financially and socially unable to cope with the continuous arrivals of the refugees. Consequently, when the Rohingyas arrived in Thailand by boat, the Thai navy decided to tow them out to sea without food and water.<sup>23</sup>

### **3.2. ASEAN's Efforts in the Myanmar Problem**

Because the Myanmar problem could derail the regional democratization process, ASEAN has endeavored to resolve the issue by using various diplomatic means. Nevertheless, ASEAN has not succeeded in tackling the problem because of the two main weaknesses of the association: the non-interference norm and the absence of institutions to enforce the commitments of the member states to democracy. First of all, I will illustrate how the non-interference norm of ASEAN could hamper its efforts in dealing with the issue effectively.

An obvious example proving how the non-interference principle undermines the effectiveness of ASEAN in pressing the junta to accept democracy is the acceptance of Myanmar's request to cancel an invitation for Mr. Ibrahim Gambari, the UN Special Envoy, to brief ASEAN on human rights in Myanmar at the 13<sup>th</sup> Summit in November 2007 in Singapore. The report made by the UN envoy was very important for ASEAN since it could prove that the ASEAN members were truly committed to democracy

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<sup>23</sup> "Indonesia Criticizes Burma over Rohingya," *ABC Radio Australia*, <http://www.radioaustralia.net.au/connectasia/stories/200902/s2486186.htm> (accessed 24 February 2009)

because of the Charter which was accepted at this Summit. In spite of this significance, Myanmar objected to this arrangement because the military rulers reacted to international condemnation of its brutal repression of the Buddhist monk-led demonstration in September 2007. Because of the *consensus* method, ASEAN, especially the Singaporean hosts, at the 2007-Summit, had no choice but to accept the above request of Myanmar by canceling the invitation for the briefing. Consequently, ASEAN was strongly criticized by the international community for its lack of credibility in handling the Myanmar issue.

The non-interference norm is not the only reason for ASEAN's inability to deal with Myanmar, but there is also a lack of institutions to enforce the commitment of member states to democracy, this is also another crucial factor. For instance, while ASEAN successfully persuaded Myanmar to accept a reconciliation and democratization roadmap, which was mainly aimed at pushing Yangon to free opposition leader Aung San Suu Kyi from house arrest and to respect human rights in 2003, it had no formal means to ensure that the junta truly complied with the roadmap. This has created a favorable condition for the junta to escape from taking any responsibility and to deny any commitment to democracy ostensibly by accepting the ASEAN's request without having had to act in reality. The visit of Malaysian Foreign Minister Syed Hamid Albar to Myanmar in March 2006 proved this. His visit was initially expected to take three days and he had intended to learn first-hand about progress in Myanmar's implementation of the roadmap. However, he suddenly shortened the period of his visit to only one day after arriving in Myanmar without any explanation to the public and without the issuance of any press release on the outcome of his visit.<sup>24</sup> Despite the failure to pinpoint the reason for this act by the Malaysian Foreign Minister, it could be assumed that Kuala Lumpur might have felt betrayed by the military junta about what Yangon had pledged to do with the roadmap. The official media in Myanmar announced that the Malaysian Foreign Minister's trip to the country was a 'goodwill visit' rather than 'a visit to learn the progress of democracy in Myanmar.'<sup>25</sup> Without the means to ensure compliance, the military junta would not take seriously any ASEAN request for democratic changes in

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<sup>24</sup> "List of Visit," *Ministry of Foreign Affairs of Malaysia*, [http://www.kln.gov.my/?m\\_id=24](http://www.kln.gov.my/?m_id=24) (accessed 01 February 2009)

<sup>25</sup> Severino, Rodolfo C. *Southeast Asia in Search of an ASEAN Community*, Institute of Southeast Asian Studies, Singapore, 2006, pp. 145-146.

Myanmar. As a result, ASEAN would undoubtedly face continuous failures in ensuring that the military junta would commit itself to political changes.

### **3. ASEAN's Dilemmas**

ASEAN finds it difficult to meet its own democratization needs by having a democratic Charter and pressing Myanmar to accept democracy. Concerning the Charter issue, we can see that if the democratic countries pushed too hard for a perfect Charter, the authoritarian states might further tilt towards China as the governing elites in these states would not easily accept democratic reform which could pose challenges to their power. As a consequence, there would be the possibility that ASEAN would be divided into two different blocs: the bloc which seeks to balance against China and the one which could live with China. Eventually, the split would make ASEAN increasingly weaker and would create favorable conditions for either China to become dominant or a wider East Asian regional grouping to economically absorb it. Because of this concern, leaders in the ASEAN democratic states had no choice but to accept the democratic-deficit Charter in a hope that its content would be gradually implemented in the future. ASEAN authoritarian states could ratify the Charter faster than the democratic ones because the current Charter is toothless. To put it simply, it could cause no harm to their power.

### **4. Conclusion**

ASEAN seemed to gain its relevance to the need for democratization since it could push for a Charter expected to set an initial step for its members to work towards democratization. Nevertheless, this relevance has been jeopardized as the Association actually failed to respond properly to this need. To put it simply, ASEAN is losing its relevance to the need for democratization of its members. The problem is how the Association could answer this need. Indeed, ASEAN is facing dilemmas as to how to respond appropriately to the different needs for democratization of the two groups of its members namely the democratic states and the non-democratic states. This dilemma could be clearly seen in the process of the ASEAN Charter creation and the Association's effort in cultivating democracy in the pariah state Myanmar. How could ASEAN manage the above-mentioned dilemma? Of course, there may not be an immediate solution to the problem since we cannot force all the members to share the need for democratization at

the same time. Nevertheless, we could expect a long-term solution originated from the least controversial sector, particularly economics. Perhaps, ASEAN Minus-X formula should be applied in this case. The formula allows a group of member states who are ready to realize the regional agreements to go ahead with the implementation of those agreements first. But it is noteworthy that this group would have to accept the inclusion of a sanctions provision in the economic agreements they have concluded or going to conclude, and the provision that legitimizes the role of the ASEAN Secretariat in monitoring members' compliance as well. The success of using this formula in the field of economics would in turn give ASEAN members a motivation to apply it in the other fields including security and politics. By so doing, ASEAN would be able to answer the need for democratization need of all of its members and avoid the absorption by China or East Asian regional grouping.

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